

SENATE FINANCE COMMITTEE

April 25, 2018

1:34 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Donny Olson
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Laura Cramer, Staff, Senator Anna MacKinnon; Senator Mike Shower; Representative Harriet Drummond, Sponsor; Patrick Fitzgerald, Staff, Representative Harriet Drummond; Nancy Meade, General Counsel, Alaska Court System; Allison Hanzawa, Special Assistant to the Commissioner, Department of Public Safety.

PRESENT VIA TELECONFERENCE

Casey Reynolds, Communications Director, American Civil Liberties Union of Alaska, Anchorage; Dan Lowden, Captain, Alaska State Troopers.

SUMMARY

SB 142 APPROP: CAPITAL BUDGET

SB 142 was HEARD and HELD in committee for further consideration.

CSHB 316 (FIN)

RESTRICT ACCESS MARIJUANA CRIME RECORDS

CSHB 316 (FIN) was HEARD and HELD in committee for further consideration.

#sb142

SENATE BILL NO. 142

"An Act making appropriations, including capital appropriations, supplemental appropriations, reappropriations, and other appropriations; making appropriations to capitalize funds; and providing for an effective date."

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Vice-Chair Bishop MOVED to ADOPT the committee substitute for SB 142, Work Draft 30-GS2565\O (Martin, 4/24/18).

Co-Chair MacKinnon OBJECTED for discussion.

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AT EASE

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RECONVENED

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LAURA CRAMER, STAFF, SENATOR ANNA MACKINNON, explained the committee substitute (CS). She pointed out the differences and changes between the governor's proposed budget and the current version. She noted that the governor had also introduced a nontraditional capital request bill that was contingent on the passage of some form of revenue. She stated that the CS included some items in the governor's contingency bill. She thanked the work of the various departments and the Legislative Finance Division (LFD) on the development of the budget. She read from a prepared statement:

Section 1, Pages 2-10: Agency capital appropriations proposed by the Governor and amended by the Senate Finance Committee

Changes/Highlights:

Page 2, line 19: Bulk Fuel Upgrades - uses nearly \$5 million in AIDEA Dividends to replace UGF

Page 3, lines 18-20: Added the Cruise ship tender dock reconstruction for \$1,105,000 using Cruise Vessel Passenger funds

Page 3, lines 31-32: Added the Ketchikan Cruise ship berth 4 dock expansion for \$3,000,000 using CVP funds

Page 4, lines 5-9: Funds the first 5 projects on the school major maintenance list \$24,203,372

Page 5, lines 14-15: This has to do with the Pittman Robertson Funds we receive from the Federal Government - there was concern with overspending the Fish and Game fund, so we have replaced the \$2 million fish and game funds with \$2 million in Statutory Designated receipts and \$2 million in Charter Revolving loan funds

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AT EASE

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RECONVENED

Ms. Cramer looked at page 4 and noted that the CS included \$24.2 million in maintenance funding for the top five projects on the Major Maintenance list. She continued to address her prepared statement:

Page 5, lines 19-20: Funded the Governor's project to modernize and replace the existing election voting system \$4.8 million - \$3.8 million is funded using \$3 million in federal and \$800,000 in reappropriations found in Section 14 with \$1 million currently in the election fund

Page 5, lines 21-27: Included \$20 million to address deferred maintenance needs within State agencies and included intent language that the Office of the Governor prioritize deferred maintenance needs and distribute the funds to address the highest priority issues

Page 5, line 28 - page 6, line 21: Included IT projects for State agencies to modernize old systems and upgrades in order to remain in compliance with federal requirements

Page 6, lines 25-26: Funded the Emergency Medical Services Match for Code Blue at the FY18 level of \$500,000

Page 6, lines 29-30: Funded the Pioneer Homes Renovations and Repair at the FY 18 level of \$1,000,000

Page 7, lines 15-20: Included the projects approved by the Exxon Valdez Oil Spill Trustee Council using EVOS funds

Page 7, lines 30-31: Reduced the National Mineral Security Program funding based on anticipated reduced funding from the Federal government - from \$16 million to \$5 million

Page 8, lines 24-25: Included funding for AHFC for facility deferred maintenance \$3 million in Federal Funds and \$3 million of AHCC funds - this is in addition to \$3 million in AHFC funds and \$1 million Federal funds included in the operating budget for on-going maintenance

Page 9, lines 4-5: Funded the Senior Citizen Housing and the FY18 level - \$1 million

Page 9, lines 6-7: Funded the Supplemental housing development program at the FY18 level - \$3 million

Page 9, lines 13-17: In response to the accident that closed the highway and rerouted traffic for multiple days Added intent language to the Department of Transportation directing them to develop a temporary traffic control plan, as well as emergency traffic control guidelines for the Glenn Highway from milepost 0 to 35.

