

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

March 19, 2018

1:31 p.m.

**MEMBERS PRESENT**

Senator John Coghill, Chair  
Senator Mia Costello  
Senator Pete Kelly  
Senator Bill Wielechowski  
Senator Mike Shower

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 122

"An Act repealing the authority for a child abuse or neglect citizen review panel in the Department of Health and Social Services; and establishing the Child Protection Citizen Review Panel in the office of the ombudsman."

- MOVED CSSB 122(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 312

"An Act relating to arrest without a warrant for assault in the fourth degree at a health care facility; and relating to an aggravating factor at sentencing for a felony offense against a medical professional at a health care facility."

- MOVED HB 312 OUT OF COMMITTEE

SENATE BILL NO. 214

"An Act authorizing the commissioner of corrections to establish a correctional industries program; establishing a correctional industries board; authorizing the Department of Corrections to receive money from the employment of prisoners; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 122

SHORT TITLE: OCS CITIZEN REVIEW PANEL

SPONSOR(S): SENATOR(S) COGHILL

05/17/17 (S) READ THE FIRST TIME - REFERRALS  
05/17/17 (S) HSS, JUD, FIN  
02/26/18 (S) HSS AT 1:30 PM BUTROVICH 205  
02/26/18 (S) Heard & Held  
02/26/18 (S) MINUTE(HSS)  
02/28/18 (S) HSS AT 1:30 PM BUTROVICH 205  
02/28/18 (S) Moved SB 122 Out of Committee  
02/28/18 (S) MINUTE(HSS)  
03/01/18 (S) HSS RPT 3DP 1NR  
03/01/18 (S) DP: WILSON, VON IMHOF, GIESSEL  
03/01/18 (S) NR: BEGICH  
03/12/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/12/18 (S) Heard & Held  
03/12/18 (S) MINUTE(JUD)  
03/19/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 312

SHORT TITLE: CRIMES AGAINST MEDICAL PROFESSIONALS

SPONSOR(S): REPRESENTATIVE(S) CLAMAN

01/26/18 (H) READ THE FIRST TIME - REFERRALS  
01/26/18 (H) JUD  
02/05/18 (H) JUD AT 1:30 PM GRUENBERG 120  
02/05/18 (H) Heard & Held  
02/05/18 (H) MINUTE(JUD)  
02/07/18 (H) JUD AT 1:00 PM GRUENBERG 120  
02/07/18 (H) Moved HB 312 Out of Committee  
02/07/18 (H) MINUTE(JUD)  
02/09/18 (H) JUD RPT 4DP 3AM  
02/09/18 (H) DP: KOPP, KREISS-TOMKINS, STUTES,  
CLAMAN  
02/09/18 (H) AM: EASTMAN, LEDOUX, REINBOLD  
02/16/18 (H) TRANSMITTED TO (S)  
02/16/18 (H) VERSION: HB 312  
02/19/18 (S) READ THE FIRST TIME - REFERRALS  
02/19/18 (S) JUD  
03/02/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/02/18 (S) Heard & Held  
03/02/18 (S) MINUTE(JUD)  
03/19/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 214

SHORT TITLE: ESTABLISH CORRECTIONAL INDUSTRIES PROGRAM  
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/05/18 (S) READ THE FIRST TIME - REFERRALS  
03/05/18 (S) JUD, FIN  
03/19/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

RYNNIEVA MOSS, Staff  
Senator John Coghill  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed the changes that appear in version 0 of SB 122.

KATE BURKHART, Ombudsman  
Office of the Ombudsman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Discussed the reasons for the changes that appear in version 0 of SB 122.

