

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 26, 2019

1:32 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chuck Kopp
Representative Louise Stutes
Representative Laddie Shaw
Representative David Eastman

MEMBERS ABSENT

Representative Adam Wool

COMMITTEE CALENDAR

HOUSE BILL NO. 145

"An Act relating to crime and criminal procedure; establishing the crime of possession of motor vehicle theft tools; relating to controlled substances; relating to credit toward a sentence of imprisonment; relating to sentencing; relating to registration of sex offenders; relating to the definition of 'sex offender or child kidnapper'; relating to operating under the influence; relating to refusal to submit to a chemical test; relating to the duties of the commissioner of corrections; relating to the Alaska Criminal Justice Commission; relating to the duties of the attorney general and the Department of Law; requiring law enforcement agencies to test sexual assault examination kits; requiring notification of completion of testing; relating to reports on untested sexual assault examination kits; and relating to public disclosure of information relating to certain minors."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 145

SHORT TITLE: PROPERTY CRIME; MOTOR VEHICLE THEFT TOOLS

SPONSOR(s): JUDICIARY

04/24/19	(H)	READ THE FIRST TIME - REFERRALS
04/24/19	(H)	JUD, FIN

04/24/19 (H) JUD WAIVED PUBLIC HEARING NOTICE, RULE
23 UC
04/24/19 (H) JUD AT 1:00 PM GRUENBERG 120
04/24/19 (H) Heard & Held
04/24/19 (H) MINUTE(JUD)
04/24/19 (H) JUD AT 5:15 PM GRUENBERG 120
04/24/19 (H) -- MEETING CANCELED --
04/25/19 (H) JUD AT 5:15 PM GRUENBERG 120
04/25/19 (H) Heard & Held
04/25/19 (H) MINUTE(JUD)
04/26/19 (H) FIN AT 9:00 AM ADAMS ROOM 519
04/26/19 (H) JUD AT 1:00 PM GRUENBERG 120
04/26/19 (H) FIN AT 1:30 PM ADAMS ROOM 519

WITNESS REGISTER

NANCY MEADE, General Counsel
Alaska Court System
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB
145.

KACI SCHROEDER, Assistant Attorney General
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB
145.

KELLY GOODE, Deputy Commissioner & Legislative Liaison
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB
145.

ACTION NARRATIVE

[1:32:30 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:32 p.m. Representatives LeDoux, Shaw, Eastman, Kopp, Stutes, and Claman were present at the call to order. Representatives

HB 145-PROPERTY CRIME; MOTOR VEHICLE THEFT TOOLS

[1:33:17 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 145, "An Act relating to crime and criminal procedure; establishing the crime of possession of motor vehicle theft tools; relating to controlled substances; relating to credit toward a sentence of imprisonment; relating to sentencing; relating to registration of sex offenders; relating to the definition of 'sex offender or child kidnapper'; relating to operating under the influence; relating to refusal to submit to a chemical test; relating to the duties of the commissioner of corrections; relating to the Alaska Criminal Justice Commission; relating to the duties of the attorney general and the Department of Law; requiring law enforcement agencies to test sexual assault examination kits; requiring notification of completion of testing; relating to reports on untested sexual assault examination kits; and relating to public disclosure of information relating to certain minors."

CHAIR CLAMAN announced that the committee would be taking up amendments to HB 145. He stated for the record that Legislative Legal Services has permission to make any technical and conforming changes to the bill.

[1:34:14 PM](#)

REPRESENTATIVE STUTES moved to adopt Amendment 1, labeled 31-LS0889\U.8, Radford, 4/25/19, which read as follows:

Page 13, line 1, through page 14, line 23:
Delete all material.

Renumber the following bill sections accordingly.

Page 21, following line 6:

Insert a new bill section to read:

"* Sec. 31. AS 12.55.015 is amended by adding a new subsection to read:

(1) In making a determination under (a)(12) of this section for a defendant convicted of a crime involving a sex offense as defined in AS 12.63.100 or a crime involving domestic violence as defined in AS 18.66.990, there is a presumption that, unless the court finds on the record, by clear and convincing evidence, that contact between a defendant and the victim of the offense is necessary, the court shall order the defendant to have no contact, either

directly or indirectly, with the victim until the defendant is unconditionally discharged."

Renumber the following bill sections accordingly.

Page 22, line 7, through page 24, line 28:

Delete all material.

Renumber the following bill sections accordingly.

Page 26, lines 16 - 24:

Delete all material and insert:

"* **Sec. 37.** AS 12.61.050 is amended by adding a new subsection to read:

(c) Through the automated victim notification system established in (a) of this section, the Department of Corrections shall notify a victim of a sex offense as defined in AS 12.63.100 or a crime involving domestic violence as defined in AS 18.66.990 of the option to request a protective order under AS 18.65.850 or AS 18.66.100 and provide contact information for state victim resources, including the Council on Domestic Violence and Sexual Assault, the Alaska Network on Domestic Violence and Sexual Assault, the Office of Victims' Rights, and the Violent Crimes Compensation Board. This notification must occur when the offender of the victim is released from incarceration or when the order under AS 12.55.015(1) expires, whichever is later."

Renumber the following bill sections accordingly.

Page 35, line 28:

Insert "and"

Page 35, following line 28:

Insert a new paragraph to read:

"(5) the number of crime victims that participated in the prosecution of and court process relating to the offense in which the person was a victim; and"

Renumber the following paragraph accordingly.

Page 39, line 30, through page 40, line 3:

Delete all material.

Renumber the following paragraph accordingly.

Page 40, line 4:
Delete "sec. 28"
Insert "sec. 23"

Page 40, line 5:
Delete "sec. 29"
Insert "sec. 24"

Page 40, line 6:
Delete "sec. 30"
Insert "sec. 25"

Page 40, line 7:
Delete "sec. 31"
Insert "sec. 26"

Page 40, line 8:
Delete "sec. 32"
Insert "sec. 27"

Page 40, line 9:
Delete "sec. 33"
Insert "sec. 28"

Page 40, line 10:
Delete "sec. 34"
Insert "sec. 29"

Page 40, line 11:
Delete "sec. 35"
Insert "sec. 30"

Page 40, line 12:
Delete all material and insert:
 "(31) AS 12.55.015(1), enacted by sec. 31
of this Act;"

Page 40, line 13:
Delete "sec. 49"
Insert "sec. 44"

Page 40, line 14:
Delete "sec. 50"
Insert "sec. 45"

Page 40, line 17:

Delete "sec. 36"
Insert "sec. 32"

Page 40, line 18:
Delete "sec. 37"
Insert "sec. 33"

Page 40, line 19:
Delete all material.