Page 9, lines 26-28: Funded the Municipal Harbor Facility grant fund at \$5 million - using UGF and a reappropriations found in Section 22

Page 10, line 6-10:

Funded Federal-Aid Highway match \$51 million in UGF and \$14 million in reappropriations found in Section 21

The Federal aid aviation and other non-federal aid highway program state match can be found in Section 21

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Ms. Cramer continued with her testimony:

Items removed from the Governor's requested budget in Section 1:

- Port of Anchorage \$40 million
- The Correctional Security Upgrade project was moved from the numbers section to the language section as we are funding this using a reappropriations found in Section 18
- The Fish and Game vessel and aircraft maintenance repair and upgrades was moved from the numbers section to the language section as we are using a Reappropriation found in Section 20
- Did not include the amendment from the Governor requesting legal and financial due diligence relating to AK LNG for DNR and DOR - \$750.0 for both
- Did not include the amendment from the Governor relating to the Enhanced 9-1-1 for \$8,477,000
- Removed funding relating to the Adak Airport operations as it is an item in the operating conference committee
- Public and Community Transportation State Match \$1,000,000 - Fully funded Community Assistance in the Operating Budget which communities could prioritize the local transportation match program

- Removed the Governor's project for the Commuter Rail Concept for \$4.5 million

Sec. 2 pages 11-13: The breakout of funding by agency for the appropriations made in section 1

Sec. 3 pages 14-15: The breakout of statewide funding for the appropriations made in section 1

UGF:	\$139,492,862
DGF:	\$62,951,500
Other:	\$73,355,000
FED:	\$1,087,996,679

Sec. 4 page 16: Supplemental capital projects and grants

Page 16, lines 10-11: Included the project to move barracks from JBER to Mertarvik to help relocate the residents of the village of Newtok - \$960.0 leverages \$3.8 million in Federal funds through the Denali Commission

Page 16, lines 15-17: This increase the appropriation to an EVOS project that was funded in the FY18 capital budget by \$3 million due to an update appraisal of the land

Page 16, lines 21 - 26: Funding for the processing and storage of untested sexual assault kits statewide - \$2.5 million - also added intent language to guide the department in this process

Page 17, line 5: Included the Klutina Lake road survey project for \$350.0 requested by the governor

Page 17, lines 9-12: Included funding for the University of Alaska to conduct a study on Long-acting contraception's and for them to provide interim reports to the legislature - \$500.0

Sec. 5 page 18: Funding by agency for the appropriations made in Sec. 4

Sec. 6 page 19: Statewide funding for the appropriations made in Sec. 4

UGF: \$10,310,00
Other - EVOS: \$3,000,000
TOTAL: \$13,310,000

Sec. 7 pages 20: Included some supplemental operating items proposed by the Governor - there are still several outstanding supplemental items that have not been agreed to by both bodies.

Sec. 8 page 21: Funding by agency for the appropriations made in Sec. 7

Sec. 9 page 22: Statewide funding for the appropriations made in Sec. 7

UGF: \$3,795,700
DGF: \$780,000
Fed Rcpts: \$6,500,000
TOTAL: \$11,075,700

Sections 10-19 are primarily Governor's request supplemental language sections as follows:

Sec. 10 (c) page 23, lines 1-7: Department of Administration - labor contract negotiations and arbitration support \$792,000 -extends lapse date through FY19

Sec. 11 page 23, lines 8-18: Department of Education and Early Development (a) \$400,000 from the municipal capital project matching grant fund to Mt. Edgecombe boarding school for maintenance and operation of the Aquatic Center (b) the 1 percent for arts funds relating to the aquatic center estimated to be \$200,000 is appropriated to the DEED for equipment, capital improvements, or maintenance of the aquatic facility

Sec. 12 page 23, lines 19-23: Department of Health and Social Services - \$5 million to the Alaska temporary assistance program to satisfy the Federal maintenance of effort requirement for FY18 and FY19

Sec. 13 page 23, lines 24-27: Department of Law - \$3,370,486 to the civil division for judgments and settlements for FY18

