

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 18, 2016

8:33 a.m.

MEMBERS PRESENT

Senator Bill Stoltze, Chair
Senator John Coghill, Vice Chair
Senator Charlie Huggins
Senator Lesil McGuire
Senator Bill Wielechowski

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 171

"An Act relating to the duties of the Department of Administration; relating to payment of judgment against the state; relating to pre-audit of claims; relating to travel costs and travel outside the state; repealing authorization and administration of the Department of Administration to make advances to the University of Alaska; and repealing the United States savings bond purchase plan."

- HEARD & HELD

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 pre-trial services program with pre-trial 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 171

SHORT TITLE: DOA PAYMENTS; REPEAL OTHER DOA DUTIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/05/16 (S) READ THE FIRST TIME - REFERRALS
02/05/16 (S) STA, FIN
02/18/16 (S) STA AT 8:30 AM BUTROVICH 205

BILL: SB 91

SHORT TITLE: OMNIBUS CRIMINAL LAW & PROCEDURE; CORRECTIONS

SPONSOR(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

WITNESS REGISTER

JOHN BOUCHER, Deputy Commissioner
Alaska Department of Administration
Juneau, Alaska

POSITION STATEMENT: Provided an overview of SB 171.

SCOT AREHART, Director
Division of Finance
Alaska Department of Administration
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of SB 171.

CHARLES BAKER, representing himself
Anchorage, Alaska

POSITION STATEMENT: Anchorage police officer who testified in opposition of SB 91.

NANCY MEADE, General Council
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Addressed sentencing provisions in SB 91.

TAYLOR E. WINSTON, Executive Director
Alaska Office of Victims' Rights
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 91.

JOHN SKIDMORE, Director
Criminal Division
Alaska Department of Law
Juneau, Alaska

POSITION STATEMENT: Addressed questions and concerns regarding SB 91.

JEREMY CONKLING, Vice President
Anchorage Police Department Employees Association (APDEA)
Anchorage, Alaska

POSITION STATEMENT: Anchorage police officer who testified in opposition of SB 91.

ACTION NARRATIVE

[8:33:05 AM](#)

CHAIR BILL STOLTZE called the Senate State Affairs Standing Committee meeting to order at 8:33 a.m. Present at the call to order were Senators Huggins, Coghill, and Chair Stoltze.

SB 171-DOA PAYMENTS; REPEAL OTHER DOA DUTIES

[8:33:27 AM](#)

CHAIR STOLTZE announced the consideration of SB 171.

[8:33:55 AM](#)

JOHN BOUCHER, Deputy Commissioner, Alaska Department of Administration (DOA), Juneau, Alaska, introduced SB 171 stating the following:

The genesis of this bill essentially was an examination of the statutes covering the department

and during the course of last summer and we found certain statutes that we thought it was appropriate to either repeal or amend, simply due to the evolution of processes as they've occurred in the department right now. We've identified essentially five or six things that we'd like to address in that process. SB 171 was essentially an act relating to the duties of the department in relating to how we handle certain administrative functions.

[8:36:43 AM](#)

SCOT AREHART, Director, Division of Finance, Alaska Department of Administration (DOA), Juneau, Alaska, provided a sectional analysis of SB 171 as follows:

Section 1, it is a change to the way judgements are routed through the state. Judgements come in and currently they go through the Department of Administration which then get routed over to the Department of Law, who then dispositions those judgements through already, appropriations, or looks for payments through the Legislature. What this does is takes the Department of Administration out of that loop as an intermediary and streamlines efficiencies within state governments. We changed it from the Department of Administration to the Department of Law and added one sentence that says, "Which shall seek approval for payment of the judgement."

One thing that has come up is we get in the Department of Administration, questions about these judgements, we have to then catalog them, send them to the Department of Law, who then has to disposition them, and then any questions that come up are then routed through from the plaintiff or their attorneys though the Department of Law. We would just like to direct them straight to the Department of Law.

[8:38:01 AM](#)

SENATOR WIELECHOWSKI joined the committee meeting.

CHAIR STOLTZE addressed the judgement on a settlement involving a mining project and asked that Mr. Arehart describe the case's process and how the process would be changed by the bill.

MR. AREHART replied that he was not familiar with the case.

CHAIR STOLTZE responded that he presumed that the DOA handled the case and noted that the settlement was a \$350,000 item proposed in the budget.

MR. AREHART explained that judgements that the DOA receives are routed back to the Department of Law who then follows through on the judgement and applies the appropriation. He summarized that the DOA simply routes judgements over to the Department of Law.

CHAIR STOLTZE asked Mr. Boucher to verify that there was no discussion on a \$350,000 issue. He remarked that the state was going through a tight-budget time and he was trying to figure out how the bill would change the process.

[8:40:32 AM](#)

MR. BOUCHER explained that an appropriation would be identified in the settlement process through the Department of Law. He detailed that the Department of Law does the settlement negotiations and the DOA largely plays the accounting function in the process.

CHAIR STOLTZE stated that he was trying to figure out the rationale of involving the DOA in the process. He speculated that the involvement of the DOA was due to a concern for a safeguard or an extra review process. He pointed out that the testimony lacked historical context and understanding.

MR. BOUCHER replied that he did not know what the original intent was. He reiterated that the DOA more or less acts as a pass-through for the settlement process.

SENATOR WIELECHOWSKI quoted the section that would be repealed as follows:

The Department of Administration shall examine and audit every receipt, account, bill, claim, refund, and demand on the funds in the state treasury, it shall determine whether or not the obligation is incurred in accordance with laws and regulations adopted under authority.

He remarked that the section was not being replaced with similar type of language. He asked Mr. Arehart to verify that the replacement language was very different than the requirement to audit receipts, accounts, bills, etc.

MR. AREHART asked if the committee had moved on to Section 2.

CHAIR STOLTZE replied no. He specified that the committee was still on Section 1 and asked that the question posed by Senator Wielechowski be answered.

[8:43:52 AM](#)

MR. BOUCHER replied that Mr. Arehart may have been asking if the committee had moved past the original question. He disclosed that Section 2 was directed at Senator Wielechowski's question.

MR. AREHART explained that there are system functions that take into account the items that are being repealed. He specified that there were items within the financial system that performs the different items as far as making sure that the expenditures have the appropriate budget controls. He said one of the key points DOA put in the section was the segregation of duties where multiple individuals would look at the payments so that the authorizations were met within the funding source.

[8:45:43 AM](#)

SENATOR WIELECHOWSKI pointed out that the section being repealed had a very specific requirement to examine and audit every receipt, account, bill, claim, refund, etc. He remarked that the replacement section looked like it had taken away the requirement for an audit. He asked if there was a requirement elsewhere for an examination and audit.

MR. AREHART explained that post-payment audits occur all of the time. He specified that the intent was to leverage some of the controls that were already in the system. He conceded that coming back to the committee with revised language to specifically pinpoint the controls might be the best option.

SENATOR WIELECHOWSKI remarked that the proposed change seemed pretty substantive that was not being replaced.

