

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 28, 2020

3:01 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Representative Grier Hopkins
Representative Andi Story
Representative Steve Thompson
Representative Sarah Vance
Representative Laddie Shaw

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 15

Proposing an amendment to the Constitution of the State of Alaska relating to actions upon veto.

- MOVED HJR 15 OUT OF COMMITTEE

HOUSE BILL NO. 187

"An Act relating to correctional facilities; relating to the authority of the commissioner of corrections to designate the correctional facility to which a prisoner is to be committed; and providing for an effective date."

- MOVED CSHB 187(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 15

SHORT TITLE: CONST. AM: VOTES NEEDED FOR VETO OVERRIDE

SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

04/15/19	(H)	READ THE FIRST TIME - REFERRALS
04/15/19	(H)	STA, JUD, FIN
01/23/20	(H)	STA AT 3:00 PM GRUENBERG 120
01/23/20	(H)	Heard & Held
01/23/20	(H)	MINUTE(STA)
01/28/20	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HB 187

SHORT TITLE: RESTRICT OUT-OF-STATE CORRECTIONAL FACIL.

SPONSOR(S): REPRESENTATIVE(S) FIELDS

01/21/20	(H)	PREFILE RELEASED 1/10/20
01/21/20	(H)	READ THE FIRST TIME - REFERRALS
01/21/20	(H)	STA, FIN
01/23/20	(H)	STA AT 3:00 PM GRUENBERG 120
01/23/20	(H)	Heard & Held
01/23/20	(H)	MINUTE(STA)
01/28/20	(H)	STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

MICHAEL BRADNER

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 15 as former Speaker of the House.

MIKE COONS

Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HJR 15.

ADAM HYKES

Homer, Alaska

POSITION STATEMENT: Testified in opposition to HJR 15.

KELLY GOODE, Deputy Commissioner

Department of Corrections (DOC)

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 187.

ELIJAH VERHAGEN, Staff

Representative Sharon Jackson

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 187, on behalf of Representative Jackson.

CATHLEEN MCLAUGHLIN, Owner

Restorative and Reentry Services LLC

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 187.

MIKE COONS

Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HB 187.

DAVID NEES
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 187.

KATIE BOTZ
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 187.

LAURA BONNER
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 187.

ACTION NARRATIVE

[3:01:33 PM](#)

CO-CHAIR ZACK FIELDS called the House State Affairs Standing Committee meeting to order at 3:01 p.m. Representatives Story, Thompson, Vance, Shaw, Hopkins, Fields, and Kreiss-Tomkins were present at the call to order.

HJR 15-CONST. AM: VOTES NEEDED FOR VETO OVERRIDE

[3:02:01 PM](#)

CO-CHAIR FIELDS announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 15, Proposing an amendment to the Constitution of the State of Alaska relating to actions upon veto.

[3:02:24 PM](#)

CO-CHAIR KREISS-TOMKINS, as prime sponsor of HJR 15, offered to answer any questions from the committee.

[3:02:55 PM](#)

CO-CHAIR FIELDS, after ascertaining that there were no questions for Representative Kreiss-Tomkins, opened public and invited testimony on HJR 15.

[3:03:03 PM](#)

MICHAEL BRADNER, as the former Speaker of the House, relayed that he interacted and served with many of the state's

constitutional founders. He expressed his belief that few of them would have ever imagined that the veto could be used in the manner it has been - reaching back in time and eliminating entire programs. Generally, over the years, the veto has been exercised to deal with issues in the current legislature and only occasionally reaching back in time. He opined that Alaska has a constitutional crisis that reaches beyond this legislature and is bipartisan in nature; what this governor [Governor Michael J. Dunleavy] could do, any governor could do; and it could lead to problems in the future. The flavor of politics changes; the governor could veto, for example, Alaska's oil tax credits. As time changes, the spending for social programs and for development changes. He offered that the future is unknown; Alaska will be under a great deal of pressure with climate change and other issues.