Renumber the following paragraphs accordingly.

Page 40, line 20:
Delete "sec. 39"
Insert "sec. 34"

Page 40, line 21:
Delete "sec. 40"
Insert "sec. 35"

Page 40, line 22:
Delete "sec. 41"
Insert "sec. 36"

Page 40, line 25:
Delete "sec. 43"
Insert "sec. 38"

Page 40, line 26:
Delete "sec. 44"
Insert "sec. 39"

Page 40, line 27:
Delete "sec. 45"
Insert "sec. 40"

Page 40, line 28:
Delete "sec. 46"
Insert "sec. 41"

Page 41, line 2:
Delete "sec. 51"
Insert "sec. 46"

CHAIR CLAMAN objected for purposes of discussion.

[1:34:22 PM](#)

REPRESENTATIVE STUTES said Amendment 1 would remove the provisions related to indecent viewing and production of a picture. She referenced earlier committee discussions with DOL and the Interim Public Defender. She explained that the underlying statute "is quite messy" and confusing to practitioners. She added that sections of the underlying statute appear to conflict with other existing statutes, specifically the sexual abuse of a minor statute. She said the provisions raised a number of challenges and, therefore, Amendment 1 would strip them from HB 145, leaving existing law unchanged.

REPRESENTATIVE STUTES said Amendment 1 would also fulfill a request made by the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) by adding three new provisions. She addressed lines 8 to 15 [section 31] on page 1 of the amendment. She said the language therein would add a presumption that the court shall order the defendant to have no contact with the victim of sexual offenses and domestic violence. She addressed lines 3 to 13 [section 37] on page 2 of the amendment. She explained that this provision would establish that the Department of Corrections (DOC) must include in Victim Information and Notification Everyday (VINE) information about the option to request a domestic violence protective order. She said it would also require that VINE provide information regarding victim resources prior to the release of a defendant from incarceration.

REPRESENTATIVE STUTES addressed lines 22 to 24 on page 2 of the amendment, which she said would enhance the information that DOL must report to include the number of crime victims that participate in the prosecution of and court process relating to an offense.

[1:36:53 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, questioned the helpfulness of the proposed section 31 in Amendment 1. She said it is her sense that the judge will include a no contact order in a sentence for a crime of domestic violence or a sexual offense when he/she deems it necessary. She added that many of those cases are plea bargains, and that DOL includes a no contact order in a plead sentence when appropriate. She said, if the committee still thinks the section would be helpful, it could slightly adjust the wording to be more appropriate. She highlighted the phrase "In making a determination under (a)(12)"

in line 9 of page 1 and suggested replacing it with "When imposing a sentence for a crime involving a sex offense or domestic violence " She noted that the court does not make determinations under (a)(1) through (a)(13). She briefly described how a judge would approach those subsections. She suggested an additional adjustment to language in line 12 reading "by clear and convincing evidence." She said the wording would raise an implication to judges that there needs to be an evidentiary hearing "or something more than would be necessary." She suggested the language could read, "without any standard of proof ...". She noted that when statutes do not have a standard of proof and the court has to find something, the default is always "by a presumption of the evidence."

[1:39:52 PM](#)

CHAIR CLAMAN asked her to clarify the second suggestion. He posited that she recommended deleting the language in line 12 reading "unless the court finds on the record, by clear and convincing evidence" so that it reads "there is a presumption that contact between a defendant and the victim of the offense is necessary."

MS. MEADE clarified that she would keep the phrase "unless the court finds," so the clause would read, "there is a presumption that, unless the court finds that contact between a defendant and the victim of the offense is necessary."

CHAIR CLAMAN summarized the suggestion as the deletion of the words "by clear and convincing evidence."

MS. MEADE confirmed that summary. She clarified that the provision in question relates to a sentencing for somebody convicted of, for example, a crime of domestic violence or sexual assault. She said the court would include the no contact order as a condition of the individual's sentence until he/she is unconditionally discharged. She added that, should the individual violate the condition by having contact with the victim, it could be grounds for a petition to revoke the individual's probation. She distinguished between this and the issuing of a civil protective order.

CHAIR CLAMAN asked for confirmation that her suggestion for line 9 would be to edit it so that it reads, "At sentencing for a defendant convicted of a crime involving a sex offense ..."

MS. MEADE said that would effectively avoid the incongruency of implying the court makes determinations "on each of those provisions."

[1:42:29 PM](#)

REPRESENTATIVE EASTMAN asked how the word "necessary" would be construed by the court. He asked how "necessary" is different from "preferable."

MS. MEADE said "necessary" is a term currently in the provisions for short-term protective orders, so the concept "would not be unusual" for the courts. He said they would likely consider things like whether the defendant is "needed at home" and whether the victim wants the person to be at home and have contact. But, she said, if the victim would express fear or some legitimate reason, that would also play into the decision.

[1:43:58 PM](#)

REPRESENTATIVE STUTES moved to adopt Conceptual Amendment 1 to Amendment 1, incorporating the changes suggested by Ms. Meade, as follows:

Page 1, line 9

Delete "In making a determination under (a)(12)
of this section"

Insert "At sentencing"

Page 1, line 12, after "finds on the record"

Delete ", by clear and convincing evidence,"

There being no objection, Conceptual Amendment 1 to Amendment 1 was adopted.

[1:45:20 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law, addressed the provision located on page 2, lines 20 to 25, which would impose a new obligation on DOL to start tracking whether or not a victim is participating in the court process. She stated that Amendment 1, as drafted, would place that provision in the section of HB 145 related to the reporting of the Alaska Criminal Justice Commission. She said DOL recommends moving the obligation to section 55, located on page 36 of the bill. She noted that the change would require a renumbering of the obligations already listed in that section.

CHAIR CLAMAN asked if DOL has any objection to the language of Amendment 1 aside from its proposed location.

MS. SCHROEDER answered no.

[1:46:22 PM](#)

REPRESENTATIVE EASTMAN asked whether the provision located in line 29 of page 35 of HB 145 should also be moved to section 36, as it too deals with information coming from DOL.