CHAIR STOLTZE summarized that the proposed changes bypasses the DOA as well as repeals the audit provision.

[8:47:20 AM](#)

SENATOR HUGGINS asked that the process in requesting the statutory change be explained.

MR. BOUCHER specified that the genesis for the legislation was part of a periodic statutes review by the Office of Management and Budget.

SENATOR HUGGINS asked how the specific statute request occurred.

MR. BOUCHER explained that there was an internal vetting and prioritization process where specific requests were based upon needs.

[8:49:43 AM](#)

MR. AREHART detailed that language in Section 3 was changed where a term "tourist class" would be replaced with "lowest fare." He said the intent was to make sure that travel used the lowest fare during the state's time of budgetary constraints. He added that language would be included that documented any deviation from the lowest fare.

CHAIR STOLTZE asked that an example be given where flying first class would be in the best interest of the state.

MR. AREHART explained that first class was not an option and first-class fares were not booked. He remarked that individuals flying in first class would most likely be using upgrades.

CHAIR STOLTZE remarked that he had never seen a governor in first class, but noted that he had seen deputy commissioners in first class and agreed that personal upgrades were probably used.

MR. AREHART answered correct. He specified that the DOA does not purchase first class.

[8:51:59 AM](#)

SENATOR HUGGINS noted that the Senate was under a travel restriction and asked what the process was to assure that people were abiding by the intent of a travel restriction.

MR. BOUCHER answered that the DOA has travel reports on all of the departments that details every trip.

SENATOR HUGGINS asked what the DOA does when a person deviates outside of the cost parameters.

[8:53:17 AM](#)

MR. BOUCHER explained that the DOA provides information and the commissioners or those that do the management of travel expenses provide oversight or enforcement.

SENATOR WIELECHOWSKI asked for an explanation of the repeal in Section 5.

MR. AREHART explained that Section 5 had to do with a statute that was put on the books in the late 1970s where the University of Alaska was having cash flow problems and the mechanism in the statute allowed advances to be made to the university that then had to be repaid. He revealed that the statute had not been used for over a decade and the repeal request was considered a cleanup.

[8:55:25 AM](#)

SENATOR WIELECHOWSKI pointed out that Section 39 was a repeal for employee savings bonds deductions and asked if anyone ever made requests anymore.

MR. AREHART explained that the IRS instituted "Treasury Direct" in 2010 that allowed employees to buy savings bonds directly. He specified that the state no longer buys bonds and the repeal was a statutory cleanup.

CHAIR STOLTZE summarized that all of the departments and branches of government were trying to find cost savings. He said the bill might be an opportunity to look at the University of Alaska and the court system as well. He added that the bill could be a real cleanup by the time the committee was done.

[8:57:17 AM](#)

CHAIR STOLTZE announced that SB 171 was set aside and public testimony remained open.

MR. BOUCHER remarked that the DOA would return with more specific answers and asserted that the department was not trying to shirk its responsibilities.

[8:58:58 AM](#)

CHAIR STOLTZE asked for a summary on discussions with the University of Alaska regarding working together for efficiencies and savings.

MR. BOUCHER replied that the conversations have been very productive on multiple levels. He noted that one topic addressed was the sharing of facilities within the information technology (IT) space.

CHAIR STOLTZE commented that there was no choice but to make government smarter and better.

[9:00:45 AM](#)

CHAIR STOLTZE announced that SB 171 would be held in committee.

9:00:54 AM

At ease.

SB 91-OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

9:02:51 AM

CHAIR STOLTZE announced the consideration of SB 91. He noted that RJ Ely, Police Chief of the Craig Police Department, had provided written comments regarding SB 91.

He stated that the committee would hear from Ms. Taylor Winston from the Office of Victims' Rights (OVR) on the impact SB 91 has on victims. He disclosed that OVR was established to implement the constitutional amendment passed by voters in 1994. He revealed that OVR was an agency within the legislative branch. He pointed out that the victims' advocate has a lot similarities to the Ombudsman and that the individual was confirmed by the Legislature to serve a five-year term on behalf of the legislative branch. He explained that OVR had subpoena powers and the ability to get into the minutia of court cases with victims. He remarked that OVR was a productive state office that assisted victims because of their legal training and staffing that included paralegals and investigators.

He announced that the committee would first hear testimony from an individual who was an Anchorage police officer. He specified that the individual would speak on his behalf and not for the Anchorage Police Department.

9:05:50 AM

CHARLES BAKER, Officer (OFC), Anchorage Police Department, representing himself, Anchorage, Alaska, set forth that he opposed SB 91. He asserted that SB 91 provided the "get out of jail free card" to criminals while doing nothing for the victims.

OFC. BAKER addressed Section 37 as follows:

In this it talks about establishing the presumption that we as police officers will cite or give a summons to any non-violent Class C felony. So if you look at a Class C felony, that's going to be your felony DUI, that's going to be your burglary in the second degree, that's going to be your theft in the second degree.

Theft in the second degree involves the theft of a firearm. I don't know any criminal who would steal a firearm and commit a non-violent crime.

OFC. BAKER addressed Section 33 as follows:

Section 33 deals with having illegal drugs within 500 feet. Let's talk about meth or heroine, being within 500 feet of a school and having less than 2.5 grams. I know with my training experience that a user's amount is about one tenth of a gram; so what that means is that a criminal could sit on an exit within 500 feet of a school and sell 24-user amounts to kids coming out. All I'm allowed to do is give them a citation or summons and I don't take them to jail; that means I give them a piece of paper and give them a court date or I give them a ticket and I go away and then what is stopping them with that piece of paper and not going to jail from going to get more, as long as they stay less than 2.5 grams, I can't take them to jail, I just have to keep giving them citations.

[9:08:14 AM](#)

CHAIR STOLTZE asked if Officer Baker saw positive areas of the bill that provided useful tools for law enforcement.

OFC. BAKER answered that there are portions in the bill that he supported. He pointed out that he was concerned over the change in the theft statute from \$750 to \$2,000 and its implications for businesses.

SENATOR COGHILL replied that he shared OFC. BAKER's concerns and addressed as follows:

Those are actually pretty legitimate concerns. I actually share some of the concerns. So as we have looked through this, some of the recommendations that we had from the "Commission" [Alaska Criminal Justice Commission (AJC)] were to reduce a lot of misdemeanants down to the citations. Let's take Section 33, if it was left at a misdemeanor you would be able to at that point arrest them because it would be any amount, right?

OFC. BAKER replied as follows:

For misdemeanor offences we have the ability to choose whether we take them to jail or we cite them using the words like "shall" and "presumptive," you're expecting us to do so; if you leave it at a C felony, I now get to take them to jail. If you use the language "presumptive," if you expect us to give cites or summons and you said "shall" in there, then that's what I have to do right now, give a citation instead of taking them to jail.

[9:10:04 AM](#)

SENATOR COGHILL replied as follows:

The aim was to make sure on possession that we had a quick and certain way of dealing with it, but what you are saying is probably getting them away from the circumstance is probably better than actually citing at this point.

