

**ALASKA STATE LEGISLATURE
CONFERENCE COMMITTEE ON HB 49**

May 16, 2019

12:04 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Chuck Kopp
Representative Lance Pruitt

Senator Shirley Hughes, Chair
Senator Mike Shower
Senator Bill Wielechowski

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Lora Reinbold
Senator Peter Micciche
Senator Jesse Kiehl

COMMITTEE CALENDAR

HOUSE BILL NO. 49

"An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

- MOVED CCS HB 49 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 49

SHORT TITLE: CRIMES; SENTENCING;DRUGS;THEFT; REPORTS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/20/19	(H)	READ THE FIRST TIME - REFERRALS
02/20/19	(H)	JUD, FIN
03/22/19	(H)	JUD AT 1:30 PM GRUENBERG 120
03/22/19	(H)	Heard & Held
03/22/19	(H)	MINUTE(JUD)

03/25/19 (H) JUD AT 1:00 PM GRUENBERG 120
03/25/19 (H) Heard & Held
03/25/19 (H) MINUTE(JUD)
03/27/19 (H) JUD AT 1:00 PM GRUENBERG 120
03/27/19 (H) Scheduled but Not Heard
04/27/19 (H) JUD AT 1:00 PM GRUENBERG 120
04/27/19 (H) -- Continued from 04/26/19 --
04/29/19 (H) JUD AT 1:00 PM GRUENBERG 120
04/29/19 (H) Moved CSHB 49(JUD) Out of Committee
04/29/19 (H) MINUTE(JUD)
04/29/19 (H) FIN AT 1:30 PM ADAMS ROOM 519
04/29/19 (H) <Pending Referral>
04/29/19 (H) JUD AT 6:15 PM GRUENBERG 120
04/29/19 (H) -- MEETING CANCELED --
04/30/19 (H) JUD RPT CS(JUD) NT 1DP 2DNP 2NR 1AM
04/30/19 (H) DP: CLAMAN
04/30/19 (H) DNP: EASTMAN, STUTES
04/30/19 (H) NR: WOOL, SHAW
04/30/19 (H) AM: LEDOUX
04/30/19 (H) FIN AT 1:30 PM ADAMS ROOM 519
04/30/19 (H) Scheduled but Not Heard
05/01/19 (H) STUTES CHANGED FROM DNP TO DP UC
05/01/19 (H) JUD RPT CS(JUD) NT 2DP 1DNP 2NR 1AM
(CHANGED)
05/01/19 (H) FIN AT 1:30 PM ADAMS ROOM 519
05/01/19 (H) Heard & Held
05/01/19 (H) MINUTE(FIN)
05/01/19 (H) FIN AT 5:00 PM ADAMS ROOM 519
05/01/19 (H) Heard & Held
05/01/19 (H) MINUTE(FIN)
05/02/19 (H) FIN AT 1:30 PM ADAMS ROOM 519
05/02/19 (H) <Bill Hearing Canceled>
05/03/19 (H) FIN AT 1:30 PM ADAMS ROOM 519
05/03/19 (H) Scheduled but Not Heard
05/04/19 (H) FIN AT 12:00 AM ADAMS ROOM 519
05/04/19 (H) Heard & Held
05/04/19 (H) MINUTE(FIN)
05/04/19 (H) FIN AT 1:30 PM ADAMS ROOM 519
05/04/19 (H) -- MEETING CANCELED --
05/05/19 (H) FIN AT 1:30 PM ADAMS ROOM 519
05/05/19 (H) -- MEETING CANCELED --
05/06/19 (H) FIN RPT CS(FIN) 5DP 1NR 5AM
05/06/19 (H) (CS FORTHCOMING)
05/06/19 (H) DP: JOHNSTON, CARPENTER, LEBON, KNOPP,
WILSON
05/06/19 (H) NR: ORTIZ

