

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 15, 2015

1:38 p.m.

MEMBERS PRESENT

Senator John Coghill, Vice Chair
Senator Mia Costello
Senator Peter Micciche
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Lesil McGuire, Chair

COMMITTEE CALENDAR

CONFIRMATION HEARING

Commission on Judicial Conduct
George R. Boatright

CONFIRMATION ADVANCED

CS FOR HOUSE BILL NO. 83(JUD)

"An Act relating to collecting information about civil litigation by the Alaska Judicial Council; repealing Rule 41(a)(3), Alaska Rules of Civil Procedure, and Rules 511(c) and (e), Alaska Rules of Appellate Procedure; and providing for an effective date."

-SCHEDULED BUT NOT HEARD

CS FOR SS FOR HOUSE BILL NO. 11(JUD) AM

"An Act restricting the publication of certain records of criminal cases on a publicly available Internet website; and providing for an effective date."

- MOVED CSSHB 11(JUD) AM OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 15(FIN)

"An Act relating to credits toward a sentence of imprisonment for certain persons under electronic monitoring."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 75(JUD) AM

"An Act relating to the registration of marijuana establishments by municipalities; relating to the definition of 'marijuana'; clarifying standards for personal use of marijuana by persons 21 years of age or older; prohibiting the public consumption of marijuana; authorizing the registration of marijuana clubs; relating to established villages and to local option elections regarding the operation of marijuana establishments; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 11

SHORT TITLE: NO INTERNET ACCESS TO SOME CRIM. CASES

SPONSOR(s): REPRESENTATIVE(s) WILSON

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	HSS, JUD
03/04/15	(H)	SPONSOR SUBSTITUTE INTRODUCED
03/04/15	(H)	READ THE FIRST TIME - REFERRALS
03/04/15	(H)	JUD
03/20/15	(H)	JUD AT 1:00 PM CAPITOL 120
03/20/15	(H)	-- MEETING CANCELED --
03/23/15	(H)	JUD AT 1:00 PM CAPITOL 120
03/23/15	(H)	Heard & Held
03/23/15	(H)	MINUTE(JUD)
04/01/15	(H)	JUD AT 1:00 PM CAPITOL 120
04/01/15	(H)	Moved CSSSHB 11(JUD) Out of Committee
04/01/15	(H)	MINUTE(JUD)
04/02/15	(H)	JUD RPT CS(JUD) NT 3DP 3NR
04/02/15	(H)	DP: MILLETT, KELLER, LEDOUX
04/02/15	(H)	NR: CLAMAN, GRUENBERG, FOSTER
04/09/15	(H)	TRANSMITTED TO (S)
04/09/15	(H)	VERSION: CSSSHB 11(JUD) AM
04/10/15	(S)	READ THE FIRST TIME - REFERRALS
04/10/15	(S)	JUD
04/15/15	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 15

SHORT TITLE: CREDITS FOR TIME SERVED/GOOD TIME

SPONSOR(s): WILSON

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS

01/21/15 (H) STA, FIN
 01/23/15 (H) STA REFERRAL REMOVED
 01/23/15 (H) JUD REFERRAL ADDED BEFORE FIN
 02/18/15 (H) BILL REPRINTED 2/16/15
 02/20/15 (H) JUD AT 1:00 PM CAPITOL 120
 02/20/15 (H) Heard & Held
 02/20/15 (H) MINUTE(JUD)
 03/18/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/18/15 (H) Heard & Held
 03/18/15 (H) MINUTE(JUD)
 03/23/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/23/15 (H) Moved CSHB 15(JUD) Out of Committee
 03/23/15 (H) MINUTE(JUD)
 03/25/15 (H) JUD RPT CS(JUD) NT 2DP 4NR
 03/25/15 (H) DP: CLAMAN, LEDOUX
 03/25/15 (H) NR: MILLETT, KELLER, GRUENBERG, FOSTER
 04/03/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/03/15 (H) <Bill Hearing Canceled>
 04/06/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/06/15 (H) Heard & Held
 04/06/15 (H) MINUTE(FIN)
 04/10/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/10/15 (H) Moved CSHB 15(FIN) Out of Committee
 04/10/15 (H) MINUTE(FIN)
 04/11/15 (H) FIN RPT CS(FIN) NT 6DP 3AM
 04/11/15 (H) DP: SADDLER, PRUITT, WILSON, GATTIS,
 EDGMON, THOMPSON
 04/11/15 (H) AM: GARA, KAWASAKI, GUTTENBERG
 04/13/15 (H) TRANSMITTED TO (S)
 04/13/15 (H) VERSION: CSHB 15(FIN)
 04/14/15 (S) READ THE FIRST TIME - REFERRALS
 04/14/15 (S) JUD
 04/15/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 75