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Ms. Cramer continued with her testimony:

Sec. 14 page 23, line 28 - page 24, line 11: Fund capitalization of the election fund for \$3 million from reappropriations listed in this section

Sec. 15 page 24, lines 12-20: Standard language - no change Federal and Other Program Receipts - Standard Federal receipt authority language for agencies to receive Federal and other receipt authority from Legislative Budget and Audit

Sec. 16 page 24, lines 21-25: Standard language - no change Insurance Claims - amounts to be received in settlement of insurance claims are appropriated to the general fund from the (1) State insurance catastrophe reserve account or (2) appropriate state agency to mitigate the loss

Sec. 17 page 24, line 26 - page 25, line 31: National Petroleum Reserve - Alaska Impact Grant appropriated to the Department of Commerce, Community, and Economic development for capital project grants under the NPR-A impact grant program. This year's grants total \$11,611,722

Sec. 18 page 26, lines 1-5: Department of Corrections - Reappropriation to the Department of Corrections for \$1,605,479 for security upgrades at correctional facilities - this project was a request from the administration

Sec. 19 page 26, lines 6-22: No change from what the Governor proposed - Department of Environmental Conservation - Reappropriations not to exceed \$200,000 to the DEC for project administration of water quality enhancement, water supply, sewage, and solid waste facilities grants to municipalities

Sec. 20 page 26, line 23 - page 27, line 11: Department of Fish and Game - Reappropriations estimated to be \$309,025 to Fish and Game for maintenance of, repair of, and upgrades to vessels and aircraft

Sec. 21 page 27, lines 12-24: Department of Transportation and Public Facilities - (a) Reappropriation of \$12,111,142 to DOT for federal aid aviation match and other non-federal aid highway program match

Page 27, line 25 -page 33, line 26: Various reappropriations of to federal aid highway match

Page 33, line 27 - Page 34, line 14: Amendment requested by the Governor - Reappropriations not to exceed \$10 million to DOT, Alaska international airport system for rehabilitation of runways and taxiways

Sec. 22 page 34, lines 15-19: Fund Capitalization - Reappropriation \$1.97 million to the harbor facility grant fund for the muni harbor grant program - \$3 million in numbers section equals \$5 mil for the program - Funds first project on the list - Sitka Crescent Harbor

Sec. 23 page 34, lines 20-22: Fund Transfer - The large vessel gaming and gambling tax account balance estimated to be \$8,700,000 is appropriated to the Alaska marine highway system fund

Sec. 24 page 34, lines 23-28: Fees collected for NRA license plates estimated to be \$6,000 is appropriated to the Department of Commerce to be distributed as a grant to the Alaska SCTP non-profit corporation for statewide youth shotgun sports programs.

Sec. 25 page 34 - page 35 line 3: Reappropriation estimated to be \$98,782 to the City of Kodiak for design and engineering of a new fire hall due to structural damage as a result of the earthquake in 2017

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Ms. Cramer continued with her testimony:

Sec. 26 page 35, lines 4-20: Reappropriation of Legislative Appropriations - for renovation and repair of, technology improvements to, and other necessary

projects related to legislative building and facilities

Sec. 27 page 35, line 21-26: Lapse - (a) capital projects, Insurance claims to state agencies to mitigate loss, and NPR-A grants lapse (b) capitalization of funds, insurance claims to the state insurance catastrophe reserve account, and fund transfer do not lapse (c) capital projects lapse unless a fiscal year is specified

Sec. 28 page 35, lines 27-28: Immediate Effective Date for supplemental capital items and Agency operating appropriations

Sec. 29 page 35, lines 29-30: June 30, 2018 Effective Date for Agency reappropriations, other reappropriations

Sec. 30 page 35, line 31 - page 36, line 1: July 1, 2018 Effective Date except as provided in sections 28 and 29

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Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, the proposed committee substitute was adopted.

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AT EASE

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Senator Micciche relayed that he had asked for clarification on the difference between the amount of Undesignated General Funds (UGF) in the governor's version and the current version of the bill. He noted that the difference was \$2.8487.9 million lower than the governor's version.

Vice-Chair Bishop shared that when the committee began to contain spending and find efficiencies he had looked into the Department of Transportation and Public Facilities' (DOT) Highway Equipment Working Capital Fund. He discovered that previously the fund expended \$25 million annually. He

worked with the State Equipment Fleet (SEF) and reported that last year's and the current year's appropriation was \$15 million. He expounded that after explaining his methodology for the cuts that included extending the length of time equipment was used, the SEF were currently using the same equipment he had identified four year's earlier. He thanked the department and appreciated working with SEF.

