

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

January 19, 2018

1:02 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Zach Fansler, Vice Chair
Representative Jonathan Kreiss-Tomkins
Representative Gabrielle LeDoux
Representative David Eastman
Representative Chuck Kopp
Representative Lora Reinbold

MEMBERS ABSENT

Representative Charisse Millett (alternate)
Representative Louise Stutes (alternate)

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 216

"An Act relating to restitution; relating to the office of victims' rights; relating to transfers from the dividend fund; creating the restorative justice account; relating to appropriations from the restorative justice account for services for and payments to crime victims, operating costs of the Violent Crimes Compensation Board, operation of domestic violence and sexual assault programs, mental health services and substance abuse treatment for offenders, and incarceration costs; relating to delinquent minors; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 15

"An Act relating to marriage, adoption, birth certificates, state custody of a minor, divorce, dissolution, and legal separation; replacing the terms 'husband' and 'wife' in certain statutes relating to loans, trusts, spousal immunity and confidential marital communications, probate and nonprobate transfers, life and health insurance, workers' compensation, and property ownership; and making conforming amendments."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 216

SHORT TITLE: TRANSFERS FROM DIVIDEND FUND; CRIMES

SPONSOR(s): REPRESENTATIVE(s) KOPP

04/07/17	(H)	READ THE FIRST TIME - REFERRALS
04/07/17	(H)	JUD, FIN
01/16/18	(H)	SPONSOR SUBSTITUTE INTRODUCED
01/16/18	(H)	READ THE FIRST TIME - REFERRALS
01/16/18	(H)	JUD, FIN
01/17/18	(H)	JUD AT 1:00 PM GRUENBERG 120
01/17/18	(H)	-- MEETING CANCELED --
01/19/18	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 15

SHORT TITLE: MARRIAGE & SPOUSES

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	JUD, FIN
01/19/18	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

ERIC CORDERO GIORGANA, Staff
Representative Chuck Kopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of SSHB 216 offered a PowerPoint presentation titled "Establishing the Restorative Justice Account and Prioritizing Help for Victims of Crimes," together with a sectional analysis.

COMMISSIONER DEAN WILLIAMS
Alaska Department of Corrections
Juneau, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, answered questions.

DOUG WOOLIVER, Deputy Administrative Director
Office of the Administrative Director
Alaska Court System (ACS)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, answered questions.

APRIL WILKERSON, Director
Administrative Services
Department of Corrections (DOC)
Juneau, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, answered questions.

TAYLOR WINSTON, Director
Office of Victims' Rights
Anchorage, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, answered questions.

CARMEN LOWRY, Executive Director
Alaska Network on Domestic Violence and Sexual Assault (ANDVSA)
Douglas, Alaska

POSITION STATEMENT: During the hearing on SSHB 216, offered support for the legislation.

JOE SCHLANGER
Wasilla, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, testified.

EDWARD MARTIN, JR.
Cooper Landing, Alaska

POSITION STATEMENT: During the hearing of HB 216, testified.

DAVID NESS
Anchorage, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, testified.

CHARLES MCKEE
Anchorage, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, testified.

KATE HUDSON, Director
Violent Crimes Compensation Board
Juneau, Alaska

POSITION STATEMENT: During the hearing of SSHB 216, offered support for the legislation.

REPRESENTATIVE ANDY JOSEPHSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 15, presented the legislation as prime sponsor.

LINDA BRUCE
Legislative Legal and Research Services
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 15, answered questions.

TARA RICH, Legal and Policy Director
American Civil Liberties Union, Alaska (ACLU-Alaska)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 15, offered support for the legislation as a clean-up bill.

JAMES SQUIRES
Rural Deltana, Alaska

POSITION STATEMENT: During the hearing of HB 15, testified.

MIKE COONS
Palmer, Alaska

POSITION STATEMENT: During the hearing of HB 15, testified in opposition to the legislation.

WILLIAM HARRINGTON
Spenard, Alaska

POSITION STATEMENT: During the hearing of HB 15, testified.

JOE SCHLANGER
Wasilla, Alaska

POSITION STATEMENT: During the hearing of HB 15, testified in opposition to the legislation.

SARAH VANCE
Homer, Alaska

POSITION STATEMENT: During the hearing of HB 15, testified in opposition to the legislation.

ADAM HIKES
Homer, Alaska

POSITION STATEMENT: During the hearing of HB 15, testified in opposition to the legislation.

ACTION NARRATIVE

[1:02:57 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:02 p.m. Representatives Claman, Fansler, LeDoux, Eastman, Kopp, and Reinbold were present at the call to order. Representative Kreiss-Tomkins arrived as the meeting was in progress.

HB 216-TRANSFERS FROM DIVIDEND FUND; CRIMES

[1:03:42 PM](#)

CHAIR CLAMAN announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 216, "An Act relating to restitution; relating to the office of victims' rights; relating to transfers from the dividend fund; creating the restorative justice account; relating to appropriations from the restorative justice account for services for and payments to crime victims, operating costs of the Violent Crimes Compensation Board, operation of domestic violence and sexual assault programs, mental health services and substance abuse treatment for offenders, and incarceration costs; relating to delinquent minors; and providing for an effective date."

[1:04:16 PM](#)

REPRESENTATIVE KOPP described SSHB 216 as "crime victim restoration legislation," and an effort to get back to the original 1988 legislative intent. He explained that in 1988, the State of Alaska recognized that it was "woefully inadequate" in its resources and its ability to help restore survivors of a crime to a pre-offense condition. Subsequently, the Committee Substitute for House Bill 245 [passed in the Eighteenth Alaska State Legislature] established the Criminal Fund within the Permanent Fund Division. It was decided that ineligible people included: people convicted of a felony during the qualifying year, convicted of a felony, or convicted of a misdemeanor and they had a prior misdemeanor conviction in the qualifying year. Rather than just pushing the ineligible dividends back into the overall amount, it was decided that these funds would be used to compensate crime victims, he explained.

REPRESENTATIVE KOPP remarked that over the years, the legislature drifted from this purpose and instead added more eligible recipients to receive money from this fund. He referred to the chart showing that victim funds have fallen to approximately 1 percent of the entire amount, and inmate healthcare is approaching 99 percent of the entire amount. The argument, he explained, is not against any program the state is

required by law to fund, he is simply advocating restoring crime victims to the level of the highest priority and purpose of this fund. In 1994, Alaska amended its Constitution of the State of Alaska to recognize victims' rights in Article 1, Section 24, which read as follows:

Section 24. Rights of Crime Victims

Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication.

[1:06:59 PM](#)

REPRESENTATIVE KOPP pointed out that within that section "restitution" was named as a fundamental right of crime victims and this bill recognizes that restitution is one of the greatest needs for the restoration of survivors of crime today. Currently, the Alaska Court System (ACS) advised that there is approximately \$121 million in outstanding court ordered restitution. He noted that the sponsor statement read "\$80 million," except the sponsor just received the update and it is about \$120 million. He pointed out that a couple of those are large cases, but approximately 90 percent is split between private individuals/natural persons and businesses. This bill simply looks to restoring crime victims first before looking at funding inmate healthcare.

[1:08:14 PM](#)

ERIC CORDERO GIORGANA, Staff, Representative Chuck Kopp, Alaska State Legislature, offered a PowerPoint presentation titled, "Establishing the Restorative Justice Account and Prioritizing Help for Victims of Crimes." He turned to slides 1-2, titled "Legislative Intent" and reiterated that the intent of the legislation is to restore crime victims to a pre-offense condition. The Criminal Fund and its mechanism was created 30-years ago, this legislation does not involve that fund because the sponsor is simply restating the fact that the original intent was to assist victims. This legislation is necessary because Alaska is in first place when it comes to domestic violence, sexual assault, and child abuse. Recent reports from the Alaska's Council on Domestic Violence and Sexual Assault shows that 59 percent of adult women in Alaska have experienced domestic violence or sexual violence within their lifetime. The most recent report from the Violent Crimes Compensation Board shows that the majority of claims for compensation are as follows: child abuse, sexual assault, and domestic violence. According to the chair of the Violent Crimes Compensation Board, most of the child abuse cases actually involve some sort of sexual assault. The Violent Crimes Compensation Board reported that compensation claims continue to increase yearly, and the outstanding balance of restitution orders is over \$129 million, and of that amount, it is estimated that \$40 million is outstanding for natural persons. He stressed that numerous people must wait "many, many, many" years before actually seeing any type of assistance.