SHORT TITLE: MARIJUANA REG;CLUBS;MUNIS;LOCAL OPT ELECT
 SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

01/23/15 (H) READ THE FIRST TIME - REFERRALS
 01/23/15 (H) CRA, JUD
 02/21/15 (H) CRA AT 10:00 AM BARNES 124
 02/21/15 (H) -- MEETING CANCELED --
 02/24/15 (H) CRA AT 8:00 AM BARNES 124
 02/24/15 (H) Heard & Held
 02/24/15 (H) MINUTE(CRA)
 03/03/15 (H) CRA AT 8:00 AM BARNES 124
 03/03/15 (H) Moved CSHB 75(CRA) Out of Committee

03/03/15 (H) MINUTE(CRA)
 03/05/15 (H) CRA AT 8:00 AM BARNES 124
 03/05/15 (H) Moved CSHB 75(CRA) Out of Committee
 03/05/15 (H) MINUTE(CRA)
 03/06/15 (H) CRA RPT CS(CRA) NT 3DP 3NR
 03/06/15 (H) DP: NAGEAK, SEATON, TILTON
 03/06/15 (H) NR: DRUMMOND, REINBOLD, HUGHES
 03/11/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/11/15 (H) Heard & Held
 03/11/15 (H) MINUTE(JUD)
 03/18/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/18/15 (H) <Bill Hearing Canceled>
 03/25/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/25/15 (H) <Bill Hearing Canceled>
 03/27/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/27/15 (H) Moved CSHB 75(JUD) Out of Committee
 03/27/15 (H) MINUTE(JUD)
 03/30/15 (H) JUD RPT CS(JUD) NT 1DP 3NR 3AM
 03/30/15 (H) DP: LEDOUX
 03/30/15 (H) NR: MILLETT, CLAMAN, FOSTER
 03/30/15 (H) AM: LYNN, KELLER, GRUENBERG
 04/02/15 (H) TRANSMITTED TO (S)
 04/02/15 (H) VERSION: CSHB 75(JUD) AM
 04/03/15 (S) READ THE FIRST TIME - REFERRALS
 04/03/15 (S) CRA, JUD
 04/07/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
 04/07/15 (S) Heard & Held
 04/07/15 (S) MINUTE(CRA)
 04/14/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
 04/14/15 (S) Moved SCS CSHB 75(CRA) Out of Committee
 04/14/15 (S) MINUTE(CRA)
 04/15/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

GEORGE R. BOATRIGHT, Nominee
 Commission on Judicial Conduct
 Wasilla, Alaska

POSITION STATEMENT: Testified as nominee to the Commission on Judicial Conduct.

REPRESENTATIVE TAMMIE WILSON
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 11 and HB 15.

BARBARA BARNES, Staff
Representative Tammie Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 11 and answered questions about HB 15 on behalf of the sponsor.

NANCY MEADE, General Counsel
Administrative Staff
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to HB 11 and HB 75.

GENEVIEVE WOJTUSIK, Staff
Senator Lesil McGuire
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke to the changes in the Senate CS for HB 15.

RON TAYLOR, Commissioner
Department of Corrections (DOC)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions related to HB 15.

DENNIS JOHNSON, Program Director
Alaska Pretrial Services
Anchorage, Alaska

POSITION STATEMENT: Discussed the 24/7 program during the hearing on HB 15.

REPRESENTATIVE CATHY TILTON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 75.

HEATH HILYARD, Staff
Representative Cathy Tilton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Described the policy components of HB 75.

