

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 11, 2019

3:11 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Representative Gabrielle LeDoux
Representative Andi Story
Representative Adam Wool
Representative Sarah Vance
Representative Laddie Shaw

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commissioner, Department of Public Safety

Amanda Price - Anchorage

- HEARD

HOUSE BILL NO. 10

"An Act relating to misconduct involving a controlled substance; providing for substitution of judgment; and relating to sentencing."

- MOVED HB 10 OUT OF COMMITTEE

HOUSE BILL NO. 118

"An Act relating to the duties of the commissioner of corrections; and relating to planning for prisoner reentry."

- MOVED CSHB 118(STA) OUT OF COMMITTEE

HOUSE BILL NO. 110

"An Act relating to the transfer of a title to a boat on the death of the owner; relating to the transfer of a title to a vehicle, including certain manufactured homes and trailers, on the death of the owner; allowing a person to act for the

surviving spouse of a decedent to enforce liability against real property transferred at death; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 82

"An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."

- HEARING CANCELED

HOUSE BILL NO. 33

"An Act relating to defenses to sexual assault; and relating to registration of sex offenders."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 51

"An Act relating to probation; relating to a program allowing probationers to earn credits for complying with the conditions of probation; relating to early termination of probation; relating to parole; relating to a program allowing parolees to earn credits for complying with the conditions of parole; relating to early termination of parole; relating to eligibility for discretionary parole; relating to good time; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 10

SHORT TITLE: CONTROLLED SUBSTANCE POSSESSION; SENTENCE

SPONSOR(s): REPRESENTATIVE(s) KOPP

02/20/19	(H)	PREFILE RELEASED 1/7/19
02/20/19	(H)	READ THE FIRST TIME - REFERRALS
02/20/19	(H)	STA, JUD
04/02/19	(H)	STA AT 4:00 PM GRUENBERG 120
04/02/19	(H)	Scheduled but Not Heard
04/09/19	(H)	STA AT 3:00 PM GRUENBERG 120
04/09/19	(H)	-- MEETING CANCELED --
04/11/19	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HB 118

SHORT TITLE: OFFENDER REENTRY PLANNING BY CORRECTIONS
SPONSOR(s): REPRESENTATIVE(s) FIELDS

03/29/19	(H)	READ THE FIRST TIME - REFERRALS
03/29/19	(H)	STA, JUD
04/04/19	(H)	STA AT 3:00 PM GRUENBERG 120
04/04/19	(H)	Heard & Held
04/04/19	(H)	MINUTE(STA)
04/09/19	(H)	STA AT 3:00 PM GRUENBERG 120
04/09/19	(H)	-- MEETING CANCELED --
04/11/19	(H)	STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

EDDIE ATHEY, Fire Chief
Seward Fire Department
Seward, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Commissioner Price.

JIM WHITAKER

Fairbanks, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Commissioner Price.

SCOTT KENDALL

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition during the confirmation hearing on Commissioner Price.

MARCIA DAVIS

Anchorage, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Commissioner Price.

REPRESENTATIVE CHUCK KOPP

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HB 10, as prime sponsor.

KATIE BOTZ

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 118, Version S.

DON HABEGAR, Community Coordinator

Juneau Reentry Coalition

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 118, Version S.

KELLY GOODE, Deputy Commissioner
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 118, Version S.

ACTION NARRATIVE

[3:11:11 PM](#)

CO-CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:11 p.m. Representatives LeDoux, Story, Wool, Vance, Shaw, Fields, and Kreiss-Tomkins were present at the call to order.

CONFIRMATION HEARING(S)
Commissioner, Department of Public Safety

[3:12:42 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the first order of business would be confirmation hearings.

REPRESENTATIVE SHAW requested a personal presentation by Commissioner Price before the House State Affairs Standing Committee.

[3:13:47 PM](#)

CO-CHAIR KREISS-TOMKINS opened public testimony on the confirmation hearing on the commissioner of Department of Public Safety (DPS).

[3:14:14 PM](#)

EDDIE ATHEY, Fire Chief, Seward Fire Department, testified that he supports the confirmation of Commissioner Price.

REPRESENTATIVE WOOL asked what Mr. Athey's experience was with Commissioner Price.

MR. ATHEY stated that he met her at the [Alaska] Fire Chiefs legislative summit and was extremely impressed with the direction that she wanted for DPS. He said, "I feel like ... great things can happen under her leadership."

3:16:17 PM

JIM WHITAKER, Fairbanks, Alaska, paraphrased from his letter of support dated 4/5/19, included in the committee packet, which read in part [original punctuation provided]:

I was with the Governor Walker when Amanda Price was hired to develop and implement policy regarding domestic violence and sexual assault in Alaska. As was evident then and now, this issue is a blight on Alaskan society, and is of a magnitude so as to be mind-numbing. It was clear from the beginning that Amanda understood the dynamic she was tasked to deal with; and was willing to reckon with the institutional, societal, cultural, and political complexities involved. During her tenure she navigated a pathway that created the foundation for finally dealing with and improving this unacceptable circumstance.