[1:10:44 PM](#)

MR. GIORGANA turned to slide 3, titled "Criminal Fund Use Over the Years," wherein the slide depicts FY2008 through FY2016. He said that "the top line" is how the fund has been used to pay for inmate healthcare through the Department of Corrections (DOC), and the green line reflects the amount of money that has gone to assist victims. For several years, the entities changed as to who is allowed to receive money and for what type of services. Initially, he offered, the intent was for the Violent Crimes Compensation Board to assist people with compensation. Over the years, other entities were added as follows: the Department of Corrections (DOC) for treatment - which eventually changed from treatment to costs of incarceration and probation; the Department of Public Safety (DPS); the Alaska Council on Domestic Violence and Sexual Assault; the Office of Victims' Rights when the office was established; and grants to non-profit agencies that help crime victims which could be given through any state agency and in this case, it would be the Alaska

Council on Domestic Violence and Sexual Assault. He pointed to the dramatic drop after FY2011, and advised that in 2010, the legislature decided it would use general funds to fund the Office of Victims' Rights and the Council on Domestic Violence and Sexual Assault because the fund did not allow for any sort of stream prediction that it could count on for money. It was decided that because the fund changes from year-to-year, it made more sense to use general funds for these agencies, thereby, completely changing the emphasis from victims to inmate healthcare.

[1:12:53 PM](#)

MR. GIORGANA turned to slide 4, title, "Compensation Claims," and offered that during the period 2000 through 2016, compensation claims have steadily been on the rise, noting the two big spikes in 2011-2012 with the largest spike in 2015. Generally, he said, since the year 2000 compensation claims have been increasing and the majority of claims are made by victims who are suffering from child abuse, sexual assault, and domestic violence. He reiterated that just those three categories make up the majority of the claims received by the Violent Crimes Compensation Board.

[1:13:34 PM](#)

MR. GIORGANA turned to slide 5, titled "Restitution Orders" and noted that the orders are "pretty much split half-and-half" between people and businesses. He described that a business could include a large corporation or a sole proprietor working from home, and the State of Alaska, "of course," is also owed money. The bill prioritizes that natural persons receive assistance and it includes compensation. The majority of the restitution owed to a natural person is \$1,000 or less, with the average restitution order being anywhere between \$500 to \$700. Therefore, he remarked, even a \$100,000 appropriation to restitution can help many people because that is where the majority of folks fall.

[1:14:47 PM](#)

MR. GIORGANA turned to slides 6-7, titled "Highlights of Current Law/Changes Under HB 216," and reiterated that the Criminal Fund was established in which [permanent fund] dividends that would otherwise be paid to ineligible offenders, could be used to fund the Violent Crimes Compensation Board. Currently, he reiterated, many entities are allowed to use some of those funds

for the purposes previously mentioned. This legislation creates a mechanism in which the Permanent Fund Division will set aside a determinant amount "that is done pretty much every single year. The bill authorizes the legislature to appropriate restitution payments to the agencies that are allowed to receive the payments, and if restitution payments are received by the state to re-appropriate that money into a new account. The account that SSHB 216 proposes to create is called the "Restorative Justice Account, which is not a new bank account because it is simply an account within the Permanent Fund Division for its accounting and bookkeeping purposes. He described it as "a basket to be able to hold the funds that would be appropriated."

[1:16:20 PM](#)

MR. GIORGANA advised that SSHB 216 prioritizes the use of the funds because currently there is a list of agencies and uses, but no actual set of priorities. Therefore, he explained, the intent is to say, "Victims come first," and allow directed appropriation to state agencies and/or non-profits to provide services to victims. Currently, the difference between compensation and restitution is that compensation can help with immediate assistance, known as "a bridge in front." He pointed out that restitution cannot be ordered by the court until there is an actual conviction; therefore, a lot of time can pass between the crime that was committed and a conviction. Therefore, compensation funds are essentially in assisting victims between the crime and the conviction. All 50 states assist victims with compensation of some sort through direct appropriations or creating boards or agencies. He reiterated that restitution takes place only after an order by the court, and in Alaska all victims who qualify for an order are automatically entered to receive assistance from the State of Alaska. The Department of Law and the Alaska Court System will notify victims that they have 30-days to "opt out" from receiving that assistance. He speculated that the reason a victim may opt-out could be as follows: the victims no longer want to deal with the issue because it was too traumatizing for them; they need more than 30-days to make an informed decision; or because they want to hire a private company to deal with the restitution on their own.

[1:18:43 PM](#)

MR. GIORGANA advised that SSHB 216 extends the opt-out period from 30-days to 90-days and adds restitution as another venue to

help victims. Currently, the funds are only allowed to be used for grants and compensation. Although, he explained, to some degree the funds are already being used for restitution because "if compensation is given to a victim at the time the restitution order is made, the restitution order is for the Violent Crimes Compensation Board." Therefore, if a payment is made to the State of Alaska by the offender, "that is basically what they are doing," and importantly, he mentioned, the offenders are not off the hook as they are still liable for the money they were ordered to pay in restitution. He explained that that is exactly what is done with compensation, "the liability shifts as to who they owe the money to" directly to the victim or in this case the State of Alaska. He reiterated that HB 216 is "not re-creating the will, we are already doing this through the Violent Crimes Compensation Board."

[1:20:09 PM](#)

MR. GIORGANA related that the Office of Victims' Rights is the most obvious entity to help victims with restitution, and this legislation enables that office to assist with restitution payments to victims. He pointed out that the Office of Victims' Rights is already authorized to receive those funds for its operating costs, "it just hasn't happened since 2010." Therefore, this bill allows the Office of Victims' Rights to continue receiving those funds, in addition to creating a mechanism within its office to assist victims with restitution payments and work with the Alaska Court System, the Permanent Fund Division, and all of the agencies assisting victims, to coordinate and be a "one stop shop" when it comes to restitution issues. He noted that the Alaska Court System will continue to accept restitution payments. He pointed out that for several years, the Department of Law (DOL) previously had a restitution collections section that was de-funded during the last fiscal year. Although, that collections section did not receive money from this fund because it simply garnished money and assets. The purpose for the restitution in the bill is for those people who had already exhausted all of the different avenues available to them and had not received any results.

[1:22:10 PM](#)

MR. GIORGANA advised that he had worked closely with all of the agencies involved, and the Office of Victims' Rights had advised that there are victims who have been waiting more than 10 years to receive their restitution which, he pointed out, is actually their constitutional right. He added that compensation and

restitution is offered by all 50 states, but every state is different and challenged to help victims and some states create a collections agency, some states direct appropriations to help victims, and some states add fines to traffic violations to help victims, there is not just one solution to fix this issue. The intent of HB 216 is that "victims come first," together with restoration of the original legislative intent of the 1988 law, he reiterated.

[1:23:39 PM](#)

MR. GIORGANA referred to the handout in the committee packet that was not included in the slideshow and advised that the handout depicts not just the amount of money that has gone to crime victims versus inmate healthcare, but it also shows the percentages. The most recent data showed that approximately 94 percent of the fund went into inmate healthcare, and a tiny portion was used to assist victims, he said.

[1:25:08 PM](#)

MR. GIORGANA advised that the originally filed HB 216 did not include a hearing, and this presentation had been exclusive to the Sponsor Substitute for HB 216. Mr. Giorgana then paraphrase the sectional analysis as follows:

Section 1 - AS 12.55.045(m)

Section 1 establishes that the Alaska Court System can accept restitution payments or prepayments at any time. Language that is explicitly stated in Section 2 regarding the Alaska Department of Law is removed.

Section 2 - AS 12.55.051(f)

Section 2 includes the process that the Alaska Court System will use to share information about restitution orders with other state agencies. It amends the current statute to allow the Office of Victims' Rights to receive and share information with the Alaska Court System consistent with all the rules of privacy as required by law.

This section also amends the notification requirement for victims by the Alaska Department of Law to include information on receiving assistance from the Office of Victims' Rights and information on how to apply for that assistance.

[1:26:36 PM](#)

MR. GIORGANA pointed out that the legislation does not create a dedicated fund or appropriation, it simply creates priority as its intent.

Section 3 - AS 12.55.051(g)

Section 3 requires a notification from the Department of Law to victims about their right to assistance with collecting restitution payments and it amends the period from 30 to 90 days, from the time of notification, for a victim to opt-out from receiving automatic assistance. This section allows victims to stop receiving assistance at any time in the future.