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Co-Chair MacKinnon commented that the state continued to face significant budget deficits. The capital budget was based on funds from savings and state revenue was not sufficient to support some of the appropriations without taking other measures. She acknowledged that there were additional wants and needs throughout the state. She prioritized public safety and deferred maintenance through the reappropriation process. She looked forward to hearing public testimony.

Co-Chair MacKinnon announced that public testimony would be heard the following day.

SB 142 was HEARD and HELD in committee for further consideration.

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RECONVENED

#hb316

CS FOR HOUSE BILL NO. 316(FIN) am

"An Act relating to the release of certain records of convictions; and providing for an effective date."

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REPRESENTATIVE HARRIET DRUMMOND, SPONSOR, introduced the legislation. She explained that HB 316 was intended to clear the court and permanent records of Alaskans with simple possession convictions of marijuana from pre-legalization in November 2015. The lifelong burden of criminal records for a crime that was now legal kept Alaskans from achieving their full potential. The

conviction created a barrier that had the potential to keep people from attaining a higher quality of life. She characterized the bill as a jobs bill. The bill did not grant a clean slate to serious offenders. The bill intended to eliminate obstacles relating to gaining employment, loan eligibility, qualifying for educational opportunities, or advancing in certifications and careers due to a simple possession charge for a crime that was legalized. The recreational use of marijuana was legal for over 3 years, which benefitted the state and created prosperous small businesses. She voiced that many citizens benefitted from legalization and the bill offered a chance to extend the benefit to more citizens by removing barriers to societal advancement.

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PATRICK FITZGERALD, STAFF, REPRESENTATIVE HARRIET DRUMMOND, discussed the Sectional Analysis (copy on file):

Sec. 1 - AS 12.62.160

Stating that an agency may not release records of a criminal case to the public if the defendant was charged with possession of a controlled substance schedule VIA.

Schedule VIA definition: AS 11.71.190

(a) a substance shall be placed in schedule VIA if it is found under AS 11.71.120 to have the lowest degree of danger or probable danger to the person or public.

(b) marijuana is a schedule VIA controlled substance.

Person had to have been 21 years or older at time of offense.

Sec. 2 - AS 22.35(040)

Is amended by adding: AS 22.35.040 Confidential court records. A court record of a criminal case is will be made confidential if defendant was convicted of VIA possession through state or local ordinance as a stand-alone charge.

Sec. 3 - AS 40.25.120

Every person has a right to inspect a public record in the state, including public records in recorders offices except: (18) Records of a schedule VIA possession for less than once ounce if it was a stand-alone charge. Defines that a person must have been 21 or older for the confidentiality to apply.

Sec. 4 *

Alters indirect court rule amendment "Alaska Rules of Administration" by limiting public access to certain case records.

Sec. 5* States that because of section four of this act must receive 2/3 majority vote in each house because of Article IV Sec. 15 of the Alaska State Constitution.

Sec. 6*

Provides effective date for 120 after bill signing.

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Senator von Imhof relayed that the committee had hearings on various crime bills. She asked whether Representative Drummond was aware of other legislation that would change past criminal records resulting from SB 91 or SB 54, as crimes were recategorized. She asked whether criminal records were being changed for other reclassified crimes. Representative Drummond was not aware of any other legislation. She offered that as marijuana was legalized in other states other governments were expunging records in a similar manner. She exemplified that in Vermont the governor expunged the records of 192 individuals and in San Francisco the city prosecutor had recently dismissed approximately 3000 misdemeanor cases. She offered that the ballot initiative supporters considered including a feature like the provisions in HB 316 but determined that the initiative was less likely to pass if it was viewed as a crime forgiveness initiative. Other states had included the measure in their original legalization bill. She believed that the provisions should apply in Alaska as the legalization currently allowed possession and use of the same amount of marijuana that previously created misdemeanants. Currently, individuals were profiting from the sale of marijuana while others were experiencing limitations and barriers due to their marijuana conviction.