She worked closely with the troopers, local communities, and leaders at all levels to build awareness and common purpose. She was a solid and focused leader who garnered respect and appreciation from others. As the Governor's chief of staff I monitored and worked fairly closely with Amanda. As a result my conclusions were, and are, that Amanda Price is a person of high character, high intellect, of tireless energy and work ethic, and sound judgement. She is a strong and solid choice to fill a public safety cabinet level/commissioner level position. I highly recommend her.

3:19:18 PM

SCOTT KENDALL, Anchorage, Alaska, testified that he was chief of staff to [former] Governor Bill Walker and Commissioner Price's supervisor prior to her departure from her position with the Walker administration. He stated that he has been contacted by the press, legislators, and other individuals requesting him to provide testimony. He stated that he has asked the Department of Law (DOL) whether the Alaska Executive Branch Ethics Act [AS 39.52] or the Alaska State Personnel Act [AS 39.25] bars him from testifying; he also asked the House State Affairs Standing Committee to request Commissioner Price to waive her rights under the Alaska State Personnel Act. He expressed his

understanding that she would not waive her rights but that he should feel free to testify. He requested the committee to go into an executive session under Rule 22(b)(2) of the Uniform Rules, which read: "discussion of subjects that tend to prejudice the reputation and character of a person;".

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The committee took a brief at-ease at 3:21 p.m.

[3:21:09 PM](#)

CO-CHAIR KREISS-TOMKINS stated that the committee declined that request.

MR. KENDALL stated that he believes in the mission of DPS, has worked closely with the department, and would never do anything to harm the department. He expressed that although his testimony is difficult to give, he believes it is important information for the legislature and the [Governor Michael J.] Dunleavy administration.

MR. KENDALL relayed that DPS commissioner is an important and powerful appointment; lives hang in the balance; and the commissioner has access to incredibly sensitive information. He expressed that a commissioner of DPS must have three critical qualities: relevant experience, integrity, and a strong work ethic. He said that in his judgement, Commissioner Price falls short in all three categories.

MR. KENDALL related that when he became chief of staff, it was brought to his attention that Commissioner Price had been involved in two incidences of either plagiarism or copying work of another and passing it off as her own. One incident was brought to the attention of the governor's office by staff to a member of the Senate majority; it related to Senate Bill 91 [passed during the Twenty-Ninth Alaska State Legislature, 2015-2016, and signed into law 7/11/16] and criminal justice reform. Another incident was discovered internally and was related to suicide prevention. He said that in both cases, he did not experience the incidents personally, but they were conveyed to him secondhand. He stated that he was told that she was admonished by her supervisor at the time for these incidents. He relayed that it was also conveyed to him that on at least one occasion, she was told by her supervisor to attend a certain meeting or be in a certain place, and without approval failed to attend. He maintained that for him, these occurrences raise

issues of integrity. He said that upon his arrival to his position [as chief of staff] her chronic absenteeism was brought to his attention; by the account of most of the staff, she was almost literally never in the office; she did not attend meetings for which she was scheduled; and she was not where she reported herself to be.

MR. KENDALL stated that when he started his position, she was on a plan for improvement under which she was to submit a report of her activities for the week and her upcoming activities every Friday at 4:30. His understanding was that she almost never produced such a report; during his time as her supervisor, he never saw such a report. He said that when he arrived in his position, he heard these issues, considered them bad for staff morale, and inexcusable if true; however, since he did not know Commissioner Price or most of the staff, he determined to give her a chance. He said that he sent out a directive to all staff that they must be physically present in their office during regular hours or their calendars should indicate where they are. He said that on more than one occasion, when Commissioner Price was not in the office, he had staff check to see if she was where her calendar indicated or if she was meeting with whom she said she was meeting. On several occasions the people with whom she was reportedly meeting said, "We have not seen her in weeks or months." He relayed that in the three months that he supervised her, he saw her on only three occasions - two were meetings he had scheduled with her. She was not present at any of his meetings with the governor. He said that based on her chronic absenteeism and the apparent lack of truthfulness about where she was, he decided to recommend her termination. He expressed his belief that her experience in the Walker administration should not be counted as relevant experience for the position of commissioner. He said that he does not believe her to have a strong work ethic, and her integrity is suspect because of her lack of truthfulness and plagiarism.

REPRESENTATIVE WOOL referred to Mr. Whitaker's testimony giving Commissioner Price a very positive review. Representative Wool mentioned that he was shocked at the degree of absenteeism and unaccountability in her whereabouts. He asked whether Mr. Kendall had heard of these issues before he started his position.