05/06/19 (H) AM: TILTON, MERRICK, JOSEPHSON,
 SULLIVAN-LEONARD, FOSTER
 05/06/19 (H) FIN AT 9:00 AM ADAMS ROOM 519
 05/06/19 (H) Moved CSHB 49(FIN) Out of Committee
 05/06/19 (H) MINUTE(FIN)
 05/07/19 (H) CS(FIN) NT RECEIVED
 05/08/19 (H) MOTION TO RECESS FAILED Y15 N23 E2
 05/08/19 (H) LIMIT DEBATE ON AMS TO 2 MIN EACH Y23
 N14 E2 A1
 05/08/19 (H) SUSTAINED RULING OF CHAIR Y21 N15 E2 A2
 05/08/19 (H) TRANSMITTED TO (S)
 05/08/19 (H) VERSION: CSHB 49(FIN) AM
 05/09/19 (S) READ THE FIRST TIME - REFERRALS
 05/09/19 (S) FIN
 05/09/19 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/09/19 (S) -- MEETING CANCELED --
 05/09/19 (S) FIN AT 1:30 PM SENATE FINANCE 532
 05/09/19 (S) Heard & Held
 05/09/19 (S) MINUTE(FIN)
 05/10/19 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/10/19 (S) Heard & Held
 05/10/19 (S) MINUTE(FIN)
 05/10/19 (S) FIN AT 1:30 PM SENATE FINANCE 532
 05/10/19 (S) Heard & Held
 05/10/19 (S) MINUTE(FIN)
 05/12/19 (S) FIN RPT SCS FORTHCOMING 6DP 3AM NEW
 TITLE
 05/12/19 (S) DP: STEDMAN, VON IMHOF, MICCICHE,
 HOFFMAN, SHOWER, BISHOP
 05/12/19 (S) AM: WIELECHOWSKI, OLSON, WILSON
 05/12/19 (S) FIN AT 1:00 PM SENATE FINANCE 532
 05/12/19 (S) Moved SCS CSHB 49(FIN) AM Out of
 Committee
 05/12/19 (S) MINUTE(FIN)
 05/13/19 (S) FIN SCS RECEIVED NEW TITLE
 05/14/19 (S) BEFORE THE SENATE IN SECOND READING
 05/14/19 (S) VERSION: SCS CSHB 49(FIN) AM S
 05/14/19 (H) CONFERENCE COMMITTEE APPOINTED
 05/14/19 (H) CLAMAN (CHAIR), KOPP, PRUITT
 05/14/19 (S) CONFERENCE COMMITTEE APPOINTED
 05/14/19 (S) HUGHES (CHAIR), SHOWER, WIELECHOWSKI
 05/15/19 (H) FIRST SPECIAL SESSION BILL
 05/15/19 (H) HB49 AT 12:00 AM BUTROVICH 205
 05/15/19 (H) -- MEETING CANCELED --
 05/16/19 (H) HB49 AT 11:00 AM BUTROVICH 205

WITNESS REGISTER

KELLY GOODE, Deputy Commissioner
Department of Corrections (DOC)
Anchorage, Alaska

POSITION STATEMENT: Provided information during the Conference Committee on HB 49 meeting.

ACTION NARRATIVE

[12:04:59 PM](#)

CHAIR MATT CLAMAN called the Conference Committee on HB 49 meeting to order at [12:04] p.m. Representatives Pruitt, Kopp, and Claman and Senators Wielechowski, Shower, and Hughes were present at the call to order. Also present were Senators Reinbold, Micciche, and Kiehl.

HB 49-CRIMES; SENTENCING;DRUGS;THEFT; REPORTS

[12:05:37 PM](#)

CHAIR CLAMAN announced that the only order of business would be HOUSE BILL NO. 49, "An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

[Before the committee were CSHB 49(FIN) am and SCS CSHB 49(FIN) am S.]

[12:05:56 PM](#)

REPRESENTATIVE KOPP moved that the Conference Committee on HB 49 adopt CSHB 49(FIN) am, as a working document.

