

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

January 25, 2019

1:32 p.m.

**MEMBERS PRESENT**

Senator Shelley Hughes, Chair  
Senator Lora Reinbold, Vice Chair  
Senator Mike Shower  
Senator Peter Micciche  
Senator Jesse Kiehl

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Grier Hopkins

**COMMITTEE CALENDAR**

OVERVIEW: ALASKA COURT SYSTEM

- HEARD

SENATE BILL NO. 8

"An Act restricting the release of certain records of convictions; amending Rule 37.6, Alaska Rules of Administration; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 8

SHORT TITLE: ACCESS TO MARIJUANA CONVICTION RECORDS

SPONSOR(S): SENATOR(S) BEGICH

01/16/19	(S)	PREFILE RELEASED 1/7/19
01/16/19	(S)	READ THE FIRST TIME - REFERRALS
01/16/19	(S)	JUD
01/25/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

## **WITNESS REGISTER**

NANCY MEADE, General Counsel  
Administrative Offices  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Delivered an overview of the Alaska Court System.

SENATOR TOM BEGICH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as sponsor of SB 8.

SYDNEY LIENEMANN, Ph.D., Staff  
Senator Tom Begich  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 8 on behalf of the sponsor.

CATHLEEN MCLAUGHLIN, Director  
Partners Reentry Center (PRC)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of SB 8.

## **ACTION NARRATIVE**

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**CHAIR SHELLEY HUGHES** called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Micciche, Kiehl, Reinbold, Shower and Chair Hughes.

### **Overview: Alaska Court System**

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CHAIR HUGHES announced that the first order of business would be an overview of the Alaska Court System by Nancy Meade.

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NANCY MEADE, General Counsel, Administrative Offices, Alaska Court System (ACS), offered to provide a brief summary of the Alaska Court System describing the operations of the court system and the services it provides. A specific budget overview will be given later to the Senate Finance Committee by Deputy Administrative Director Doug Wooliver, and she handles the ACS's

legislative bills before the legislature, she said. The court system is the primary component of the judicial branch of government, established by Article IV of the Alaska Constitution, often referred to as the third branch of government. The judicial branch includes two smaller components, the Alaska Judicial Council and the Commission on Judicial Conduct, which are not related to the ACS but impact the court system. Article IV of the Alaska Constitution established the courts as a unified court system, which means it has one administrative office. Every court in Alaska reports to the administrative office located in Anchorage, which has sway over the entire state. Alaska does not have any municipal, borough, or city courts. Thus, the administrative office in Anchorage handles citations issued by the Kenai Peninsula Borough police or Anchorage police departments. She paraphrased the ACS mission, which is to provide an impartial forum for the just resolution of disputes.

MS. MEADE said that people sometimes confuse the ACS with the work of Department of Law's assistant attorneys general, district attorneys, public defenders and Office of Public Advocacy (OPA) of the [executive branch] under the governor, but the ACS is separate. She works directly for the Alaska Supreme Court and the ACS's administrative director, not the executive branch. As a separate branch of government, the ACS works to provide an impartial forum for dispute resolution. She respects the separation of powers and does not opine on policy issues in testimony or otherwise but allows the legislature to make decisions that will be reflected in the statutes. Her job is to help ensure that laws are as clear as possible to minimize litigation and inform the legislature how the policy issues might be applied or impact the criminal justice system, she said. She clarified that she also does not opine on constitutionality or whether a bill represents good or bad policy, except in very rare circumstances, for example, if something might impact the operation of the courts.

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MS. MEADE referred to a map in members' packets, "Alaska Court Locations, FY 2018," that identifies the four judicial districts in Alaska with the 40 court locations identified by "dots", with superior and district courts indicated by a larger "dot." The state owns 11 ACS buildings, including the Juneau court building, yet 27 of 40 court sites are rented from municipalities, organizations, or private parties. Turning to the map, she pointed out the four judicial districts and specifically the Fourth Judicial District to illustrate the

structure. She related that aside from the superior and district courts located in Fairbanks and Bethel other locations are variously staffed. This district has one circuit magistrate judge who travels between Aniak, Delta Junction and Nenana, while a local magistrate judge covers Hooper Bay and Emmonak, and lower level magistrates and deputy magistrates handle some proceedings. Each judicial district has one presiding judge with jurisdiction over administrative matters for the specific district.