[3:28:07 PM](#)

MR. KENDALL answered that he did hear about the absenteeism immediately upon meeting the governor's office staff. He said

he cannot speak for Mr. Whitaker; however, his [own] style of management was much more "hands-on." He said that it is difficult to testify negatively about someone. He offered, "It's much easier for me to say nice things about someone, than to say hard truths." He maintained that it was important for him to provide the truth as he knows it to people who will be voting for the confirmation of someone in such a powerful position.

REPRESENTATIVE WOOL asked Mr. Kendall to describe the circumstances around Commissioner Price's departure from the governor's office.

MR. KENDALL replied that he made his recommendation to the governor [to terminate Commissioner Price] and the governor agreed with the recommendation readily. Mr. Kendall met with Commissioner Price and conveyed to her that her choices were to resign or be terminated. He said that she repeatedly attempted to get into a substantive discussion about why she should not be terminated; he told her that they should agree that [her employment] is not working; he had already made up his mind. He maintained that he did not want to get into a substantive conversation with her about the many issues he had with her work and her character issues, because he thought it would be painful for her to hear, and the decision had already been made. He didn't feel it would be a productive conversation because at that point he didn't believe he would be able to trust anything she had to say. He stated that it was a 20-minute meeting during which he repeatedly presented her with what her choices were.

REPRESENTATIVE WOOL asked Mr. Kendall whether there were any positive results from Commissioner Price's work.

MR. KENDALL maintained that the rape kit initiative was an incredibly important accomplishment. Upon Commissioner Price's resignation, a subordinate was elevated to Commissioner Price's position, and the immediate upgrade in the work product led him to believe that essentially most of the positive accomplishments were probably attributed to this subordinate.

REPRESENTATIVE LEDOUX offered that she feels conflicted because she respects Mr. Kendall's opinion as well as the opinions of Mr. Whitaker and Ms. Davis. She asked if Ms. Davis was a deputy chief of staff during Mr. Kendall's tenure.

MR. KENDALL replied that Ms. Davis was deputy chief of staff for a very brief period after he became chief of staff.

3:33:08 PM

REPRESENTATIVE LEDOUX asked how many absentee incidences he observed himself, as opposed to those brought to his attention by Commissioner Price's subordinates. She also asked how many different people offered complaints.

MR. KENDALL responded that when he first started his job, he was approached by many staff - both in superior and parallel positions to Commissioner Price - about the absenteeism. He mentioned that sadly her absenteeism was almost a joke among staff; he found the tone of people's comments incredibly toxic to staff morale. He was unsure of the validity of the comments and was determined to give her a chance. He said that personally he witnessed the chronic absenteeism every day. He stated that he, himself, worked every day - with no days off - and saw her three times. Once he passed her in the hall and the other two times were at scheduled meetings. He maintained that it was not her subordinates complaining that she wasn't where she was supposed to be, but a staff subordinate to him acting at his direction to check on her.

REPRESENTATIVE LEDOUX asked Mr. Kendall to be specific regarding the allegations of plagiarism.

MR. KENDALL acknowledged that he did not experience this issue firsthand but was explained to him as follows: Something that she had produced for the legislature and was distributed to the legislature was discovered by a staff member to the Senate majority to have come from an internet source. He stated that the other matter involved a suicide prevention initiative that was to be her "white paper" and was copied from a document from another state. He said that in both instances it was conveyed to him that the work was presented as her work but was not her work.

3:37:34 PM

REPRESENTATIVE SHAW stated that he was formerly the director of the Alaska Police Standards Council (APSC), which is the regulatory agency for law enforcement for the state. As director he took disciplinary action against troopers: a trooper was relieved of his commission for something as simple as using the authority of being a state trooper to ask for a

discount for a battery at an automobile parts store; another was fired for cheating on a test for promotion. He maintained that personal integrity is an essential characteristic for a member and representative of law enforcement - especially for someone holding a position of such high significant authority. He asked Mr. Kendall if he agrees that to be the commissioner of DPS, the individual should be not only above reproach but without blemish.

MR. KENDALL responded that he agrees; he comes from a law enforcement family; he was going to be a cop until he misguidedly attended law school. He said that he couldn't agree more that people in law enforcement, because of the power they wield and the trust they hold, must be held to absolutely the highest standard.

CO-CHAIR FIELDS referred to Mr. Kendall's testimony that DPS commissioner is a very important position, in which life and death hang in the balance. He asked Mr. Kendall to relay the tasks of the DPS commissioner and explain why the position is one of the most powerful and important roles in state government.

MR. KENDALL responded that he worked closely with [former] Commissioner [Walt] Monegan and the entire DPS family. The commissioner of DPS wields significant power and holds the public trust; they have access to Federal Bureau of Investigations (FBI) databases. The commissioner of DPS allocates resources across the state - one-fifth the size of the rest of the U.S. - and he/she cannot afford to "play favorites" or "be asleep at the switch." He stated, "It's an amazingly complex dance that they do, and they don't have near the resources, in my opinion, that they need." He emphasized that the judgement of the commissioner must be laser-focused on the safety of all Alaskans. He stated that if one plays favorites by moving resources out of a region, doesn't make a critical decision, or makes any decision based on personal interest rather than what is best for the department and Alaskans, lives hang in the balance. The types of information the commissioner has access to is immense and must be used only for the right reasons.

