

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 18, 2016

1:33 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Lesil McGuire, Chair

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91

"An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; establishing a pretrial services program with pretrial services officers in the Department of Corrections; relating to permanent fund dividends; relating to electronic monitoring; relating to penalties for violations of municipal ordinances; relating to parole; relating to correctional restitution centers; relating to community work service; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to the duties of the commissioner of corrections; amending Rules 6, 32, 32.1, 38, 41, and 43, Alaska Rules of Criminal Procedure, and repealing Rules 41(d) and (e), Alaska Rules of Criminal Procedure; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 91

SHORT TITLE: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

SPONSOR(S): SENATOR(S) COGHILL

03/25/15	(S)	READ THE FIRST TIME - REFERRALS
03/25/15	(S)	STA, JUD, FIN
04/02/15	(S)	STA AT 9:00 AM BUTROVICH 205
04/02/15	(S)	Heard & Held
04/02/15	(S)	MINUTE(STA)
02/03/16	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/03/16	(S)	STA, JUD, FIN
02/13/16	(S)	STA AT 10:00 AM BUTROVICH 205
02/13/16	(S)	Heard & Held
02/13/16	(S)	MINUTE(STA)
02/18/16	(S)	STA AT 8:30 AM BUTROVICH 205
02/18/16	(S)	Heard & Held
02/18/16	(S)	MINUTE(STA)
02/25/16	(S)	STA AT 9:00 AM BUTROVICH 205
02/25/16	(S)	Heard & Held
02/25/16	(S)	MINUTE(STA)
03/01/16	(S)	STA AT 8:30 AM BUTROVICH 205
03/01/16	(S)	Heard & Held
03/01/16	(S)	MINUTE(STA)
03/03/16	(S)	STA AT 8:30 AM BUTROVICH 205
03/03/16	(S)	Heard & Held
03/03/16	(S)	MINUTE(STA)
03/08/16	(S)	STA AT 9:00 AM BUTROVICH 205
03/08/16	(S)	Moved CSSSSB 91(STA) Out of Committee
03/08/16	(S)	MINUTE(STA)
03/08/16	(S)	STA AT 5:00 PM BUTROVICH 205
03/08/16	(S)	-- MEETING CANCELED --
03/09/16	(S)	STA RPT CS 2DP 1DNP 1NR 1AM NEW TITLE
03/09/16	(S)	DP: COGHILL, MCGUIRE
03/09/16	(S)	DNP: STOLTZE
03/09/16	(S)	NR: HUGGINS
03/09/16	(S)	AM: WIELECHOWSKI
03/09/16	(S)	JUD WAIVED PUBLIC HEARING NOTICE, RULE 23
03/09/16	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/09/16	(S)	Heard & Held
03/09/16	(S)	MINUTE(JUD)
03/11/16	(S)	JUD AT 2:00 PM BELTZ 105 (TSBldg)
03/11/16	(S)	Heard & Held
03/11/16	(S)	MINUTE(JUD)
03/16/16	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/16/16	(S)	Heard & Held
03/16/16	(S)	MINUTE(JUD)

WITNESS REGISTER

BUTCH MOORE, representing himself

Anchorage, Alaska

POSITION STATEMENT: Commented and offered suggestions on SB 91.

JESSICA BOGARD, representing herself

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 91.

MELISSA ORDNER, representing herself

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 91.

CARA DURR, Food Bank of Alaska

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 91.

SARRA KHLIFI, Alaska Food Bank of Alaska

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 91.

VICKI WALLNER, Stop Valley Thieves

Palmer, Alaska

POSITION STATEMENT: Testified in opposition to SB 91.

BRIAN SHIMEK, Outreach Manager

Food Bank of Alaska

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 91.

REECE BURKE, representing himself

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 91.

LECON CHUITT, Jr., representing himself

Ionic, Alaska

POSITION STATEMENT: Testified in support of SB 91.

MARI MUKAI, Food Bank of Alaska

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 91.

KARA NELSON, Director, Raven House and Re-entry Coalition,

Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 91.

VAL DEWEY, representing herself

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 91.

DONNA BALDWIN, representing herself
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 91.

ACTION NARRATIVE

[1:33:21 PM](#)

VICE CHAIR COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Costello, Wielechowski, and Vice Chair Coghill.