OFC. BAKER replied as follows:

Right, we need to get them away from the victim, that's the biggest portion of it, by us citing them that gets us nowhere, all that gets us is giving them a piece of paper and then I leave to go to my next call. If I get called back and I catch him doing the same thing and catch the same amount, I give them another citation, I can possibly give them trespass which is a misdemeanor and that's another citation. So now he's holding 3 pieces of paper and I have to leave and if it's the end of my shift, unfortunately I have to go and another officer comes back and he's going to do the same thing and now we have this guy, he could have the hundred pieces of paper, that does not stop him. What we need to do is fix it at the moment, take him or her to jail, let him or her deal with the consequences at that point and get the help they need. Whatever Corrections has, I don't know, I don't deal with that portion of it, but at the time we need to get them away from victims. We shouldn't be making more victims, we should be tough on crime. I feel that this is giving them a "get out of jail free card."

[9:11:21 AM](#)

SENATOR MCGUIRE joined the committee meeting.

SENATOR COGHILL responded as follows:

I'm going to take that to heart. The idea was if we had 2.5 grams that there would probably be reason to hold them accountable, get them before a court, but we are also pretty aware that there were some places where you want to get them away from a circumstance. In this recommendation there was actually an arrestable violation put forward, it would probably be very different than a misdemeanor which creates a whole other range of illegal processes. So we are trying, I think, and I am speaking for the Commission on this one. The idea was how you make sure you hold people accountable, give them a court date, but the arrestable offense was then you could hold them for 24 hours. Do you think that would be a useful tool in this particular circumstance?

[9:12:20 AM](#)

OFC. BAKER acknowledged as follows:

Yes sir, by taking us away from the victim and putting them in jail, even if it's for the 24 hours; that at least makes them accountable and takes them away from the victim.

So let's take this, let's say I get called to your house, you have the family, a guy enters your house, starts breaking your stuff, tries to take stuff, I arrive, I catch him. According to Section 37, I now "cite" the guy, I give him a ticket or a summons to go to court at a later date, I then leave because my job is done, I've done what I'm supposed to do, give them a citation. What is stopping him from going right back in? I've already left, I get another phone call, he's back again, "He's stealing my stuff and I'm worried he's going to hurt my child." I come back, it's still a citable offense according to Section 37. So now I can "trespass" him, I give him another citation and now he's holding three citations, end of my shift, I leave, he goes back in. I have to be able to stop that, I've got to make them accountable, I have to be able to take them to jail on those circumstances to get them away from the victim, so that's how we help them.

[9:13:53 AM](#)

SENATOR COGHILL addressed section 37 as follows:

Now I'm jumping to Section 37 because I think that certainly was not the intention is we allow people to go destroy people's property and we just give them a piece of paper showing them going to court. This would be that unless the officer reasonably believes a person is a significant danger to themselves or others. So the significant part is a big deal there, if you saw there was a danger, you could actually arrest them under this condition.

OFC. BAKER answered as follows:

I agree, but let's say he goes in your garage, that's your house. So if you're not actually in your garage, you could look at it as a peace officer, I make that judgement call that he never made it inside, I mean depending on, not to say I wouldn't, I might arrest the guy, but another officer could say he has that judgement call now that he's not being violent, he's just taking your stuff or he had wondered in there; well that's a crime and we're just going to give him a ticket and we can't stop him from going right back into your garage, I mean all he is doing is holding a ticket that has a date on it.

9:15:04 AM

CHAIR STOLTZE remarked that Officer Baker will find Senator Coghill to be very easy to communicate with.

OFC. BAKER stated that he would love to help out any way that he could.

SENATOR COGHILL stated that how SB 91 worked at the ground level was important. He said the citation concept addresses people who did not present a danger to the public or themselves and would show up to court to be held accountable. He asserted that he wanted to make sure that the discretionary judgement was left to the officer in areas where the danger was at a higher level. He revealed that, "A significant danger to themselves or others" was added to Section 37 where it had previously just said "danger." He asked Officer Baker to verify that Officer Baker was saying that just giving a citation would become a danger at a higher level and should be considered.

9:16:26 AM

OFC. BAKER answered that violent and non-violent class-C felonies should not be cited or summonsed. He said individuals committing class-C felonies need to go to jail because the act was something that was more than a misdemeanor.

SENATOR COGHILL stated that he would take OFC. Baker's remarks to heart and make notations on his recommendations.

CHAIR STOLTZE thanked OFC. Baker for coming forward as a citizen away from Anchorage where he worked. He encouraged Officer Baker to continue working with Senator Coghill.

SENATOR HUGGINS asked what OFC. Baker's confidence level was with ankle monitors.

OFC. BAKER recounted that he had experienced situations where the ankle monitors had not worked.

[9:20:04 AM](#)

NANCY MEADE, General Council, Alaska Court System, Anchorage, Alaska, announced that she was available to respond to questions regarding SB 91.

CHAIR STOLTZE pointed out that the Truth in Sentencing Act requires a judge during sentencing to describe to the victim the likelihoods and probabilities of how much time the offender will serve with Good Time and parole. He noted a recent case in Anchorage where the offender was sentenced for a long period of time, but was released after serving a much shorter period of time. He explained that the public was told by media that the offender would serve a long time, but was released due to current items within the Alaska Department of Corrections (DOC) system for Good Time. He remarked that SB 91 has more incentives and abilities for the incarcerated to get out earlier. He asked Ms. Meade to address truth-in-sentencing and her confidence level that the public will get full exposure for sentencing.

[9:22:11 AM](#)

MS. MEADE replied that there was the Victim's Rights Amendment to the constitution and statutes that flesh out and provide definite rights to the victims. She said victims have a right to be notified when an offender is up for parole, release, or probation. She disclosed that DOC has a system for notifying victims called the Victim Information and Notification Everyday (VINE) service. She added that during the pendency of a case, the Department of Law keeps the victim in the loop of any hearing where the defendant appears. She pointed out that the

DOC statutes do provide for Good Time, something that judges are aware of and mention at a sentencing. She revealed that one-third of a sentence was typically not served if the defendant qualifies for Good Time credit and the defendant nearly always qualifies. She added that defendants can get Good Time credit for any pretrial time spent incarcerated or in certain treatment programs. She disclosed that DOC does the actual prisoner-time accounting, but judges do not have the actual accounting in front of them when addressed during sentencing.

9:24:30 AM

CHAIR STOLTZE stated that actual prisoner time was an important feature. He said there were new provisions proposed in SB 91 that ought to be fully disclosed. He asserted that the actual prison time should be disclosed by the judge because sentencing was the part where the public interfaced with the media.

MS. MEADE replied that Chair Stoltze was correct. She opined that sometimes the media reports different things about a sentencing hearing where every word is not reported. She revealed that judges have training material as well as a script that is read during sentencing that addresses whether victims had been informed and would like to participate. She said she would take Chair Stoltze's words back to the judges to ensure that sentencing protocol was closely adhered to.