DAWN ELLIOTT, Emergency Room Nurse  
Providence Medical Center  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

CHUCK BILL, CEO  
Bartlett Regional Hospital  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

AMBER MICHAEL, Legislative Chair  
Alaska Nurses Association and registered nurse  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

DANNY ROBINETTE, Chief Medical Officer  
Fairbanks Memorial Hospital  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

BRUCE RICHARDS, Director of Government Affairs  
Central Peninsula Hospital  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

REGENA DECK, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

JENNIFER MOORE, Chief Quality Officer  
MatSu Regional Medical Center  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

JOANNA CAHOON, Member  
Alaska Mental Health Board and Advisory Board on Alcoholism and  
Drug Abuse and Staff Attorney  
Disability Law Center  
Anchorage, Alaska

**POSITION STATEMENT:** Discussed the unintended consequences  
related to HB 312.

BENJAMIN SHELTON, MD, President  
Alaska Chapter - American College of Emergency Physicians  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

KIM MCDOWELL, Emergency Room Director and registered nurse  
Bartlett Regional Hospital  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 312.

CLARE SULLIVAN, Deputy Commissioner  
Department of Corrections (DOC)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided an overview of SB 214.

JULIANA MELIN, Legislative Liaison  
Department of Corrections (DOC)  
Juneau, Alaska

**POSITION STATEMENT:** Delivered a sectional analysis for SB 214.

DEAN WILLIAMS, Commissioner  
Department of Corrections (DOC)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 214.

#### **ACTION NARRATIVE**

[1:31:14 PM](#)

**CHAIR JOHN COGHILL** called the Senate Judiciary Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Costello, Kelly, Wielechowski, and Chair Coghill. Senator Shower arrived during introductions.

**SB 122-OCS CITIZEN REVIEW PANEL**

[1:32:32 PM](#)

CHAIR COGHILL announced the consideration of SB 122 and noted the proposed committee substitute (CS).

[1:32:49 PM](#)

SENATOR COSTELLO moved to adopt the work draft committee substitute (CS) for SB 122, version 30-LS0047\0, as the working document.

[1:33:07 PM](#)

CHAIR COGHILL objected for an explanation of the changes.

[1:33:23 PM](#)

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, Juneau, Alaska, reviewed the following changes made to version 0 of SB 122:

- Page 1, line 8, after the word "ombudsman":

Deleted:

". For budgetary purposes, the panel is located in the office of the ombudsman."

- Page 2, line 4:

Deleted language describing qualifications of panel members. Subsection [(e)] has been amended to direct the Ombudsman's Office to by regulation establish guidelines for the operation of the panel, including:

- [(1)] qualification of members
- [(2)] policies for recruitment and appointment of members
- [(3)] tenure of members; and
- [(4)] policy for selection of leadership

- Page 5, line 27:

Delete: **and**

- Page 6, line 3:

Insert after "best interest":

[.] ; and

(16) the office of the ombudsman.

- Page 7, line 3:

Adds an immediate effective date for the Citizens Review Panel.

[1:36:04 PM](#)

KATE BURKHART, Ombudsman, Office of the Ombudsman, Alaska State Legislature, Juneau, Alaska, said she appreciates that the committee is considering the changes that appear in version 0 of SB 122. She provided the following comments on the proposed changes:

- Her office requested removing the language about placing the panel in the Office of the Ombudsman for budgetary purposes because that would limit the ability of the ombudsman to supervise the staff.
- Her office can handle recruitment, appointment, and qualifications through regulation in partnership with the members of the Citizens Review Panel. However, it's more detailed than initially anticipated and the timeline for the regulatory package would need to be extended from a year to a year and a half or so.
- The Office of the Ombudsman is added to AS 47.10.093(b) because that statute is interpreted to preclude speaking with ombudsman investigators. The Office of Children's Services readily shares information when the ombudsman needs to investigate a complaint, but they have run into an issue with the guardians ad litem that work for the Office of Public Advocacy. Adding the Office of the Ombudsman to the statute makes sense, especially if the Citizens Review Panel would have access to the data through its co-location with the ombudsman.

MS. BURKHART stated that the changes proposed in version 0 address the concerns her office had regarding their ability to

implement the intent of SB 122 and allows them to support the co-location of the Citizens Review Panel.

CHAIR COGHILL asked if the ombudsman receives confidential information in other areas where it does investigations.

MS. BURKHART said yes; the ombudsman statute says, "notwithstanding any other provision of law." AS 47.10.093(b) was adopted after the legislation that created the Office of the Ombudsman and it's interpreted to mean that the ombudsman is intentionally not on the list. That created the hiccup.