SB 91-OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

[1:33:59 PM](#)

VICE CHAIR COGHILL announced the consideration of SSSB 91 and opened public testimony.

[1:34:17 PM](#)

BUTCH MOORE, representing himself, introduced himself as Bree Moore's father. He thanked the sponsor for taking suggestions from many agencies and including amendments to the bill. He noted a letter he had written to the committee about an amendment that adds paragraphs throughout the bill to exempt unclassified felonies - the most egregious crimes.

He referred to the Pew Charitable Trust recommendations that the bill take the pressure off the prison system, make penalties for the most violent crimes stiffer, and reinvest in prevention and integrating people back into society upon release. He read the paragraph that would exempt certain parole categories: "If the defendant has not been convicted of an unclassified felony, a sexual felony as defined by statute, or a crime involving domestic violence as defined by statute." He said he found one additional section to add that paragraph on page 55, line 31. He did not think probation officers should be forced to recommend probation for unclassified felonies.

He said he discussed with Mr. Schilling the provision that states the minimum amount of time served for rape if a weapon is used is 25 years. A judge can impose a minimum of 35 years depending on violence and other factors. He pointed out that the minimum for murder in the second degree is 10 years and for murder in the first degree it is 20 years. He explained that those laws were changed by Representative Mark Neuman and no one realized that the sentences for rape were longer than the

sentences for murder. He said Mr. Schilling's research on this issue found that most murder sentences were from 45 to 55 years with eligibility for parole after a third of the sentence. He suggested changing murder in the second degree to a minimum of 25 years; for murder in the first degree it would be 35 years. He maintained that there would be no additional cost to the state.

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He concluded that this would address one of the Pew Charitable Trust recommendation to stiffen penalties for murder and the most dangerous offenses. He thanked the sponsor for being open to communication and input.

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VICE CHAIR COGHILL voiced appreciation for Mr. Moore's work and said he would highlight that suggestion.

[1:42:58 PM](#)

JESSICA BOGARD, representing herself, testified in opposition to SB 91. She shared the victim's perspective of crime and the need for balance between the victim's pain and the punishment of the convicted. She said the balance would be thrown aside, should parts of SB 91 pass, because the convicted will now be released sooner and parole shortened. However, the victim would continue to suffer. She concluded that the budget's bottom line should never come at such a high cost to the victim's piece of mind.

CHAIR COGHILL said he has tried his best to think through the minimum sentences. He said he would ensure there is less "good time" available to those who have committed sexual assault. He understood that it would not erase the pain. He commented that there would be a risk assessment tool for probation and parole, which includes victims' input. He said they are trying to be sensitive, but also allow for redemption opportunities for the incarcerated.

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MELISSA ORDNER, representing herself, testified in opposition to SB 91. She requested that the bill not consider the amount of money saved, but rather the punishment for crimes committed. She shared her daughter's experience as a victim of sexual abuse. She spoke of the wrong of letting a sex abuser be released too soon, as provided in the bill. She read a letter her daughter wrote when she was eleven. She stated that the bill puts the burden on the victim to stay in touch with the Department of Corrections.

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CHAIR COGHILL explained that violent crimes were not addressed by the commission; they dealt with misdemeanants. He said her point is well taken. He thanked her for sharing her story.

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CARA DURR, Food Bank of Alaska, testified in support of SB 91. She voiced appreciation for the repeal of the lifetime ban on the Supplemental Nutrition Assistance Program (SNAP) found in Section 136. She had concerns about Section 135, which requires mandatory drug testing for those with a previous felony drug charge who want to receive public benefits. She said drug felons must comply with their parole conditions, which often include drug treatment and testing. Putting mandatory drug testing under the Department of Health and Social Services (DHSS) would be redundant and should be left to the Department of Corrections. It would increase the workload in DHSS and be very costly with little return on investment.

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CHAIR COGHILL assured her that Section 135 would continue to receive scrutiny.

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SARRA KHLIFI, Alaska Food Bank of Alaska, testified in support of SB 91. She echoed concerns mentioned by the previous speaker about Section 135 and voiced support for Section 136. She concluded that drug testing is costly and will affect all Alaska families and create another barrier.

CHAIR COGHILL suggested she send in her written testimony.