MS. SCHROEDER said that provision is drafted correctly because it would be added to the list of things that must be included in the Alaska Criminal Justice Commission's annual report to the legislature and to the governor.

CHAIR CLAMAN suggested that a conceptual amendment would provide the necessary fix to the issue raised by Ms. Schroeder. He suggested the conceptual amendment insert the aforementioned provision into section 55 of the bill rather than section 53.

MS. SCHROEDER said "correct."

[1:47:41 PM](#)

REPRESENTATIVE STUTES motioned to adopt Conceptual Amendment 2 to Amendment 1, which would incorporate Ms. Schroeder's suggested change.

REPRESENTATIVE EASTMAN asked for the amendment to be repeated.

CHAIR CLAMAN explained that the language located on page 2, lines 20 to 25 of the amendment would currently be inserted into section 53 of the bill, and that Conceptual Amendment 2 to Amendment 1 would place that language, as appropriate, in section 55 of the bill.

There being no objection, Conceptual Amendment 2 to Amendment 1 was adopted.

[1:48:48 PM](#)

REPRESENTATIVE EASTMAN addressed the proposed section 31 located on page 1 of Amendment 1. He asked if the language referring to "the defendant" post-conviction is customary. He asked if there

is ever a change in language after the conviction, or if the individual is referred to as "the defendant" in perpetuity.

MS. SCHROEDER said that is the appropriate language to use because the section refers to the sentencing of an individual, so at that stage the individual is still a defendant.

[1:49:56 PM](#)

REPRESENTATIVE EASTMAN commented that Amendment 1 would require the imposition of a no contact order unless the court finds it necessary not to impose the order. He called that requirement "problematic." He remarked that there is currently a process in place for a victim to make a request for a protective order. He said Amendment 1 would turn that process on its head by automatically imposing a no contact order unless "a new finding" is presented. He said that is like proving a negative. He suggested that misapplication of the provision could "raise the burden on things like child custody" because many domestic violence protective orders involve couples with children. He said adding "another wrinkle" to the process would make it difficult for a parent convicted of domestic violence to have contact with his/her children, even when that contact is supported by both parties. He expressed concerns that it would also restrict direct and indirect contact between the parties.

[1:52:23 PM](#)

CHAIR CLAMAN withdrew his objection to adopting Amendment 1.

REPRESENTATIVE EASTMAN objected to adopting Amendment 1.

A roll call vote was taken. Representatives Shaw, Kopp, Stutes, LeDoux, and Claman voted in favor of Amendment 1. Representative Eastman voted against it. Therefore, Amendment 1, as amended, was adopted by a vote of 5-1.

[1:53:03 PM](#)

REPRESENTATIVE STUTES moved to adopt Amendment 2, labeled 31-LS0889\U.9, Radford, 4/26/19, which read as follows:

Page 19, line 8, following "AS 11.71.050(a)(4)":
Insert "within the preceding 10 years"

CHAIR CLAMAN objected for purposes of discussion.

REPRESENTATIVE STUTES explained that section 31 of the bill would establish a basis to prosecute repeat offenders of possession of any amount of schedule IA or IIA controlled substances at the class C felony level. She added that a person would commit a felony if he/she possesses any amount of a Schedule IA or IIA drug and he/she was previously convicted two or more times of drug possession of a schedule IA or IIA controlled substance, either as a felony or as a misdemeanor. She stated that Amendment 2 would provide a 10-year lookback period for prior misdemeanor drug possession convictions for drug offenses. She noted that the lookback period for misdemeanors is currently 5 years. She said DOL testified that 10 years would be an appropriate lookback period in this instance as HB 145 seeks to bump a misdemeanor offender to the felony level.

[1:54:16 PM](#)

REPRESENTATIVE KOPP said he "conceptually" supports a 10-year lookback period as it would be consistent with recidivist statutes related to theft, assault, and driving under the influence (DUI). He expressed a concern relating to the drafting of the amendment and questioned whether it would insert the language "within the preceding 10 years" in the correct place in statute. He noted that AS 11.71.050(a)(4), which is referenced in the section into which the language would be inserted, relates to possession of controlled substances around school grounds, recreational youth centers, and school buses. He recommended inserting the language not into line 8 on page 19 of the bill, but rather into line 5.

MS. SCHROEDER said Representative Kopp is correct. She endorsed placing the language in line 5 on page 19 after the word "and."

[1:56:52 PM](#)

REPRESENTATIVE KOPP moved Amendment 1 to Amendment 2, which would amend line 1 of Amendment 2 to read "Page 19, line 5, following 'and'."

[1:57:21 PM](#)

REPRESENTATIVE EASTMAN asked, should Amendment 1 to Amendment 2 be adopted, what the impact would be to lines 7 and 9 on page 19 of the bill.

MS. SCHROEDER said moving the language to line 5 would make the lookback period apply to subparagraphs (A), (B), and (C). She said that means if the individual had been convicted under Alaska laws or the laws of another jurisdiction, the lookback period would be 10 years.

REPRESENTATIVE EASTMAN said his understanding is that there currently is no restriction on lookback for line 7 or line 9, so by adopting the amendment, the committee would be imposing a lookback that does not currently exist.

MS. SCHROEDER answered that is correct. She said it is a policy call for the legislature to make.

CHAIR CLAMAN noted that there is currently no way to move a third-time offender within 10 years from the misdemeanor level to the felony level. He said, "What this allows you to do is take the third-time offender and bump them up."

MS. SCHROEDER said that is correct. She clarified that other recidivist statutes related to bumping an offender to a higher classification of offense usually contain a lookback period. Otherwise, she said, DOL would have "to try to parse out between the lookback period for misdemeanors and the lookback period for felonies." She said, "this adds clarification to the law" and would prevent future litigation of an appropriate lookback period.

[1:59:19 PM](#)

REPRESENTATIVE LEDOUX asked, "If we don't have this amendment, you could look back forever, right?"

CHAIR CLAMAN said yes.

REPRESENTATIVE LEDOUX asked why there would be litigation and why DOL would be "parsing out things."

MS. SCHROEDER said a lookback period is usually prescribed in statute for situations in which a repeat offense is bumped up to the felony level. She remarked that it is helpful for DOL to have something set in statute, so it does not have to decide between the 5-year lookback period set in statute for the misdemeanor conduct or the 10-year lookback period set in statute for the felony that the conduct becomes once elevated.