CHAIR STOLTZE noted that the media can only report what is said by the judges. He pointed out that one of the issues that SB 91 addresses was money and asked Ms. Meade to elaborate on the bill's fiscal note.

9:27:50 AM

MS. MEADE replied that the court system did submit a zero fiscal note. She conceded that predicting exactly how the bill fiscally plays out in the courtroom was hard. She explained the reasoning for a zero fiscal note as follows:

I think as my fiscal note says, on balance it's probably a wash, some things will end up being more hearings for us and the Department of Law and the public defenders probably recognizes that as well. There may be a lot more bail hearings for example because people are allowed to ask for a review of their bail conditions if they aren't able to meet the conditions after 48 hours. On the other hand, some of the felonies that would become misdemeanors and

misdemeanors that would become violations may take a little bit less time for the court to process.

MS. MEADE summarized that if and when SB 91 passes, the court system would absorb costs when working with judges and clerical staff on training.

[9:30:25 AM](#)

CHAIR STOLTZE noted that pre-trial custody was a major component of SB 91 and asked why pre-trial custody shows up as a savings.

MS. MEADE explained that AJC and the bill's sponsor focused on the fact that about a quarter of the state's prison population was in jail awaiting sentencing, primarily because an individual cannot make bail. She said SB 91 encourages judicial officers to set bail amounts and conditions that result in more pre-trial people being out on bail than in jail. She disclosed that a grading or formula-risk assessment was anticipated to be done by a new office within DOC where judges will receive recommendations.

[9:32:46 AM](#)

CHAIR STOLTZE asked that departments identify within their fiscal notes as to how much analysis was provided by The Pew Charitable Trusts' reports and recommendations. He specified that the intent was to assure that the state's branches of government relied on its own professional analysis.

MS. MEADE specified that she did not work with The Pew Charitable Trusts on her fiscal note.

CHAIR STOLTZE responded that he was providing a general notice to all of the departments and branches of government.

[9:34:29 AM](#)

SENATOR COGHILL said the court was going to have to deal with new concepts in the bail provisions. He remarked that the state has people spending pre-trial time in jail based on not having money rather than the risk to society. He asserted that those who sit in jail quite often can be less risk to either showing up to court or being a danger to society. He summarized that doing a risk assessment would be a good tool for judges.

CHAIR STOLTZE opined that television shows often depict economics as an accepted part of the system.

[9:37:40 AM](#)

TAYLOR E. WINSTON, Executive Director, Alaska Office of Victims' Rights (OVR), Anchorage, Alaska, described OVR as follows:

The Office of Victim's Rights was established about 12 years ago to make sure that crime victims' rights are protected. Alaska is rich with statutory and constitutional rights for crime victims. So here within our office we serve victims across the state. Our victims are victims that come from all spectrums of crime; for example, we represent victims of: robbery, burglary, theft, sex offences, assault, homicides, and even child victims of drug crimes. We are one of the only organizations that actually addresses concerns of all victims, not just domestic violence or sexual assault victims, which there are many organizations that work with them.

Our services are free to victims across the state, all they have to do is contact our office and we will open a file for them. We do have some limitations in that we can only serve victims of felony-level crimes or A-misdemeanor crimes that are people offences, meaning under AS 11.41, or those crimes that are designated as domestic violence offences; if a person is a victim of one of those crimes or a parent, guardian of a person who is a victim of one of those crimes, we can assist for free.

[9:39:16 AM](#)

MS. WINSTON explained OVR procedures as follows:

How do we do that? Well, in our office we have myself and three other attorneys, all of whom have been prosecutors in the past and worked in also various other areas of the law. We work as their attorneys, the victims' attorneys. We follow the case through the process so as soon as it's reported to the police, a victim can contact us because we are able to help guide them through the entire criminal justice process, which means the law enforcement process, the court process, and even after a resolution of the case that in which they are a victim as it proceeds through probation or parole we can also assist them. So that can take on a variety of roles for us, a lot of counseling with them as far as explaining the legal twists and turns of the system. We can file motions on their behalf to protect their privacy when defense

tries to get into their most privileged records like substance abuse records, mental health records, medical records, OCS records, we can help them try to file pleadings to express their interest in having a speedy disposition of the case, their opposition to continuances, which are a significant problem across the state. We certainly can represent them and speak to them in bail hearings or at sentencings, or help them with their comments to the court to address the court in those hearings, and we also provide references to other agencies that can help victims where we cannot help them, such as civil matters or with violence crimes compensation board, things of that nature.

[9:41:21 AM](#)

CHAIR STOLTZE asked how OVR was funded.

MS. WINSTON answered that OVR was part of the legislative branch and funded through general funding.

CHAIR STOLTZE asked Ms. Winston to confirm that a large portion was from forfeited Permanent Fund dividends.

MS. WINSTON replied that forfeited dividends may have been used at one time, but a change was made prior to her joining OVR.

CHAIR STOLTZE implied that Ms. Winston was an active participant with the Commission and asked that she provide her thoughts and analysis of SB 91.

MS. WINSTON explained her background as follows:

I have been in the trenches of the criminal justice system for nearly 20 years. After graduating from Georgetown Law, I spent one year in Anchorage as a law clerk for a superior court criminal judge. Then I worked for the Department of Law as an assistant district attorney for 13 years, which included an initial year of prosecuting misdemeanors in Anchorage. Then 2 years in Bethel primarily prosecuting domestic violence and sexual offense crimes, and the remaining 10 years back in the Anchorage DA's office where I prosecuted felony level violent crimes, including homicides, and spent 8 of those years that I was in Anchorage in the sexual assault unit, 6 of which I supervised that unit, and for the last 4 years I've

been with the Office of Victims' Rights. Additionally, before becoming an attorney, I worked for almost 7 years as an analyst in Washington D.C. for the U.S. General Accountability Office evaluating government programs for waste, fraud, and abuse.

[9:44:11 AM](#)

MS. WINSTON provided general comments as follows:

This bill and the criminal justice system already as a whole does not adequately recognize property victims as victims; they get cast aside and considered as just a property crime and behind every property crime there is a victim that suffers, and I've seen it throughout the court system and certainly have seen it throughout legislation that they are sort of the forgotten stepchild in the world of crime victims.

Now with all due respect to the comments I just heard Ms. Meade make, victims are not always notified, that's what our office fields a lot of complaints about is the lack of notification by the Department of Law with regards to bail hearings, with regards to continuances, with regards to sentencings even, it's a daily violation that occurs for victims across the state and victims aren't notified about petitions to revoke probation (PTR), now that's really a resentencing event in which they have a right, a constitutional right to address the court, they are completely left out of that process. We have seen that their constitutional right to a speedy disposition of a case is virtually ignored by many judges across the state. Sometimes it's just for the mere convenience of the court that a constitutional right is ignored. Even DOC, I've had victims call at the parole level and say that they put their information in and weren't notified about a parole hearing. So to say that it's consistently and uniformly done across the state at this point is not a fair portrayal and I believe SB 91 will only exasperate the problems; in fact, many of the components of SB 91 are unconstitutional because they do violate victims' constitutional rights.