CHAIR COGHILL said he wanted the members to understand that the ombudsman has had access to confidential information in all other areas of law. It's necessary to do the job.

He noted who was available to answer questions.

[1:39:22 PM](#)

SENATOR SHOWER referenced the deleted language in subsection (c) on page 2, lines 1-4. He asked how they would focus the criteria for who would serve on the board to ensure that the panel members have the specialty or expertise needed.

MS. BURKHART clarified that the regulations would be adopted in partnership with the Citizens Review Panel. She offered her perspective of the board, which would have 15 or 16 members with designated constituencies and areas of expertise as well as public members.

- A seat that was designated specifically to someone living off the road system; potentially someone who was nominated by the Alaska Federation of Natives or First Alaskans.
- Someone with the specific clinical area of behavioral health of child abuse and prevention and treatment.
- Someone with experience with the child in need of aid (CINA) process through the courts. This could be someone from the Office of Public Advocacy or the Public Defender's Office or a guardian ad litem, not the attorney general's office because they represent the agency.
- Someone with a background with the Indian Child Welfare system (ICWA) is an important constituency given the overrepresentation of Alaska Native children in the foster care system.
- Consumer representation such as a foster parent or young adult who has been in foster care.

- A parent who has been engaged with the Office of Children's Services. This is a constituency that seldom has a voice at the policy-making level.
- Representation from the school is something to consider since schools are often ground zero for the effects of child abuse and child maltreatment. Teachers are mandatory reporters, but they don't often have a voice in policy-making regarding child protection issues.
- A medical practitioner such as a pediatric nurse practitioner or a pediatrician would be beneficial.
- Seats designated for interested members of the public who may not fit into one of these specialized seats. Sometimes these folks are your best members.

SENATOR SHOWER asked if discretion is left to the board to determine which citizens will be on the panel.

MS. BURKHART said she believes that those criteria that appeared in the original draft would appear in regulation.

MS. MOSS clarified that the intent is for the criteria for the panel to be set in regulation. Federal law is vague regarding how states are to select panel members, but public members who are not connected to the system are required. She noted that she recently found a document that was written in 1998 that talks about panel selection.

SENATOR SHOWER said thanks; he didn't understand it would come through regulation.

SENATOR COSTELLO commented that someone from Facing Foster Care in Alaska would be a good candidate for the panel.

CHAIR COGHILL asked Ms. Burkhart to comment on the fiscal note.

MS. BURKHART said the fiscal note contemplates staffing for the panel. It was drafted when the ombudsman had no supervisory authority and it contemplated a high level of professional staff. If the bill moves forward as currently drafted, less expensive staffing is possible.

MS. MOSS advised that the bill has two fiscal notes. [The DHSS fiscal note is zero.]

[1:47:02 PM](#)

CHAIR COGHILL removed his objection and version 0 was adopted.

[1:47:20 PM](#)

SENATOR COSTELLO moved to report the CS for SB 122, work draft 30-LS0047\O, from committee with individual recommendations and attached fiscal note(s).

[1:47:36 PM](#)

CHAIR COGHILL announced that without objection, CSSB 122(JUD) moved from the Senate Judiciary Standing Committee.

[1:47:47 PM](#)

At ease

### **HB 312-CRIMES AGAINST MEDICAL PROFESSIONALS**

[1:49:51 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of HB 312. He opened public testimony.

[1:50:47 PM](#)

DAWN ELLIOTT, Emergency Room Nurse, Providence Medical Center, Anchorage, Alaska, testified in support of HB 312. She said the emergency room at Providence sees about 70,000 patients each year. Health care workers seldom hear thank you but physical violence, verbal abuse, and being treated like garbage is the norm. Every day she fears another assault. She described the last assault she experienced to demonstrate the lack of accountability. She opined that there needs to be immediate and lifelong consequences for individuals who assault health care workers.