She reported that the ACS has 747 employees, including 73 judges and justices, down about 70 positions from three years ago, with a budget of \$108 million, largely consisting of general fund dollars, representing 1.4 percent of the state's budget. The ACS receives its funding from legislative appropriation and has a tiny amount of grant funding, she said. Any money received by the ACS is deposited to the state's general fund.

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MS. MEADE briefly reviewed the three levels of courts in the system. She said the Alaska Supreme Court (ASC), the highest court, consists of five justices, who elect a chief justice, noting that the current chief justice is Joe Bolger. The Alaska Constitution allows the chief justice to serve more than one term but not two consecutive terms. The chief justice will deliver the State of the Judiciary Address to a joint session of the legislature in early February. She described how the ASC handles cases in the state, noting it primarily functions in Anchorage but travels to Fairbanks and Juneau several times a year to hear cases in the district in which the dispute arose. The ASC also performs community outreach at one of the high schools every year. Citizens have a right to appeal their cases and the ASC oversees all court appeals. The ASC also takes criminal cases by discretion. No witnesses appear before the ASC since it is an appellate court. The court issues written decisions after oral arguments, and these decisions become common law, which is binding. The ASC can adopt court rules of practice and procedure and administrative rules. She provided types of procedures, including criminal rules of procedure and civil rules of procedure.

MS. MEADE turned to the court of appeals, which consists of three judges with jurisdiction only over criminal matters and related matters such as juvenile delinquency or post-conviction release cases. The Court of Appeals primarily handles sentencing and merit appeals, she said.

MS. MEADE said the trial courts are divided into two types: superior court and district court. The superior court is the court of general jurisdiction and the court can handle any trial issue that may arise, such as felonies, child in need of aid (CINA), probate matters, and domestic relations, she said. The district court can handle a subset of the cases, including misdemeanors, civil cases up to a certain dollar amount and domestic violence petitions.

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MS. MEADE noted that therapeutic courts are special-problem courts operated in six locations in the state, including Juneau, Anchorage, Kenai, Palmer, Fairbanks and Bethel. These courts handle cases including driving while under the influence (DUI) drug-related misdemeanors and felonies. Some locations in Alaska also have a mental health court. She related that Anchorage has a veterans' court and family courts. The goal of the therapeutic court is to identify defendants whose involvement with the criminal justice system stems from underlying problems of addiction to alcohol or controlled substances or from mental health disorders. The goal of the therapeutic court is to address the underlying issues to stop the criminality and recidivism. She reported that recidivism is about a third lower rate for therapeutic court participants. The therapeutic court program is resource intensive and requires interagency collaboration typically involving a judge, district attorney, public defender or defense counsel, probation officer, and social services providers from the ACS, the Department of Law (DOL), Department of Administration (DOA), Department of Health and Social Services (DHSS), and Department of Corrections (DOC), who all work together to resolve an individual's issue. The person must volunteer for the therapeutic court and must be approved as an appropriate candidate, who typically will receive a benefit, such as less jail time or fines.

MS. MEADE reviewed the various committees and groups in the court system. The ACS relies on collaboration with other agencies and groups, including the criminal justice working group (CJWG) comprised of the chief justice and other high-level agency criminal justice system staff. The CJWG's purpose is to identify and resolve operational issues, hurdles and barriers in an open environment. She pointed out that the ASC recently created a guardianship committee to address issues for Alaska's aging population, noting the increase in guardianship hearings. The committee consists of judges, court staff, and the office of public advocacy (OPA) staff who work to try to solve problems. In addition, the federally-funded court improvement project

aimed at CINA cases involves public defenders and other staff who work to address CINA matters. She reiterated that the ACS works with many other committees and administration staff to address issues related to the criminal justice system.

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SENATOR REINBOLD said that yesterday the criminal justice commission (CJC) met and today the criminal justice working group (CJWG) will meet. She asked for further clarification on the two groups and how they correlate their work.