MR. BRADNER suggested that his concern is not just about the three-fourths vote, but the three-fourths vote burdened by very small legislative bodies. He said, "It requires only securing 16 votes to override." He maintained, "If you can't secure the votes for an override, you ought not to be governor, because you're no politician." He referred to the campaign contribution limit that went to the U.S. Supreme Court and was sent back to the appeals court; Justice [Ruth Bader] Ginsburg attached a statement citing small legislative bodies and the possibility of corruption given a narrow voter base. He said this should be a concern for Alaska. It is not just the three-fourths vote but the three-fourths vote in Alaska's small legislative bodies and the regional spread of Alaska's legislative bodies. It is very easy to intimidate different regions and put legislators in difficult situations while exercising their prerogatives to override.

MR. BRADNER stressed that the legislature is the "people's branch." He referred to an expression in legal literature - "tyrannical aggrandizement of power by one branch over another." He stated that the founders of the U.S. Constitution used that term when trying to convince the various colonial assemblies that separation of powers protects them from their president being a substitute for the tyrant they had overthrown. He offered that although [in his writing as a journalist] he has referred to the governor as a tyrant in the context he just mentioned, he, himself, shares that title: In the mid-'70s, he was Speaker of the House and the legislature was young. The legislators questioned many of the lines of authority between the legislature and the governor - one being the extent of confirmation power. The legislature passed a statute, then sued

the governor. [Then] Justice [Jay] Rabinowitz informed the legislature that the legislature may not encroach "one inch" and used the term "tyrant" in his opinion.

MR. BRADNER expressed that Alaska must consider the invasion of the prerogatives of the legislature. He opined that the governor, being a new governor, was influenced by certain people to act as he did; it appears he is now trying to moderate that intensity. He expressed his hope that HJR 15 would be a bipartisan resolution; it reaches far beyond the acute partisanship that Alaska faces; it involves both parties and many issues for both parties over time. He relayed that Alaska is facing some issues in the next decade which will require unity.

[3:10:02 PM](#)

REPRESENTATIVE VANCE stated that she is looking for good governance, and any changes to the Alaska State Constitution needs to work for the next 50, 100, 200 years; the constitution is the state's guidebook. She expressed her belief that Mr. Bradner spoke to the politics, and she is looking for good governance. She relayed the following:

While you speak to the tyranny and certain positions on one side of this issue and this particular governor, there is another side. And if we're supposed to work together for the good policy, doesn't that come through better communication, rather than lowering the voting threshold, because that would be by a lower majority guiding the conversation? So, I'm asking you, what do you feel is good governance, without looking at this current political climate?

MR. BRADNER opined that this political climate only demonstrates the difficulty in governance. He expressed the following:

Your prerogatives have been invaded by the governor. We can argue about that and have differences of opinion about that, but ... most states have a two-thirds override. And I think the original intent of separation of powers was that the executive branch could not intimidate the legislative branch. And I think a three-quarters vote, with our regionalism and so on - absent whether it's today's politics or tomorrow's politics - really is invasive of ... the legislature's ability to legislate. And you're the

people's body politic - and it's messy at times. I've often called the legislature sort of the 'garbage can' because that's where the public brings their issues, and you fight it out, and the public sometimes gets frustrated because you're really not one legislature, you're two. You're a House; you're a Senate; you're many committees. ... The public hears this kind of commotion and ... the legislature gets criticism perhaps it isn't due. I absolutely think that good governance requires that the legislature have reasonable opportunity to override a governor's veto. In this case, I think it's almost impossible.

[3:13:03 PM](#)

REPRESENTATIVE SHAW referred to the comment about intimidation from the governor. He asked, "If we lower the standards, don't we have a majority that intimidates the minority?"

MR. BRADNER replied that [the two-thirds veto override vote threshold] is the standard in most states. The executive branch oversees administering the statutes and is not entitled - in any fashion - to intimidate the legislative process. He said that the legislative process belongs to the legislature; it is through that process the legislature responds to the public. He answered, "No ... I think ... we're sort of at a point here where we've got to make some decisions."