CO-CHAIR FIELDS referred to Commissioner Price's testimony in the Senate Finance Committee, in which she stated that she resigned due to differences with the governor over Senate Bill 91. He asked whether that was accurate.

MR. KENDALL replied, "That is 100 percent false." He maintained that her position on Senate Bill 91 was neither discussed during his meeting with her nor was it discussed during his meeting with the governor. He stated that she did not participate in Senate Bill 91 enough for him to know her position on it. She was terminated solely for the reasons he has given; he has no recollection of any discussion with her on Senate Bill 91 or criminal justice policy.

[3:42:03 PM](#)

CO-CHAIR FIELDS referred to her testimony that Senate Bill 91 was the reason for her departure and asked whether he witnessed her substantively engaging in that issue at all.

MR. KENDALL answered that he did not; his discussion with her was regarding the choice to resign or be terminated due to absenteeism and honesty issues.

CO-CHAIR FIELDS asked Mr. Kendall whether he believes Commissioner Price is a good fit for the position of commissioner and if he were a legislator, would he vote to confirm her.

MR. KENDALL replied, "I absolutely would not vote to confirm Ms. Price."

[3:43:35 PM](#)

MARCIA DAVIS testified that she was in the governor's office from the very beginning of Commissioner Price's tenure; she interviewed Commissioner Price for the job on behalf of the governor; her impression was that Commissioner Price was direct, forceful, and non-bureaucratic, and would be an atypical but brilliant choice for hire. Commissioner Price was a policy analyst; Ms. Davis was her day-to-day direct supervisor; and Chief of Staff Whitaker managed any direct work Commissioner Price had with the governor. She stated that she managed the governor's Anchorage Office and interfaced with the governor's Juneau office. She relayed that she sensed tension between the two offices; there was a perception that the Juneau staff was hard-working and overtasked, and those in the Anchorage office were "slackers." She said that she worked hard to mitigate that issue; she had to quell pettiness, inuendo, and character assassination.

MS. DAVIS expressed her belief that hiring Commissioner Price was an inspired choice by the governor: Commissioner Price was a revolutionary; she set about to "right the world"; she did not make many friends among AST; she worked very hard to distribute the sexual assault kits and to push that effort forward. Ms. Davis maintained that the sexual assault kit effort was driven by Commissioner Price - not by an intermediary or a subordinate. Ms. Davis explained that Commissioner Price was on the road and visiting offices; keeping a calendar on her activities would have been ridiculous; she did not operate like a "good little bureaucrat" who calendared a simple day of meetings. She maintained that Commissioner Price had a hectic schedule, was "pulled in a lot of directions," responded to emergency situations, answered the public as the sexual assault advocate, and managed and negotiated sensitive issues. Ms. Davis asserted that Commissioner Price secured money for the state by tracking people down; she harassed and harangued the right people to get the right results for Alaska. These things were not on a calendar and the time it would take to reconstruct a calendar after the fact was better spent on other things.

MS. DAVIS relayed that she met with Commissioner Price three to four times per week; she received briefings from Commissioner Price that were oral, to the point, and direct; the commissioner always solicited guidance from Ms. Davis, then acted. Ms. Davis expressed her dismay at the allegations of plagiarism; she said that she would not want to pay an employee to come up with originally composed informational papers; taking information from the internet leads to position papers that are quick and accurate; the purpose was to educate people, not take credit for something not hers. She summarized by saying that there was no chronic absenteeism during the two years she worked with Commissioner Price; she was where she said she would be; there was evidence the job was being performed; and she knew of no plagiarism. She emphasized that if a supervisor had such issues with an employee, she would expect the supervisor to raise those issues with the employee and deal with them in a disciplinary manner. The fact that no one ever approached Commissioner Price about absenteeism or plagiarism is shocking and indicates to her that the "pettiness machine" in Juneau resumed after Ms. Davis left.

[3:52:10 PM](#)

REPRESENTATIVE SHAW asked Ms. Davis whether she and Mr. Whitaker left the Walker administration about the same time, and whether

that was about the same time frame as Mr. Kendall joining the administration.

MS. DAVIS responded, yes.

REPRESENTATIVE SHAW asked Ms. Davis what qualifications Commissioner Price had to be a policy analyst, when Ms. Davis interviewed her for the position.

MS. DAVIS answered that Governor Walker wanted someone who knew the issue from "the ground up" - who knew the issue on the grass roots level. He wanted someone who understood the issue from the victim's point of view. Commissioner Price was able to try to fix the broken systems. Commissioner Price's qualifications included her organizational abilities, her work at Standing Together Against Rape (STAR), and her references.