MS. MEADE answered that the criminal justice commission (CJC), established in [Alaska] statute in 2016, sets out who serves on the commission and their duties and tasks. Its purpose is to study issues related to the criminal justice system and make recommendations to the legislature on ways to address them. She described the criminal justice working group (CJWG), which has been ongoing for many years, as a group who primarily works on operational issues rather than structural ones, for example, the CJWG could assess how a pilot project in Juneau or Fairbanks is being implemented.

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SENATOR REINBOLD asked whether the CJC and CJWG are separate entities.

MS. MEADE agreed that the two groups are separate; however, some crossover between the two exists since some of the same people serve on the CJC and the CJWG. For example, the chief justice, attorney general, and some commissioners serve on both groups, she said.

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MS. MEADE referred to the pie chart in members' packets titled, "FY 18 Court Case Filings Statewide," that represent the ACS's workload and case filings and what happens with them. She referred to the top pie chart, which shows the district and superior trial courts combined. She briefly reviewed the workload by case type, noting that about 29 percent of cases are civil cases, 23 percent are criminal cases, nearly 50 percent are minor offenses, and 3 percent of the cases are children's cases.

MS. MEADE turned to the superior court filings on the lower-left pie chart. She reported the 2018 statistics, that 28 percent of the case filings were probate cases, consisting of mental commitment cases, guardianship and conservatorship cases. These

cases relate to people who are unable to take care of their own affairs so the court must appoint someone to assist them. These two pie charts also show the number of cases filed in those areas; however, it does not reflect the amount of work involved in individual cases. Probate cases often do not take as long to process as felony cases, but these cases still represent 28 percent of the cases filed. The 7,186 felony cases represent 30 percent of the caseload and the court processed 5,000 petitions to revoke probation (PTRP). The PTRPs are those individuals who were placed on felony probation but were brought back before the court for not complying with the conditions of probation. She explained that merely looking at the figures does not provide a complete picture, for example the PTRP individuals are entitled to counsel so the proceedings can be time consuming.

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CHAIR HUGHES asked whether the 5,000 PTRP cases are included in the pie chart listing 30 percent felonies.

MS. MEADE answered no, that they are not reflected in the pie chart since these cases retain the original case number for the underlying felony and are merely considered an extension.

She continued her overview. She said that domestic relations cases comprised 18 percent of the superior court's caseload, and these cases include divorce, child custody, and child support cases. Domestic relations cases take considerable time to complete since they are often not resolved until the child reaches 18 years of age. She reported that the ACS also processed 1,400 modifications to child support orders in FY 18.

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CHAIR HUGHES asked whether the 1,400 modifications were in addition to the domestic relations cases.

MS. MEADE answered that is correct.

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MS. MEADE continued. In 2018, three percent of the cases filed were CINA cases. She pointed out these cases take considerable time and court effort to complete and may involve numerous parties, including guardians, tribal representatives and multiple counsel. Juvenile delinquency represented three percent of the cases filed. She noted these cases are not prosecuted but are adjudicated cases for delinquent minors and the division of juvenile justice (DJJ) follows them. The superior court

processed 2,452 general civil cases or about 10 percent of its caseload.

MS. MEADE said the 98,518 district court filings relate mostly to citations for traffic or fish and game violations. These minor offenses resolve quickly. In fact, about 70 percent are filed electronically with the court. She noted the officers have hand-held devices that automatically transmit citations. The district court handled 21,232 misdemeanors, which are crimes that are punishable by one year or less in jail; these cases are often easily resolved by a plea bargain. She pointed out eight percent are domestic violence cases, but these cases are civil domestic violence protective order petitions and do not refer to criminal cases. These cases are ones initiated by citizens who request a protective order against a respondent. In these cases, the district attorney or the DOL is not involved, she said. The general civil cases represent 8 percent and small claims cases represent six percent of the court's caseload.

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CHAIR HUGHES asked for the dollar cutoff for superior court cases and district court cases.

MS. MEADE answered that cases with more than \$100,000 in controversy are handled by superior court, cases less than \$100,000 are referred to district court, and cases less than \$10,000 is the jurisdictional limit for small claims cases. She said cases involving requests for equitable relief are referred to superior court even if the dollar amount is low.