[1:52:22 PM](#)

CHUCK BILL, CEO, Bartlett Regional Hospital, Juneau, Alaska, testified in support of HB 312. He described the legislation as an important component to protect staff from workplace violence. The violence in hospitals has increased 50 percent the last couple of years. He described an incident this past weekend when three security guards and one nurse were assaulted. The hospital has implemented several safety measures such as doubling the security workforce and extensive training on deescalating and avoiding these situations. HB 312 will help the police department to better partner with staff when needed. He urged passage of the bill without amendment.

[1:54:35 PM](#)

AMBER MICHAEL, Legislative Chair, Alaska Nurses Association and registered nurse, Fairbanks, Alaska, testified in support of HB 312. She said the threat of violence on health care workers and

other staff occurs in all areas of the hospital on a daily basis. It ranges from hitting and spitting to gun violence. The lack of power that the police have in these situations is unacceptable. Health care facilities are a magnifier of emotions and can explode in stressful situations and anyone in the vicinity can become a target. However, health care workers and other personnel are limited in how they can protect themselves while giving care. She said the added aggravator when assaulting a health care worker in a health care facility is a positive move and hopefully will reduce assaults. She urged the committee to support HB 312.

[1:56:22 PM](#)

DANNY ROBINETTE, Chief Medical Officer, Fairbanks Memorial Hospital, Fairbanks, Alaska, testified in support of HB 312. He reported that in the past 18 months they have experienced about 182 incidents with violence or a significant threat of violence to hospital staff. Some estimates show that just one-third of incidents are reported, which suggests they have had over 500 incidents in that timeframe. Violence is increasing significantly both at Fairbanks Memorial and statewide. This is not acceptable. HB 312 will be a significant help, but it isn't the only solution. Fairbanks Memorial is taking steps such as nonviolent crisis intervention training for clinical staff, expanding security presence, and developing processes to identify patients that are high risk for violence. He urged the committee to support HB 312.

[1:58:18 PM](#)

BRUCE RICHARDS, Director of Government Affairs, Central Peninsula Hospital, Soldotna, Alaska, testified in support of HB 312. He described the incident in 2008 when a former employee entered the hospital and shot and killed a supervisor and injured another before taking his own life. Employees have not forgotten that event. Employees at the hospital, nursing home, and hospital-based clinics experience workplace violence more frequently than in the past. It originates from patients, family members, domestic disputes and even people who have no official business at the hospital. The National Institute for Occupational Safety and Health defines workplace violence as "any physical assault, threatening behavior, or verbal abuse occurring in the work place." He cited data points from the agency that accredits and certifies 21,000 health care organizations nationwide. From a sample of 3,700 nurses, 21 percent report being physically assaulted and over 50 percent were verbally abused in a 12-month period; 12 percent of emergency room nurses experienced physical violence and 59

percent experienced verbal abuse in the last 7-day period. He agreed with previous testimony that violence in hospitals is increasing. Central Peninsula Hospital has a code for a situation involving violence that anyone can initiate over the paging system. He described some of the things he's seen when he responded to the call for help. Their staff support allowing law enforcement to arrest someone for misdemeanor assault without a warrant in these situations. This will take care of the existing issue where the perpetrator remains in the facility after the police have left. He urged the committee to pass HB 312.

[2:01:32 PM](#)

REGENA DECK, representing self, Juneau, Alaska, testified in support of HB 312. She said she is an emergency department nurse, the professor of nursing for UAA in Juneau, and a victim of violence as a direct result of her job. She described the physical assault she experienced by a patient. Her assailant was charged with misdemeanors and felonious assault, including assault with a deadly weapon. He had been reported to the police before and they said their hands were tied. Some nurses didn't bother to report him because nothing would be done. Other nurses view this as part of the job. It makes her sad and angry that her injury and trauma could have been prevented if the police had stronger tools available. HB 312 will make it so that nurses' reports of violence will be taken seriously and hopefully prevent further acts of violence. It will also send a message to the public that there is zero tolerance for violent behavior. She encouraged the committee to support HB 312.