ACTION NARRATIVE

[1:38:02 PM](#)

VICE CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:38 p.m. Present at the call to order were Senators Micciche, Costello, and Vice Chair Coghill.

CONFIRMATION HEARING
Commission on Judicial Conduct

[1:39:15 PM](#)

VICE CHAIR COGHILL announced the first order of business would be a confirmation hearing. He asked Mr. Boatright to tell the committee about himself and his interest in serving on the Commission on Judicial Conduct.

GEORGE R. BOATRIGHT, Nominee, Commission on Judicial Conduct, said he lives in Wasilla. He's been in Alaska since the 1960s and has more than 40 years of experience in law enforcement. He's been retired for about three years and looks forward to this public service.

VICE CHAIR COGHILL asked if he'd had the opportunity to attend any commission meetings.

MR. BOATRIGHT answered no.

VICE CHAIR COGHILL asked if he sought the nomination.

MR. BOATRIGHT replied he was solicited.

VICE CHAIR COGHILL asked if he'd had a chance to look at the goals of the commission and how he might help achieve them.

MR. BOATRIGHT replied he received the commission workbook yesterday and pursued it a little. He opined that his background in investigations and confidential personnel issues compliments this service.

[1:42:31 PM](#)

SENATOR MICCICHE asked if he understands some of the issues and if he can explain why he feels he's equipped and fair in evaluating different processes.

MR. BOATRIGHT replied he learned in dealing with law enforcement personnel that complaints are oftentimes lodged for ulterior reasons. In the judicial context, complaints about a judge have to be based on conduct and whether his or her actions comply with the ethical standards. It's not a matter of agreeing or disagreeing with a judge's findings.

SENATOR MICCICHE asked how he would have handled the potential prosecutorial misconduct, assuming the Senator Ted Stevens prosecution was a state case.

MR. BOATRIGHT replied he wasn't familiar with the case.

VICE CHAIR COGHILL summarized the federal case and advised that it was a different set of circumstances.

SENATOR MICCICHE asked how he would view it if someone did not have a fair trial in a state case.

MR. BOATRIGHT replied it would be unconscionable. It's of paramount importance for someone to be able to demonstrate their innocence and that right can't be infringed upon.

[1:48:02 PM](#)

VICE CHAIR COGHILL announced that in accordance with AS 39.05.080 the Senate Judiciary Standing Committee recommends forwarding the appointment of George Boatright to a joint session for consideration. He reminded members that signing the report in no way reflects individual members' intent to vote for or against the conformation of the individual. Finding no objection, the name George Boatright was forwarded to the full body for consideration.

At ease from 1:49:26 pm to 1:46:57 pm.

HB 11-NO INTERNET ACCESS TO SOME CRIM. CASES

[1:49:57 PM](#)

VICE CHAIR COGHILL reconvened the meeting and announced the consideration of HB 11. "An Act restricting the publication of certain records of criminal cases on a publicly available Internet website; and providing for an effective date."

BARBARA BARNES, Staff, Representative Tammie Wilson, introduced HB 11, reading from the following sponsor statement:

"Every person is presumed innocent until proven guilty". HB 11 directs the Alaska Court System to remove from its public internet website records of criminal cases that were acquitted of all charges, by dismissal of all charges, or by acquittal of some charges and dismissal of remaining charges after 60

days have elapsed from the date of acquittal or dismissal of the case.

CourtView, the Alaska Trial Courts online publicly accessible database, provides access for persons seeking information on the status of criminal and civil cases, the nature of criminal charges filed against persons, and the final outcome of litigation. Court View forever shows the arrest and charging documents for persons who were never convicted, allowing society to scrutinize any individual, for any reason, and socially chastise the innocent. In spite of CourtView user warnings, that a charge is not to be considered a conviction, this public posting of a person's name and charges can have dire consequences on the individual's livelihood and inherent liberties. From housing to employment prospects, the innocent are socially judged guilty by the very presence of their names on CourtView regardless of the outcome of the case.

By very definition, a person is not a criminal if acquitted at trial, or if their case is dismissed by the courts. In American jurisprudence, we are considered innocent until proven guilty. HB 11 champions this principle. We ask that Alaskans who have not been found guilty of any wrong doing be given the right to emancipation of social distrust and inherent prejudices.