[3:14:00 PM](#)

MIKE COONS testified that 36 states require a two-thirds vote to override a veto; 7 states require three-fifths; 6 require a simple majority; and Alaska requires three-fourths. He said that 22 states, as of November 2018, have veto-proof majorities. He continued with the following testimony:

Yes, Alaska is the only one with three-quarters vote, and I'm glad our founding fathers, in writing the state constitution, did so. Obviously, the founding fathers did not look upon the governor as a tyrant or call the Office of the Governor an office of a tyrant; it is an insult to our republic. Remember, we are a republic, not a democracy. What this boils down to in my opinion - this is nothing more than an attempt to make it easier to override a strong governor who is keeping spending or attempting to keep spending under control. These last attempts at overriding Governor

Dunleavy's line-item vetoes were a failure. Even this last attempt would have failed by one vote if two legislators were ... and if two legislators were there, it would have failed by three. The person that is testifying for this is making this about this governor by a bill that would impact decades - if not longer - of other governors. The governor has constitutional amendments that this committee has refused to bring forward that would have far better impact on the people of Alaska. I call on Representative Kreiss-Tomkins to bring forward those bills and stop trying to undo what was and is the best way to stop overspending.

[3:16:22 PM](#)

ADAM HYKES offered the following testimony:

I voted for the governor in the past election, and it's really hard to see this as a way to not cover for the attempt last session to override his vetoes when there weren't enough legislators present at an unauthorized special session in Juneau when the governor had clearly called the [legislature] constitutionally within his powers to the Valley up here in the Interior. It's hard not to view this any other way, especially since the [legislature] has consistently fought against the governor. I see this resolution as a dangerous advance towards muddying the waters as far as separation of powers go in our state.

[Public testimony was treated as closed.]

[3:17:41 PM](#)

CO-CHAIR FIELDS moved to report HJR 15 out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE VANCE objected.

A roll call vote was taken. Representatives Thompson, Hopkins, Story, Fields, and Kreiss-Tomkins voted in favor of reporting HJR 15 out of committee. Representatives Vance and Shaw voted against it. Therefore, HJR 15 was reported from the House State Affairs Standing Committee by a vote of 5-2.

[3:18:26 PM](#)

The committee took an at-ease from 3:18 p.m. to 3:23 p.m.

HB 187-RESTRICT OUT-OF-STATE CORRECTIONAL FACIL.

[3:23:11 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 187, "An Act relating to correctional facilities; relating to the authority of the commissioner of corrections to designate the correctional facility to which a prisoner is to be committed; and providing for an effective date."

[3:23:43 PM](#)

CO-CHAIR FIELDS moved to adopt Amendment 1, labeled 31-LS1253\E.6, Radford, 1/28/20, which read:

Page 1, line 10:
Delete "or private"
Insert "[OR PRIVATE]"

Page 1, line 14:
Delete "or private"

Page 2, line 6:
Delete "an"
Insert "a public"

Page 2, line 7:
Delete "or"

Page 2, line 8:
Delete "[OR SECURITY]"
Insert "or security"

Page 2, line 9, following "prisoner":
Insert "; or
(3) to reduce the cost of housing a
prisoner who
(A) is not a resident of the state; or
(B) has been sentenced to a term or
aggregate term of imprisonment of 99 years or more,
and, if the prisoner is a parent, the prisoner

(i) does not have a child under 18 years of age residing in the state; or
(ii) has a child under 18 years of age residing in the state, but the prisoner's parental rights to the child have been terminated"

Page 2, lines 17 - 19:

Delete "state. Notwithstanding AS 36.30.300, an agreement with a private agency to provide necessary facilities outside the state under (a) of this section must be based on competitive bids."

Insert "state or outside the state.
[NOTWITHSTANDING AS 36.30.300, AN AGREEMENT WITH A PRIVATE AGENCY TO PROVIDE NECESSARY FACILITIES UNDER (a) OF THIS SECTION MUST BE BASED ON COMPETITIVE BIDS.]"