Section 4 - AS 24.65

Section 4 enables the Office of Victims' Rights to assist victims with restitution payments, subject to appropriation, from the Restorative Justice Account based on priority: a natural person, private businesses, and state and local governments.

It authorizes the Office of Victims' Rights to establish a process to assist victims through the Restorative Justice Account and caps the amount of funds that a victim can receive.

Section 5 - AS 43.23.028

Section 5 delineates the duties of the Department of Revenue to administrate the permanent fund dividend payments, regulations, timelines, and deadlines and allows cooperation with other state agencies and law enforcement. It requires the department to pay annual dividends from the dividend fund to eligible recipients. The Department of Corrections and the Department of Public Safety will provide the Department of Revenue with a list of individuals ineligible for a dividend to transfer these funds into the Restorative Justice Account.

This section clarifies the legislative intent and lists which entities can receive appropriations from the Restorative Justice Account. It also clarifies language about public disclosures.

Section 6 - AS 43.23.048

Section 6 establishes the Restorative Justice Account as a separate account in the dividend fund. It tasks the Commissioner of Revenue to transfer an amount equal to the yearly calculation of individuals ineligible to receive a permanent fund dividend made by the Commissioner of the Department of Corrections and the Commissioner of Public Safety.

This section allows the legislature to prioritize use of the funds through appropriations with services to victims as the highest priority.

The section further clarifies that a defendant ordered to pay restitution is still liable for payments regardless of whether a victim receives help from the Restorative Justice Account. The Legislature may appropriate restitution payments back into the Restorative Justice Account.

The section clarifies that the bill does not create a dedicated fund.

Section 7 - AS 43.23.055

Section 7 defines the process and duties of the Department of Revenue regarding the calculation, eligibility, and distribution of permanent fund dividends. The bill adds language for the department to establish regulations pertaining to the Restorative Justice Account created in Section 6.

Section 8 - AS 47.12.160(f)

Section 8 authorizes the Court System to receive payments and pre-payments from a minor or a minor's parent at any time. This section removes redundant language.

Section 9 - AS 47.12.170(c)

Section 9 authorizes the Alaska Court System to forward copies of restitution orders to the Office of Victims' Rights and the Department of Health of Social Services. It instructs the DHSS to inform crime victims that they may qualify for services through the Office of Victims' Rights.

Section 9 also requires that information considered confidential by law, remains confidential.

Section 10 47.12.170(d)

Section 10 clarifies that the opt-out period for a victim is extended from 30 to 90 days from the day of notification and instructs the Department of Health and Social Services to notify victims of their rights to assistance.

Section 11

Section 11 establishes an effective date.

[1:31:02 PM](#)

MR. GIORGANA summarized SSHB 216, as follows: it restores the legislative intent of the Criminal Fund established years ago; it adds restitution as an allowed use of the funds through the Office of Victims' Rights; it expands the opt-out period from 30-days to 90-days for victims to receive automatic assistance; and it continues to support costs of incarceration, probation, and treatment.

[1:31:45 PM](#)

REPRESENTATIVE FANSLER moved to adopt Sponsor Statement for SSHB 216, Version 30-LS0572\T, Martin, 11/16/17, as the working document. There being no objection, SSHB 216 was before the committee.

[1:32:16 PM](#)

[CHAIR CLAMAN and Representative Reinbold discussed the committee's procedures.]

[1:33:06 PM](#)

REPRESENTATIVE REINBOLD commented that it is outlandish that 94 percent of the restitution goes toward inmate healthcare when the money that was supposed to go to restitution is instead going to inmate healthcare. While she understands, she said, that this is a "feel good bill" ...

CHAIR CLAMAN reminded Representative Reinbold that this was the time for questions and not for comments.

[1:34:06 PM](#)

REPRESENTATIVE LEDOUX related her belief that one of the sales pitches on Medicaid expansion was that it would cover inmate healthcare, and she asked why any money would go to inmate healthcare.

MR. GIORGANA reiterated that the number of allowable entities has expanded over the years, and the Department of Corrections was added to that list in order to utilize some of those funds for treatment of offenders. Eventually, he noted, that changed to include reimbursement for costs of incarceration and probation, which then began to include inmate healthcare costs. He noted that everyone is aware that the healthcare costs for inmates has continued to increase dramatically, but Representative LeDoux is correct in that Medicaid expansion resulted in a small decrease in costs. He referred to Senate Bill 74 [passed in the Twenty-Ninth Alaska Legislature] and advised that it allowed for telemedicine to be used by the Department of Corrections (DOC) and acknowledged that he was not aware of its status, but it was estimated to reduce some of those costs. He deferred to Commissioner Dean Williams as to why this fund was used for most inmate healthcare.

[1:36:26 PM](#)

COMMISSIONER DEAN WILLIAMS, Alaska Department of Corrections, remarked that he was not prepared to offer specifics, but Medicaid expansion definitely decreased costs for the Department of Corrections (DOC). For example, he advised, an inmate who stays longer than 24-hours in a hospital due to a serious injury, a serious accident, or a serious medical condition, qualifies for Medicaid payments for which the DOC no longer had to pay. He acknowledged that there not a lot of those particular type of cases, but when they happen they are very expensive. The DOC's medical director tracks how much money had been saved since Medicaid expansion. Although, and without a doubt, he remarked, it has definitely saved the State of Alaska money.

[1:37:29 PM](#)

REPRESENTATIVE LEDOUX asked why the state would pay any money into inmate healthcare costs when the state has Medicaid expansion.

COMMISSIONER WILLIAMS explained that there are costs not covered by Medicaid and the DOC is responsible for the care and custody of inmates, which includes Alaska's expensive medical care. He

said that while he understands the question, the DOC is still responsible for an inmate's medical care that is not covered by Medicaid.

1:38:18 PM

CHAIR CLAMAN offered a scenario wherein a prisoner had a cold and was housed in the Anchorage Correctional Center, that type of care is not covered by Medicaid. Although, if the inmate was being treated in a hospital due to the severity of their injuries, that is when Medicaid starts paying.

COMMISSIONER WILLIAMS clarified that those [Medicaid payments begin] after 24-hours [of being admitted to a hospital]. He pointed out that many prisoners enter prison with a whole host of medical issues of which the DOC is responsible. He advised that the DOC runs "mini-clinics" in most of its facilities, which includes: medical providers, doctors, nurse practitioners, physician assistants, and nurses. The DOC has infirmities wherein its only job is to care for those people incarcerated into its prison system that have serious medical conditions. That care, he offered, is a whole driving piece in the DOC's costs as a department because it is obligated to care for its inmates, he advised.

1:39:36 PM

REPRESENTATIVE LEDOUX asked whether these people would be covered by Medicaid if they were not in prison and simply went to a clinic.

COMMISSIONER WILLIAMS noted that Representative LeDoux was moving outside of his expertise quickly, but that certain people qualify for Medicaid, and there are "all kinds of conditions about what they apply for." He acknowledged that there are people walking around on the street who are Medicaid eligible.

REPRESENTATIVE LEDOUX interjected that if those people needed antibiotics, their antibiotics would be paid by Medicaid. Therefore, why would the antibiotics not be paid by Medicaid when given to an incarcerated inmate.

COMMISSIONER WILLIAMS explained that Medicaid eligibility does not qualify for those people sitting inside the prisons, "it just doesn't ... but that is just the fact of the regulations." Beyond that statement, he advised that he would not be able to help Representative LeDoux. He then reiterated that unless very

specific exceptions apply, the DOC is responsible for all medical costs for all inmates living within the prison's walls. The exceptions to being Medicaid eligible are as follows: admitted to a hospital beyond 24-hours or living in other half-way house living places.

[1:41:15 PM](#)

REPRESENTATIVE LEDOUX asked whether that was per federal regulations.

COMMISSIONER WILLIAMS opined that those are not rules the DOC sets, Medicaid sets those rules.

REPRESENTATIVE LEDOUX asked whether the DOC has a fiscal note on SSHB 216.

COMMISSIONER WILLIAMS opined that Office of Management & Budget (OMB) prepared the fiscal note on this piece of legislation.

CHAIR CLAMAN advised Representative LeDoux that the committee had just received the fiscal note and; therefore, it was not included in the committee packets.