[1:53:04 PM](#)

VICE CHAIR COGHILL asked Ms. Meade to comment on whether or not case files would be confidential and if the court could meet the 60-day deadline.

[1:53:40 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Alaska Court System, clarified that the Court System is neutral on HB 11. She confirmed that under the wording of this bill, case files would be public, not confidential. The bill directs the Court System to remove the cases from CourtView within 60 days of disposition of the case, and that can be done. The court believes it can comply with the legislative intent to do it retroactively, although there may be some glitches in that piece, she said.

VICE CHAIR COGHILL asked the sponsor's staff if the information that was removed from CourtView would be available through a records search at the courthouse.

MS. BARNES replied that's correct.

VICE CHAIR COGHILL asked Ms. Meade how someone would access those paper files at the courthouse after they had been removed from the website.

MS. MEADE replied the court is working on the process. Initially they were thinking that people could go to one of the 40 some courthouses and submit a request for the clerk to look up those dismissed and acquitted cases. The other alternative is for the court to create a third portal on CourtView that would be available at courthouses so a citizen could look up somebody by their last name and find something more than is on the public version. They haven't figured out how to do that yet, or if that's the best option, but they will before the effective date.

VICE CHAIR COGHILL asked if it will impose a financial burden on the Court System to create the third portal.

MS. MEADE replied the Court System submitted a zero fiscal note with the knowledge that it would require staff time and perhaps actual dollars to comply with the bill.

[1:58:08 PM](#)

SENATOR MICCICHE asked how often someone who is convicted of domestic violence is found to have a long track record of dismissals and acquittals.

MS. MEADE replied she didn't know how often that happens, but she understands the concern. Some people would not have anything on CourtView yet they may have had cases filed against them that ended in dismissal or acquittal for some reason or another. She recalled that concern was voiced last year.

SENATOR MICCICHE said he wanted it clear for the record that acquittals and dismissals would still be available at the courthouse.

MS. MEADE confirmed that was correct.

SENATOR COSTELLO asked what recourse people would have if they didn't have a courthouse in their community.

MS. MEADE explained that courthouses are spread throughout the state so that every community has access to a court. For example, the court in Palmer serves Big Lake and the Bethel court serves the community of Eek. People that want to do research under this bill would have to go to the courthouse that serves their community.

SENATOR MICCICHE asked if someone could request the records telephonically.

MS. MEADE responded that the Court System doesn't offer that service as a regular practice because of staffing limitations, but the court does exercise a rule of reason.

VICE CHAIR COGHILL invited the sponsor to comment.

REPRESENTATIVE TAMMIE WILSON, sponsor of HB 11, described the bill as a "happy in between" of former Senator Dyson's bill. That bill would have sealed all the records whereas HB 11 directs the court to remove records of criminal cases from CourtView [60 days] after a criminal case is acquitted or dismissed, but that information is still available at the courthouse.

SENATOR MICCICHE opined that it's important that the information is still available. He described the bill as a fair compromise.

SENATOR COSTELLO asked how other states address this issue.

REPRESENTATIVE WILSON said she couldn't find anything similar to this when she researched county records.

VICE CHAIR COGHILL asked Ms. Meade to address the question.

[2:06:48 PM](#)

MS. MEADE said there is a broad spectrum of thinking about what is appropriate to post online and it's handled in a variety of ways. Some courts post every document while others exclude family and criminal law. The Alaska Court System favors public court records, although there has to be a balance. If this is the policy call of the legislature, the court will follow it.

[2:08:40 PM](#)

SENATOR MICCICHE moved to report SSHB 11 from committee with individual recommendations and attached zero fiscal note.

VICE CHAIR COGHILL announced that without objection CSSSHB 11(JUD) AM is reported from the Senate Judiciary Standing Committee.

HB 15-CREDITS FOR TIME SERVED/GOOD TIME

[2:09:14 PM](#)

VICE CHAIR COGHILL announced the consideration of HB 15. "An Act relating to credits toward a sentence of imprisonment for certain persons under electronic monitoring." He asked for a motion to adopt the Senate CS.

At ease from 2:10 pm to 2:11 pm.