Page 3, line 2:

Delete "or"

Page 3, line 3, following "health":

Insert "or security"

Page 3, line 4, following "considerations":

Insert "; or

(C) would reduce the cost of housing a prisoner who is not a resident of the state or has been sentenced to a term or aggregate term of imprisonment of 99 years or more, and, if the prisoner is a parent, the prisoner

(i) does not have a child under 18 years of age residing in the state; or

(ii) has a child under 18 years of age residing in the state, but the prisoner's parental rights to the child have been terminated"

REPRESENTATIVE THOMPSON objected for discussion purposes.

CO-CHAIR FIELDS mentioned that he worked with Representative Jackson's office to incorporate her suggestions into the proposed amendment. He explained that the intent of Amendment 1 is that if it is cheaper to house a prisoner out of state, in the case of a prisoner sentenced to serve 99 years or longer - essentially a life sentence - who does not have family for whom family visitation is important for the emotional development of a child who lives in Alaska, then the Department of Corrections

(DOC) would have the option of housing that prisoner out of state. He added that the prisoners in this category number 20 or fewer. He noted that there are a few prisoners currently incarcerated out of state. As an example, a police officer who commits an offense is incarcerated out of state for security reasons. Nothing in the proposed amendment or the proposed legislation would inhibit the ability of DOC to house a limited population of prisoners out of state consistent with the Interstate Corrections Compact.

[3:26:32 PM](#)

REPRESENTATIVE THOMPSON referred to page 2, line 27, of Amendment 1, which read in part, "... imprisonment of 99 years or more ..." He asked how long a prisoner sentenced to 99 years with [the possibility of] parole must serve before being eligible for parole.

CO-CHAIR FIELDS answered that the intent of the amendment was that it apply to those incarcerated for life. He suggested getting an opinion from Legislative Legal Services.

[3:28:00 PM](#)

KELLY GOODE, Deputy Commissioner, Department of Corrections (DOC), responded that there are many considerations for calculating time served; however, in general, it is possible for an inmate to reduce his/her sentence by one-third for good behavior. She stated that Alaska does not give life sentences; sentences are given in years. She offered that the age of the individual and the average lifespan would determine whether a sentence constitutes a life imprisonment, and DOC considers 78 years of age to be an average lifespan for a male.

[3:29:26 PM](#)

REPRESENTATIVE HOPKINS asked whether someone sentenced to 99-plus years would be transferred automatically out of state under HB 187.

CO-CHAIR FIELDS replied no. The proposed legislation would give the commissioner of DOC the option of doing so if it is cost effective.

REPRESENTATIVE HOPKINS asked whether it would be based on cost alone and not the type of crime.

CO-CHAIR FIELDS reiterated that HB 187 would give the commissioner the option if it is cheaper. The commissioner may take other factors into account, which are not specified in the proposed legislation.

REPRESENTATIVE HOPKINS asked whether those other factors would be at the digression of the commissioner on an individual basis.

CO-CHAIR FIELDS answered yes.

REPRESENTATIVE HOPKINS asked whether a person, who has his/her sentence reduced, would be transferred back to an Alaska facility.

MS. GOODE replied that as HB 187 reads, the [exemption] would not be applicable at that point and DOC would have to review the case.

REPRESENTATIVE HOPKINS referred to Amendment 1, [page 1, line 22], which read, "... is not a resident of the state ...", and asked, "Do we currently have anybody housed in Alaska who is not a resident of the state?"

MS. GOODE answered that there are people who travel to Alaska and commit crimes, and they may be incarcerated by Alaska DOC. She said she would provide that number but does not expect it to be very large.

REPRESENTATIVE HOPKINS asked whether criminals serve their time where they commit their crimes.

MS. GOODE replied, "For the most part, yes."

REPRESENTATIVE HOPKINS asked for the variables [that would determine the location of incarceration].

MS. GOODE responded, "In general, we sentence the folks up here, except for the 11 people right now that we have in different locations due to extenuating circumstances."

[3:32:34 PM](#)

REPRESENTATIVE VANCE asked for the current policy for sending inmates Outside.