[2:04:15 PM](#)

JENNIFER MOORE, Chief Quality Officer, MatSu Regional Medical Center, Palmer, Alaska, testified in support of HB 312. She said that as a nurse of over 20 years she has experienced assaults while attempting to treat patients. All units in the hospital are affected. Some nurses are afraid to go to work because they fear assault. Health care workers need to know they are supported in their time of need just as they help others in their time of need. Violence should not be an acceptable workplace hazard, but for many this is the new norm.

Legislation is not the only solution to this complex problem. Every facility needs to implement a comprehensive strategy using evidence-based practices. MatSu Regional is working on a comprehensive workplace violence preventative program to teach staff how to deescalate a situation, use specialized safety techniques, and how to escort an aggressive person. It also teaches staff how to recognize their tension triggers and how to

reduce personal tension. She urged the committee to pass HB 312 and send a strong message to health care providers that Alaska takes this issue very seriously.

2:06:40 PM

JOANNA CAHOON, Member, Alaska Mental Health Board and Advisory Board on Alcoholism and Drug Abuse and Staff Attorney, Disability Law Center, Anchorage, Alaska, discussed unintended consequences related to HB 312. She said the boards believe the violence that HB 312 seeks to address is egregious. Her comments are areas of drafting that may lead to unintended consequences beyond the targeted violence the bill tries to address. There are two ways that the current language could unintentionally criminalize the actions of persons in need of psychiatric care.

First, people that are transported to a psychiatric facility often refuse treatment. They can appear belligerent, yelling, and demanding to leave. They may not be deemed to be seeking medical treatment, but the boards' experience is that it's not always a straightforward call. The second issue relates to the idea that being deemed stable for discharge is straightforward. There are certain populations that show up to ERs that may not be admitted because they need support but not necessarily medical treatment. Examples include a person with an intellectual disability that is co-occurring with a mental illness or an adult child that experiences autism and is in a meltdown and is violent. Those individuals are in crisis, but they may not be admitted. The bill may capture those individuals, perhaps unintentionally.

In the boards' experience, difficult psychiatric patients have sometimes been inappropriately deemed stable for discharge. On occasion they have seen Emergency Medical Treatment and Labor Act (EMTALA) violations. That is the law that requires anyone going to an emergency department to be deemed stable before they are discharged.

MS. CAHOON advised that a similar bill was adopted in Idaho and patients with the conditions she described were caught up in the criminal justice system, although that was not the intent of the bill. She thanked the committee for the opportunity to point out the potential for unintended consequences.

2:11:23 PM

BENJAMIN SHELTON, MD, President, Alaska Chapter American College of Emergency Physicians, said he works at Providence in Anchorage. He is testifying in support of HB 312 that helps

address workplace violence in health care facilities. This is necessary. Violence in the emergency department seems to be worsening. This should not be accepted as a workplace hazard, but for many it has become the normal. Many of the assaults are in the category of fourth degree assault for which an officer must have a warrant to make an arrest. After a staff member is assaulted, the police take a report and often leave the individual on premises. This sends the unfortunate message to the care giver that their safety is not important. The bill gives police officers the same ability to remove the assailant from the scene without a warrant. This is the same authority that law enforcement has to remove an assailant from the scene in domestic violence situations.

All emergency providers are responsible for EMTALA. Every patient that comes in is cared for and stabilized. HB 312 does not change that. If someone comes in with an acute mental health crisis, they're psychotic, or high on methamphetamine, the emergency department's responsibility is to treat them. He urged the committee to pass HB 312 and send a strong message to those providing health care that Alaska takes this issue seriously.

[2:14:19 PM](#)

KIM MCDOWELL, Emergency Room Director and registered nurse, Bartlett Regional Hospital, Juneau, Alaska, testified in support of HB 312. She reported that in the last six months they have had 18 incidents of nurses being assaulted. This has become the rule rather than the exception. This would not be acceptable in any other place of business. She urged passage of HB 312, so health care providers can do their jobs safely and without harm to themselves or other people.

CHAIR COGHILL asked if she believes the bill, as currently drafted, provides enough discretion to deal with behavioral health issues.