[12:06:04 PM](#)

CHAIR HUGHES objected.

[12:06:15 PM](#)

A roll call vote was taken. Representatives Kopp voted in favor of adopting CSHB 49(FIN) am, as a working document. Representatives Pruitt and Claman and Senators Wielechowski, Shower, and Hughes voted against it.

[12:06:43 PM](#)

REPRESENTATIVE KOPP asked for a reconsideration on his vote.

CHAIR CLAMAN [voided the roll].

[12:06:50 PM](#)

A roll call vote was taken. Representatives Kopp, Pruitt, and Claman voted against adopting CSHB 49(FIN) am, as a working document. Senators Wielechowski, Shower, and Hughes voted against adopting CSHB 49(FIN) am, as a working document. Therefore, the motion failed by a vote of 0:3 {House) and 0:3 (Senate).

[12:07:33 PM](#)

CHAIR HUGHES moved to adopt SCS CSHB 49(FIN) am S, as a working document.

[12:07:37 PM](#)

REPRESENTATIVE CLAMAN objected.

[12:07:44 PM](#)

A roll call vote was taken. Representative Pruitt voted in favor of the motion to adopt SCS CSHB 49(FIN) am S, as a working document. Representatives Kopp and Claman voted against it. Senators Shower and Hughes voted in favor of the motion to adopt SCS CSHB 49(FIN) am S, as a working document. Senator Wielechowski voted against it. Therefore, the motion failed by a vote of 1:2 (House) and 2:1 (Senate).

[12:08:22 PM](#)

CHAIR HUGHES moved to adopt SCS CSHB 49(FIN) am S, Version 31-GH1029\R.A [as modified - details follow below] as a working document. There being no objection, Version R.A [with the following modifications] was before the committee.

[12:08:50 PM](#)

REPRESENTATIVE CLAMAN announced that the Conference Committee on HB 49 would use Version R.A as its working document, with the following modifications and changes, which he listed from a script that read as follows [original punctuation provided]:

- 1.) The Pretrial Division will remain as set forth in existing statutes.
- 2.) The House version of the bill establishing that the court shall consider the pretrial risk assessment in making bail decisions so long as the assessment is available.
- 3.) The terroristic threatening definition in the House version section 31 as amended to correct technical and drafting issues.
- 4.) The disorderly conduct provisions in section 40 as amended to include a sentence of not more than 72-hours for the first offense and a sentence of not more than 10 days on all subsequent convictions.
- 5.) The 2nd time drug possession offense in section 51 as amended to add a 10-year look back provision.
- 6.) Modifications to the felony presumptive sentencing structure with regard to class A, B, & C felonies in sections 72, 73, and 74 to reflect the sentencing structure as follows:
 - Class A felony (1st conviction): 4-7 years
 - Class A felony (2nd conviction): 10-14 years
 - Class A felony (3rd conviction): 15-20 years
 - Class B felony (1st conviction): 1-3 years
 - Class B felony (2nd conviction): 3-7 years
 - Class B felony (3rd conviction): 6-10 years
 - Class C felony (1st conviction): 0-2 years
 - Class C felony (2nd conviction): 2-4 years
 - Class C felony (3rd conviction): 3-5 years
- 7.) The DWLS provisions in sections 94 & 95 as amended to provide that first time incidents involving an administrative suspension is a violation and all subsequent incidents are a crime.
- 8.) The parole restructuring in sections 108, 109, 112, 124, and 125 as amended to remove manslaughter from the subject offenses that are not eligible for discretionary parole and good time credit.