[1:42:09 PM](#)

REPRESENTATIVE FANSLER asked for clarification that when the discussion is about victims, the bill does not differentiate between human victims, corporate victims, or state victims.

MR. GIORGANA advised that, by definition a crime victim is any of those entities. He referred to SSHB 216, [AS 24.65.105(b), page 3, lines 7-12], and advised that that provision is the only place a natural person, a business, or a government entity is mentioned. He added that AS deals with the Office of Victims' Rights' (OVR) ability to assist victims by prioritizing who it will help first, "when they do the regulations and when they establish a process." The sponsor's office found that in other states, the individual persons receive assistance first and before a business or governments. But, otherwise, he reiterated, a crime victim is any of those entities and the bill does not change that definition in any manner.

REPRESENTATIVE KOPP added that Sec. 4 of SSHB 216, [AS 24.65.105(b), page 3, lines 7-12) states the priority for natural persons, private businesses, and state and local governments.

1:43:45 PM

REPRESENTATIVE FANSLER described that when looking at what the state has collected as a whole/total, it is all over the map. He noted that \$23 million was collected in FY2016, which appeared to be the highest amount the state ever collected, and that in the prior year, the state collected \$11 million. He asked whether it was "random dumb luck" depending on who the criminal was and whether they could afford to pay, or whether there were systemic issues, such that the state was understaffed on the collection piece, or that there is now a streamlined collection system.

MR. GIORGANA responded that the Department of Law (DOL) had advised that as funds were being limited in its collections section, it was unable to collect more money than in previous years. He reiterated that the collections section was defunded last year, and the Alaska Court System took on the role of accepting payments and assisting victims. Although, he commented, it was not a fully funded service and over the years the only type of restitution the section collected for was the actual garnishment of assets or a lien for certain monies, and not anything from the fund or other sources. He then deferred to Doug Wooliver, Alaska Court System, to respond to whether there was a systemic reason for the variation in collection amounts.

1:46:01 PM

DOUG WOOLIVER, Deputy Administrative Director, Office of the Administrative Director, Alaska Court System (ACS), advised that the Alaska Court System (ACS) does not take a position on SSHB 21, commenting that he did not believe the ACS would have difficulty working with this bill. He related that he does not know why those collection figures sometimes vary from year-to-year, but he suspected that part of that issue is the size of the permanent fund dividend which is one of the main sources of collection revenue for restitution. Perhaps, he speculated, it was the "luck of the draw," in that almost one-half of the restitution payments are voluntary payments. He advised that he was not aware of a systemic reason to explain the variations from year-to-year.

1:47:00 PM

REPRESENTATIVE FANSLER asked whether the amount of the restitution was random, depending upon whatever convictions or guilty pleas the judges decided. Or, he asked, whether Alaska is seeing a correlation with the state's lack of funding for "things where we've seen a lot of cases going down, the number of cases you can prosecute go down," and whether there is a correlation in those numbers with the restitution amounts ordered. After reviewing the committee packet, he noted that it also appears to be all over the place, up and down.

COMMISSIONER WILLIAMS answered that he had not looked at all of the numbers to determine whether there was some sort of correlation between the number of crimes prosecuted and the total amount of restitution ordered in judgments. He acknowledged that it varies a lot from year-to-year and he referred to the "notes to a lot of these," and that the award for \$17 million skews the entire statistical system. He pointed out that one single individual certainly can create an enormous amount of damage in that the restitution awards could go up significantly in one year.

[1:48:33 PM](#)

REPRESENTATIVE FANSLER asked the bill sponsor whether he had reviewed any of the other states' methodologies that may have more efficient collection rates on restoration.

REPRESENTATIVE KOPP answered that, for instance, the State of Vermont adds restoration to its traffic sur charge/criminal sur charge. Currently, in Alaska the charge is: \$100 on a felony; \$50 on a misdemeanor; and \$10-\$50 on a traffic ticket and those funds go toward the Alaska Police Standards Council for training and possibly other purposes. Some states simply keep ratcheting up that sur charge and then fund different things from that. He related that Alaska is similar to other states by having a special fund in place wherein the states actually make a two-fold method for restoring victims. For example, he offered, through compensation, which is an immediate "bridge in fund" to get people immediately back on their feet, and for those people who may have been waiting for years for restitution. For instance, he explained, a DUI victim had waited 7-8 years for restitution for their serious injuries, except the offender fled the state and the victim was never compensated. In working with the DOL collections section there was finally a way to get some funds to that victim. This bill makes it possible to help people with long outstanding restitution issues and immediately bridge the compensation funds through the Violent Crimes

Compensation Board. Commonly, he advised, states operate in the same manner similar to Alaska, via a sur charge or through other direct legislative appropriations.

CHAIR CLAMAN asked Commission Williams to provide a written memo describing when Medicaid pays and when the state is "on the hook."

[1:51:31 PM](#)

REPRESENTATIVE REINBOLD asked whether, under Commissioner Williams' direction in 2016, 94 percent of the restitution fund went to inmate healthcare.

COMMISSIONER WILLIAMS clarified that "none of this is under my direction," and opined that this is statutorily mandated. He further clarified that the DOC has no involvement in the manner in which this money is divided because he has no control of the money that goes into that fund or how it is prioritized.

[1:52:07 PM](#)

REPRESENTATIVE REINBOLD asked for clarification as to whether Commissioner Williams said that the statute read "restitution has to go to the criminals' healthcare."

COMMISSIONER WILLIAMS clarified that it is prioritized under the current statutory scheme regarding levels of priority, how decisions are made, and how this money is allocated to this particular fund that "ends up paying for inmate healthcare." He related that if he was incorrect, he would appreciate a correction.

MR. GIORGANA clarified that the current statute does not prioritize, it is within the budgeting process which is within the governor's budget and the legislature's budget to determine how much money goes to which of the entities allowed to receive those funds. In response to a previous question, he explained that "in 2016, from the total fund, the Department of Corrections (DOC) was appropriated from the legislative body \$22,340,000, and the Violent Crimes Compensation Board was appropriated \$1,510,000." He pointed out that the only source of state money the Violent Crimes Compensation Board received from the state was from this fund and it also receives federal grants, but "it is mainly from this fund." Therefore, there is no priority, it simply became a priority during the budgeting process, he explained.

REPRESENTATIVE KOPP, in response to Representative Reinbold's question, answered that there is a lack of prioritization and this bill restores victims to a pre-offense condition as the highest priority. Currently, he offered, the Office of Management and Budget (OMB) would review the healthcare needs of the corrections system. He offered that it would say, "Well, this is an authorized purpose so we'll, you know, we're going to put 94 percent of this fund to inmate healthcare." This process is at an administrative level, and this legislation would statutorily prioritize, and require that these provisions must be reviewed first, he reiterated.

[1:54:21 PM](#)

REPRESENTATIVE REINBOLD asked who prioritized criminal healthcare over restitution for victims.

REPRESENTATIVE KOPP further explained the budget process and advised that when the departments put their budgets together, the budget goes through OMB wherein the determination is made, and the state has this Criminal Fund which is an authorized purpose. The budget would then go to the legislature for approval. Therefore, between what is coming out of the governor's budget and what is before the legislative body, "these amounts are approved. He noted that some of it, possibly not directly with the full understanding of the legislature, "We may look at more total numbers than how it breaks down than we're seeing here."

REPRESENTATIVE REINBOLD commented that victims see that restitution is paid toward criminals' healthcare and it is not paid to the people who were brutalized, and these victims will have trouble with that. She opined that the DOC received \$22 million and asked, who in the DOC prioritizes that \$22 million because victims' needs must be prioritized including their healthcare needs. She related that Commissioner Williams advised the committee today that there was a cost savings to the state, and yet, he had previously advised that costs were shifting to the Department of Health and Social Services (DHSS). She asked whether there was a cost savings and if so, roughly how much of a savings because the Medicaid budget is now approximately \$3.3 billion, "so where is there actually state savings when our budget is approaching \$11 billion right now?"

COMMISSIONER WILLIAMS remarked that he could not recall the context of what he had previously said, and he would have to go

back and listen to his testimony. Although, he stated, Medicaid expansion has helped the DOC "absolutely save money in terms of shifting" because Medicaid is now covering certain medical expenses the state would otherwise have had to pay had Medicaid expansion not been in play.