REPRESENTATIVE SHAW asked Ms. Davis whether during the interview, she inquired as to Commissioner Price's formal education.

MS. DAVIS replied that she had Commissioner Price's resume; Commissioner Price did not hold a bachelor's degree in law enforcement; she was hired due to her work experience.

REPRESENTATIVE SHAW asked, "Did she have a bachelor's degree when you interviewed her?"

MS. DAVIS replied that it was so long ago, she can't recall.

REPRESENTATIVE SHAW asked whether Ms. Davis was aware of any personal financial concerns during the interview.

MS. DAVIS said, no.

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REPRESENTATIVE WOOL asked whether the interview was the first time Ms. Davis had met Commissioner Price.

MS. DAVIS answered, yes, that she had never met her before the interview.

REPRESENTATIVE WOOL asked about documents that Commissioner Price wrote.

MS. DAVIS answered that Commissioner Price did the federal grant paperwork. She wrote short briefing status reports to Mr. Whitaker and Ms. Davis. Most of her work did not consist of policy papers; her work involved meeting with people to make changes in the procedures.

REPRESENTATIVE WOOL questioned, "I thought you said she was a policy analyst."

MS. DAVIS answered that "policy analyst" was the position title; however; she was acting on the governor's priorities as a "problem fixer" in the sex abuse area; she was to fix the delays [for rape kit processing] and ineffective prosecutions.

REPRESENTATIVE WOOL asked whether the Anchorage office had regular video conference meetings with the Juneau office.

MS. DAVIS responded, yes. They had a Tuesday morning staff conference call; everyone available would call in and report on their activities. She said that Commissioner Price attended - telephonically - most of those meetings.

REPRESENTATIVE WOOL asked whether Ms. Price was aware of several meetings that she did not attend.

MS. DAVIS replied that Commissioner Price only missed a meeting when she was in transit or at a conference. At the staff meetings, Commissioner Price would deliver a full verbal report.

REPRESENTATIVE SHAW referred to Ms. Davis's previous testimony that Commissioner Price had on occasion differences with troopers on administrative or policy issues. He asked Ms. Davis to tell the committee what she thinks qualifies Commissioner Price to be the commissioner of DPS.

MS. DAVIS responded that she believes her qualifications are as follows: she is familiar with the organization, has tracked the issues, has worked closely with senior staff, and has been able to get cooperation and movement on pressing issues. She had challenges on the rank-and-file level while trying to track the rape kits in Bethel; the kits were in a closet and not in compliance with the handling of evidence. She had to challenge those situations and rectify them; changing the status quo didn't always make her popular with field personnel; but she never caused the field personnel to be punished, reprimanded, or disciplined. Ms. Davis stated that people don't like change;

when you change systems, it makes people uncomfortable and tired.

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CO-CHAIR KREISS-TOMKINS, after ascertaining that there was no further testimony, closed public testimony on the confirmation hearing on the commissioner of DPS.

HB 10-CONTROLLED SUBSTANCE POSSESSION; SENTENCE

[3:59:48 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE BILL NO. 10, "An Act relating to misconduct involving a controlled substance; providing for substitution of judgment; and relating to sentencing."

[4:00:31 PM](#)

REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, relayed that the intent of HB 10 is to address a growing opioid crisis; the state has struggled with the enforcement, behavioral health, and mental health aspects of the issue. The question is, How does the state use its resources and the law to arrive at a better result, which is to reduce addiction and dependency and increase public safety.

REPRESENTATIVE KOPP cited the Department of Health and Social Services (DHSS) publication, [entitled "2018-2022 Statewide Opioid Action Plan," document not provided], which read:

During 2010-2017, with 623 identified opioid overdose deaths, the opioid overdose death rate increased 77% (from 7.7 per 100,000 persons in 2010 to 13.6 in 2017). Synthetic opioids, excluding methadone, caused 37 deaths -37% of all 2017 opioid overdose deaths, with fentanyl contributing to 76% (28 of 37) of those deaths.

REPRESENTATIVE KOPP stated that a few years ago the law stated that possession of any amount of a Schedule IA or IIA substance - which includes heroin, cocaine, opioids, and methamphetamines - was a Class C felony. From a law enforcement point of view, it was easy to prosecute. Subsequently, Alaska had a huge public policy debate about whether the real problem - the addiction rate - was being reduced. At that time, the penalty

for simple possession was reduced to misdemeanor; that resulted in people being charged with innumerable misdemeanors with no incentive to enter a treatment program.

REPRESENTATIVE KOPP referred to a document, included in the committee packet, entitled "HB 10 Background Information," to point out the schedule of drugs and the penalties. Schedule IA and IIA drugs are listed in the document, which read [original punctuation provided]:

Schedule IA

Illegal because they have high abuse potential and severe safety concerns: for example, heroin, opium, hydrocodone, oxycodone, fentanyl, (pain patch) - can be used to treat severe pain. Can cause life-threatening respiratory distress when taken in high doses or when combined with other substances. Also, has a high risk of dependency. Also, GHB, date-rape drugs.