MS. GOODE stated that currently there is a classification unit that looks at the best housing options for inmates. For

example, if a former police officer has committed a crime and is incarcerated, DOC is notified internally of that individual. The classification unit will review that case because of the security issues associated with housing that person in state due to his/her prior profession. The department works with other states through the compact - as described in statute - to find a suitable placement.

REPRESENTATIVE VANCE asked Ms. Goode for her recommendation on statutory wording to reflect Representative Jackson's intent as it relates to life-long inmates who will not be released.

MS. GOODE responded that she understands the representative's intent, and mathematically the "99 years or more" is a close approximation. She said that, broadly speaking, if someone commits a crime at 20 years old, earned all the "good time" available to him/her, the remaining 60 years to be served would exceed the anticipated average lifespan of 78 years. She said policy is the legislature's purview, but according to the mathematics, the proposed amendment approaches Representative Jackson's intent. She added that DOC estimates that there are about 200 people who fall into the category of people not likely to be released, and the wording in the amendment encompasses most of them. She offered to work with the sponsor to achieve the goal behind the amendment.

[3:37:07 PM](#)

ELIJAH VERHAGEN, Staff, Representative Sharon Jackson, on behalf of Representative Jackson, acknowledged that the "99 years" may not be ideal language and confirmed that Representative Jackson's intent is to not send prisoners out of state who will be released into Alaska. He mentioned alternate wording, drafted by Legislative Legal Services, to encompass the group of prisoners not likely to be released, but it was not ready by the amendment deadline.

[3:39:10 PM](#)

The committee took an at-ease from 3:39 p.m. to 3:41 p.m.

[3:41:30 PM](#)

CO-CHAIR KREISS-TOMKINS made comments on process.

[3:42:23 PM](#)

REPRESENTATIVE THOMPSON withdrew his objection to Amendment 1.

CO-CHAIR KREISS-TOMKINS objected to Amendment 1 for clarification purposes.

[3:43:07 PM](#)

REPRESENTATIVE HOPKINS asked how DOC would determine which out-of-state facilities will afford Alaska lower costs.

MS. GOODE reminded the committee that the proposed amendment was not submitted by DOC. She opined that DOC would need to develop guidelines for making these determinations. She mentioned that the cost of one inmate per day in Alaska is \$168.74; the classification unit has relationships with other states and knows the costs associated with other states' public prisons. In this way DOC would ensure that cost savings were realized as required by statute.

REPRESENTATIVE HOPKINS asked whether all people sentenced to 99 years or longer committed violent crimes, or whether there are other crimes resulting in incarceration for 99 years, such as extensive drug dealing crimes.

MS. GOODE answered that she cannot answer that question. She relayed that unclassified felonies do result in incarceration for that length of time, and perhaps conspiracy is an unclassified felony. She offered to provide that information.

CO-CHAIR FIELDS said, in summary, that Amendment 1 would allow DOC the option of housing a very limited subsection of prisoners - those with extremely long sentences of 99 years or more - out of state in the event that such out-of-state placement would save money based on a reasonably comprehensive analysis. It does not mandate that the commissioner place prisoners out of state; it does not prescribe certain groups to be placed out of state; it does not alter the department's existing authority under the Interstate Corrections Compact.

CO-CHAIR KREISS-TOMKINS removed his objection to Amendment 1. There being no further objection, it was so ordered.

[3:47:18 PM](#)

REPRESENTATIVE STORY referred to the exclusion of parents [with children living in Alaska] among the categories of inmates that may be sent out of state, [page 2, line 25 - page 3, line 2],

and asked whether adult children of Alaska residents should be excluded as well, in view of DOC's concern for family ties. She offered another point - a parent is listed for exclusion but in some cases a guardian of a child under 18 may be involved, not a parent. She added that in some cultures other relatives raise a child. She asked that these additional circumstances be considered to protect the family unit.