[9:46:15 AM](#)

She addressed victims' constitutional rights as follows:

We are testifying of course on behalf of crime victims statewide. As I mentioned, we are concerned about the unconstitutionality of the sections in the bill and negative effects that we'll have in our communities. While the bill may achieve its goal to reduce prison population by 25 percent, there is little in it to hold offenders accountable and keep Alaskans safe. I know a lot of hard work was put into drafting this bill, but it's lopsided for offenders and against victims. Even though it has been touted as a bill for reinvestment, the bill focuses primarily on how to get people out of jail. The bill provides lots of specifics about reducing offenders' consequences, but fails to provide specifics on the actual reinvestment in other key areas of needed reform. There is no doubt that our criminal justice system is flawed and change is warranted, but change should not come at the expense of Alaskans' safety. Change should not further trample on the rights of thousands of people victimized by criminals every year. Change should not subject victims to further victimization by a justice system that claims to hold offenders accountable and keep people safe.

This bill hands gifts to offenders while it steals away the rights of victims. In some ways, it is the equivalent of like a parent telling a child, "Well, you know, instead of your usual punishment about a week long grounding, I'm going to give you a five minute timeout, then we are going out for ice cream." There was a public outcry a few years ago when Jerry Active, and many of you may remember him, murdered two people and raped a small child, people wanted to know why he was out of jail and blamed the Department of Law. If SB 91 becomes law, there will be many more Jerry Active stories and the blame will fall fairly at the feet of the Legislature. SB 91 gives the offender reductions at every level of the process, layer upon layer upon layer. There will be reductions in the level of charges. There will be reductions in bail, reductions in jail sentences, reductions in probation lengths, reductions in sentences for probation violations, reductions in the amount of time served before being eligible for parole, and reductions in the requirements to get parole.

[9:48:34 AM](#)

MS. WINSTON addressed change to charges as follows:

Many charges will be reduced as far as the seriousness or class of the offense. In Section 31, giving narcotics to children will drop a felony level. In Section 34, possession of all drugs, including heroine of any amount, will drop from felony to misdemeanor level. In Section 18 through 22, misdemeanors like failure to appear and violating conditions of release won't even be crimes anymore, just a ticket. Reducing penalties for violating conditions of release offenses puts victims at risk. A defendant who has threatened to kill a victim and shows up at the victim's home during the middle of the night violating a judge's bail order not to go there, would not be charged with a new offense and may or may not be arrested in the situation; in fact, police may not even respond since a crime isn't being committed. The victim's constitutional rights to be protected from the accused and to be treated with dignity and respect through all phases of the criminal justice process will be violated to save a dollar. Defendants ordered to come to court will have no incentive to come, this will add to an already retched problem of continuances and delays in the system. Victims will have less certainty, suffer more delays, and become further demoralized by the so called justice system, not only their right to be treated fairly will be violated, but the constitutional rights for a speedy disposition of the case will be violated.

9:50:10 AM

She addressed difficulties for police as follows:

I think Officer Baker addressed some of this. For crimes like vehicle theft, felony thefts, alluding, possession of child pornography, arson, and endangering the welfare of children and vulnerable adults, as a general rule, those will be crimes that police will have to give a citation for. We've seen a lot of news stories lately about the dangers of offenders driving a stolen vehicles and or alluding police, headlines just in the last two months like a K-9 unit apprehends car thief after a stolen Subaru strikes police car, vehicle alluding trooper in Fairbanks results in an officer involved shootout. A UAA study found that 37 percent of all officer-

involved shootings in Anchorage from 1993 to 2013 started as a traffic stop, stolen vehicle, alluding, or a burglary, it just makes no sense that a person fleeing police and ultimately stopped would be given a citation to come to court in a few days. Under Section 37, if police want to arrest the person for many of these crimes, police would have to find a significant risk to the public; this is a high threshold for officers to meet and could subject them to lawsuits. Many of these crimes in the bill considered harmless and non-violent truly do present a safety issue for law enforcement and the public.

MS. WINSTON addressed bail changes as follows:

Bail would be significantly reduced, requiring many offenders to be released on their own recognizance or unsecured bond. If a judge wants an offender to post money, that judge would be required to legally justify the imposition of that at a higher level of proof. Changes to the bail statutes will preclude or eviscerate a victim's constitutional right to be heard regarding a defendant's release and would violate the victim's right to be protected from the accused. For example, Section 43 requires judges to release defendants on their own recognizance or unsecured bond for many misdemeanor offenders deemed low or moderate risk and C-level felony offenders deemed low risk; for victims of those crimes, even if allowed to address the court, their input would be meaningless because the judge's hands are tied. Sentences and penalties across all categories of crimes would be reduced, including for murderers and sex offenders. Some will say, "Oh, well they are not being reduced because all of the statutes for the presumptive terms for sex offenders will remain the same." The sentences is the totality of the sentence, what happens not only during the initial phase, but also during probation and parole, so the sentences would be reduced.

[9:53:22 AM](#)

She addressed sentencing changes as follows:

One of the most dramatic changes starting sort of at the bottom of the list of offences is the dramatic changes in sentences for A-misdemeanors like assaults. Currently a person could be sentenced up to a year in

jail for a misdemeanor. For the most part, under SB 91 the maximum sentence for most crimes would only be 30 days and with Good Time that comes out to 20 days maximum. So punching someone in the face, breaking their nose would only mean a maximum time of 20 days in jail.

Even more shocking is that possessing any amount of heroine would only be punishable for that maximum 30 days, actual 20 days in jail. The consequences of not following probation with a maximum sentence of 30 days are so inconsequential they become meaningless and an administratively huge waste of time and resources at that misdemeanor level.

Sentences for felonies will drop too. For first time defendants convicted of possession of child pornography, a Class C felony, he would get a probationary sentence called a Suspended Imposition of Sentence (SIS) of 0 to 18 months. For example, a defendant that I once prosecuted in Anchorage, who possessed an old video of himself raping a little boy in another state and had 15,000 other images of child porn; under SB 91, he would only be put on probation, but at the same time SB 91 makes sure that a Fish and Game first-time defendant of a Class C felony would get 1 to 2 years in jail.

The sentence of a first time Class B felony offender, such as criminally negligent homicide, would drop. So a defendant who points a gun at a person's head and pulls the trigger thinking the gun is a toy, yet kills a victim, that defendant faces as little as no time in jail and no more than 2 years to serve for killing a person.

A sentence for a first-time Class A offender, like assault in the first degree, would also go down; for example, a defendant who runs a red light and hits your child in the crosswalk, crippling him for life, would only face 3 to 6 years to serve in jail.