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Senator von Imhof related that the possession charge would have to be a non-violent, standalone offense with possession of a schedule VIA (Six-A) controlled substance. She understood the reasoning behind crime forgiveness versus economic opportunity and why other states were sealing records. However, she wondered whether a potential employer had the right to know that an individual had been convicted of possession and use of a substance that was illegal at the time. She asked whether Representative Drummond thought that the information was material in a potential employment scenario. Representative Drummond felt that a discussion was appropriate in the employment scenario. She indicated that the bill did not remove the charges it merely deleted the conviction from court view. The record would still exist, and an applicant would need to report the charges or conviction, if asked by a potential employer.

Senator Micciche cited page 1, lines 5 and 6 of the bill and referred to the language, "the department may not release records of a criminal case if the defendant..." Representative Drummond answered that the section related to the Department of Public Safety (DPS) and was handled differently than Court View.

Mr. Fitzgerald added that DPS used a database called the Alaska Public Safety Information Network (APSIN) and used the data from the network for record requests from companies and industries. The information was sold for a fee. He detailed that individuals would apply to DPS via an application process to prohibit the sale of their record for the standalone conviction of simple possession of marijuana. If other charges or convictions existed, they would be released; only the simple possession charge would be withheld.

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Senator Stevens asked what constituted the charge of simple possession of marijuana. Representative Drummond replied that simple possession applied to one ounce or less of marijuana. Senator Stevens related that times had changed since he was in the army many years ago when the penalty for possession was much more severe.

Co-Chair MacKinnon asked whether the bill applied retroactively in perpetuity. Mr. Fitzgerald answered that Court View records would be removed from the entire database. The DPS records would be removed via application and would depend on all the applicants that applied to have their records held.

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Co-Chair MacKinnon stated that the answer was yes or no and wanted more clarity. Representative Drummond thought that the answer was no. She referenced a Legislative Research Services report (copy on file)[Conviction Data for Marijuana Possession in Alaska, 2007-2017]and relayed that "the Court System was able to provide, for the years 2007 through 2017, a count of cases in which defendants had one or more convictions only under the relevant statute." The count totaled approximately 700 individuals. She stated that convictions prior to 2007 were not contained in Court View. She deferred to the Court System for the answer. She added that 2012 was the first year that all courts in the state were entering case information on CourtView; more cases in other courts around the state were likely. Co-Chair MacKinnon asked what year the state legalized marijuana. Representative Drummond replied legalization occurred in February 2015. Co-Chair MacKinnon asked whether the records prior to the date would be removed. Representative Drummond responded in the affirmative. She stated that there were hundreds of cases prior to 2015 but tapered down to two cases in 2017.

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Senator Stevens inquired whether the provision included more than one arrest. Representative Drummond replied in the affirmative. She restated that the bill only removed a simple marijuana conviction that was not part of multiple other charges.

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Co-Chair MacKinnon OPENED public testimony.

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CASEY REYNOLDS, COMMUNICATIONS DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF ALASKA, ANCHORAGE (via teleconference),

spoke in support of the bill. He stated that the American Civil Liberties Union (ACLU) had two primary concerns. He explained that racial disparity in marijuana convictions, both nationally and in the state were prevalent. A significant disparity existed between the enforcement of marijuana laws on racial lines even though marijuana use was the same among whites and minority groups. He detailed that when comparing census data to arrest data, 7 percent of African Americans were arrested, representing 3.3 percent of the state population, and Alaska Natives comprised 14.8 percent of the population and represented 23.5 percent of the arrests. Legalization greatly diminished some of the disparity in the Alaska criminal justice system. He viewed HB 316 as a way to fully close the disparity gap.

Mr. Reynolds communicated that the second ACLU concern was related to privacy issues. He indicated that the state had a privacy provision and the ACLU believed that Alaska should not be collecting or distributing information about its citizens except for a compelling public purpose. Initially, the activity was criminal, and a compelling public purpose existed, but the compelling purpose was negated when the state legalized and taxed marijuana. The ACLU did not feel that any compelling public purpose existed for the government to report on its citizens about activity that was currently legal.

Co-Chair MacKinnon CLOSED public testimony.

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Co-Chair MacKinnon recalled a previous bill related to state compliance on sexual assault reporting and how it impacted non-residents and CourtView. She asked for comments from the Court System representative.