[1:56:14 PM](#)

VICKI WALLNER, Stop Valley Thieves, testified in opposition to SB 91. She was disappointed that the public did not receive notice of the meeting. She shared the research she has done. She suggested the sponsor look at unintended consequences of SB 91. She suggested using common sense and shared statistics related to time served (now considered pretrial). She maintained they all had long records or had committed serious crimes. The offenders were back on the street in less than six months for many reasons. She highlighted several cases. She said to give credit to those who complete programs in prison. She requested getting tough on crime, slowing the bill hearing procedure down, and not making rushed legislative decisions. She suggested

including citizens in the process to provide a more balanced view.

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CHAIR COGHILL thanked Ms. Wallner for all the work she has done. He noted the frustration of the public to have to deal with thievery.

He said he would keep the public notice problem in mind and commented on the bail risk assessment tool found in the bill. He said there will also be credit for programs completed and incentives to participate in programs. He noted there has been public involvement on the bill and the committee is not rushing through the bill.

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SENATOR MICCICHE joined the committee.

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BRIAN SHIMEK, Outreach Manager, Food Bank of Alaska, testified in support of SB 91. He thanked the sponsor for the work he and the committee have done. He said he is a big fan of Section 136, but not Section 135. He discussed administrative costs and the redundancy of the program. He gave an example of a family that had to split their food with the offender.

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CHAIR COGHILL related that it is a public issue and an accountability issue.

[2:09:45 PM](#)

REECE BURKE, representing himself, testified in support of SB 91. He shared his life as a sober, former incarcerated person who was much benefitted by the Wellness Court. He described how hard his life is without the ability to drive a car and the difficulty of not having a license.

CHAIR COGHILL said the bill aims for public safety and accountability.

[2:12:34 PM](#)

LECON CHUITT, Jr., representing himself, testified in support of SB 91. He related that he is on parole and a program in Arizona called the Transitional Living helped him succeed. He said he has been clean and sober for 18 years. He stated there is a need for similar programs in Alaska.

He spoke of Section 135 regarding drug testing. He said he was in prison for armed robbery, not drugs. He had trouble finding a job and being able to get on a SNAP program was very beneficial, but he did not feel he should be required to have drug testing because he was not a drug offender.

He described his current job and how important it is to have support and mandatory programs in prisons. He said he learned how to work in prison. He shared how his village is welcoming and how he gives back to his community.

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CHAIR COGHILL thanked Mr. Chuitt. He said there are several provisions in the bill that address his suggestions. He commented that people in safety professions have to pass drug tests and that was the rationale behind Section 135.

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MARI MUKAI, Food Bank of Alaska, testified in support of SB 91. She said she works in the food outreach program and her clients have similar stories to Mr. Makai's. It helps when they have tools to better themselves. She said she works closely with the Division of Public Assistance and Section 135 would be costly to that agency. She suggested that individuals on parole have done their time and the provisions in Section 135 would duplicate their parole requirements. She thanked the committee for its hard work on SB 91.

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CHAIR COGHILL said he would look into the drug testing required by probation officers.

[2:28:36 PM](#)

KARA NELSON, Director, Raven House and Re-entry Coalition, testified in support of SB 91. She said most inmates are in prison due to addictions and mental health issues. She shared her personal story. She stressed the importance of getting rid of the barrier to those re-entering society. She said there are some great programs in prisons, but some individuals are being held for over a year without the ability to get services. She said she wanted to ensure that mental health issues are dealt with. She encouraged the reinvestment piece and the food stamp provisions. She wanted to empower prisoners to become thriving members of society.

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VAL DEWEY, representing herself, testified in support of SB 91. She shared the story of her son's history of incarceration and mental health issues. She said 40 percent of those incarcerated have mental health problems. She emphasized how costly it is and the lack of programs and housing for the mentally ill.

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CHAIR COGHILL agreed it was a slow and tedious process and he agreed that corrections and behavioral health issues are connected.

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DONNA BALDWIN, representing herself, testified in support of SB 91. She said she is a recovery coach and supports families of addicts. She wanted to see more support for families.

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CHAIR COGHILL kept public testimony open and held SB 91 in committee. He listed topics to be heard at the next meeting.

[2:43:49 PM](#)

There being no further business to come before the committee, Vice Chair Coghill adjourned the Senate Judiciary Standing Committee at 2:43 p.m.