[1:57:02 PM](#)

REPRESENTATIVE REINBOLD surmised that it saves the DOC money, but it is cost shifting to Department of Health and Social Services (DHSS), and possibly to the federal government. All of which is taxpayer money, so she could not see the cost savings in the big picture. She asked whether Commissioner Williams had an idea as to the total amount of restitution that has been collected from the offenders.

COMMISSIONER WILLIAMS responded that he was not prepared to answer that question right now in any sort of detail.

CHAIR CLAMAN ruled that the Department of Corrections (DOC) can answer questions as to how much money is ordered and how much money is collected. The question as to what has been collected in restitution is not actually a question the DOC would ever have any information because that would come from another department.

COMMISSIONER WILLIAMS answered in the affirmative.

[1:58:46 PM](#)

REPRESENTATIVE REINBOLD commented that "Because a lot of programs ... there are prison programs that do have work -- you know, and sometimes that work is paid restitution." She asked whether those types of programs are available for the inmates housed in the state's institutions. She reiterated that \$500 - \$700 was the average court ordered restitution, and some people have waited 10 years. The bill referred to capping restitution at \$10,000 and asked for clarification. In the event the court orders are only \$500 to \$700 and the bill is capping it at \$10,000 ...

CHAIR CLAMAN interjected that Representative Reinbold did not ask a question that the DOC could possibly answer because her questions are around restitution orders. He reminded her that as she was previously advised, the DOC is not involved in the process of collecting or managing restitution.

REPRESENTATIVE KOPP, in response to how much restitution had been ordered and recovered, referred to the document titled, "Restitution Data - Including both State and Municipal prosecutions" and pointed out that the court system is broken down by year, the total amount it ordered, and what was ultimately collected. He pointed to the years where it went up to 47 - 50 percent, noting that in some years it was only 9 percent, and while he did not know why the state was more effective in some years than in other years, the amounts are clear. Possibly, it depended upon the crimes that were committed, he speculated, and that within some years there were millions of dollars. The chart was probably produced by the court system, he offered.

[2:01:09 PM](#)

REPRESENTATIVE KOPP referred to the \$10,000 cap and explained that a major event could happen to a private company and that event could wipe out all of the available restitution funds when restoring 50-60 victims. He opined that 94 percent of all restitution orders fall below the \$10,000 amount and explained that the \$10,000 amount is not a lifetime cap, it is a per restitution order. In the event bad things happened to a person more than once, that person would still be allowed up to that \$10,000 cap again. He explained that the cap offers guidance and provides a ceiling under which nearly all restitutions would fall. Therefore, the fund would not be completely wiped out by a single event, or possibly two or three events, he explained, and the committee could discuss that size of that cap.

[2:02:29 PM](#)

REPRESENTATIVE REINBOLD said that, in her opinion, this appears to trivialize crime because "you can't take someone back after a rape, after an assault, after a murder, and trivialize it for \$10,000, or \$500 to \$700, when -- you know, in the 94 percent or whatever is going to the criminal's healthcare." She asked whether Representative Kopp believes this trivializes and adds salt to injury, and whether it is an insult to think money can do that.

REPRESENTATIVE KOPP pointed out that the entire point of SSHB 216 is to do everything Alaska can do to restore as many survivors of crimes as possible to a pre-offense condition on a financial basis. Representative Reinbold spoke to losses that can never be restored from any event, and this bill is compensation for the costs incurred that are financially

tangible. Clearly, there are non-financial costs that are irreparable for victims of crime, and he pointed out that he worked in that field for 25 years "and know it better than anybody here." Representative Kopp expressed that he takes strong exception to Representative Reinbold's comment that SSHB 216 trivializes victims. He stressed that this legislation is an aggressive effort to help restore to thousands of victims of crimes that have lost financially and get at improving their losses.

[2:04:25 PM](#)

REPRESENTATIVE FANSLER referred to the document titled "Restitution Data - Including both State and Municipal prosecutions, as of 12/31/17" and noted that the restitution amounts ordered for 2017 were \$5 million. He then referred to the chart Representative Kopp had provided to the committee during his presentation and noted that "we're talking about giving out" \$23 million total, which is more than the restitution. He related that the numbers "we are giving out" are massive: \$11 million; \$60 million; \$21 million; \$20 million; \$11 million; \$17 million; \$15 million; \$11 million; and \$23 million. Yet, he commented, the numbers ordered for restitution are significantly under that, except for 2004, and asked "What's the story?"

REPRESENTATIVE KOPP clarified that the amount coming in "to this" is based on a formula of the persons the DOC and the Department of Public Safety (DPS) determine are ineligible during a qualifying year to receive a permanent fund dividend. That number is then forwarded to the commissioner of the Department of Revenue (DOR), who then says, "Okay, we have 113 individuals who are ineligible to receive that dividend," and that amount would then go into the Restorative Justice Account. He explained that it is completely separate from restitution orders, which are actual costs incurred by victims that judges determine is the amount owed. He explained that this bill establishes the fund from which "these will be paid."

[2:06:28 PM](#)

REPRESENTATIVE LEDOUX asked Commissioner Williams whether this bill, if passed, would cost the department \$11,493,000.40 over each year.

COMMISSIONER WILLIAMS opined that she was mostly correct in that this changes from year-to-year, but his director could answer

that question more directly. He further opined that it would cause a reduction of what is currently in the department's budget of that amount.

REPRESENTATIVE LEDOUX surmised that this fiscal note "shows the same thing for up until 2024."

COMMISSIONER WILLIAMS deferred to April Wilkerson, Director of Administrative Services.

[2:08:04 PM](#)

REPRESENTATIVE KOPP clarified that there is nothing in the bill establishing a dollar amount or a percentage, it simply says to look at this victim for restitution first. He reiterated that even a \$100,000 appropriation to victims first would mean that hundreds of victims were restored. He related that "You can't look at it and say, 'Well, it's going to go down this much,'" because as the director of the Office of Victims' Rights advised, it will aggressively try to locate, contact, and establish health assist. Although, it would be finite number of victims each year that the office would be set up to actually help.

CHAIR CLAMAN surmised that under the bill, although it creates a prioritization, it is not a mandatory prioritization because the legislature could still look at \$10 million. For example, he offered, the legislature could decide to appropriate \$1 million to the victims of crime, and \$9 million to the DOC. Wherein, he pointed out, the legislature could simply say that it took a look at it, considered the competing interests, and it did its best to prioritize funds to the victims. The legislature would not be required to only give the funds to the victims, he said.

REPRESENTATIVE KOPP related that Chair Claman was absolutely correct, wherein the allowable purposes are all stayed, but this bill prioritizes them and asks the legislature to look at victim restoration first. There is the victim restoration, and then the Office of Victims' Rights (OVR) determines how many are "set up to set." Obviously, the legislature would not provide \$20 million when possibly there were only 20 victims to restore. That is why, he related, he could not see anything other than an indeterminate note coming from the DOC because when asking to restore crime victims first, it is not ready to go with 1,000 victims and write a check.

REPRESENTATIVE LEDOUX asked whether there was an indeterminate note, or an actual fiscal note.

[2:09:58 PM](#)

APRIL WILKERSON, Director, Administrative Services, Department of Corrections (DOC), explained that the DOC's fiscal note does reflect the full amount that is currently allocated. She offered that it does reflect a full fund change and paraphrased the analysis as follows: "If their fund currently was insufficient to meet our authorization that is currently allocated to meet healthcare costs, that we would need that fund replaced." Therefore, she offered, while it does have an overall appearance of a full fund source change over to the general fund, it would depend fully upon the amount available out of that fund.

[2:10:43 PM](#)

REPRESENTATIVE LEDOUX commented that she supports SSHB 216 as a co-sponsor, but she has found it perplexing because on one hand it says, "they really don't need to do anything, all they need to do is consider it." Except she pointed out, if they are actually going to do something about it, it actually will cost somebody something.

REPRESENTATIVE KOPP answered that he worked together with Legislative Legal and Research Services on this bill, and one of the issue the sponsor was trying to avoid was "the dedicated funds prohibition." After reviewing a percentage amount for "each of these," the sponsor was told that he could not do that although he could prioritize and say, "You must look at the need here first, and then this, and then this." Once a dollar amount or percentage amount is applied, he offered, "you just bumped over the constitutional line."

[2:11:48 PM](#)

REPRESENTATIVE LEDOUX noted that it was confusing because there is a finite pot of money, and currently this finite pot of money is mostly going to the DOC, and then something is taken out of the DOC, thereby, actually costing real money.