Schedule IIA

Hallucinogenic substances and substances that suppress or stimulate the central nervous system that have a high potential for abuse and dependence and the potential for severe addiction. These drugs include methamphetamines including meth, LSD, the barbiturates and cocaine.

REPRESENTATIVE KOPP paraphrased from the sponsor statement, included in the committee packet, which read:

As Alaska looks to end the opioid and drug abuse epidemic, it needs innovative solutions to help those struggling with addiction recover and return to leading productive lives.

House Bill 10 seeks to be a piece of the puzzle by creating an incentive for drug offenders to seek rehabilitation instead of continued criminal behavior.

House Bill 10 first converts the repeat possession of IA and IIA controlled substances from misdemeanor to felony charges.

A judge may then propose to vacate an offender's felony possession conviction, resulting instead in a

misdemeanor charge, upon the completion of a treatment program.

This option for a felony-to-misdemeanor conversion is known as a "substitution of judgement". If the offender does not successfully complete their court-approved rehabilitation, their felony conviction would stand.

This path for a substitution of judgment does not apply to offenders charged with other crimes at the time of their possession conviction, including gun-related crimes, nor is it an option available to offenders more than once.

Those involved in law enforcement and criminal justice recognize the need for offenders who are consistently culpable of drug possession to get treatment for their underlying addiction.

However, Alaskans struggling with addiction often need a push to enter a program and turn their lives around. House Bill 10 aims to provide an accountable, responsible mechanism to help treat addiction in our state, and provide for increased public safety and productivity.

REPRESENTATIVE KOPP added that all the data points - from the Alaska Criminal Justice Commission (ACJC), therapeutic courts, and Alaska behavioral health agencies - indicate that court-appointed treatment programs work. They have the highest rates of success. He maintained that HB 10 would encourage offenders into these programs in lieu of a felony conviction. Once a person has a felony conviction, professional [employment] opportunities become extremely limited and the offender and his/her dependents are likely to rely public assistance indefinitely.

[4:07:37 PM](#)

CO-CHAIR FIELDS stated that he has heard anecdotally from law enforcement that about 90 percent of crimes - such as burglaries - are rooted in addiction. He asked whether that perception is consistent with Representative Kopp's experience and, therefore, the proposed legislation could have a positive impact for reducing property crime in his own community.

REPRESENTATIVE KOPP responded that substance abuse plays a very important role. He estimates that about 70 percent of all crimes are tied directly to substance abuse; it directly precipitates crime.

CO-CHAIR FIELDS expressed his belief that HB 10 would address one of the root causes of the crime that is making his constituents feel unsafe.

REPRESENTATIVE LEDOUX suggested that deferred prosecution is different than suspended imposition of sentence; under suspended imposition of sentence one must answer "yes" to the question of having been convicted of a felony, but not under a deferred prosecution.

REPRESENTATIVE KOPP agreed. To be in the program [under HB 10] the offender must have made a plea; however, the felony conviction would be held in abeyance until the offender demonstrated that he/she was not willing to materially participate in his/her own rehabilitation.

REPRESENTATIVE LEDOUX commented that the proposed legislation would give the offender one more chance to "straighten out."

REPRESENTATIVE KOPP agreed.

REPRESENTATIVE STORY asked whether Alaska has the treatment programs and the resources to provide the treatment programs.

REPRESENTATIVE KOPP replied that Alaska has treatment programs but could use more. The House just passed the mental health operating budget [4/11/19], which includes significant treatment resources. Every year the state has become more and more focused on funding treatment programs, because, ultimately, they show a very high rate of success in breaking the cycle of addiction and reducing incarceration and public assistance costs. Investing in treatment in the front end saves money later.

REPRESENTATIVE STORY asked to be provided with more information on the treatment programs and options within Alaska's prison system.

[4:11:49 PM](#)

REPRESENTATIVE WOOL referred to the provision under HB 10 - changing a mandatory felony to a misdemeanor for a simple

possession - and suggested that the impetus for the proposed legislation is to avoid the negative path that a felony would hold for the offender and to provide a disincentive for the offender to have repeat felony convictions and continue to use drugs.

REPRESENTATIVE KOPP answered, yes, it can be viewed in the positive in that the offender is allowed misdemeanor drug possession charges - relapse is a part of recovery - but not indefinitely. He said that HB 10 would put a provision in the law for the court to order the offender into treatment. He offered that someone with a third conviction most likely has a drug problem. If the offender successfully completes the program, the felony conviction would be held in abeyance, and the charge would be entered as a misdemeanor. He reminded the committee that a misdemeanor is not inconsequential.

REPRESENTATIVE KOPP reiterated the history of Alaska's drug possession laws and offered that because all Class C felonies are not equitable, the legislature decided to review sentencing. He said that HB 10 recognizes that a felony is a serious charge, but one should earn it and show that he/she is not willing to meaningfully participate in his/her own rehabilitation. Alaska would be balancing the need to help addicts recover with accountability.