[2:11:05 PM](#)

SENATOR COSTELLO motioned to adopt the Senate CS for CSHB 15, labeled 29-LS0102\X, as the working document.

VICE CHAIR COGHILL objected for discussion purposes.

[2:11:28 PM](#)

GENEVIEVE WOJTUSIK, Staff, Senator Lesil McGuire, spoke to the changes in the Senate CS for HB 15. Version X adds a new paragraph (21) to AS 12.55.155(d) on page 2, lines [17-20]. This is the content of SB 82 that the committee heard and reported out. It allows a judge to consider participation in the 24/7 sobriety program as a mitigating factor at the time of sentencing. The new paragraph states that "the defendant, as a condition of release ordered by the court, successfully completed an alcohol and substance abuse monitoring program established under AS 47.38.020." At the request of the Department of Law, the word "complied" was changed to "completed" to align with language that is already in statute.

VICE CHAIR COGHILL withdrew his objection and version X was before the committee.

[2:13:06 PM](#)

REPRESENTATIVE TAMMIE WILSON, sponsor of HB 15, stated support for the Senate CS. She explained that the legislation would allow the courts to grant a defendant credit toward a sentence for the time spent under electronic monitoring. The purpose of the bill is to encourage people to get help as soon as possible versus sitting in jail awaiting trial. Currently private vendors are offering electronic monitoring in the major cities, but she knows that the Department of Corrections would be excited to enter this realm.

SENATOR COSTELLO said she appreciates the cost savings the bill represents. She asked the cost of a hard bed, the average cost of residential treatment, and the daily cost of electronic monitoring.

REPRESENTATIVE WILSON replied the cost of a prison bed is \$158 per day and the cost of electronic monitoring in Fairbanks is about \$105 per week. Specialty additions such as alcohol monitoring cost more. She didn't know the cost of residential treatment.

SENATOR COSTELLO asked her to discuss the opportunity for people to remain employed while they're on electronic monitoring.

REPRESENTATIVE WILSON explained that this allows a person to remain in the community, with certain restrictions depending on the charge, and therefore hold down their job rather than sitting in jail. She cited an example and shared that the person said it's been easier for him to stop drinking because he knows the immediate consequence if he takes a drink.

[2:17:53 PM](#)

SENATOR WIELECHOWSKI joined the committee.

VICE CHAIR COGHILL asked Commissioner Taylor if DOC manages the monitoring systems.

RON TAYLOR, Commissioner, Department of Corrections (DOC), answered no; DOC does not monitor the private companies that offer electronic monitoring services.

VICE CHAIR COGHILL asked if DOC would be part of the discussion about placing a defendant on electronic monitoring instead of sending them to jail awaiting trial.

COMMISSIONER TAYLOR replied the court is making that determination.

REPRESENTATIVE WILSON clarified that this is not directed by the court. She explained that when someone is charged, the court either sets bail or designates a third party to monitor the defendant 24/7. The defendant would bring the monitoring company to court and request electronic monitoring as a third party custodian. The court would question the vendor's representative just as it would any third party custodian.

VICE CHAIR COGHILL asked if someone who requests this type of monitoring is admitting guilt or just precluding other risk tools the court would use.

REPRESENTATIVE WILSON replied electronic monitoring is already being done but no credit is given at sentencing for the time spent under electronic monitoring.

VICE CHAIR COGHILL asked what happens if there's a violation.

REPRESENTATIVE WILSON replied the defendant would go back to jail if they violated a condition of release while on electronic monitoring. She expressed hope that DOC would eventually make use of this tool.

[2:23:46 PM](#)

SENATOR WIELECHOWSKI directed attention to page 1, line 11, and asked if the definition of "criminal offense" includes a probation or parole violation.

REPRESENTATIVE WILSON replied this is just pretrial so a person would not be on parole or probation.

VICE CHAIR COGHILL asked Ms. Meade to describe how the court would see this option on a third party release.