MS. MCDOWELL said that as professionals they all have the ability to make that discretionary decision. There is a difference between an individual with autism who may not be able to control their behavior as opposed to an individual who is assaulting staff but does have the means to know the difference between right and wrong.

CHAIR COGHILL asked Ms. Cahoon to address the same question.

[2:17:08 PM](#)

MS. CAHOON said she isn't questioning anybody's ability to make an appropriate professional call. The boards' concern is based on seeing the intention of what other states passed and what happened. The law in Idaho intended to capture the actions of patients or non-patients who could understand their actions but were drunk or angry. It had an exemption for people experiencing mental illness, but that provision was removed and patients with mental illness or autism were caught up in the criminal justice system. This may not be an issue most of the time, but there is some vagueness between seeking medical treatment and stable for discharge. She suggested that a definition or exemption might make it clear in those situations that don't fall in the norm so that situations like in Idaho and Washington are avoided.

CHAIR COGHILL commented that the bill appears broad enough for the rule, but not the exception. He said he didn't know that he was willing to slow the bill to find out how best to make an exception when it seems that there is discretion with the officer and health care provider.

[2:19:31 PM](#)

SENATOR WIELECHOWSKI asked if the sponsor was available to respond to Ms. Cahoon's testimony.

CHAIR COGHILL said that was discussed in House Judiciary and the sponsor is satisfied that the discretion given to the officers and health care professionals is sufficient. He reiterated that he believes there is enough discretion.

SENATOR WIELECHOWSKI said okay.

[2:20:38 PM](#)

SENATOR COSTELLO moved to report HB 312, version 0, from committee with individual recommendations and attached fiscal note(s).

[2:20:53 PM](#)

CHAIR COGHILL announced that without objection, HB 312 moved from the Senate Judiciary Standing Committee.

[2:20:59 PM](#)

At ease

**SB 214-ESTABLISH CORRECTIONAL INDUSTRIES PROGRAM**

[2:22:46 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 214. This is the first hearing.

2:23:13 PM

CLARE SULLIVAN, Deputy Commissioner, Department of Corrections (DOC), Anchorage, Alaska, said she would provide an overview of SB 214 and the benefits of establishing a correctional industries program and Juliana Melin would provide a sectional analysis. She reviewed her background with the Department of Corrections, most of which was in the institutions.

She explained that correctional industries programs are designed to help prisoners leave prison with meaningful skills that are necessary for a successful transition into the community. This means getting a job, reporting to the job, getting paid and paying bills, including restitution and child support. The idea is to develop a program within the correctional facilities that is not detrimental to outside work groups or labor. The correctional industries board that the bill establishes will provide direction on the industries that each correctional facility should focus on. The industries program is also a potential feeder program for unions.

She said research from other states shows that correctional industries programs help reduce recidivism. Inmates who have been in the program for any length of time have a far better chance of a successful transition. They are far less likely to think in a criminal fashion because they have established a fairly normal process within the institution. Research also shows that the institutions that provide some form of economic diversity help businesses and communities on the outside by providing products or services that are not otherwise readily available. Another benefit of these programs is that they reduce collateral department costs. When people in prison are engaged in productive and pro-social activities, assaults go down and medical costs are reduced. Those people also do better after they are released.

MS. SULLIVAN said DOC is looking at four possible industry venues that have unmet needs. These are flash freezing of Alaskan-grown vegetables, continuing and possibly expanding the Alaska Marine Highways laundry service, restarting the custom furniture and specialty item business that Spring Creek used to have, and making and selling Alaska-unique items to wholesalers in the state.

[2:29:20 PM](#)

CHAIR COGHILL asked if they'd thought about steering certain industries to certain prisons or if that would be left to the discretion of the board. For example, growing would be much easier in Palmer than in Southeast.

MS. SULLIVAN said she believes the board would provide that guidance and DOC would provide the staffing.

CHAIR COGHILL asked if DOC would implement security and safety measures to ensure that tools aren't misused or stolen. He noted that mishandling tools was part of the reason the earlier programs folded.

MS. SULLIVAN said the institutions reworked and enhanced their tool safety procedures and accountability after a 2014 audit highlighted deficiencies.