- 9.) The limitation on pretrial rehabilitation credit in section 68 as amended to establish a 1-year limit replacing the 180-day limit. The amendment will be 1 year and not 165 days as noted on the annotated bill.
- 10.) The House version regarding section 144, which means no change to Criminal Rules 45 and a defendant's right to waive their speedy trial rights and the section will not be in the bill.
- 11.) Section 77 in the house version regarding applications for discretionary parole.
- 12.) Section 101 of the bill regarding use of headlights as amended to correct technical and drafting issues.
- 13.) Section 157 as amended to remove the reference to "section 101" of the bill.
- 14.) Section 145 of the bill and section 99 of the house version as amended to accurately reflect sections repealed.
- 15.) All sections in the bill and the House version regarding applicability as amended.
- 16.) Section 55 will be amended to add references as necessary to conform to changes in this bill. This change will require limited powers of free conference.

[12:12:22 PM](#)

REPRESENTATIVE CLAMAN relayed that there had been committee consideration about whether to [seek] powers of free conference to address final regulations for the pretrial assessment tool, as well as amendments for a peer review of the tool. He said the decision was made not to seek powers of free conference, but there have been questions about the Department of Corrections and its plans to get the pretrial risk assessment tool regulations in place. Chair Claman invited Kelly Goode to come before the committee to speak on this issue.

[12:13:23 PM](#)

KELLY GOODE, Deputy Commissioner, Department of Corrections (DOC), stated that both she and the commissioner of the department have been on the record that the department will establish the regulations necessary to comply with the law. She

said, "We understand that those were not done previously, and we'll correct that." In response to Chair Claman, she said she could not give an exact timeline for completion of the regulations, but she said it is the commissioner's desire to work on them immediately, "once we've got everything in place." She said this would be done "as efficiently and as quickly as possible."

CHAIR CLAMAN asked if Ms. Goode could offer reasonable confidence that by the time the legislature convenes in January 2020 the regulations would be in place.

MS. GOODE answered, "That is definitely our hope, yes."

[12:14:20 PM](#)

CHAIR HUGHES noted there had been an agreement to add peer review language for the assessment tool; however, because that would be complicated, there was agreement not to include that language. She said there has been discussion about putting forth a bill in which "the particulars of that could be worked out." She asked Ms. Goode for comment.

MS. GOODE said the only language pertaining to this issue that she had seen was perhaps in an amendment in the House Judiciary Standing Committee. She said the department would be willing to look at the issue with legislative members to "see how that could maybe positively affect it." She added, "But we don't have any position on that right now."

CHAIR HUGHES clarified, "We're not wanting a fiscal note with this study; ... we just wanting to make sure we have something as accurate as possible." She said this could be something to work on in the next session.

[12:15:42 PM](#)

REPRESENTATIVE CLAMAN noted that Representative Shaw had offered an amendment [in the House Judiciary Standing Committee], and although the amendment was defeated, Representative Claman expressed his support "of that same direction."

[12:16:20 PM](#)

SENATOR SHOWER, regarding driving with license revoked (DWLR) and driving with license suspended (DWLS), stated for the record that an agreement had been reached that first-time offenses -

administrative offenses - would be violations, while all court revocations - criminal offenses - would be a Class A misdemeanor.

REPRESENTATIVE CLAMAN confirmed that is correct. He added that only administrative revocations would get a first-time violation; anything that is a court revocation would be a misdemeanor. He added, "It's only that first administrative ... suspension that could be a violation, and the second time, that would be a crime."

[12:17:28 PM](#)

REPRESENTATIVE KOPP elucidated that administrative suspensions are usually four points or a lapse in insurance, versus suspensions - revocations for criminal offenses - like driving under the influence (DUI).

[12:17:47 PM](#)

CHAIR HUGHES stated that the authorization for the pretrial services program is being added, but this would do nothing to prohibit the current administration from operating the pretrial services program as it currently has been doing under the probation and parole program.

[12:18:17 PM](#)

SENATOR SHOWER noted there had been "a lot of consternation about the risk assessment tool," but it has been agreed that while the tool stays, it would not be required of a judge to use that tool.

[12:19:02 PM](#)

CHAIR HUGHES clarified the tool would be on a list of things the judge considers, but would absolutely have "no weight or power or authority."