REPRESENTATIVE WOOL expressed that the drugs are very addictive, and it is very hard for addicts to quit. He asked whether someone with a second-time possession conviction, who opts to enter treatment, would be paying for the treatment.

REPRESENTATIVE KOPP clarified that it would be the third conviction; the offender would have to be convicted two or more times before the provision under HB 10 would apply. He explained that the proposed legislation recognizes that relapses occur. He answered that court-ordered treatment is based on the defendant's ability to pay. Sometimes the state pays and sometimes the defendant pays.

[4:17:07 PM](#)

CO-CHAIR KREISS-TOMKINS asked how frequently the courts elect to use this sentencing tool in other states or jurisdictions that have this provision.

REPRESENTATIVE KOPP answered that he does not have that data. He stated that generally either states charge the drug offenses

as felonies and do not have this tool, or states charge them as misdemeanor possession and do not have this tool. He maintained that the approach under HB 10 is innovative because it holds the "hammer" of the law in abeyance and the focus on is getting the offender into treatment. He reiterated that therapeutic courts have remarkably high success rates, because they have methods of keeping close accountability and contact. The felony hammer is a valuable tool to incentivize people to enter treatment.

CO-CHAIR KREISS-TOMKINS commented that a state attorney described for him the therapeutic court system; there are remarkable parallels between that system and the proposal under HB 10. The attorney expressed to Representative Kreiss-Tomkins how profoundly successful the therapeutic courts have been for people who are often very deeply troubled. He expressed his enthusiasm for the premise of HB 10.

REPRESENTATIVE VANCE expressed her belief that HB 10 presents a needed and helpful tool. She stated that in Alaska, the availability of treatment is a big challenge; her concern is that the Alaska Court System would be creating a false sense of hope that treatment options are available in all communities, because it is not. She offered that [Homer] is trying to implement a treatment program, because clients in the lower Kenai Peninsula must travel to Kenai, Anchorage, or Soldotna, which are at least 70 miles away. The clients often don't have the money for a tank of gas, or can't make the trip, therefore, reoffend. She has heard testimony that some people will reoffend in order to return to jail and get help. She asked for information on the treatment available outside the prison system. She expressed the need for implementing a phased plan for the legislature: coming up with a cost, building the resources necessary, moving in the right direction, and starting to reduce opioid addiction.

REPRESENTATIVE KOPP responded that the road system communities - including Juneau - have resources; they make up about 70 percent of the population of the state; therefore, HB 10 would have an immediate impact on the majority of most of the state's population. He acknowledged that in rural Alaska, more resources are needed. He asserted that not having 100 percent of the resources that are needed would not keep him from advancing the legislation, knowing that it that could make improvements to much of Alaska. He maintained that funding treatment programs is almost ten-to-one better than incarceration in cost, value served, and end results. He offered that the Alaska Mental Health Trust Authority (AMHTA)

could better respond to the question of availability of resources across the state. He suggested that ultimately HB 10 would save the state money.

[4:23:15 PM](#)

REPRESENTATIVE WOOL related previous committee testimony: Department of Corrections (DOC) tries to return released inmates to their home communities to be near their support systems; however, many are under court-mandated treatment programs, which require them to stay in Anchorage, resulting at times in poor lifestyle choices. He expressed his concern that lack of treatment programs in rural Alaska could create this same predicament. He said he supports the encouragement for treatment under HB 10. He asked whether the offender would be charged with the felony if he/she tried to complete treatment but does not.

REPRESENTATIVE KOPP answered, "That is correct, if they fail to comply with the program." He said that successful completion of the program means that the person was responsive to every correction from the court; it does not mean that they never relapsed, but only that they never committed a new violation that rose to the level of reincarceration. He stated that the intention is for offenders to stay with the treatment program and complete it; they are the ones who have a high probability of breaking the addiction cycle; and the treatment program does it through intensive mentorship and accountability. He added that the court has flexibility on the treatment schedule and location of treatment.

[4:26:59 PM](#)

CO-CHAIR FIELDS moved to report HB 10 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 10 was reported from the House State Affairs Standing Committee.

HB 118-OFFENDER REENTRY PLANNING BY CORRECTIONS

[4:27:25 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 118, "An Act relating to the duties of the commissioner of corrections; and relating to planning for prisoner reentry."

[Before the committee was the committee substitute (CS) for HB 118, Version S, adopted on 4/4/19.]

[4:27:39 PM](#)

The committee took an at-ease from 4:28 p.m. to 4:30 p.m.

[4:30:15 PM](#)

CO-CHAIR KREISS-TOMKINS opened public testimony on HB 118, Version S.

[4:31:27 PM](#)

KATIE BOTZ testified that she is tired of the criminals returning to the communities and reoffending. She expressed her belief that DOC needs to be tougher on the offenders. [Due to poor sound quality, portions of the audio are indiscernible throughout.]