Probation lengths and penalties for probation violations will go down too. Maximum probation lengths for sex offenders will drop from 25 years to just 5 years. Maximum lengths probation for murders will drop from 10 years to just 5 years. Maximum lengths of

probation for all other felonies will drop from 10 years to 3 years. Maximum probation lengths for misdemeanors domestic violence (DV) crimes or [driving under the influence] (DUIs) where there's been previous DUI convictions, will drop from 10 years to 2 years. Maximum probation lengths for all other misdemeanors will drop from 10 years to just 1 year. Probationers will be able to earn a day-off for every day of compliance, potentially cutting their already reduced probation yet again in half. The bill merely slaps probationers on the wrist for technical violations, their penalty: first violation, no more than 3 days; second violation, no more than 5 days; third violation, no more than 10 days; and after the fourth reported violation, the judge will then be allowed to give them more significant time or all of their suspended time; in fact, defendants could be released under this scheme before any hearing takes place, not only creating a huge safety risk for victims and the public at large, but also violating the victim's rights to be protected from the accused as well as eviscerating their right to be heard on release and their right to be heard regarding sentencing on the resentencing.

Victims will have no certainty in the system. There will be no more truth in sentencing because you are going to have to have a sentencing-tree that looks like a convoluted family-tree to explain what could happen in this system under SB 91 for victims; they won't know if they are getting a day-for-day credit, they won't know if somebody is half-probation, they won't know if somebody has gotten an administrative parole, and under SB 91 they have to actually ask, they have to be proactive and ask for a hearing under administrative parole before they are allowed to have that voice, that burden should not be placed on victims in that, there should be a hearing, no matter what the victims have the opportunity to speak out.

[9:57:52 AM](#)

MS. WINSTON continued to address probation as follows:

We talked about these probation violations, the word "technical" is far too broad. What is a technical violation? Well, I've heard it described as a guy

showing up a couple of hours late, getting popped on a violation because he reported later in the day. I would like to see the numbers of how many times that's happened because I don't recall in 13 years as a prosecutor ever having a probation violation filed on that kind of low-level violation. A technical violation can include anything that was not a new crime; for example, a child molester out on probation, ordered not to have contact with kids, is found on a home visit by his parole officer (PO) to be naked in the room with a naked toddler, that would be a technical violation under SB 91, worth no more than 3 days in jail if it's his first violation.

There are also parole reductions and these are scattered through Sections 96 through 117. First time low and midlevel felons who have met requirements of their case plan will automatically be paroled after serving 25 percent of their jail sentence. Discretionary parole will be available to more criminals and sooner. Currently the highest level sex offenders, those unclassified first time offenders, can't get discretionary parole, but under SB 91 they will be eligible. So, they will also be eligible for those 55 years or older, they will be considered geriatrics and allowed to parole after they have served ten years of their sentence. How will this impact people? Well, let's say you are a 45 year old child molester who has raped 2 little girls repeatedly and was sentenced to 50 years in jail, he'll be able to get out under SB 91 on parole in just 10 years when he turns 55. A most heinous of criminals would only serve a small portion of a lengthy and worthy sentence on a false premise that at 55 they are unlikely to reoffend; this is particularly not the case with child molesters, many of the child molesting cases we see are committed by older offenders, offenders in their 50s, 60s, and sometimes even into their 70s.

10:00:30 AM

MS. WINSTON addressed Section 117 as follows:

Another alarming provision in the bill is Section 117 that says, "Regardless of your crime or sentence, if paroled, the offender can be unconditionally discharged from parole after only 1 year if the offender has behaved for that year on parole and

completed ordered treatment;" if passed, this will apply to any criminal, not just those already paroled. For example, somebody is convicted of murder this year, and because the offender has murdered a girlfriend and received a 50-year active-jail sentence, if he gets paroled after 20 years, he could be completely off parole after only 1 year, 1 year of good behavior can wipe away 30 years off his sentence just like that.

MS. WINSTON addressed Section 91 as follows:

While the bill finds many ways to let defendants out of jail at every turn to save money, it also builds in many new administrative costs and adds new state employees to the state payroll. OVR believes that the pre-trial services component of Section 91, while well meaning, is a waste of \$3.9 million because prosecutors, defense attorneys, and judges are in a better position to assess risk; it is a waste of money because private industry, as long as there are standards set up and regulation and some oversight, can better supervise pre-trial defendants and the \$3.9 million quoted for this program with 125 new state employees is a gross underestimation. Those monies that are being sort of earmarked for pre-trial services would be more effectively spent on treatment programs for many offenders with addiction problems.

She addressed reinvestment as follows:

Even the Chair of the Commission told this committee that public safety will not be protected under SB 91 without companion legislation reinvesting in needed programs; I agree, I agree that those programs are needed. But I must say, call me cynical, after all these years that the state has been fat and happy with its oil revenues, investment was not made for many more probation officers to intensely supervise offenders. Investment wasn't made for needed treatment beds for those who might succeed at breaking the cycle of addiction, and recidivism and investment for more beds for treatment and isolation of mentally ill criminals who pose a significant threat to our communities was not made, and now when the state has no money, we are being asked to trust in an adequate

reinvestment to protect the public that that will be done.

[10:03:32 AM](#)

MS. WINSTON explained OVR support and recommendations as follows:

OVR really does support thoughtful development of and gradual passage of statutes designed to specifically remedy its inefficiencies, problems, costs associated with the criminal justice system that exist currently. SB 91 however is too far reaching and much of it could be achieved through more flexible policy changes and utilizing laws already on the books. The notion that the sky is falling and we must make all of these profound changes is a false narrative. Much can be accomplished by taking smaller steps, addressing some of the more significant places of concern like revamping the pre-trial. Pushing cases faster through the system in and of itself will shorten down those pre-trial numbers and pre-trial incarceration.

We are very thankful to Senator Coghill for the time he has given us to talk to him about the concerns we have in SB 91 and our hope is that some of these concerns can be reflected in changes in the bill to reduce its negative effects. We hope other legislators will do the same as Senator Coghill has done and reach out to us and talk to us about our concerns and where this bill might be made profoundly better for the people of the State of Alaska. One of the primary responsibilities of government and this Legislature is to keep people safe. Whatever form SB 91 takes over the weeks to come it is imperative that this legislation first and foremost protects the safety of our citizens and does not sacrifice safety to save a buck. We want to see a bill which does not violate our constitution, which holds criminals accountable, which keeps our community safe and protects victims and their rights. While there are a few sections we support and some we take no position on, overall, given the ramifications we see in this bill, at this point in time, OVR opposes SB 91 in its current form.

[10:05:52 AM](#)

SENATOR COGHILL responded to Ms. Winston as follows:

I'll be looking forward to the written testimony. I think your goal and my goal is probably pretty much the same. I think some of the methodologies there is probably reasonable, maybe discussion on the pros and cons of some of those; however, the unconstitutional areas and the public safety issues are going to be important. So as we work through those, my commitment is to try and make sure that we don't inadvertently kind of let people off the hook as you kind of indicated that the whole idea is to hold people accountable. Seat-time in jail doesn't necessarily make them safe though and I think it doesn't make the public safer. So as we move through this, those accountability measures are going to be very important, whether they are pre-trial or the issues dealing with some of the post-jail time. You're right, some of the reinvestment is a critical part and you are probably right to chide us a little bit on the way some of those programs have come and gone throughout the years.