[2:00:27 PM](#)

CHAIR CLAMAN asked if prior convictions for possession of marijuana from before it was legalized would count as priors for purposes of elevation to a felony.

MS. SCHROEDER noted that [section 31] is prospective and said she does not know how that would affect the lookback language. After some reflection, she said she now realizes that such prior convictions could be counted as priors. She added, "Whether or not we would do that, I don't know." She said DOL would still have the ability to "do deferment."

CHAIR CLAMAN added that DOL could also decide to "charge it as a misdemeanor" and not a felony. He asked for verification that, as drafted, Amendment 2 would apply to any scheduled controlled substance within the last 10 years, as opposed to it being limited to only schedule IA and schedule IIA controlled substances.

MS. SCHROEDER apologized and said, as drafted, the lookback period prescribed in Amendment 2 would apply only to schedule IA or IIA controlled substances.

[2:01:55 PM](#)

The committee took an at-ease from 2:02 p.m. to 2:03 p.m.

[2:03:38 PM](#)

[Due to technical difficulties, part of Ms. Schroeder's testimony was not picked up immediately after the committee went back on the record.]

MS. SCHROEDER said, "... a possession conviction for marijuana, it could count towards the bumping up to the felony."

[2:03:48 PM](#)

REPRESENTATIVE EASTMAN asked what the most severe crime is that could qualify under the language "two or more separate occasions of a crime."

MS. SCHROEDER said the most severe crime would be possession of a schedule IA controlled substance, which is currently a class A misdemeanor.

CHAIR CLAMAN asked if possession of a schedule IIA controlled substances would also qualify.

MS. SCHROEDER said yes. She explained that she interpreted the question to be "the most serious" crime.

REPRESENTATIVE EASTMAN asked for an example of a schedule IA controlled substance.

MS. SCHROEDER said heroin, fentanyl, and carfentanil are all schedule IA controlled substances.

REPRESENTATIVE EASTMAN asked for verification that, should Amendment 1 to Amendment 2 be adopted, an individual could have any number of previous convictions in another jurisdiction for heroin, but the court would not be able to take them into consideration if they occurred more than 10 years ago.

MS. SCHROEDER answered, "If they are older than 10 years, then yes, they would not count towards bumping up the classification of the offense."

[2:05:31 PM](#)

REPRESENTATIVE KOPP noted that Amendment 2 would not apply the lookback period to drug crimes that are automatically prosecutable as felonies, including possession of date rape drugs and possession offenses that occur on school grounds, on a school bus, or at a recreational youth center.

[2:06:16 PM](#)

CHAIR CLAMAN, after a brief procedural discussion, returned to the motion to adopt Amendment 1 to Amendment 2.

REPRESENTATIVE EASTMAN objected.

A roll call vote was taken. Representatives LeDoux, Shaw, Kopp, Stutes, and Claman voted in favor of adoption. Representative Eastman voted against it. Therefore, Amendment 1 to Amendment 2 was adopted by a vote of 5-1.

[2:07:57 PM](#)

CHAIR CLAMAN withdrew his objection to Amendment 2. There being no further objection, Amendment 2, as amended, was adopted.

[2:08:25 PM](#)

REPRESENTATIVE LEDOUX moved to adopt Amendment 3, labeled 31-LS0889\U.7, Radford, 4/25/19, which read as follows:

Page 25, line 11:
Delete "or"
Insert "[OR]"

Page 25, line 18, following "AS 11.61.118(a)(2);":
Insert "or
(F) conviction is for a crime involving domestic violence; or"

CHAIR CLAMAN objected for purposes of discussion.

REPRESENTATIVE LEDOUX recited the following prepared remarks verbatim:

The Alaska Criminal Justice Commission recommended that the legislature reduce consequences for a broad range of crimes, but they urged us to be tough on domestic violence, probably because there is so much of it in Alaska. SB 91 largely does have teeth when it comes to domestic violence, but we still treat a bunch of domestic violence crimes with kid gloves. The guy punches his girlfriend. A judge can send him to jail for up to a year for that class A misdemeanor. But if that same guy goes to his estranged girlfriend's house with a baseball bat and smashes her barbecue while she and her children are cowering nearby, the judge can only jail him for 30 days for that. The children and the girlfriend don't know if he's going to use that bat on them next. He's created a violent, terrifying situation but he can only be sentenced to 30 days for that. There is still a lot of domestic violence in Alaska. People, mostly women, are still suffering all these other DV crimes that we don't allow judges to punish adequately. This amendment allows judges more discretion. It doesn't say a judge must jail perpetrators for longer; it says judges may do that. It gives judges and prosecutors more tools to combat Alaska's epidemic of domestic violence. We should give them all the tools they need to protect Alaskans.

You should have at your desk a list of the violent crimes that this amendment would allow a judge to punish with a sentence of up to a year. It's all the offenses listed under the definition of domestic violence and crimes involving domestic violence found at AS 18.66.990(3). Domestic violence and crime involving domestic violence under that section mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member. And it's crimes against a person under AS 11.41, burglary under AS 11.46.300 to AS 11.46.310, criminal trespass, arson and criminally negligent burning, criminal mischief, terrorist threatening, violating a protective order, harassment, cruelty to animals if the animal is a pet.

[2:11:12 PM](#)

REPRESENTATIVE EASTMAN asked how cruelty to animals is included in Amendment 3, as it is not explicitly stated in the language of the amendment.

REPRESENTATIVE LEDOUX said cruelty to animals qualifies as domestic violence under AS 11.61.140(a)(5) if the animal is a pet.

REPRESENTATIVE EASTMAN asked if that means a pet in the same household.

REPRESENTATIVE LEDOUX said she is not sure that the statute specifies that. She explained that the legislature considered a bill some years ago relating to pets and domestic violence. She recalled hearing "a lot of testimony" about divorce situations in which one party "hold[s] the pet hostage and [does] nasty things to it."

[2:12:41 PM](#)

CHAIR CLAMAN withdrew his objection. There being no further objection, Amendment 3 was adopted.