[4:34:22 PM](#)

DON HABEGAR, Community Coordinator, Juneau Reentry Coalition, stated that the coalition supports written case management plans that begin in the institution and follow the offender into the community. The plans are excellent roadmaps that help structure reentry: they get the offender to treatments that are required and needed; they help find suitable housing for the individual; and they provide excellent collaboration with DOC, services, and the community.

CO-CHAIR KREISS-TOMKINS closed public testimony on HB 118, Version S.

[4:36:06 PM](#)

REPRESENTATIVE VANCE asked whether the changes under Version S would be achievable for DOC to be able to implement soon.

[4:36:39 PM](#)

KELLY GOODE, Deputy Commissioner, Department of Corrections, answered that DOC worked with the sponsor to ensure that the changes could be implemented. She stated that the changes are achievable; the reporting guidelines under Version S can be performed without fiscal impact.

REPRESENTATIVE WOOL asked whether the reporting and other requirements under Version S constitute a good use of DOC resources.

MS. GOODE stated that under the original version of HB 118, the reporting requirements would have been onerous to the department; however, Version S amended them. She said that the report will show how many active offender management plans (OMPs) are in the system at one time, how many new OMPs began during the year, and how many OMPs were updated. She maintained that reporting the number of plans that are updated gives the legislature a sense of regular work on the plans.

REPRESENTATIVE WOOL asked whether every offender who is in an institution for 90 days participates in a plan; that is, do 100 percent of the offenders participate in a plan, or are there some who opt out or don't need a plan.

MS. GOODE responded that the plan does not apply to everyone; only those ranking medium or high risk on the Level of Service Inventory (LSI-R); they are the ones that DOC knows need OMPs. In answer to Representative Wool's second question, Ms. Goode said that DOC cannot force anyone to participate in a plan; DOC can encourage, incentivize, and work with an inmate. There are some inmates who are not interested in plans; but an inmate still has a plan if the LSI-R rates the individual as needing one; the inmate may or may not work the plan. She added that the report would only include those incarcerated 90 days or longer; the reason is that giving numbers on short-term inmates, who most likely would not have worked on a plan, would skew the numbers. This ensures plans are being written for the appropriate inmates and gives the legislature the data it desires.

[4:41:15 PM](#)

REPRESENTATIVE STORY referred to page 4, lines 14-24, of HB 118, Version S, and asked whether the data in the report would include the services that the inmates received and information about which services were most helpful.

MS. GOODE responded that if they attempted to report on services that inmates with OMPs received, the numbers would be skewed. She gave an example: for an inmate with a master's degree, there would be no reason for DOC to work with that inmate on the education component of an OMP; the report would count that inmate in the number that is not receiving education services,

yet, not be able to tell the reason why DOC is not providing this service.

REPRESENTATIVE STORY said that she was interested in knowing whether the services called for in the plans were received and whether the OMPs made a difference.

MS. GOODE answered that all the services - substance abuse, mental health care, education - are recorded in the OMPS, but would not be in the report to the legislature under Version S.

[4:44:39 PM](#)

CO-CHAIR KREISS-TOMKINS asked about the 99-year threshold on page 3, lines 5-6, of HB 118, Version S.

CO-CHAIR FIELDS explained that the threshold reflects the fact that some sentences are very long, yet the inmate still may be released at some point; it makes sense that these individuals participate in an OMP.

REPRESENTATIVE STORY asked about Alaska's available services and resources offered.

CO-CHAIR FIELDS responded that DOC sent him a list of services by institution; they vary by staff and infrastructure. He will provide her with that list.

REPRESENTATIVE WOOL asked whether the reporting requirement under Version S would be indefinite.

CO-CHAIR FIELDS replied that Version S would not create a new reporting requirement; it would be modifying an existing reporting requirement. He referred to the report in the committee packet, entitled "Joint Annual Report on Recidivism Reduction Fiscal Year 2018," to point out the existing report. The new report would be linked to the existing report.

REPRESENTATIVE STORY stated that she supports the proposed legislation.

CO-CHAIR FIELDS thanked the contributing agencies.

[4:49:05 PM](#)

REPRESENTATIVE WOOL moved to report the CS for HB 118, Version 31-LS0724\S, Radford, 4/3/19, out of committee with individual

recommendations and the accompanying fiscal notes. There being no objection, CSHB 118(STA) was reported from the House State Affairs Standing Committee.

CO-CHAIR KREISS-TOMKINS spoke about confirmations that have been referred to House State Affairs Standing Committee.

[4:50:43 PM](#)

The committee took a brief at-ease at 4:51 p.m.

[4:51:13 PM](#)

ADJOURNMENT

The House State Affairs Standing Committee meeting was recessed to a call of the chair.

[The meeting reconvened April 12, 2019 at 9:30 a.m.]