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NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, informed the committee that she last dealt with the issue one year ago and attempted to remember the details. She relayed that the bill related to domestic violence protective orders. The Court System did publish petitions for domestic violence protective orders unless they were immediately denied by a judge. The bill proposed halting publishing domestic violence protective orders because the federal

Violence Against Women Act (VAWA) prohibited publishing protective orders from another state. The court interpreted VAWA literally and the Court System did not publish out-of-state protective orders but continued to publish Alaska protective orders on CourtView. Co-Chair MacKinnon remembered that the state decision was not entirely consistent with the federal law. She elaborated that protective orders were sometimes used to advantage the party requesting the order. She had seen protective orders being used against one parent in a child custody battle. The bill passed without addressing the issue and she wondered how the Court System currently established "equity" when issuing protective orders since evidence of the threat was not considered. Ms. Meade surmised that Co-Chair MacKinnon's concern was that because every protective order that was not immediately denied was published on CourtView there were some individuals named that did not commit an act of domestic violence. The Court System determined that if the protective order petition was granted at the first hearing, the order was published on CourtView and remained listed. She mentioned that the legislature could enact a statute to alter the Courts behavior in the matter.

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Co-Chair MacKinnon asked for the Courts comments or clarifications on HB 316. Ms. Meade indicated that Section 1 dealt with DPS and she deferred to the department to address that section of the bill. She noted that Section 2 related to CourtView. She clarified that CourtView was not the state's official criminal database. She interpreted that Section 2 mandated the Court to remove all prior convictions for possession of less than one ounce of marijuana that were not dismissed as part of a plea agreement in another criminal case. With passage of the bill, the Court System would remove all roughly 700 cases. The Court System had public records going back further than 2007 that would also be removed, which amounted to approximately 200 more cases. She noted that the bill did not have a fiscal impact on the Court System. Co-Chair MacKinnon referred to Senator Steven's question regarding multiple convictions for simple possession and asked for clarification. Ms. Meade confirmed that the bill would remove multiple simple possession charges from CourtView. She relayed that the sponsor had indicated that the bill did not remove the simple possession charge that included

conviction of other charges. She clarified that if other criminal charges conjoined with the simple possession charge were acquitted and only the simple possession conviction remained, the case would be removed from CourtView.

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Senator Stevens understood that the only conviction that would be removed in a case with multiple charges was the simple possession charge. Ms. Meade reiterated that in a case with multiple charges that ended with a lone conviction of simple possession of marijuana, the case would be removed from CourtView.

Co-Chair MacKinnon referred to the criminal justice reform debate and noted that one of the reforms that was changed was a provision on small petty theft or shop lifting that included multiple infractions. She explained that some shoplifters were committing serial small thefts on multiple businesses. The scenario had not been considered in the reform discussions and had a significant impact on businesses. She offered that some legislators were reluctant to support a "one-time and done" backtracking over time due to the petty theft scenario. She wondered whether multiple convictions should be considered. She stated that Alaska had previously legalized marijuana before the current initiative passed. The initiative related to commercialization and taxation of marijuana and not legalization. Ms. Meade answered that if the committee wanted to change the provision to exclude multiple charges the Court System would comply. She felt the issue was a policy call.

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Senator Micciche stated that possession of marijuana of up to four ounces was not legal outside of a person's home prior to the initiative. He added that under the initiative public consumption was still illegal. He asked for confirmation whether public consumption was still illegal. Ms. Meade answered in the affirmative but added that it was reduced from a crime to a violation; the offender received a citation. Senator Micciche referred to his previous question related to page 1, lines 5 and 6 of the bill and surmised that DPS could no longer release the records of a potential employee with single possession convictions. Ms.

Meade clarified that Section 2 only eliminated the record from Court View and a person could request records from the courthouse. She observed that Section 1 related to the actual criminal background check from DPS and they would be prohibited from releasing the records if the individual applied for removal, which was considered an "opt-in" system. The Court System would automatically remove the records from CourtView. Senator Micciche questioned whether an employer could gain access to the marijuana records either through DPS or submitting a request at a courthouse. Ms. Meade responded that a person could gain access to the records at a court house through a special kiosk. She furthered that the convictions would be removed from APSIN but only if the individual opted-in and applied to have their record removed.

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Vice-Chair Bishop hypothesized a scenario of an individual who was convicted in 2008 of simple possession had no further convictions and wanted to become a state trooper. He asked whether the individual could sign a document to allow the potential employer to see the conviction record in ASPIN.

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ALLISON HANZAWA, SPECIAL ASSISTANT TO THE COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, answered that making the record available after an individual opted-in depended on the circumstances. She explained that the bill was not expunging the criminal record and it would still be available for criminal justice activities and any law enforcement employers or licensing organizations listed under AS 12.62.400. The bill only applied to a narrow section of AS 12.62.160 for the "any person" or general employment background check.