CHAIR COGHILL asked if the Point MacKenzie Correctional Farm was still vibrant.

MS. SULLIVAN said the farm is still producing enough that they donate their excess to local charities.

SENATOR WIELECHOWSKI said this is a commendable effort, but he's concerned about diminishing jobs and wages. He asked what industries they expect to target, the expected impact on the labor force, and the expected wage for inmates.

MS. SULLIVAN said the objective is to establish a program in the prison so inmates can develop skills and be productive when they are released. The jobs wouldn't be high paying and there is no intention to compete with businesses on the outside. She noted that DOC has a program where inmates on ankle monitors go outside during the day to be trained as ironworkers with the idea that they will feed into that industry once they're released.

[2:35:32 PM](#)

SENATOR COSTELLO asked if the legislation contemplates that the inmates would leave with an agreement for future work like the ironworker example or if it contemplates a correctional industry program like those in the past which included the laundry service and furniture building.

MS. SULLIVAN said it's different than the example she cited. The idea is to have most of the programs within the facilities.

SENATOR COSTELLO noted the proposed board makeup and asked if they would be opposed to adding a business seat.

MS. SULLIVAN said that's a good idea because labor and business view some things differently.

SENATOR COSTELLO noted the bill going through the process to exempt DOC from the procurement process and asked how this legislation would be impacted if that bill were to pass.

MS. SULLIVAN said she would follow up with an answer.

SENATOR KELLY said he was initially concerned about unemployment but was encouraged when he realized that a lot of things are imported now. He cited the hypothetical example of a prison industry that makes patio furniture. Today most of that is imported from China or Pakistan.

[2:39:27 PM](#)

SENATOR SHOWER said he had the same concern that Senator Costello voiced. He referenced the language in Section 7 and opined that there could be a conflict with the typical competitive bidding process.

[2:40:58 PM](#)

JULIANA MELIN, Legislative Liaison, Department of Corrections (DOC), Juneau, Alaska, clarified that Section 7 does not change the existing procurement rules for the proposed correctional industries program. It replaces the old program with the new correctional industries program. She added that it's not related to the procurement legislation going through the process.

SENATOR SHOWER asked her to clarify the meaning of the language on page 2, lines 9-10.

MS. MELIN said the idea is that when the department enters a contract with a private organization, that employer would be required to provide workers' compensation.

CHAIR COGHILL deferred further discussion until after Ms. Melin presented the sectional analysis.

[2:42:24 PM](#)

SENATOR WIELECHOWSKI said he was curious about the workers' compensation implications and whether someone who is injured would receive temporary total disability or permanent total

disability. He also asked about the potential impacts on Davis-Bacon wages and the prevailing wage standards.

CHAIR COGHILL deferred the question until after the sectional analysis.

[2:43:19 PM](#)

MS. MELIN paraphrased and supplemented the following sectional analysis for SB 214.

Section 1: Amends 33.30.191(e) to clarify that Worker's Comp (AS 23) does not apply to the employment of prisoners under this particular section.

She explained that later in the bill a large portion of the section is deleted. An example of what remains is the commissioner's ability to direct a prisoner to participate in productive employment while incarcerated, including routine facility maintenance, academic or vocational education, and public conservation projects. The exemption from workers' compensation from these types of activities is consistent with current statute.

MS. MELIN noted the drafting error in Section 2 on page 1, lines 10-11. The phrase, "In addition to entering contracts or cooperative agreements under AS 33.30.191," should have been deleted.

Section 2: Amends 33.30 by adding a new section, 33.30.195, that establishes the correctional industries program, detailing that in addition to cooperative agreements listed under 33.30.191, the commissioner may establish & administer correctional industries programs upon approval of the Correctional Industries Board created later in the bill under 33.30.196. Under (b)-(f), operational details of the newly established correctional industries program is laid out.

She noted that on page 2, subsection (f) on lines 17-19 clarifies that prisoners employed under this section are not entitled to unionize and they do not have the rights of state employees, including the right to participate in collective bargaining.