NANCY MEADE, General Counsel, Administrative Staff, Alaska Court System, explained that a defendant who has a bail condition of a third party custodian could use a professional vendor as their third-party custodian. In Anchorage, Fairbanks, Palmer, and Kenai, the defendant who has that requirement to get out of jail can bring the vendor's representative and ask the judge to issue an order approving that company as a third party custodian. The order would include conditions such using the ankle monitor and certain exclusion zones. The vendor would have the responsibility of reporting any transgression to the court. They would know that the person violated one of the conditions set by the court because the ankle monitor would send an electronic alert to the vendor's business office where the monitoring takes place.

This is happening now and a person can be on electronic monitoring for a substantial amount of time awaiting trial. The intent of the sponsor is that a person who purchases a contract with a third party vendor would receive credit.

MS. MEADE clarified that the court is neutral on the bill but can comply. The court does not approve or monitor third party vendors; it is a private contract and a defendant pays the business between \$300 and \$600 per month for the service. The court approves the contract if it believes both will be able to fulfill their responsibilities. Under the bill, the defendant would inform the judge that they would seek credit for the time they paid for the electronic monitor, and that they want an order that comports with the statute so they can receive credit. At the time of sentencing the court will look at the order and deduct the time spent on electronic monitoring if the defendant didn't violate any of the conditions.

SENATOR MICCICHE asked why current law specifically prohibits the court from granting credit for electronic monitoring when it allows credit for time spent in a residential treatment program.

MS. MEADE explained that the residential treatment described in AS 12.55.027 is required to have the characteristics of incarceration. She recalled a case where a defendant asked to receive credit for the time served on electronic monitoring, but the court was constrained by the statute and decided that the time didn't qualify. Later the legislature codified that and added a subsection to 027 saying a person does not get credit for electronic monitoring.

SENATOR MICCICHE asked if electronic monitoring has a particular range.

MS. MEADE replied the range varies according to the order by the court.

[2:31:43 PM](#)

SENATOR WIELECHOWSKI asked if taking a drink would be considered a criminal offense under the provision in Section 2 if the court order prohibited alcohol consumption.

MS. MEADE answered in the affirmative. Disobeying anything in the bail order is violating a court order and that is a crime.

SENATOR WIELECHOWSKI asked if a person would lose all the credit for the time spent on electronic monitoring if they violated their conditions of bail on day 364.

MS. MEADE replied that would be an interpretation of the statute, but the district attorney would argue that the person

is not entitled to the credit because they violated the court order, which is a criminal offense.

[2:33:12 PM](#)

SENATOR WIELECHOWSKI asked the sponsor's intent.

BARBARA BARNES, Staff, Representative Tammie Wilson, offered her understanding that a person who violates the conditions of bail set by the court would not receive credit. She acknowledged that it may be open to interpretation and added "If you break the law, you're not going to get the credit and I believe that is the intent of the sponsor."

SENATOR WIELECHOWSKI urged the committee to clarify its intent because this provision would be litigated and the court would look to these committee hearings for the legislative intent.

SENATOR MICCICHE observed that both Sections 1 and 2 use the term may so the court is not required to grant credit. It would be on a case-by-case basis.

MS. MEADE agreed that it does allow the court some discretion, but it would be unusual for a judge to deny credit for some non-statutory reason.

VICE CHAIR COGHILL questioned whether it would add clarity to add "only" on page 1, line 10, following "monitoring."

[2:36:16 PM](#)

DENNIS JOHNSON, Program Director, Alaska Pretrial Services (APS), Anchorage, Alaska, stated that APS administers the Alaska 24/7 Sobriety program in the third judicial district. They have two offices with testing facilities in the Anchorage area and are expanding to Palmer. APS provides pretrial electronic monitoring, which is what HB 15 and SB 82 are directly related to. He reported that APS currently has about 126 active 24/7 participants and about 162 offenders under active electronic monitor. They provide daily supervision for people who live and work from the North Slope and Barrow through Kodiak and down to Juneau. He opined that both HB 15 and SB 82 provide a cost effective way to monitor and give credit to offenders who are working toward sobriety and court compliance.

Addressing an earlier question about range, he said it varies depending on the severity of the alleged offense. He believes that Alaska Pretrial is more strict than other professional

vendors. He said the bill is a cost-effective tool to help people who are trying to change their behavior for the better.

SENATOR MICCICHE asked if his company offers both proximity and alcohol monitoring.