[2:09:52 PM](#)

MS. WILKERSON advised that if there is not sufficient authorization left in that fund to meet the DOC's current

allocation of \$11,493,000.40, it would need a different fund source to supplant the difference.

2:12:45 PM

REPRESENTATIVE LEDOUX noted that her next question was for the Office of Victims' Services.

MR. GIORGANA suggested that the committee keep in mind that the PFD balances vary from year-to-year, and the DOC has always had to adjust because the money available from the fund changes from year-to-year. In some years, the DOC would have to request an appropriation from the general fund, which is the current practice, he explained. This legislation does not put an actual dollar amount to any agency, the bill actually creates a priority with the highest priority being the funding of the Violent Crimes Compensation Board. He offered that this was the original intent of the creation of this fund, followed by the Office of Victims' Rights, followed by grants to programs that assist victims of domestic violence sexual assault, and then followed for reimbursement of incarceration costs and probation. He reiterated that SSHB 216 does not take away the allowed use of the fund, it just simply prioritizes the use of the fund.

2:14:55 PM

REPRESENTATIVE LEDOUX referred to the fiscal note from the Office of Victims' Rights (OVR) and opined that this bill would actually give OVR the opportunity to have more money to assist victims. Except, she said, there is a fiscal note, and asked why a bill giving the OVR money would actually cost the OVR money.

2:15:30 PM

TAYLOR WINSTON, Director, Office of Victims' Rights, responded that as the bill is laid out, the Office of Victims' Rights would not actually handle the money because it would be looking at victims who come to them with a restitution order. Subsequently, it would direct the permanent fund to pay victims from the Restorative Justice account (audio difficulties), money they had not been able to otherwise collect on the restitution order. She clarified that the OVR will not receive those funds itself, but rather the bill allows for appropriations at the legislative and gubernatorial level by choosing to provide the OVR with money to help support its duties of administering this restitution and Restorative Justice Account for victims.

CHAIR CLAMAN noted audio difficulty during Ms. Winston's testimony.

[2:16:59 PM](#)

MS. WINSTON advised that the fiscal note before the committee accounts for a one-time, one-year, non-permanent position so that the OVR can have a person dedicated to data entry. The thought being that when the OVR takes on this activity, it will need to process those outstanding restitution orders from the Alaska Court System (ACS). There are approximately 20,000 unpaid restitution orders. Therefore, the OVR needs to account for those and establish a file for those unpaid restitutions so when the victims come into the OVR, it has that information and is set up. She commented that it will take a while to input 20,000 restitution orders and the funding being requested would be dedicated solely for that data entry of setting up court files. Then, of course, there are the benefits associated with their salaries, parking, and case management costs. The Office of Victims' Rights (OCR) has a case management system that is quite capable of having a new room, "for lack of a better phrase," within it configured to specifically handle the duties associated with helping victims with the restitution fulfillment.

[2:18:50 PM](#)

REPRESENTATIVE LEDOUX asked that since the ACS has all of these things online, why it could not simply be imported, such as an excel spreadsheet, rather than the OVR actually entering the data from each order.

MS. WINSTON answered that when the restitution orders are not available online, the current practice is that victims go to the OVR at various times, and the OVR would have to have that document. She commented that "they may not even have all of the information" the OVR needs to process it through and determine from the court system whether payments had been made, what payments were made, the fine, and their information. The OVR would have to set up a tracking system within its office, she said.

[2:20:10 PM](#)

REPRESENTATIVE EASTMAN referred to SSHB 216, page 5, lines 30-31, Restorative Justice Account, and asked what monies go into

that account. Based upon the language, he opined that the words "if they had been eligible" are particularly important. He opined that an individual would have to have first applied and then been eligible before AS 43.23.005 would be operative because that provision makes the person ineligible due to a conviction

REPRESENTATIVE KOPP explained that eligibility to receive the permanent fund dividend in this context is not based on whether or not the person applied. Instead, it is that the person is ineligible because they were convicted of a felony, incarcerated on a felony, incarcerated on a misdemeanor with a prior felony, or a misdemeanor with (indisc.). Those are the definitive qualifiers for ineligibility, he offered.

CHAIR CLAMAN clarified that the ineligible person who is to receive the dividend would apply, and that dividend would go into the Restorative Justice Fund.

REPRESENTATIVE KOPP answered in the affirmative.

[2:22:09 PM](#)

REPRESENTATIVE EASTMAN surmised that whether the person had been eligible does not apply to actually applying for the dividend.

REPRESENTATIVE KOPP said that Representative Eastman was correct.

[2:22:22 PM](#)

REPRESENTATIVE EASTMAN referred to the statute dealing with eligibility itself, which specifically states that the people being discussed here are those convicted of a felony or were incarcerated as a result of conviction in this state, which does not include certain situations. For example, a husband and wife vacation in Hawaii and receive a conviction in Hawaii and since the conviction was not in Alaska, they would still receive the permanent fund dividend and the victim would not be eligible under this bill. He advised that he was reading from AS 43.23.005, permanent fund dividend eligibility.

REPRESENTATIVE KOPP noted that Representative Eastman raised a distinction in the law which is also seen when considering prior criminal history. The same distinction is seen there in that when determining eligibility or priors, it is more distinctive to have time bars and the law applying to "within the state"

because it is easier to determine. He said that in some states a misdemeanor would not be a misdemeanor in Alaska and noted that the reason it is "in this state" is because "we all know" what a misdemeanor or felony is in this state. It is the same reason when considering priors that the state is careful to say, "either in the state or convicted of a crime with substantially similar offense definitions and penalties as what this state has." Therefore, the distinction remains the same in here of keeping that within the state and he acknowledged that it is possible a person could have been convicted of a crime in another state, but the reason the bill is drafted in this manner is to be consistent with how the law carries out in the criminal law, he explained.

[2:25:11 PM](#)

CHAIR CLAMAN opened public testimony on HB 216.

[2:25:36 PM](#)

CARMEN LOWRY, Executive Director, Alaska Network on Domestic Violence and Sexual Assault (ANDVSA), explained that the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) is a coalition of 24 programs across the state, and it supports SSHB 216 for its support for victims and survivors. She noted that ANDVSA reserves its full endorsement pending an amendment that will come forward clarifying the prioritization of recipients. She referred to SSHB 216, page 6, lines 8-11, and advised that the anticipated amendment will prioritize non-profit organizations to provide grants for services for crime victims and domestic violence and sexual assault programs, over the non-profit organizations, to provide grants for mental health services and substance abuse treatments for offenders.

[2:27:22 PM](#)

JOE SCHLANGER paraphrased from the State of Alaska Constitution, Article 1 Section 24. He then referred to testimony from the DOC and "the others" saying that Alaska is 8 years behind on some of the victims and asked why that happens and requested an answer from the Department of Corrections. He opined that criminals are receiving help before the actual victims receive assistance, noting that he has spoken with a number of victims. He offered his support for this bill and he would like to see it passed.,

REPRESENTATIVE EASTMAN thanked Mr. Schlanger for his comments and echoed his request for information from the DOC.

[2:29:24 PM](#)

EDWARD MARTIN, JR., (audio difficulties throughout his testimony) noted that he would like his representative overseeing this bill because it affects the permanent fund. As to the testimony regarding the original intent and priorities, and basically the discussion is about this money and "where it's gonna go to the victims." There is a fiscal note for a cost, and the revenue from which this fiscal note may draw or otherwise distribute funds. As a young man educated on how laws are created, he commented that the law should be compact, except there are 12 different issues for which the legislature is creating this new law, or changing the law, and offered concern. It was his understanding, during the testimony that the general fund (audio difficulties) the collection from criminals and the permanent fund are all of the revenue for which someone makes a decision as to where that money goes. His only concern about the permanent fund, "all of the first three, absent the permanent fund itself and the use of those funds," are regarding the eligibility and ineligibility issues. He noted that as far as he is concerned, when it boils down to who is eligible, the permanent fund should go to those eligible recipients.