[2:13:02 PM](#)

REPRESENTATIVE SHAW moved to adopt Amendment 4, labeled 31-LS0889\U.6, Radford, 4/25/19, which read as follows:

Page 1, line 5, following "test;":

Insert "relating to a pretrial risk assessment instrument;"

Page 32, following line 7:

Insert new bill sections to read:

"* **Sec. 51.** AS 33.07.020 is amended to read:

Sec. 33.07.020. Duties of commissioner; pretrial services. The commissioner shall

(1) appoint and make available to the superior court and district court qualified pretrial services officers;

(2) fix pretrial services officers' salaries;

(3) assign pretrial services officers to each judicial district;

(4) provide for the necessary supervision, training, expenses, including clerical services, and travel of pretrial services officers;

(5) approve a risk assessment instrument that is objective, standardized, and developed based on analysis of empirical data and risk factors relevant to pretrial failure, that evaluates the likelihood of failure to appear in court and the likelihood of rearrest during the pretrial period, [AND] that is validated on the state's pretrial population, and that has been verified by peer review as provided in (b) - (e) of this section; and

(6) adopt regulations in consultation with the Department of Law, the public defender, the Department of Public Safety, the office of victims' rights, and the Alaska Court System, consistent with this chapter and as necessary to implement the program; the regulations must include a process for pretrial services officers to make a recommendation to the court concerning a pretrial release decision and guidelines for pretrial diversion recommendations.

* **Sec. 52.** AS 33.07.020 is amended by adding new subsections to read:

(b) Before the commissioner approves a risk assessment instrument under (a)(5) of this section, and every three years thereafter, the commissioner shall submit the studies on which the risk assessment instrument is based and other related data for peer review by a minimum of three separate parties who are not employees of the department and whom the

commissioner determines to be technically qualified in the subject matter under review. The commissioner shall ensure that the peer review includes an analysis of the factors considered by the commissioner in supporting the changes or additions to the risk assessment instrument proposed to be adopted and recommendations, if any, for additional research or investigation considered appropriate. Peer review reports shall be submitted to the commissioner within 45 days after the department submits a matter for peer review unless the commissioner determines that additional time is required.

(c) Before the commissioner approves a risk assessment instrument under (a)(5) of this section, and every three years thereafter, the commissioner shall make available to the public, at convenient locations and on the department's Internet website, copies of the department's proposed risk assessment instrument, the findings of the department describing the basis for adoption of the risk assessment instrument, and the peer review reports submitted under (b) of this section.

(d) The commissioner shall contract with persons to perform peer review under (b) of this section. All persons shall be selected based on competitive sealed proposals under AS 36.30.200 - 36.30.270 (State Procurement Code). The commissioner may not contract with a person to perform peer review under this section if the person has a significant financial interest or other significant interest that could bias evaluation of the proposed risk assessment instrument. An interest is not considered significant under this subsection if it is an interest possessed generally by the public or a large class of persons or if the effect of the interest on the person's ability to be impartial is only conjectural.

(e) If one or more peer review reports submitted to the commissioner under (b) of this section state the risk assessment instrument is flawed based on the analysis of empirical data and risk factors relevant to pretrial failure, the commissioner shall review the risk assessment instrument to determine what changes are necessary, amend the risk assessment instrument, and resubmit the risk assessment instrument for peer review."

Renumber the following bill sections accordingly.

Page 41, line 2:
Delete "sec. 51"
Insert "sec. 53"

CHAIR CLAMAN objected for purposes of discussion.

[2:13:11 PM](#)

REPRESENTATIVE SHAW explained that, for a wide variety of offenses, Alaska's judges are required to make use of the state's pretrial risk assessment tool. This tool, he said, plays a major, often-decisive role in determining the conditions under which an offender is released prior to trial. He added that how an offender scores on the tool is often what determines whether he/she is released before trial on his/her own recognizance, under electronic monitoring, or via monetary bail. He noted that the tool is based on statistical research and, as a matter of practice, though not of statute, the statistics are periodically redone as part of a validation process.

REPRESENTATIVE SHAW stressed the importance of ensuring that such an impactful tool is viewed by the public as being credible. He said he believes the best way to do that is to ensure the studies and the conclusions of the validation process be submitted for peer review. He explained that qualified scholars would evaluate the validation process and recommend changes should it not meet their threshold for approval. He said the scholars' feedback would make the tool more effective. He added that validation studies and the responses of the reviewers would be made available for public review.

REPRESENTATIVE SHAW explained that the peer review process would follow a similar one used by the Department of Environmental Conservation. He said the reviewers would be selected based on the standard state procurement code. He argued that, if Alaska is going to use the pretrial risk assessment tool, it should be the best tool possible and based on the best research possible. He said Amendment 4 would help assure and better inform the Alaskan people.

[2:15:13 PM](#)

The committee took a brief at-ease at 2:15 p.m.

[2:15:39 PM](#)

REPRESENTATIVE EASTMAN asked for a real-life example of the impact Amendment 4 would have.

REPRESENTATIVE SHAW said it would provide a second set of eyes to ensure no mistakes are made prior to the enactment of pretrial sentencing procedures.

CHAIR CLAMAN withdrew his objection. There being no further objection, Amendment 4 was adopted.

[2:16:24 PM](#)

CHAIR CLAMAN explained that the meeting would be recessed to allow Representative Kopp to present a bill to another committee.

[2:16:54 PM](#)

The committee took a brief at-ease at 2:17 p.m.

[2:17:21 PM](#)

The House Judiciary Standing Committee meeting was recessed at 2:18 p.m. to a call of the chair. [The meeting reconvened at 2:46 p.m.]

[2:46:26 PM](#)

REPRESENTATIVE SHAW moved to adopt Amendment 5, labeled 31-LS0889\U.2, Radford, 4/24/19, which read as follows:

Page 21, following line 11:

Insert a new bill section to read:

"* **Sec. 37.** AS 12.55.125(c) is amended to read:

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, **five** [THREE] to **eight** [SIX] years;

(2) if the offense is a first felony conviction and the defendant

[(A)] possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense [, FIVE TO NINE YEARS;] or

[(B)] knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven to 11 years;

(3) if the offense is a second felony conviction, 10 [EIGHT] to 14 [12] years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (1) of this section, 15 [13] to 20 years."

Renumber the following bill sections accordingly.