[12:19:16 PM](#)

REPRESENTATIVE KOPP confirmed the correctness of Chair Hughes' statement. He said, "It is something the court will consider, but it is no longer directly a trump card, if you will, on the decision to release or not."

[12:19:35 PM](#)

SENATOR SHOWER clarified, "There's no longer any weight to this; it's just a list of 12 different items that a judge may look at." He explained that that had been "a big point of contention," so he wanted the public to have this information.

[12:20:04 PM](#)

REPRESENTATIVE CLAMAN expressed interest in seeing the research and data by the University of Alaska - Anchorage Justice Center regarding the pretrial assessment tool, and he said that information would most likely be available by the end of June [2019].

[12:20:36 PM](#)

REPRESENTATIVE KOPP expressed his pleasure in the combined efforts of both minority and majority members in the House and Senate in coming forward with a joint proposal. He emphasized the role played by minority members and highlighted in particular the role that Senator Wielechowski played in facilitating discussion. He opined that it is good to have skilled attorneys involved in the dialogue. Referring to legislative members again, he stated, "It's a stronger proposal because it is joint."

[12:21:25 PM](#)

CHAIR HUGHES thanked the public for weighing in and putting pressure on the legislature to overhaul the criminal statutes. She then thanked staff members who worked tirelessly to "help get us to this point." She noted that agreement had been reached to create an informal working group to look at ways to reduce recidivism and give the Department of Corrections the necessary tools to help offenders be in better shape when they exit the system. She concluded, "That is step two of making Alaska a safer place."

[12:22:36 PM](#)

SENATOR WIELECHOWSKI thanked Senator Hughes and Representative Claman for their leadership. He said, "This was truly a bipartisan/bicameral effort. Everyone was involved." He said there were heated discussion in the creation of a "tough on crime" bill that he called "an absolute repeal and replacement on Senate Bill 91 [passed during the Twenty-Ninth Alaska State

Legislature]." He thanked staff for their input and expressed support of Version R.A [as modified].

REPRESENTATIVE CLAMAN thanked all members of the Conference Committee on HB 49 for their efforts to do what is right for Alaska in increasing public safety. He thanked staff for their help.

[12:24:06 PM](#)

CHAIR HUGHES moved to request limited powers of free conference for HB 49 on: Sections 31, 50, 99 (House); and Sections 39, 40, 51, 55, 68, 72, 73, 74, 94, 95, 101, 108, 109, 112, 124, 125, 145, 157, 158 (Senate); any remaining sections related to pretrial services: 62, 67, 104, 105, 106, 107, 128, 149, 150 (Senate). There being no objection, it was so ordered.

CHAIR CLAMAN noted members must sign a letter.

[12:25:03 PM](#)

The committee took an at-ease from 12:25 p.m. to 12:27 p.m.

[12:27:01 PM](#)

SENATOR SHOWER thanked Senators Peter Micciche and Lora Reinbold, in the audience, for their efforts on this legislation. He further thanked Majority Leader, Senator Mia Costello as an "outspoken voice of the victim."

[12:27:53 PM](#)

CHAIR HUGHES moved that pursuant to receiving the power and the suspension of the Uniform Rules as requested, the Conference Committee on HB 49 adopt the conference committee substitute (CCS) for HB 49, as described by [Chair Claman], with attached and forthcoming fiscal notes.

CHAIR CLAMAN stated that the motion before the committee was to send a report to the respective bodies recommending the approval of CCS HB 49.

[12:28:15 PM](#)

A roll call vote was taken. Representatives Pruitt, Kopp, and Claman voted in favor of adopting the CCS for HB 49. Senators Wielechowski, Shower, and Hughes voted in favor of adopting the

CCS for HB 49. Therefore, by a vote of 3:0 (House) and 3:0 (Senate), it was so ordered.

[12:28:42 PM](#)

ADJOURNMENT

There being no further business before the committee, the Conference Committee on HB 49 meeting was adjourned at 12:29 p.m.