[3:49:59 PM](#)

REPRESENTATIVE VANCE relayed that she supports keeping Alaska prisoners in state; it is vital for the rehabilitation of inmates to become productive members of the community. She referred to the fiscal note (FN) analysis, which read:

If this legislation were passed, these prisoners would be required to remain within an Alaska prison and could jeopardize the safety and security of the staff, prisoners, and facility. ... If this legislation were passed, it is unknown the full financial impacts that could result from; facility overcrowding, increased staffing overtime, potential litigation, facility renovations and repairs, as well as other costs associated with identifying increased bed capacity; therefore, an indeterminate fiscal note is being submitted.

REPRESENTATIVE VANCE expressed that this portion of the analysis is concerning and asked for further explanation.

MS. GOODE replied that two questions are being asked. The first - about security issues - was addressed by Amendment 1; DOC will be able to take those security risks and work with other states; therefore, that portion of the FN will be modified. The second portion of the analysis reflects the department's view of having the available tools to manage the prison population when the tools are needed. Regarding facility overcrowding, she offered the following: Having the ability to send inmates out of state - although not the desired option - is a "population tool" to manage prison overcapacity, avoid being sued, and address security issues. The department cannot anticipate all the consequences of overcrowding but wants as many tools as possible to manage it.

REPRESENTATIVE VANCE offered her understanding that there are many halfway house beds available at \$90 per day. She asked whether DOC has the flexibility to put unsentenced prisoners

into the halfway houses to accommodate capacity and funding concerns.

MS. GOODE replied that DOC fully supports placing inmates into community residential centers (CRCs) - halfway houses - as well as on electronic monitoring (EM). She said that there are many restrictions that guide DOC, both municipal ordinances and state statutes. She relayed that one minimum custody inmate may qualify for both housing options, but there are not many inmates who qualify for either. She said that DOC has been reviewing inmates constantly since the legislative session [of 2019] in response to the pressure to release prisoners when it is safe to do so. The caveat for DOC is finding appropriate inmates for release. She stated that by statute, DOC cannot put someone with the charge of domestic violence (DV) out on EM; therefore, that group of inmates is not eligible for release. She added that there are ordinances that preclude putting someone charged as a sex offender into a CRC. Some locations allow someone charged with a felony crime to be released, some do not. Being sentenced versus unsentenced can make a difference for release. She maintained that the classification unit is constantly looking at options for inmates. The bed charge for CRCs is less, DOC would like to take advantage of that, but it is a matter of finding the right inmate at the right time with the right amount of time left on his/her sentence. She mentioned that a halfway house is transitional housing for reintegration back into society; it would be inappropriate to put someone with five years left on his/her sentence into a halfway house.

[3:55:56 PM](#)

REPRESENTATIVE VANCE referred to page 2, lines 15-17, which read:

The commissioner may not enter into an agreement with a private agency to establish, maintain, operate, control, or provide necessary facilities located in this state.

REPRESENTATIVE VANCE asked whether DOC has agreements with private agencies that HB 187 would limit.

MS. GOODE expressed her belief that HB 187 refers to private prison facilities; Alaska does not have such agreements. She stated that Alaska's CRCs are through private contracts; she offered her understanding that HB 187 does not apply to CRCs.

CO-CHAIR FIELDS agreed that the intent of the proposed legislation is not to limit CRCs operated by private entities. He said, "That would be disruptive."

[3:57:20 PM](#)

REPRESENTATIVE STORY acknowledged that an inmate would not serve as a guardian; she expressed her concern that close relatives be considered under the proposed legislation.

[3:58:07 PM](#)

CO-CHAIR KREISS-TOMKINS opened public and invited testimony on HB 187.

[3:58:28 PM](#)

CATHLEEN MCLAUGHLIN, Owner, Restorative and Reentry Services LLC, testified that she supports HB 187 but cautioned the committee to be careful about the language in Amendment 1. As the former director of the Partners Reentry Center [Anchorage], she attested to there being many 99-year sentence people released from prison on parole - so many that the center created a group specifically for these people, because they have different reentry plans than people who are short termers. She maintained that in her experience, the assumption that inmates sentenced for 99 years will serve at least 60-plus years was just not true. Prisoners were applying for and getting parole after 25-30 years.