Page 21, line 18:

Delete "90 days [ZERO] to two"

Insert "one [ZERO] to three [TWO]"

Page 22, line 5:

Delete "two to five"

Insert "four [TWO] to seven [FIVE]"

Page 22, line 6:

Delete "four"

Insert "six [FOUR]"

Page 22, following line 6:

Insert a new bill section to read:

"* **Sec. 39.** AS 12.55.125(e) is amended to read:

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, zero to two years; a defendant sentenced under this paragraph may,

if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085, and the court may, as a condition of probation under AS 12.55.086, require the defendant to serve an active term of imprisonment within the range specified in this paragraph;

(2) if the offense is a second felony conviction, two [ONE] to four years;

(3) if the offense is a third felony conviction, three [TWO] to five years;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years."

Renumber the following bill sections accordingly.

Page 40, line 12:

Delete "sec. 42"

Insert "sec. 44"

Page 40, line 13:

Delete "sec. 49"

Insert "sec. 51"

Page 40, line 14:

Delete "sec. 50"

Insert "sec. 52"

Page 40, following line 17:

Insert a new paragraph to read:

"(2) AS 12.55.125(c), as amended by sec. 37 of this Act;"

Renumber the following paragraphs accordingly.

Page 40, line 18:

Delete "sec. 37"

Insert "sec. 38"

Page 40, following line 18:

Insert a new paragraph to read:

"(4) AS 12.55.125(e), as amended by sec. 39 of this Act;"

Renumber the following paragraphs accordingly.

Page 40, line 19:

Delete "sec. 38"
Insert "sec. 40"

Page 40, line 20:
Delete "sec. 39"
Insert "sec. 41"

Page 40, line 21:
Delete "sec. 40"
Insert "sec. 42"

Page 40, line 22:
Delete "sec. 41"
Insert "sec. 43"

Page 40, line 25:
Delete "sec. 43"
Insert "sec. 45"

Page 40, line 26:
Delete "sec. 44"
Insert "sec. 46"

Page 40, line 27:
Delete "sec. 45"
Insert "sec. 47"

Page 40, line 28:
Delete "sec. 46"
Insert "sec. 48"

Page 41, line 2:
Delete "sec. 51"
Insert "sec. 53"

CHAIR CLAMAN objected for purposes of discussion.

[2:46:34 PM](#)

REPRESENTATIVE SHAW said Amendment 5 would restore presumptive sentences for felonies back to the levels they were prior to the passage of Senate Bill 91 [Passed in the Twenty-Ninth Alaska State Legislature] in 2016. He explained that the amendment would increase felony sentences by 1 to 2 years in most cases. He addressed a document prepared by his staff [included in the committee packet] which featured a table highlighting the proposed changes. He said it is axiomatic that crime is on the

rise in Alaska. He noted that he worked in public safety for over 17 years and expressed that he would like to use that experience to help fight crime. He remarked that crime has many causes, including drug use, economic conditions, and mental health issues. He said Alaska's current laws are not effectively deterring crime. He said that needs to change. He spoke to his experience training law enforcement officers and argued that tougher sentences do deter offenders. He acknowledged that others may disagree with him and point to other drivers of crime and crime reduction. He said he is not going to dispute their points but stressed that his experience informs him that tougher sentences must be part of the solution, or else it is not a solution.

REPRESENTATIVE SHAW said the changes he is proposing are not random, noting that they return to previous norms. He added that the changes are the same as what has been requested by DOL. He argued that they are the right changes and urged support for Amendment 5.

[2:48:13 PM](#)

REPRESENTATIVE STUTES asked if there is any data that links the increase in crime to shorter sentences.

REPRESENTATIVE SHAW said he does not have that data at hand, though noted that he is sure it is readily available. He expressed that the intent of Amendment 5 is to ensure felony conduct is not met with "a slap on the hand" or a minimal sentence.

[2:49:20 PM](#)

REPRESENTATIVE LEDOUX remarked that if someone is in jail, he/she cannot be out committing another crime.

[2:49:33 PM](#)

REPRESENTATIVE EASTMAN began to address Representative Stutes's question.

REPRESENTATIVE CLAMAN interjected that the matter at hand is questions for the maker of the amendment. He told Representative Eastman to save his comments for after questions are finished.

[2:49:58 PM](#)

CHAIR CLAMAN asked about the fiscal impact of the increases proposed in Amendment 5.

REPRESENTATIVE SHAW answered, "There will be a fiscal impact; we just don't have the numbers at the moment."

CHAIR CLAMAN noted that SB 32 and HB 49, companion bills introduced on behalf of Governor Michael J. Dunleavy, featured fiscal notes entailing \$43 million. He noted that those bills include the same increases proposed in Amendment 5. He asked if Representative Shaw believes that amount accurately represents how much Amendment 5 would cost to enact.

REPRESENTATIVE SHAW said he would assume that to be a ballpark estimate.

CHAIR CLAMAN relayed that a recent Alaska Criminal Justice Commission report showed that one of the benefits of criminal justice reform was that the state of Alaska (SOA) did not have to build another prison. He asked for Representative Shaw's projection for how soon SOA would have to build a new prison if the committee were to adopt Amendment 5 and HB 145 becomes law.

REPRESENTATIVE SHAW said he is hoping the reforms work as well as everyone would hope, and all Amendment 5 would do is replace "one bed with another" so SOA would not have to build a new prison. He noted that the question assumes that extended sentences mean more people incarcerated. He said, "If reform works, I would hope for the best."

CHAIR CLAMAN said he thinks the assumption of the \$43 million fiscal note provided by Governor Dunleavy is that SOA would have substantially increased corrections costs "which actually goes to the beds." He remarked that the assumption is that there will not be a decrease in crime, rather an increase of the number of people serving prison time. He said he does not see how SOA saves money in the long term and why it would not need a new prison. He asked if Representative Shaw has "a better explanation."

REPRESENTATIVE SHAW said he does not.

[2:52:13 PM](#)

CHAIR CLAMAN noted that one benefit of saving money on prison costs is that it frees up resources to support drug and alcohol

rehabilitation. He asked if Representative Shaw knows whether there would be funds available to help support rehabilitation should Amendment 5 be adopted.

REPRESENTATIVE SHAW said he would hope that part of the funds would be used for behavior modification. He noted that it is a priority to intercede early in crime-related matters in order to avoid future problems. He said he would like to see a portion of the funds go toward crime-prevention and supporting individuals who need help.