We've reached out to you and I appreciate it. I've got a list of things that I'll probably bring out in front of the committee that are based on some of the very conversations we've had. So the bill that you see before you will probably be quite different as we move forward. We tried really hard in the Commission, and I say "we" because I was part of the Commission, to have victim advocates come before the Commission. We had a victim-advocate meeting in Fairbanks and in Bethel, and we would have welcomed any input you had at those and at the Commission meetings. I'm sorry that we didn't get these kinds of input during the process. Was there a failure to communicate with OVR throughout the commission process?

10:08:13 AM

MS. WINSTON replied as follows:

I did not receive very much communication from the Commission, with the exception of the Fairbanks meeting which I attended and I know you were there. I did learn about some of the, very late in the process, like November or December, some of the meetings that were taking place just through the network. But I didn't receive anything directly from the Commission, which would have been helpful because while I

understand Brenda [Stanfill] was on the Commission to represent victims. We just have a unique position at OVR because we actually represent even a broader base of victims across the state.

SENATOR COGHILL responded as follows:

All I can say at this point is I'll go through what she has for written testimony and take a look at them. There are probably some places where I think there's room for argument on the public safety elements of this; however, I think there's a good balance of discussion on it. So I'll do my best to make sure that we are a safer public, I think that was really the Commission's view. But I do know that just seat-time has not made us safer, just having people sit in jail has not made us a safer place. Some of my probation issues, we might have people on probation who have been violated and it might be months before we can get to them and get them in jail, that does not make us a safer public.

So the system as we have it, and I think Taylor would agree, that the system itself could do better, either as it is now or as we move forward. So those kind of accountability measures I think have to be swift, they have to be clear, they have to be appropriate to the issue, whether it is a petition to revoke bail or probation. I kind of get where she's at on the petition to revoke on violations. There should be probably an escalating value to whether or not someone immediately goes back to jail, or they are held accountable in other ways, I think this bill allows for some of those things. The pre-trial issue I'll agree with to some degree. For those areas where there is higher risk though, we've made an accountancy for that in here. I think some of her concerns can easily be answered, but for me to just try and take them in order, she had quite a bit of time and I don't know that I could keep up with all of the issues, but I'd like to be able to respond to some of them, either by way of an amendment or a rebuttal.

10:11:03 AM

CHAIR STOLTZE stated that the committee intends to revisit Ms. Winston's comments. He remarked that Senator Coghill was not the AJC chairman and his good motives were not intentional to slight

the constitutional office for OVR. He called attention to Ms. Winston's testimony regarding AJC addressing victims' rights as follows:

I think there may have been a supposition that Ms. Stanfill in her role as a victim's agency was speaking for, but as we heard from some pretty in depth testimony and description of her constitutional and statutory responsibilities, it sounds perhaps maybe some of the legal expertise of the constitutional responsibilities for victims weren't as fleshed out even though Ms. Stanfill was, by title, somebody who advocates for victims and maybe that was a potential failing.

SENATOR COGHILL remarked as follows:

I think there's room for that discussion as well as the fact that every meeting of the Commission was publicly noticed. We met every month, many times in a month, they were all publicly noticed and she was never barred from any of those meetings. I think it would have been helpful if she would have been there. So there's probably a communication problem that could have been solved.

CHAIR STOLTZE asserted that there was a big gulf between not being prohibited and being invited.

SENATOR COGHILL divulged that a lot of people gave input who were not necessarily invited on the Commission.

CHAIR STOLTZE said the committee would continue to flesh out victims' rights and look forward to receiving Ms. Winston's extended comments in written form.

SENATOR COGHILL asked that the Department of Law address Ms. Winston's constitutional concerns regarding SB 91.

[10:14:26 AM](#)

JOHN SKIDMORE, Director, Criminal Division, Alaska Department of Law, Juneau, Alaska, replied that the Department of Law has not seen constitutional concerns. He said Ms. Winston's testimony was broad and he would have to get into the specifics after the meeting to provide analysis.

SENATOR COGHILL concurred that Ms. Winston brought up many good points that should not be handled on the fly. He asked that Mr. Skidmore address the new concept of going from misdemeanors to violations and being able to detain on a violation.

MR. SKIDMORE replied as follows:

I believe what you are talking about is the reduction of a class-B misdemeanor to a status of a violation and within SB 91 there are several provisions where it talks about the ability to hold an individual for 24 hours on a basis of that violation. Advice that I have given to others that have asked what I interpret that is you, the Legislature, can call it a violation, you can call it a misdemeanor, you can call it what you want, but we in the legal system know that if you are going to take someone's liberty, that means it's a crime. We're going to have to give those people a court appointed attorney if they can't afford one on their own and they are going to be entitled to a jury trial regardless of what we call it. We've had that same experience as many of you may remember in dealing with minor-consuming where the Legislature has on several occasions attempted to tackle that problem by not calling it a crime, calling it a violation; but, the liberties that were taken in those instances weren't someone's freedom, weren't putting them in jail, the liberty was merely the driver's license. But there are opinions from the court of appeals and the Supreme Court. But there are opinions out there that say that when you are going to infringe upon a citizen's liberties, like taking a license, that they are entitled to a jury trial, they are entitled to have a court appointed attorney if they cannot afford one, and our analysis in the Department of Law is that for all of those violations for which somebody would be held for at least 24 hours, they would be entitled to those same sorts of protections. So I don't see that as unconstitutional, but I think it is important that everyone understand how that would work and what savings might be possible and what savings won't be possible simply by calling it a violation.

[10:17:43 AM](#)

SENATOR COGHILL replied as follows:

That was a new concept that we went through and I'm still trying to get my mind around it. So if we left it as a misdemeanor, it starts one system, everything as a misdemeanor is a crime. There were some violations in here that were not going to be crimes, detaining though becomes the crime issue. So I think we have to ask ourselves the question, do we want to keep the misdemeanants for all of those crimes where we want somebody to be detained and do we want to have violations where there are places where, I guess the example they used was "moving cones on a construction site," were places where they were misdemeanors. So we are trying to figure out places where maybe they shouldn't be in jail so much as they should be considered a violation. So it was a new concept, I just wanted to bring that up, that is one new concept in law that comes into this bill that I'm still trying to figure out.

CHAIR STOLTZE asked if legislation may have been rushed due to a budget-driven letter from finance that did not allow for deliberation on a lot of impacts that Ms. Winston and others have mentioned.