MS. MEADE discussed disposition of criminal cases. Of the 7,186 superior court cases filed last year, about 65 percent were resolved with a guilty plea, or plea bargain, 32.5 percent were dismissed, and 1-2 percent went to trial. In FY 18, the superior court held 138 felony trials, she said.

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CHAIR HUGHES asked for a breakdown of reasons 32.5 percent of cases were dismissed.

MS. MEADE replied that she did not have the specific statistics but could provide it if needed. She stated that the prosecutors dismiss the majority of the cases, although the court may dismiss a few cases due to timing issues or on motions for illegal search and seizure.

MS. MEADE turned to the district court and stated that less than 129 misdemeanor cases or one percent went to trial, 42 percent were dismissed, and 56 percent were resolved by plea bargain. She stated that plea bargains are dependent upon lots of interrelated factors, including the DOL's priorities or funding.

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SENATOR REINBOLD asked for clarification on class A and B misdemeanors. She recalled that Senate Bill 91 reduced penalties for class A misdemeanors significantly from 1 year to 30 days and class B misdemeanor from 6 months to 10 days. She also expressed concern over the high percentage of dismissals.

MS. MEADE responded that she could not speak to reasons prosecutors dismiss cases since the charging decisions are solely at the prosecutor's discretion. She reviewed the penalty provisions for class A and B misdemeanors, noting the general reductions for the maximum jail time imposed by Senate Bill 91. Generally, class A misdemeanors are punishable by a maximum of 30 days in jail. However, AS 12.55.135(a) outlined some exceptions, including increasing maximum penalties for assault in the fourth degree and for class A misdemeanors related to online sexual offenses that are punishable by up to one year in jail. The person's second offense of a class A misdemeanor can be punishable by up to one year in jail. She said class B misdemeanors under AS 12.55.135(b) are punishable by a maximum of 10 days in jail. She recalled prior to Senate Bill 91, the penalty for class B misdemeanors was 90 days with some exceptions for offenses that could result in longer jail time.

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SENATOR REINBOLD asked for examples of class A and B misdemeanors.

MS. MEADE deferred to the Department of Law for more precise information but recalled that the most common class A misdemeanor is assault in the fourth degree, which is typically placing a person in fear of injury. She was unsure of the types of crimes that fell into class B misdemeanors.

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CHAIR HUGHES noted that the DOL will testify later and can answer specific questions.

MS. MEADE corrected the percentage for dispositions of misdemeanors, stating 56 percent pled guilty, and 42 percent [were dismissed] and a small percentage went to trial. In

response to Senator Micciche, she reported that 43 percent of cases were dismissed.

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SENATOR MICCICHE asked for the felony figures.

MS. MEADE reported the felony statistics, that 1-2 percent of felony cases go to trial, 62.5 percent result in guilty pleas and 32.5 percent of felony cases are dismissed. She clarified that while the court collects statistics, it does not track reasons for case dismissals.

She said that the court does not typically track trends; however, she did review data from the last 10 years to report today. The total number of superior court case filings in FY 18 at 24,048 represents the highest number ever seen. She offered her belief that this figure is driven by the subset of felonies, which also hit a record high in FY 18 at 7,186 filings. She reported that previous felony filings were in the 6,000 range, then jumped substantially in FY 17 to 6,200 cases. In FY 18, felony cases increased by 500 cases more than in any other year.

She reported that the CINA cases experienced increases beginning in FY 15, when cases jumped from 1,700 - 1,800 cases to 2,500. She said CINA cases have held steady since FY 15. Delinquency cases have gradually dropped every year for the last 10 years, from 1,200 in FY 10 to 750 in FY 18. Domestic relations cases have slowly decreased from 5,400 in the past ten years to 4,300 in FY 18. General civil cases have remained steady; however, probate cases continue to grow, especially for conservatorships, due to Alaska's aging population. She reported that currently 83,000 Alaskans are over the age of 65, up from 55,000 in 2010.

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SENATOR KIEHL asked whether probate cases included wills and how it compares to guardianships and conservatorships.

MS. MEADE agreed that the figures include probating wills, which represents a small part of probate. She offered to provide the committee with the exact numbers but pointed out that all the figures are in the ACS's annual report available at <https://public.courts.alaska.gov/web/admin/docs/fy18.pdf>.