MS. MCLAUGHLIN offered five points supportive of HB 187: 1) The displacement of inmates into areas outside of Alaska discourages rehabilitation. She emphasized the importance of an inmate being a family member and having a support group in the community in which that inmate lives. 2) Without HB 187, healthy communities that have been created within the walls of the correctional facilities are disassembled. She maintained that there are currently restorative programs in Spring Creek Correctional Center (SCCC) [Seward], Wildwood Correctional Center (WCC) [Kenai], and Hiland Mountain Correctional Center (HMCC) [Eagle River] with active participants and mentors. The long termers help run programs and model behavior. She said SCCC has a long termer who is now teaching a morals and ethics class that is highly popular, because he was able to model the behavior of a professor who came into the prison to teach non-violent conflict resolution. She asserted that long termers can be assets inside prison walls, if they are provided an

opportunity to participate in restorative programming. 3) Communities need to meet their soon-to-be neighbors before release. The DOC historically - in the past five years - has allowed community-based reentry centers, faith-based groups, and mentors to go into prisons to develop healthy relationships with the inmates, so that when the inmates are released, they have some place "to land." It would be difficult to continue to grow those kinds of programs when individuals with whom one is trying to build relationships are not in Alaska. It is especially important for the Alaska Native population who are incarcerated. She offered that 38 percent of the prison population is Alaska Native and only 18-19 percent of the Alaska population is Alaska Native. Not allowing these prisoners community access to help them grow with community members is not a healthy choice for the state. 4) For-profit prisons monetize punishment; they encourage more punitive approaches than rehabilitative and restorative approaches. Research demonstrates that there is an increase in technical violations and lack of incentive programs in private prisons, because the incarcerated individual is not a person but a product, and private prisons look for the lowest cost alternative. The reason it is a low-cost alternative is because it is a "containment" model and not a "restorative" model. The national trend is to steer away from for-profit prisons. She recommended that Alaska follow that trend. 5) HB 187 would provide Alaskans a guarantee that there will not be a change in policy every four years that changes cultures within the institutions - cultures that have grown over time. It is important for restorative programs to have continuity, and not be subject to changes in Alaska's political structure. She encouraged the state to "grow" what is working [within the correctional system] and eliminate what is not. She maintained that culture changes within institutions require time; behavior does not improve "at the flip of a switch"; the culture must be grown so that the people inside view the institution as a place of safety and participation. She added that she is a strong advocate for DOC having control over choices that need to be made. When you send people to non-profit centers out of state, Alaskans lose the local accountability that comes with housing prisoners locally.

[4:06:41 PM](#)

MIKE COONS paraphrased from the following prepared statement [original punctuation provided]:

[First], from what I read in this legislation, the DOC Commissioner is being denied the ability to use sound

management practices in putting prisoners where they will cost us the least amount of money, specifically for those with a long record of crime and no attempts to correct criminal behavior. I can see keeping and housing first term prisoners here, with strong programs to help them reintegrate back into the community and not return to a life of crime. Moving hardened criminals out of State or into more appropriate max security prisons keeps the first timer away from the hardened criminal. That increases the safety for the first timer and keeps them from learning the crime trade even more.

[Second] and something that I have yet to see done here and very few other States. When a crime is committed that is not just a State of Alaska crime, but a Federal crime, we need to turn that suspect over to the US Attorney General's office for prosecution. This saves Alaska costs at trial and prison costs. This gets that convicted criminal out of Alaska, into a Federal prison at the cost of the Federal prison system. Sure, we the taxpayers pay for that, but we do that already. These are serious crimes and most likely not something that a person with no criminal history would commit, thus they are the problem criminals that have a very poor recidivism rate to begin with.

This [second] idea may be out of the scope of the Commissioner of DOC, but why can't this bill be a path towards reducing prison overcrowding, prison costs as well as a means to realistically reduce the recidivism rate in our prisons.