[2:53:07 PM](#)

REPRESENTATIVE STUTES said Amendment 5 would allow SOA "to put people in jail time and time again." She relayed a statistic she read that 60 percent of recidivists in Alaska have mental health problems. She asked how stiffer sentences would benefit the large percentage of the prison population "who don't belong there in the first place."

REPRESENTATIVE SHAW remarked that if a person is in jail, then more likely than not that person belongs in jail. He noted that if there is some issue such as drug abuse or mental illness that has contributed to an individual's incarceration, he hopes SOA can help prevent that individual from recidivating. He said he cannot say how many people are incarcerated for criminal activity related to drug abuse or mental health issues. He noted that SOA can better help people while they are incarcerated than by letting them by releasing them to commit more crimes.

[2:54:45 PM](#)

REPRESENTATIVE EASTMAN asked where Representative Stutes got the 60 percent mental illness number. He expressed that one would have to define someone who commits a crime as being mentally ill by default to get those kinds of high numbers. He said he does not think that, absent the crime, that 60 percent of inmates or more are otherwise considered mentally ill.

REPRESENTATIVE STUTES said she derived that number from a presentation before the House Finance Committee. She said she thinks the number used was 65 or 66 percent of people currently incarcerated in Alaska have mental problems.

CHAIR CLAMAN noted that it is well-documented that DOC is the largest mental health provider in Alaska. He said he believes that fact is based on diagnosed mental illnesses.

REPRESENTATIVE LEDOUX asked which agency provided those statistics to the House Finance Committee.

REPRESENTATIVE STUTES said she believes it was DOC.

[2:56:41 PM](#)

KELLY GOODE, Deputy Commissioner & Legislative Liaison, Department of Corrections, said she does not want to speak to the actual percentage, as she does not have the numbers in front of her. She confirmed that DOC is a very large mental health provider. She noted that mental health statistics consider a spectrum of issues that range from acute mental illness to anxiety and depression. She confirmed that DOC houses many people who require assistance.

CHAIR CLAMAN asked whether under the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM), the simple fact that one has committed a criminal offense qualifies a person for a diagnosable illness as relates to discussion of DOC being a mental health provider.

MS. GOODE said she would rather not try to answer that question. She said she can get back to the committee with an answer.

[2:57:49 PM](#)

REPRESENTATIVE LEDOUX asked how many of the 60 percent are people who truly need to be in a facility such as the Alaska Psychiatric Institute (API) versus those who suffer from issues such as anxiety that may affect broad swathes of the general population.

MS. GOODE said she can get back to the committee with those numbers but noted that when an inmate needs to be at API, DOC doctors work with API to address that need.

REPRESENTATIVE LEDOUX said what the committee is trying to figure out is not how well DOC is helping people with major mental health issues, but whether or not it makes sense to put those people in prison. She said there is an idea that if a person is afflicted with major mental health problems, then maybe he/she does not belong in prison. She noted that a person

who suffers from depression or anxiety is "a different ballgame."

MS. GOODE said she understands what the committee is weighing, and that the decision is a policy call. She commented that the people in DOC custody who have major mental health issues are in DOC custody for some offense, and that DOC's medical providers are helping those individuals with their mental health issues. As relates to Amendment 5 and determining who and who should not be incarcerated, she said it is a larger policy call that should be looked at more broadly.

REPRESENTATIVE LEDOUX said it would help the committee to know what percentage of the people housed by DOC have major mental health issues as opposed to relatively more benign mental health issues such as depression and anxiety.

MS. GOODE asked if she is referring to those who may be in DOC custody under AS 47.

REPRESENTATIVE LEDOUX clarified that she means those who are imprisoned for having committed a crime.

MS. GOODE said she can get those numbers to the committee. She said she does not want to answer without knowing the exact numbers.

[3:00:45 PM](#)

CHAIR CLAMAN noted that, in terms of timing, it is unlikely to make an impact in terms of the decision whether or not to adopt Amendment 5. He described the request for those numbers as "fair and reasoned curiosity" about the prison population. He said it is not vital to have those numbers today.

REPRESENTATIVE LEDOUX expressed that she would like to see those numbers before HB 145 is heard on the House floor.

MS. GOODE said Laura Brooks, Deputy Director of Health & Rehabilitative Services, recently presented those numbers before the House Finance Committee. She said she can get those numbers to Representative LeDoux in the next few days.

CHAIR CLAMAN said he would appreciate if the committee received those numbers by Monday.

[3:01:56 PM](#)

REPRESENTATIVE EASTMAN asked if it the case that DOC has in its custody inmates who belong at API, but API cannot accommodate them. If so, he added, how many?

MS. GOODE answered that DOC houses people like that from time to time. She said the number changes depending on what beds are available at API. She added that it is a low number.

REPRESENTATIVE EASTMAN asked if it is under 5 percent.

MS. GOODE said it is very rarely more than 10 individuals.

[3:03:32 PM](#)

REPRESENTATIVE EASTMAN asked for confirmation that the provisions in Amendment 5 match those in other bills supported by DOL. He asked why DOL supports those provisions.

MS. SCHROEDER said Amendment 5 mirrors provisions that are in Governor Dunleavy's crime package. She said part of the thought process was that DOL had seen an uptick in crime and wanted to give judges additional tools to deal with the increase. She explained that she is not "the data person" so she does not have any numbers to present.

REPRESENTATIVE EASTMAN referenced the earlier discussion that it would cost approximately \$43 million to implement the provisions contained in Amendment 5. He asked if that is the best estimate available. He also asked whether the \$43 million figure is a one-time cost or if it is expected to be an annual cost

MS. SCHROEDER deferred to Ms. Goode, as the fiscal note from which that number is derived was submitted by DOC.

MS. GOODE, after hearing the question repeated, noted that the fiscal note was prepared by DOC's Office of Management & Budget (OMB) Administrative Services Director (ASD). She said the fiscal note, which she clarified is for a different bill, is for approximately \$41 million every year, not just one year. She added that the fiscal note will be revised due to amendments added to its bill. She speculated that Amendment 5 has all of the costs from the other bill, though noted that she is not certain and would have to do a more thorough analysis.

[3:06:48 PM](#)

REPRESENTATIVE STUTES asked if the fiscal note in question includes the costs that would be incurred by having to make additional beds available, such as by reopening the Palmer Correctional Center.