Under the new section, 33.30.196, the Correctional Industries Board is established. The board consists of four members: the commissioner of labor (or designee), the commissioner of corrections (or designee), and two representatives of organized labor that the governor shall appoint from a list submitted by a labor organization. These members serve staggered three-year terms.

The duties of the board include meeting quarterly or at regularly scheduled times determined by a majority of members, approve, monitor, and make recommendations for proposals for prison industry programs, and hold public hearing to provide opportunity for persons or organizations to submit written comments or oral testimony on proposals that may affect them. The board will also keep public record of all meetings and hearing and make this information public.

Section 3: Amends 33.30.201(a) by distinguishing prisoners employed under the new prison industries program (33.30.195) and removes them from this particular statute detailing compensation of prisoners who fall under current statute. It also removes 33.30.191(g)(5) from applying to this section as "other work performed inside or outside a facility" now falls within the newly established prison industries program.

She noted that the outdated language, "if the money is available from legislative appropriations" is also deleted. The Department of Law determined that language should be deleted from the section when it was drafted in 1986.

Section 4: Amends 33.30.201(c) by requiring compensation of employed prisoners established under the new section, (g), to follow the priority order of compensation dispersion as laid out in this section. It also reorders the priority list, making restitution payments a higher priority.

Section 5: Amends 33.30.201(d) to include the newly established prisoner employee's compensation section (g), detailing that any remaining compensation after any deduction under (b) or (c) of this section will be credited to the prisoner.

Section 6: Adds a new section (g) under 33.30.201 describing the compensation of prisoners employed under the newly established prison industries program (33.30.195). [It clarifies that compensation for work performed under contract or agreement with an individual or private entity may not be less than the minimum wage required by AS 23.10.065.]

Section 7: Amends 36.30.313 by including the newly established prison industries program, 33.30.195, in this statute that precludes the procurement of products or services provided through the employment of prisoners from competitive sealed bidding or competitive sealed proposals.

Section 8: Amends 37.05.146(c) by adding a new section allowing the Department of Correction to collect receipts from contracts or agreements under the new prison industries program (33.30.195)

Section 9: Amends 41.21.026(f) by deleting the old employment of prisoners language (33.30.191(b)) and replaces it with the new prison industries program established under 33.30.195, allowing the department to charge fees as listed under this section.

Section 10: Repeals AS 33.30.191(b) which is the current (and limiting) prison industries language as well as 33.30.191(g)(5) that describes other work performed inside or outside of a correctional facility which is now incorporated under the newly established prison industries program 33.30.195.

Section 11: Effective date July 1, 2018.

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SENATOR WIELECHOWSKI said he'd like a discussion on Section 1 that says the provisions of AS 23 do not apply because Title 23 contains the entire work standards.

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SENATOR COSTELLO noted that the language on page 1, lines 11-13, gives the commissioner the ability to establish and administer a correctional industries program and the language on page 2, line 22, talks about the board providing general policy direction to the commissioner. She asked the commissioner if he reads that

the way she does, which is that the board would provide general direction and the program would be run by the commissioner.

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DEAN WILLIAMS, Commissioner, Department of Corrections (DOC), Juneau, Alaska, said the intent is for the board to vet any permissible business opportunities and give them a red or green light. He said he'd take another look at the language because the board is not intended to be a figurehead. He agreed with the earlier suggestion to include a business member on the board.

SENATOR COSTELLO asked what assurance the legislature would have that the department would promulgate regulations should this bill pass.

COMMISSIONER WILLIAMS said this is a good example of a statute that would require the department to promulgate regulations. They are necessary to articulate things like board and meeting processes, the procedure for approving business opportunities, and how inmates would get paid.

SENATOR COSTELLO asked if he heard the question about how this legislation would be affected if the legislation about changing the procurement code were to pass.

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COMMISSIONER WILLIAMS clarified that the procurement exception in HB 325 is specifically about reentry transition housing services. That bill was not designed or intended to impact anything regarding procurement in this legislation.

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CHAIR COGHILL held HB 214 in committee for further consideration.

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There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:59 p.m.