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MS. MEADE reported the statistics for felonies, beginning with the largest category for felonies: offenses against the person, sometimes referred to as "11.41 crimes" which is the chapter and

title set out in statute. In FY 18, the state experienced the highest numbers of cases of crimes against the person, 2,569, which is up by 400 cases from the prior year. She pointed out that these figures represent case filings for crimes against persons, which include homicides, assaults, sexual assaults and similar crimes. She has heard the criminal justice working group (CJWG) and criminal justice commission (CJC) caution that these figures should not be used as evidence of the crime rate because the numbers only reflect cases filed with the court. The court does not know anything about arrest rates or reports of crime.

She reported that property crimes were also the highest ever in FY 18 at 2,508 and include theft, burglary, robbery, vehicle theft, arson, criminal mischief and criminal trespass. She pointed out that many cases have more than one charge, which means the person being charged often broke more than one law. The court categorizes crimes by the most severe level of crime, she said.

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SENATOR REINBOLD said that property crimes seemed lower than she thought. She recalled seeing vehicle thefts in Anchorage exceed these figures.

MS. MEADE said she was unsure of the figures she was referring to but explained that 2,508 represents the number of felony case filings for stolen property with a value of \$750 or greater. She stated that vehicle thefts are felonies and would be included in these figures.

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SENATOR SHOWER offered his belief that many vehicles are stolen by the same people, which might explain the figures.

MS. MEADE suggested the Department of Law (DOL) could clarify the figures on cases with multiple thefts.

She turned to the third category of felonies: felony drug crimes. She reported that the ACS had the lowest number of drug felonies filed in FY 17 and FY 18 at 330 cases, and 371 cases, respectively. In FY 16, 1,000 felony drug cases were reported. She characterized the trend for felony drug cases between FY 16 and FY 18 as a huge drop.

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CHAIR HUGHES asked whether the figures were due to changes in the criminal charges such that simple possession no longer fell under felony drug cases.

MS. MEADE responded that she hesitated to say why, but it could well be the reason.

CHAIR HUGHES offered her belief that one could assume by these figures that the drug problem is going away.

MS. MEADE turned to felony DUIs [driving while under the influence], noting in FY 18, 276 cases were filed as compared to 577 cases in FY 10. She added that the first and second DUIs are generally considered misdemeanors, with felony charges for the third or subsequent charges. Although these charges have fluctuated somewhat, she did not think it reflected the actual DUIs occurring, but rather that cases are impacted by resources and decisions of what charges to file. Other felony categories were less common, such as offenses against public order, which includes riots or gangs and number about 100 annually. She reported that weapons charges are rising and the 240 cases [in FY 18] was the highest ever, although due to the small number of cases she was unsure if it was a statistically significant increase.

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MS. MEADE stated that the ACS also touches the public through jury summons. She reported that the court summoned 21,000 jurors in FY 18, including 3,500 jurors for grand jury, which is held in 12 locations in Alaska. She reported that the court held fewer than 300 trials. She pointed out the cost of jurors is not insignificant and although jurors are paid \$25 per day, in outlying communities the court pays travel costs, including transportation, food, and lodging. For example, Bethel and Dillingham's extremely high juror costs last year totaled \$1.5 million. The court works on summoning jurors efficiently and appropriately, she said. It has a jury management committee who works on online questionnaires and finding the most effective use of jurors without disturbing the public more than necessary. She said the court system also interacts with the public and noted last year Anchorage had 32,000 walk-ins per month and Palmer had 6,500.

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SENATOR KIEHL asked for further clarification on the number of jurors who are summoned as compared to an estimate of the number

of jurors who served. He further asked for the overarching goal and whether it was for the court to never miss a day or if it was to inconvenience as few Alaskans as possible. He said the figures seemed high.

MS. MEADE answered that these figures are the number of people who received the jury notice in the mail, not the number of people who were called to serve on a jury. She said the court constantly strives to balance inconveniencing jurors and having sufficient numbers of jurors serve. In further response to Senator Kiehl, she offered to try to provide the number of jurors who were called to serve.

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SENATOR SHOWER said he spoke to Ms. Meade a few days ago about this issue. He related that the public perception is the system is bogged down. He recalled she thought perhaps prosecutors or other areas of the criminal justice system were bogged down. Since the budget is going to be an issue, he asked whether the court system has sufficient budget resources to do its job.