[4:09:21 PM](#)

DAVID NEES offered that HB 187 is a good conversation starter for housing prisoners in Alaska. The reason for SCCC was due to a judge's decision that Alaska could not house prisoners Outside because of the absence of rehabilitation and closeness to family. It was a very expensive lawsuit to lose and cost the state several million dollars. He maintained that under HB 187, it would be difficult for the commissioner of DOC to comply with a judge's order; if a judge says the prisons are overcrowded, the commissioner would not have the option under HB 187 to send inmates out of state.

MR. NEES said that, as an education researcher for many years, there is very little data on the inmates and their histories. He maintained that the proposed legislation needs more work, which could possibly be done in the next committee of referral.

[4:11:46 PM](#)

KATIE BOTZ testified that she supports keeping family members close and inmates in Alaska. She expressed her understanding that sending inmates out of Alaska would cost the state more than keeping them in state. Since Alaska is low on revenue, it makes sense to reopen Palmer Correctional Center (PCC). She referred to her written testimony (included in the committee packet). She mentioned that she does not want Alaska to be viewed as a weak state which cannot take care of its own crimes and inmates. Alaska is a strong state and should take care of its own problems.

[4:13:54 PM](#)

LAURA BONNER testified that she remembers the fiasco of private prisons in Alaska and the discussions to bring Alaska prisoners back. She said she remembers the corruption and inefficiencies of that time and expressed that Alaska should never "go back to that." She said that she personally knows four prisoners who were incarcerated in out-of-state prisons; most of their crimes were fueled by trying to finance substance abuse. She relayed that she corresponded with all of them: they reported that they were isolated, pressured to become involved with gangs for their protection, had no access to rehabilitation programs or substance abuse recovery programs; and had no visitors while out of state. She asserted that the state could do a better job with them in state; Alaska does not need to contribute to gang recruitment; and while there still are not enough programs for reentry into the community, Alaska has made progress in that direction. She stated that it is important to continue this progress rather than utilize private prisons or send prisoners out of state. Reopening PCC is a step in the right direction.

[4:16:10 PM](#)

CO-CHAIR KREISS-TOMKINS closed public testimony on HB 187.

[4:16:32 PM](#)

CO-CHAIR FIELDS thanked the many legislators who assisted with HB 187.

[4:17:03 PM](#)

REPRESENTATIVE VANCE asked that action on HB 187 be postponed. She offered that there are many issues yet to be resolved and the committee should "get it right." She opined that there is ample time to move the proposed legislation in the House.

REPRESENTATIVE STORY suggested that a House Finance Standing Committee member could make changes to HB 187 in committee.

CO-CHAIR FIELDS stated that he does not have concerns about moving HB 187 through the House; his concerns are with getting it to the Senate on time to deliberate it and vote on it before the end of the session. It is very difficult to schedule a bill in the Senate toward the end of session; there are many more steps before HB 187 can become law.

REPRESENTATIVE VANCE expressed that she wishes to amend the proposed legislation in the current committee to get it right.

[4:20:48 PM](#)

REPRESENTATIVE VANCE moved to table HB 187 until a later date in order to get legal advice on the amendments.

CO-CHAIR KREISS-TOMKINS objected to the motion.

[4:21:12 PM](#)

The committee took a brief at-ease.

[4:21:38 PM](#)

CO-CHAIR KREISS-TOMKINS maintained his objection.

A roll call vote was taken. Representatives Vance, Hopkins, and Thompson voted in favor of tabling HB 187. Representatives Shaw, Story, Fields, and Kreiss-Tomkins voted against it. Therefore, tabling HB 187 failed by a vote of 3-5.

[4:22:17 PM](#)

CO-CHAIR FIELDS moved to report HB 187, as amended, out of committee with individual recommendations and an indeterminate fiscal note.

REPRESENTATIVE VANCE objected.

A roll call vote was taken. Representatives Shaw, Hopkins, Story, Fields, and Kreiss-Tomkins voted in favor of reporting HB 187, as amended, out of committee. Representatives Thompson and Vance voted against it. Therefore, CSHB 187(STA) was reported from the House State Affairs Standing Committee by a vote of 5-2.

[4:24:02 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:24 p.m.