[10:19:52 AM](#)

SENATOR COGHILL replied that the leadership of both bodies asked how a lower jail population could be attained while keeping the public safe and holding people accountable. He remarked that the state's budget crisis led to a letter that asked what could be done. He asserted that the Commission's statutory guidelines were still public safety, accountability, and cost savings. He asserted that reinvestment became a bigger deal because the Commission did not want the cost savings just to go to the General Fund without some return into holding people accountable or providing for avenues of success. He remarked that prior to the letter, the Commission had an aggressive schedule on looking at sentencing, pre-trial, and post-trial. He set forth that the Commission has been tasked to address the state's disparate laws. He said downward pressure has been applied due to the state's budget crisis where the judicial criminal system has been asked for whatever relief was possible. He pointed out that he agreed with Ms. Winston where cuts are made at the cost of more crime or more victims. He said he may disagree with Ms. Winston to some degree on how changes are achieved, but noted that good points were brought up and he was willing to work with her.

[10:22:41 AM](#)

CHAIR STOLTZE commented as follows:

Certainly as the appropriating body we are always worried about the budget numbers. I just wonder if we put too much pressure. You certainly described the deliberations, but it was a pretty blunt and direct communication.

SENATOR COGHILL related that the finance chairs asked for a range from the dramatic to the most dramatic.

CHAIR STOLTZE replied as follows:

It was a real specific directive from the legislative leadership: 25 percent reduction, no future prison growth, 15 percent reduction; I mean they were pretty specific, heavy suggestions I guess is what you call it when you get a letter from the presiding officers in the finance chair. We'd also be derelict if we weren't looking at cost of everything, but did we force feed cost over public safety and that's always a concern.

SENATOR COGHILL responded as follows:

Here's one of the other questions, there are people who have been violated by people who have committed crimes against them, but there are people in jail who are being held accountable who sometimes are being mistreated by the government and they're victims of, quite frankly, a system that is overcrowded and under its ability to provide what I would consider good justice. So then we have a system that starts actually destroying people who may be willing to repair themselves. So I think those are the two sides of the question.

He stated that he would digest what has come forward from public testimony and make some recommendations to the committee.

CHAIR STOLTZE recommended that committee substitutes or amendments have a legal review.

[10:25:27 AM](#)

SENATOR MCGUIRE remarked that Chair Stoltze and Senator Coghill articulated exactly the two sides that legislators move between.

She pointed out that Senators Coghill, Wielechowski, and she have served at various times on the Judiciary Committee for the past 16 years where victims' rights, as well as prosecution and enforcement, has always been a passion. She conceded that the Legislature has gone too far in each direction at times. She said she remembered the mandatory sentencing where judges pushed back when going from admittedly too much discretion to almost none.

SENATOR MCGUIRE noted that the committee agreed in bringing back OVR for further discussions. She said she shared Senator Coghill's concerns that the cost of the system was too high for what the state was getting and the fact that the Commission had come together to review the system was excellent. She said she liked Senator Coghill's sponsor statement, "With the disappointing recidivism rates and public safety outcomes the state has been achieving, the cost of doing nothing is too high and I ask for your support." She said there were a range of things that could be done. She suggested that rather than the "citation idea" and not allowing for incarceration, the committee might consider incarceration with treatment right away where a medical, mental, and behavioral assessment was administered. She explained that identifying a path an individual was going down and providing treatment returns an individual back to the community with a set of incentives directly tied to treatment.

She noted that Anchorage police officers were in attendance and asked to address their thoughts on SB 91. She asked if the officers believed ankle monitoring worked.

10:30:07 AM

OFC. BAKER noted that a victim from a recent shooting had an ankle monitor on and no one had an idea that the individual was at the scene. He added that a former assistant district attorney told him that one individual had committed three felonies with an ankle monitor. He remarked that ankle monitoring needs to be fixed.

SENATOR MCGUIRE said she had gone to the location in Anchorage where the ankle monitoring system was housed. She remarked that the ankle monitoring system was fail proof in areas, especially when monitoring a person's recidivism into drug or alcohol use where the success rate was 99 percent. She asked if the officers could address deterrence and provide recommendations of things that work as well as thoughts the committee needs to consider in crafting SB 91.

10:32:21 AM

JEREMY CONKLING, Officer (OFC), Vice President, Anchorage Police Department Employees Association, Anchorage, Alaska, revealed that offenders know police policies, procedures, in addition to monitoring radio traffic. He pointed out that due to safety concerns, offenders know the police's alluding policy where car chases only occur for serious crimes or intoxicated drivers. He noted that offenders also walk in to stores with calculators to steal up to \$750, the current level when an arrest is made; SB 91 changes the level to \$2000 and more Anchorage businesses would be victimized. He remarked that deterrence was not present at current levels and SB 91 lessened the "teeth" that police have.

10:34:44 AM

CHAIR STOLTZE asked what level was Anchorage's pursuit policy and who decides.

OFC. CONKLING answered that Anchorage's pursuit policy comes from its command. He detailed that an on-scene sergeant monitors the police radio and weighs the nature of the crime versus public safety when making the pursuit decision.

SENATOR MCGUIRE said an important point that Senator Coghill brought up was that the life of the victim as well as the offender matters. She pointed out that in Anchorage there have been cases where people have been arrested with alcohol, drug, or mental health problems that have died within the first 24 hours of incarceration. She pointed out that the Devon Mosley case involved an individual with mental health problems. She asked if the Anchorage Police Department has a protocol when dealing with an individual with mental health problems.

10:38:26 AM

OFC. CONKLING replied that the Anchorage Police Department uses code "11-38" to identify a mental health situation over the radio. He disclosed that if available, a Crisis Intervention Team (CIT) trained officer is dispatched for a mental health call. He pointed out that the Anchorage Police Department currently has a shortage of CIT officers. He said he did not know if the Department of Corrections had a CIT program when individuals with mental health issues were transferred from the Anchorage Police Department.

SENATOR COGHILL thanked the officers for coming forward with questions that have to be navigated through where individuals

that do stupid things get caught up in the same system with honest to goodness criminal minds. He said the officers bring a good perspective and asked that they stay in touch.

CHAIR STOLTZE recognized that Commissioner Williams of DOC was in attendance as well as correctional officers. He asserted that he wants everyone to have a voice in the process. He noted that a general message on fiscal notes was sent out that the committee would flesh out and analyze. He thanked Ms. Winston for opening some questions that the committee needed to address.

10:41:28 AM

SENATOR HUGGINS called attention to people who have their property seized in a criminal case by the government and not being able to get it back.

CHAIR STOLTZE pointed out that OVR provides assistance on behalf of property victims.

He said he looked forward to continued participation on SB 91. He asserted that he wanted a lot of vetting on the bill to show the public what the legislative and executive branches were thinking. He admitted that he has been playing the role of jaded skeptic from the victims' rights vein a little more heavily and that was why OVR had a more prominent role than they have been in any other hearing. He said he hoped OVR continues to receive a prominent reception in all committees in both bodies.

10:44:28 AM

CHAIR STOLTZE announced that SB 91 would be held for further deliberation.

10:44:48 AM

There being no further business to come before the committee, Chair Stoltze adjourned the Senate State Affairs Committee at 10:44 a.m.