MS. MEADE responded that the ACS has been proactive about its budget and only requests what it needs. She said the current budget request reflects the Alaska Supreme Court's and the administrative director's determination to fully and adequately do what the ACS needs to do. She said with 70 fewer positions, the court system's budget is "bare bones." The ACS strives to make less staff not very visible to the public and provides a judge for criminal trials when the parties are ready. She explained that four people currently perform jobs that six people previously did. She offered her belief that the court system was doing a great job at not being the bottleneck. With fewer resources, staff might be behind in filing and data entry for CourtView, which may be frustrating for some people trying to access records, she said. She reiterated that the court system tries not to have an impact in the pace of criminal cases, which is what most people are concerned about.

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CHAIR HUGHES commented that she had heard criminal cases were backlogged, so she was glad to hear otherwise.

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SENATOR MICCICHE said it is likely that Alaska's criminal justice laws will be amended this year and it will probably increase the caseload. He asked whether the ACS is evaluating potential impacts.

MS. MEADE responded that the ACS has not seen a big case drop with the latest round of changes to the criminal laws. She said the ACS submitted zero fiscal notes on the previous bills. She said that depending on content in the [four] proposed crime bills, the ACS will try to react to potential changes in the caseload.

SENATOR MICCICHE highlighted one problem on the Kenai Peninsula has been that judges are not available in the wee hours of the morning when offenders are picked up and that in many instances, people are released. He asked whether the court was looking at availability of judges.

MS. MEADE replied she was unaware of that problem. She related her understanding that judges are on call throughout Alaska for bail setting. She acknowledged that bail schedules allow law enforcement personnel to release people for certain misdemeanors, but not for crimes such as domestic violence without judicial officer contact. She offered to specifically review this issue on the Kenai Peninsula and report back.

CHAIR HUGHES asked the Department of Law representative report to the committee on the reason for dismissals, including the 32.5 percent of felony cases dismissed and the 42 percent of misdemeanor dismissals. She further recalled questions on whether vehicle thefts were grouped together. She also asked for clarification on the drop in the number of DUI cases and reasons these cases might not be coming to the court since it seemed as though DUIs continue to happen.

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SENATOR MICCICHE commented that when other states have changed their criminal laws to something similar to Senate Bill 91, these states also reported lower crime rates. He said he thought there was a connection between the penalty reductions for DUIs and the reductions in the number of cases.

#### **SB 8-ACCESS TO MARIJUANA CONVICTION RECORDS**

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CHAIR HUGHES announced the consideration of SENATE BILL NO. 8: "An Act restricting the release of certain records of convictions; amending Rule 37.6, Alaska Rules of Administration; and providing for an effective date."

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SENATOR TOM BEGICH, Alaska State Legislature, sponsor of SB 8, introduced himself and his staff, Sydney Lienemann. He thanked Chair Hughes for hearing the bill. This bill is identical to the bill that was considered, passed, and supported by the Senate Judiciary Standing Committee last year. This bill would restrict the release of certain criminal records for the possession of marijuana, which is a class B misdemeanor. These crimes would no longer be considered criminal based on the legalization of marijuana that occurred some years ago.

He stated that the original bill was brought to him by a constituent who works on employment issues at the Mountain View library. His constituent witnessed people start to complete their employment forms but not finish the process. When he asked why, the response was that these applicants did not believe they could obtain employment or housing options because of a single prior conviction related to a crime that is no longer considered a crime today. He stated that employment and housing issues are critical throughout the state due to homelessness and situations in which people find themselves unable to get into housing or a job because they made a single mistake.

SENATOR BEGICH said SB 8 would automatically remove the conviction from CourtView. The records would also be removed from some background checks administered by the Department of Public Safety, if requested by the individual. It would not fall on the state to proactively remove the conviction; the bill places the responsibility on the person. He emphasized that the records would be available for any criminal justice search, including employment checks related to the medical field or for those working with children or dependent adults. He has worked with the Department of Law (DOL), Department of Public Safety (DPS), the Alaska Court System (ACS), and non-profit providers on the bill. He reiterated that recurring issues adversely affect re-entry programs that work to ensure people do not come back into the criminal justice system. The governor recently spoke about opportunities for hope and success and this bill could provide an opportunity to Alaskans. He reported an estimated 700 people would be affected by the bill. He asked Dr. Lienemann to review some of the changes discussed for a proposed committee substitute.