[2:32:34 PM](#)

DAVID NESS (audio difficulties throughout his testimony) referred to the three adults who were murdered by Winona Fletcher, a 14-year old, at Russian Jack, and advised that Janice Linhart started Victims for Justice, and victims are at issue here. He pointed out that the three-elderly people are still deceased, Winona is still incarcerated and gave birth to two children while incarcerated, and the state paid her medical costs for those children because she still receives free healthcare. This legislation corrects the problem wherein the money is being used for the wrong purpose because the purpose should be for victims in order to make those people whole. The other person is incarcerated and does not have to be made whole. In honor of Janice Linhart and her sister, and the people that support Victims for Justice and assisted in getting the original victims' law passed, he then asked the committee to please fix [the process]. He stressed that the committee allow the victims who are owed restitution to receive money from the criminals who have their permanent fund dividends reduced before any of that money is spent on inmate's healthcare costs. He further

stressed that it makes absolutely no sense and it is a tragedy because it victimizes the victims a second time.

[2:34:33 PM](#)

CHARLES McKEE (audio difficulties throughout his testimony) pointed out that both are victims of the compromise and release Alaskans have been subjected to, by being subjugated by the public corporation called the State of Alaska. He said, "You've taken over our account which resides in a social security system" and being classified as missing because "we've been disappeared, and our account has been tapped by this organizational structure." He said that he notified the Taxpayers Advocate Service Office (audio difficulties) and then paraphrased the message he sent to the House Ways and Means Committee. (Audio difficulties.)

[2:37:13 PM](#)

KATE HUDSON, Director, Violent Crimes Compensation Board, offered support for SSHB 216, and noted that the bill does not impact the Violent Crimes Compensation Board because it would not gain any more money, or lose any money. The Violent Crimes Compensation Board submitted a zero-fiscal note, and it does support the intent of trying to do something about the huge amounts of outstanding restitution. While this board can provide some immediate relief, it cannot do it in all of its cases. Whereby, she explained, there are situations where someone may not qualify for compensation through the Violent Crimes Compensation Board's program and still may ultimately receive a restitution award, those things are distinct. She asked that the committee bear that distinction in mind moving forward.

[2:38:09 PM](#)

REPRESENTATIVE REINBOLD asked whether the Violent Crimes Compensation Board is a state agency, how it is funded, and whether it is a non-profit.

MS. HUDSON advised that the Violent Crimes Compensation Board is a state agency. The Violent Crimes Compensation Board receives an award of \$1.5 million from the Criminal Fund, and it receives an annual federal grant which varies from year-to-year because it depends upon how much state money was spent in the prior federal fiscal year.

[2:38:47 PM](#)

REPRESENTATIVE REINBOLD noted her "shock" at the \$1 million figure and asked who makes that decision.

MS. HUDSON responded that, as was said earlier, it is through the budgeting process wherein it submits its budget request which is based on what was spent in the prior year. Therefore, it is an administrative procedure whereby the Violent Crimes Compensation Board advises what it expects to need, and then the Office of Management and Budget (OMB) makes the award.

[2:39:19 PM](#)

REPRESENTATIVE REINBOLD asked whether Ms. Hudson is allowed to comment as to her thoughts of the 94 percent spent on criminal healthcare when she knows a lot of the victims need healthcare.

MS. HUDSON related that she did not believe it was her place to comment on how the budgeting process works. In terms of the Violent Crimes Compensation Board's budget, if it had demands from claimants that were \$3 million and it was unable to meet that, then certainly, that would be adjusted through the budgeting process. As it turns out, she offered, for the past few years it has basically received enough money to meet the requests the board awards. She remarked that in the last few years, the board has not run out of money to meet victims' needs, possibly because not enough victims are aware of the board so not enough people are applying for compensation, "that is likely the case."

[2:40:48 PM](#)

CHAIR CLAMAN noted that in January 2018, under the laws the legislature recently passed, parole and probation officers are required to establish with the offenders a restitution plan which requires the offenders to successfully accomplish the restitution plan in order to qualify for good time or complete their time of supervision.

CHAIR CLAMAN, after ascertaining no one wished to testify, closed public hearing on SSHB 216.

[2:41:41 PM](#)

REPRESENTATIVE LEDOUX asked that when the DOC comes back for the next hearing of SSHB 216, to explain how a woman managed to get

pregnant twice in an all-female prison, whether anyone was tested for DNA to determine whether the father, a possible prison employee, should have been responsible for some of those medical costs.

[SSHB 216 was held over.]

HB 15-MARRIAGE & SPOUSES

[2:42:24 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 15, "An Act relating to marriage, adoption, birth certificates, state custody of a minor, divorce, dissolution, and legal separation; replacing the terms 'husband' and 'wife' in certain statutes relating to loans, trusts, spousal immunity and confidential marital communications, probate and nonprobate transfers, life and health insurance, workers' compensation, and property ownership; and making conforming amendments."

[2:43:33 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, advised that he had filed a similar bill, if not an identical bill, in the Twenty-Ninth Alaska State Legislature, and the bill was designed to respond to the decision under Obergefell v. Hodges, 576 U.S. ____ (2015). Under Obergefell, he offered, the decisions read that marriage is a fundamental right to be enjoyed by all persons and with whomever they choose. At the time of the decision and due to the outfall of the decision itself, he believed that Alaska's statutes would require updating and this bill almost "smacks" of that sort of feature. He explained that the index of "our blue statutes" was reviewed for all circumstances wherein the term "spouse" or "husband and wife" was used to determine what parts of the code required updating. This bill is mostly administrative in that respect, and it is not designed to generate new (audio difficulties) for people in a same sex coupled relationship. It is designed to reflect the reality of the common law from several cases out of the Alaska Supreme Court within the last decade of decisions.

Wherein, rights were extended to people in a same sex relationship who could not be married, and in fact, rights were extended because they could not be married and there had to be some sort of equity for that fact. He referred to Hamby v. Parnell, 56 F.Supp.3d 1056 (2014), and advised that it was one of many of the forerunners to the Obergefell decision, and

offered that Hamby was heard in a state federal district court. That decision was written by former President George Bush's appointee to the District Court of Burgess; and the Obergefell decision was written by former President Ronald Reagan's appointee to the Supreme Court, Justice Anthony Kennedy. He described that these two judges are conservative judges by nature, and they wrote these decisions. Representative Josephson paraphrased a portion of the Justice Kennedy decision as follows:

There are many aspects of the marital status, including taxation, inheritance and property rights, rules of intestate succession, spousal privilege and the law of evidence, hospital access, medical decision-making authority, adoption rights, the rights and benefits of survivors, birth and death certificates, professional ethics rules, campaign and finance restrictions, workers' compensation benefits, health insurance, and child custody support and visitation rules.

[2:47:21 PM](#)

REPRESENTATIVE JOSEPHSON advised that one can see that when allowing anyone to marry the person they love, then there is a natural order of things, which means statutes could be in need of clean-up. This bill, he opined, will help trial courts because it will help dispense with arguments which are bound to not succeed because one could read the literal word of a statute and forget that the common law left some of the statutes in its tracks. There are a couple of amendments, one proposed by a member of the committee; and another amendment, proposed by the sponsor, that is relative to Section 19. He opined "The one the committee identified was Section 6." Representative Josephson then deferred to Linda Bruce, Legislative Legal and Research Services as to whether this bill is mostly a clean-up bill, gender-neutral language legislation, a road map, ministerial, administrative, and designed so that the code reflects the new law.

[2:50:09 PM](#)

CHAIR CLAMAN asked Ms. Bruce whether she agreed with Representative Josephson's characterization of the bill as being more of a ministerial clean-up bill, and not a bill that changes the status of the law.

2:50:30 PM

LINDA BRUCE, Legislative Legal and Research Services, Alaska State Legislature, responded that she does agree with that statement because it is generally a simple clean-up bill changing the language to be gender-neutral when it comes to marriage.

2:51:15 PM

CHAIR CLAMAN opened public testimony on HB 15.

2:51:29 PM

TARA RICH, Legal and Policy Director, American Civil Liberties Union, Alaska (ACLU-Alaska), advised that the American Civil Liberties Union, Alaska (ACLU-Alaska) supports this legislation as a clean-up bill following several court decisions that made clear that marriage is available for any couple. The American Civil Liberties Union, Alaska (ACLU-Alaska) also believes that it is important to change the language in the statute to make clear that the laws are written for everyone. She pointed out that the ACLU-Alaska had a case last year where an issue such as this came up within a Child in Need of Aid (CINA) termination of parental rights case. In this instance, a same-sex couple was married with children by that marriage, and there was a termination hearing as to one parent. Except, the Office of Childrens' Services (OCS) did not feel the need to include the spouse of that individual in that hearing. The ACLU-Alaska filed an amicus brief, a friend of the court brief, in that case and actually succeeded in getting them to agree to remand the decision down to the lower court and have a hearing as to both parents. As much as this is an administrative and a clean-up bill, she related that she also thinks it is necessary to avoid ambiguity.