MR. JOHNSON answered yes; Alaska Pretrial Services uses active GPS with two way communication. He described geo-fencing on an unclassified felon who is confined to his house. If he steps outside his residence, APS receives an immediate alarm and a case officer responds and notifies law enforcement. This system was developed for community safety, victim safety, and compliance; exclusion zones can be established around a victim's residence, school or place of work and range from 10 feet to five miles.

VICE CHAIR COGHILL asked the sponsor if the intent is that a person would lose all credit if they violated the conditions of bail.

REPRESENTATIVE WILSON replied it would be up to the court. She added "If I was in charge I'd make them lose it all because I think that's a bigger incentive."

Responding to an earlier question, she explained that "private residence" was changed to "residence" to include halfway houses.

[2:46:38 PM](#)

SENATOR WIELECHOWSKI commented that Section 2 will be litigated and then directed attention to page 2, line 12. That line talks about the court imposing restrictions on a person's freedom of movement and behavior. He asked if the court always imposes restrictions on both freedom of movement and behavior.

MS. MEADE confirmed that there would be restrictions on freedom of movement if the electronic monitoring had a GPS component. She guessed that a standard bail condition of commit no crimes would be interpreted as a restriction on behavior.

SENATOR WIELECHOWSKI suggested the Department of Law (DOL) look and consider whether or not to replace the final "and" with "or" on page 1, line 12.

REPRESENTATIVE WILSON said she didn't ask about that specifically, but Department of Law did have a lot of input.

[2:48:45 PM](#)

VICE CHAIR COGHILL said his preference is for the bill to clearly say that a person would lose all credit for a violation of a bail condition. He held HB 15 in committee for further consideration.

HB 75-MARIJUANA REG;CLUBS;MUNIS;LOCAL OPT ELECT

[2:49:58 PM](#)

VICE CHAIR COGHILL announced the consideration of HB 75. "An Act relating to the registration of marijuana establishments by municipalities; relating to the definition of 'marijuana'; clarifying standards for personal use of marijuana by persons 21 years of age or older; prohibiting the public consumption of marijuana; authorizing the registration of marijuana clubs; relating to established villages and to local option elections regarding the operation of marijuana establishments; and providing for an effective date."

[2:50:33 PM](#)

REPRESENTATIVE CATHY TILTON, sponsor of HB 75, described HB 75 as a guidebook for municipalities as they put ordinances together [to regulate marijuana clubs]. She deferred to her staff to discuss the substantive parts of the bill.

HEATH HILYARD, Staff, Representative Cathy Tilton, said he would speak to the comprehensive Senate Judiciary committee substitute on Friday and today he would describe the policy components.

- Page 2, line 21, has a household limit of 24 marijuana plants.
- It clarifies what aiding and supporting any activities for personal use of marijuana constitutes.
- It provides that established villages may hold local elections to opt out of commercial marijuana activities.
- Several sections clarify that municipalities may use their own ordinances in some of the decision making situations if they have a version of the Administrative Procedures Act similar to AS 44.62.
- Page 6, lines 2-3, stipulates that municipalities that currently have the power to establish civil and criminal penalties related to alcohol also have the power to establish civil and criminal penalties for marijuana violations of commercial establishments only with regard to time, place, and manner. This is consistent with Title 4.
- It provides the local option for established villages that is modified based on Title 4 as it currently exists.

- It includes the establishment of marijuana clubs at the request of several municipalities.
- A provision on page 10, line 20, allows the supreme court to establish a bail schedule that does not require a court appearance.
- Page 11 provides important definitions. In particular the term "manufacture" has the meaning given in AS 11.71.900, which stipulates that grow for personal use is not considered manufacture. The definition of "marijuana club" stipulates that it is not considered a public place, and public place is given a definition.

VICE CHAIR COGHILL shared that he was not a fan of marijuana clubs because of the question of determining inebriation.

MR. HILYARD responded that marijuana club is loosely based on what a bottle club is under Title 4. He said this was in response to request from municipalities, but it's a policy call for this committee.

[2:58:14 PM](#)

VICE CHAIR COGHILL held HB 75 in committee for further consideration.

[2:58:53 PM](#)

There being no further business to come before the committee, Vice Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:58 p.m.