MS. GOODE relayed that the Senate Finance Committee determined the cost of reopening the Palmer Correctional Center would be approximately \$5.8 million to \$6 million. She noted that the cost of care for inmates is already included in the fiscal note.

REPRESENTATIVE STUTES asked for confirmation that the additional cost of opening the Palmer Correctional Center is not included in the fiscal note.

MS. GOODE noted that DOC's ASD handles fiscal notes. She said it is her understanding that the ASD will include the additional funds in a revised fiscal note.

REPRESENTATIVE STUTES asked for clarification that the cost of reopening the Palmer Correctional Center was not included in the fiscal note that was presented but will be included in a forthcoming note.

MS. GOODE said that is correct.

[3:09:08 PM](#)

CHAIR CLAMAN asked Ms. Goode how long she has worked for DOC.

MS. GOODE said she came on with the new administration.

CHAIR CLAMAN asked whether DOC believes it can satisfy the expected increase in inmates as a result of sentencing changes solely through reopening the Palmer Correctional Center and, if not, when it expects it would need to construct a new prison.

MS. GOODE answered that currently the only thing discussed has been the reopening of the Palmer Correctional Center.

[3:10:06 PM](#)

REPRESENTATIVE EASTMAN said that, now that it has been established that there are costs associated with Amendment 5, he wants to weigh the return on those costs. He asked about the projected impacts on public safety and crime.

MS. SCHROEDER said increases in sentences can have a deterrent effect. She added that if a person is in custody, he/she cannot commit further crimes against the public. She said those are the immediate benefits. She noted that Amendment 5 would also grant judges additional tools to deal with the cases before them.

[3:11:54 PM](#)

REPRESENTATIVE SHAW noted that it has been difficult to organize data around Amendment 5 because HB 145 was introduced only a few days prior. He said the reason he made and moved the amendment is because first-time class B felony offenses currently require no jail time. He said that under HB 145, the minimum sentence would move to 90 days, which he characterized as not appropriate. He opined that a one-year minimum sentence would be appropriate.

[3:12:47 PM](#)

REPRESENTATIVE KOPP said he agrees that fixing the class B felony sentencing structure is warranted. He remarked that he wishes there was an amendment just to do that. He said his law enforcement experience taught him that people who get caught up in drug possession are often young adults who have made poor life choices and/or people who are dealing with trauma. He clarified that those people are not drug traffickers, rather just possessors. He spoke to the cycle of incarceration and release. He noted that, despite being "a law and order guy," he questions whether that system works.

REPRESENTATIVE KOPP referenced the case Smith v. State and noted that it demonstrates how major drug runners can run their whole operations from jail and continue to perpetuate crime against the public. He said he would support increased penalties for "real bad guy[s]" who oversee continuing criminal enterprises. He acknowledged Representative Shaw's point about class B felonies but argued that punishments should be proportional. He listed several crimes that are class C felonies: assault in the third degree, sexual assault in the third degree, sexual abuse of a minor in the third degree, custodial interference, burglary in the second degree, vehicle theft, theft in the second degree, killing a police dog, sex with a juvenile prostitute, and sex trafficking in the third degree. He raised the question whether possessing a bill without a prescription is as serious as the listed crimes.

REPRESENTATIVE KOPP said he agreed that "we need to get tougher on crime" and advocated for an approach that targets those who are not participating in their own rehabilitation. He said he would support some of what is contained in Amendment 5 "in more nuanced forms."

[3:16:36 PM](#)

REPRESENTATIVE EASTMAN said he finds it odd that the only type of funding discussed by the committee is the funding provided by SOA to DOC. He noted that the committee has not discussed the financial cost borne by the public. He relayed that a relative of his staff was the victim of a home invasion robbery attempt. He noted that he personally knows others who have had similar experiences in the time since criminal sentences were reduced. He argued that, by not passing amendments like Amendment 5, the committee is saving money for the state but is imposing personal costs on the people of Alaska through being victims of crime, spending on home security, and having their property stolen. He said he does not see that as a win for SOA even if the result is less money spent by DOC.

[3:19:11 PM](#)

CHAIR CLAMAN said the amendment raises a number of questions related to presumptive sentences and whether "we trust the courts to figure things out." He noted that the presumptive sentencing structure does not prevent the courts from sentencing a first-time offender to the maximum sentence that is allowed by law. He said all that is required to go above the presumptive range is that the court finds aggravating factors, and all that is required to go below the presumptive range is that the court finds mitigating factors. He said the criminal justice reforms made in recent years recognized that judges need more discretion and not less. He added that the reforms also recognized that SOA's corrections spending was unsustainable unless SOA started pulling from other essential services, such as education. He noted that DOC's population had grown 27 percent over a 10-year period while the population of the state had grown only 9 percent. He said the most telling factor for whether a person will turn to a life of crime is whether or not he/she has a high school diploma.

CHAIR CLAMAN remarked that Governor Dunleavy's proposed budget reinforces that the committee must make priority decisions. He said the governor's priority is to issue \$3,000 permanent fund dividend (PFD) checks at the expense of education funding. He

said that means, should presumptive sentences return to pre-reform levels, every dollar that will be spent on corrections is one fewer dollar spent on education. He stressed that it would mean more money spent on incarcerating more people and less spent on education. He said this would result in fewer people graduating from high school with a high school diploma and more people growing up in families with histories of crime and drug/alcohol abuse. He said those people "will be coming to the same place and going down the same path."

CHAIR CLAMAN said he has always liked the idea of the deterrent effect but noted that he has seen people go into prison and return "to their same crimes because of their addictions ... and their lack of education." He spoke to the topic of priorities and noted that SOA did not have to construct a new prison during the last five years. He said that would not have been the case if the legislature had not passed criminal justice reforms. He said SOA is starting to see benefits in terms of reduced recidivism. He stated that, for all those reasons, he will not be supporting Amendment 5.

[3:22:34 PM](#)

A roll call vote was taken. Representatives LeDoux, Eastman, and Shaw voted in favor of adopting Amendment 5. Representatives Stutes, Kopp, and Claman voted against it. Therefore, Amendment 5 was not adopted by a vote of 3-3.

[3:23:11 PM](#)

CHAIR CLAMAN announced that HB 145 would be held for further review.

[3:24:10 PM](#)

ADJOURNMENT

The House Judiciary Standing Committee meeting was recessed at 3:24 p.m., to be continued at 1:00 p.m. on April 27, 2019.