REPRESENTATIVE REINBOLD noted that the ACLU claims to protect the constitutional rights of all Alaskans. She opined that some people do not believe this is a clean-up bill, but rather it is "dirtying a bill" and a lot of people want to be "grandfathered in" because they believe their right to call their husband, a husband in statute, and the right to call a wife, a wife, is being violated. She asked whether the power belongs to the people.

MS. RICH responded that the ACLU represents constitutional issues and thus far it has had clear holdings on what the

constitution says and what it requires for marriage. She commented that Representative Reinbold was correct in that marriage be available for everyone.

[2:54:12 PM](#)

REPRESENTATIVE REINBOLD advised that her question was whether the power belongs to the people, and she said, "I'll answer that, I believe yes, the power belongs to the people."

CHAIR CLAMAN interrupted and advised that this is an opportunity to ask questions and not to argue with the person providing public testimony.

[2:54:27 PM](#)

REPRESENTATIVE REINBOLD asked whether the constitution had changed, "or just your interpretation or some random judge's interpretation." She then asked for a yes or no response to her question as to whether the Constitution of the State of Alaska read that a marriage is between a woman and a man.

MS. RICH explained that the constitution is interpreted by the highest court in land and she stressed that it is extraordinarily dangerous to be referring to it as "some random judge." The ACLU goes by what the constitution says, and what the highest court has interpreted (audio difficulties) to expand people's rights and their liberties.

CHAIR CLAMAN advised Representative Reinbold that she has been in this committee and other committees long enough to know that the members wait and try not to talk over each other.

REPRESENTATIVE REINBOLD said, "If you look at the Founding Father's papers, the courts are the weakest branch and they are actually supposed to interpret and just do an opinion, but they don't write the statute." The constitution is the supreme law of the land, and the constitution in Alaska, by the peoples' initiative says that it is between a man and a woman, and some people do not support judicial activism. She noted that many of her constituents and others in Alaska, do not believe it should have gone through judicial action, but actually through an initiative by the people, or by statute, or a constitutional change. She asked whether Ms. Rich agreed with her statement.

CHAIR CLAMAN ruled that he would not allow this debate to continue. The committee members have all sworn to uphold the

Constitution of the United States and the Constitution of Alaska, he pointed out. While Representative Reinbold was certainly entitled to have a different view other than the courts, but eight people would like to testify in public testimony and he will give them the chance.

[2:56:48 PM](#)

REPRESENTATIVE FANSLER declared a point of order. He expressed that he wanted to put on the record that members should not be disparaging other branches of government as to which one is more powerful than the other.

REPRESENTATIVE CLAMAN ruled that Representative Fansler's point was well taken, and he continued public testimony.

[2:57:18 PM](#)

JAMES SQUIRES (audio difficulties throughout his testimony) advised that he is a constituent of Representative George Rauscher, and that as legislators, each member took an oath to uphold and defend the constitution. He referred to the Constitution of the Alaska, Article 1, Section 2, and Section 25, which read as follows:

Section 2. Source of Government.

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Section 25. Marriage.

To be valid or recognized in this State, a marriage may exist only between one man and one woman.

MR. SQUIRES commented that this amendment to the Constitution of the State of Alaska (audio difficulties). He commented that HB 15 (audio difficulties) this amendment, (audio difficulties) duty bound to (audio difficulties). The strongest responsibility is Article 1, Section (audio difficulties) to Alaskans. The House of Representatives is the closest body to the people with elections held every two years, (audio difficulties). He commented that some may feel conflicted and cite supreme court judicial references that are "a long way from Article 1, Section 2," and it is the Alaskans that put the legislators in office. The Fifth Amendment of the Constitution of the United States stands on (audio difficulties) side to push

back against federal overreach, which is exactly what the will of the people

[3:06:04 PM](#)

MIKE COONS advised that he took an oath to the Constitution of the United States as a United States Airman and upheld his oath throughout his service to this nation and opined that many legislators and politician have never believed in that oath. He related that he opposes HB 15 because Alaska does not recognize same sex marriage, "I understand (audio difficulties) strongly oppose the Ninth Circuit ruling disallowing our constitutional amendment that marriage is between one man and one woman." Sadly, he offered, Alaska's governor at the time refused to (audio difficulties) the people of Alaska by not taking that ruling to the United States Supreme Court. This bill gives legitimacy to same-sex marriage, thus undermining any court appeal in the future and yet the voters have shown that marriage is sex sacred and are oppose to that which is not sacred in God's eyes. This forum of public testimony in the House Judiciary Standing Committee offers him protection from those individuals who have and will try to deny his rights and views. Yet, he said, he will not deny those individuals the right to be wrong. He then called on all of the conservative members of the House of Representatives to oppose this bill.

[3:08:18 PM](#)

WILLIAM HARRINGTON (audio difficulties throughout his testimony) described the bill as an interesting subject (audio difficulties) where two men, who were not in (audio difficulties) relationship got married for tax purposes. The idea (audio difficulties) wanted to make sure that the other one got his estate, and marriage was the most (audio difficulties) lie to make that happen. He opined that that is an indication of how far society has gone, and (audio difficulties) people who are in an intimate relationship get the same (audio difficulties) can get married and (audio difficulties). He said that the right of the individual can take control (audio difficulties) for tax purposes by all legal means is everyone's right.

[3:09:34 PM](#)

JOE SCHLANGER advised that he opposes HB 15, and paraphrased Genesis 2:24, as follows: "Therefore a man shall leave his father and mother and be joined to his wife and they should

become one flesh." He offered his belief that HB 15 is unconstitutional according to Article 1, Section 25 of the Constitution of the State of Alaska, as follows:

Section 25. Marriage

To be valid or recognized in this State, a marriage may exist only between one man and one woman.

MR. SCHLANGER argued that HB 15 attempts to change the constitution, and that the committee will not stand up to the "ACLU who has presented this. This is exactly who presented this, and I oppose that." He argued that "you guys" are trying to change our traditional ways of being a Christian, while constantly being called a bigot because "we speak out against" this sort of bill. He asked the committee to vote no on this bill.

[3:11:18 PM](#)

SARAH VANCE said that while this bill proposes to expand the rights of person identifying as the LGBTQ community, she pointed out that this only represents about 2.5 percent of Alaska's population. She asked what happened to representing the 97.5 percent of heterosexuals who value the current gender specific identity relating to marriage. Passing this bill, she commented, will take away her right to be legally titled "wife and mother" and promoting gender neutrality limits her identity to be "no more than a spouse or a person." She noted that she considers it to be an honor and a privilege to be legally titled "a wife and a mother, which is something I aspired to more than anything else in my life." She referred to birth certificates and said that by gender neutralizing the role of the father, it perpetuates confusion to the biological role and the ultimate identity of a child. This legislation further continues the agenda of eliminating gender roles and creates doubt in "our identity" as a man and a woman. She offered that this bill does not represent the priorities of Alaskans, and she asked the committee to vote no on HB 15.

[3:12:58 PM](#)

ADAM HIKES advised that he soon will be married to the most beautiful woman in the world, and this legislation "absolutely breaks my heart" in that it would redefine marriage as two people, instead of one man and one woman. He described that that takes away his position as a husband and a prospective father, and ask what he should tell his children, "I am just a

spouse?" In taking this away, it is dissolving marriage wherein it is an honor and privilege to be called a husband or a wife. He noted that this honor and privilege is not to be taken away by a small minority of people who do not represent the whole population. He advised that it is being pushed by the ACLU and it does not have the interests of everyone in mind because it has a particular agenda it has been pushing up and down the West Coast. Alaska does not need to do things in the same manner as the states of Oregon, California, or Washington. He commented for the 3 percent of the population to dictate what life looks like to the rest of the 97 percent, "that is fascism, that is not okay with me."

[3:14:58 PM](#)

CHAIR CLAMAN left public testimony open on HB 15.

[3:15:12 PM](#)

[CHAIR CLAMAN and Representative Reinbold discussed her opportunity to respond to Representative Fansler's point of order.]

[HB 15 was held over.]

[3:16:38 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:16 p.m.