Co-Chair MacKinnon asked whether a federal inquiry would have access to the record of a person who opted-in. Ms. Hanzawa stated that the record would remain in the federal system and the bill only applied to the state. Co-Chair MacKinnon declared that she did not vote for the initiative and felt it contributed to crime in the Anchorage area. She asked how the provision was "the right thing to do for public safety." Ms. Hanzawa replied that DPS was not taking a position on the public policy aspect of the legislation.

The department's concern was over how to implement the law and maintain the integrity of criminal justice records. Co-Chair MacKinnon asked if an individual was carrying under one ounce of marijuana was it likely the person was also driving impaired or using the substance in public. Ms. Hanzawa responded that she did not possess any statistical data to answer the question. She felt that if another charge such as driving under the influence happened at the time of the simple possession charge that the bill was not applicable.

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Senator Micciche remarked that one simple possession charge that happened years ago should not be a barrier to employment. He used receiving speeding tickets before a speeding limit was increased as example of a fair comparison. Ms. Hanzawa restated that the department did not take a position on the bill.

Vice-Chair Bishop stated that speeding tickets were automatically removed within 10 years if a clean driving record was maintained since the ticket. He asked whether he was correct. Ms. Hanzawa was unable to answer the question.

Co-Chair MacKinnon stated that regardless of how she felt about the initiative it was the law and expressed that she had an issue with retroactively erasing records for a conviction that was illegal at the time. She believed that her concern was consistent with Senator Micciche's comparison with speeding tickets.

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Vice-Chair Bishop discussed the fiscal notes. He reported that the zero Judiciary fiscal note FN1 (JUD) was allocated to Trial Courts and read the following from page 2 of the analysis:

The court system can remove these cases from the public version of CourtView, and can disallow public access to the paper files, without fiscal impact. Doing so will require some staff time for administrators to revise the CourtView parameters and electronically designate the files as confidential, but we are able to absorb that task in the normal

course of business. The court system therefore submits this zero fiscal note.

Vice-Chair Bishop moved to the fiscal impact note from DPS DPS3 (DPS) and indicated that \$28 thousand was allocated to the Criminal Justice Information Systems Program in FY 2019. He read the following analysis on page 2:

There are 1,939 records in APSIN for stand-alone convictions applicable under this bill. Should the bill pass, DPS staff would research and redact the applicable records upon request. DPS does not anticipate this to result in a significant increase in workload for CJIS Program staff. However, to ensure that redacted records are not inadvertently released, APSIN would need an additional element of programming to block the identified criminal history records. This would require 200 hours of programmer time at \$140 per hour, resulting in a one-time cost of \$28,000.

Co-Chair MacKinnon asked Ms. Hanzawa to check with the Department of Corrections to ensure that the bill would not apply to anyone currently incarcerated. She did not believe so but wanted confirmation. Ms. Hanzawa agreed with the request.

Co-Chair MacKinnon invited Mr. Fitzgerald to address any concerns that were expressed by the committee or make closing comments. Mr. Fitzgerald offered to provide any additional information to members in response to concerns. Co-Chair MacKinnon reiterated her issue with the bill. Mr. Fitzgerald offered to provide an answer in writing.

Co-Chair MacKinnon announced that amendments or concerns were due the following day by 5pm.

[3:03:55 PM](#)

Co-Chair MacKinnon asked whether the bill affected anyone currently incarcerated. DAN LOWDEN, CAPTAIN, ALASKA STATE TROOPERS, DEPARTMENT OF PUBLIC SAFETY (via teleconference), responded that he had to review APSIN to provide an answer. Co-Chair MacKinnon restated her question regarding the department's position on the bill. Mr. Lowden answered that DPS was taking a neutral position. He alluded to hearing much discussion pertaining to both sides of the issue.

Senator Micciche voiced that the conviction remained on the record and was not expunged. He described the issue as whether the charge was "easily" visible to the public. Co-Chair MacKinnon agreed with his statement and noted that the hearing had established that detail. She offered that landlords and insurance companies would not be able to access the records. She pointed out that the bill considered barriers to employment and housing and the issue "cut both ways."

CSHB 316(FIN) was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[3:08:24 PM](#)

The meeting was adjourned at 3:08 p.m.