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CHAIR HUGHES stated that Representative Hopkins joined the meeting.

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SYDNEY LIENEMANN, Ph.D., Staff, Senator Tom Begich, Alaska State Legislature, offered to review proposed changes to SB 8 for a committee substitute.

DR. LIENEMANN presented sectional analysis of SB 8 on behalf of the sponsor, which read as follows [original punctuation provided]:

Section 1: Describes the legislative intent to reduce barriers to re-entry for those convicted of low-level marijuana possession, which would no longer be considered crimes today.

DR. LIENEMANN referred to page 1, line 9, and stated that the language currently states, "a criminal history background check," and the intent is to clarify certain types of background checks since this protection would be limited to certain parties requesting background check related to employment and housing, but the individuals' criminal history would still be available to law enforcement and prosecutors.

DR. LIENEMANN continued.

Section 2: Prohibits the Department of Public Safety, and any designated reporting agency, from disclosing any criminal records associated with possession of less than one ounce of a schedule VIA controlled substance conviction, covering both State Statute and municipal ordinance, if requested. These cases will be protected from disclosure only if marijuana possession is the only crime for which the person was convicted in a particular criminal case. A schedule VIA controlled substance considered to have the lowest degree of danger to users. Marijuana is the only VIA drug.

DR. LIENEMANN explained that this prohibition would not include any search related to the criminal justice system. She referred to page 2, line 12, noting the DOL, DPS, and ACS suggested replacing "Notwithstanding," with "In a request under" for clarification.

DR. LIENEMANN continued.

Section 3: Limit access to Alaska Court System's records of criminal cases involving convictions for

possession of less than one ounce of marijuana on Court View.

DR. LIENEMANN explained that the departments requested removing the word "confidential" [on page 2, lines 6, and 7] in order to ease the ability to transfer records between agencies. She related the sponsor's intention is to replace "confidential" with similar language from Representative Drummond's bill that passed the House last year that will remove defining the records as confidential. She reiterated that this language would restrict this information from being available on CourtView but would allow the DOL, DPS, and ACS to have ongoing access to the records.

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CHAIR HUGHES related her understanding that one problem that arose with "confidential" is that the ACS would not be able to release records to the DPS.

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Section 4: Indirectly amends Alaska Court System Rules of Administration by limiting access to certain criminal records.

DR. LIENEMANN stated [on page 2, line 17] the word "confidential" would also need to be removed in that section.

Section 5: Because Section 4 indirectly amends a court rule, this legislation will require a two thirds vote as described by the Alaska Constitution.

Section 6: Provides 120 days for this legislation to take effect after bill signing, giving the Courts, as well as affected agencies, time to change their reporting protocols.

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SENATOR BEGICH said he understands additional work still needed to be done on the bill.

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CHAIR HUGHES asked the record to reflect that other concerns exist. She referred to page 1, lines 6-7, which read, "It is the intent of the legislature to reduce barriers to employment ...." She referred to the analysis of [Section 2], which read, "These cases will be protected from disclosure only if marijuana possession is "the only crime" for which the person was

convicted in a particular criminal case." She pointed out that on page 2, lines 3 and 12, the language reads "was not convicted of any other charges in that case ...." She said that this language limits the application of the restriction of records to specific cases where the possession is the only crime resulting in a conviction, but it ignores the fact that an existing criminal history involving other crimes would remain a barrier to employment for that person.

She asked for the rationale for ignoring the rest of a person's criminal history if the intent is to reduce barriers to employment for people convicted of low-level misdemeanor marijuana possession if the person's criminal history includes other crimes that already create barriers. She asked whether it was possible to reduce the number of people that would [benefit from having their records removed from CourtView].

SENATOR BEGICH answered that if the only crime the person committed was related to marijuana and the record had no other crime associated with it, the prior record would be cleared from CourtView. He said the person's record would still contain any other prior convictions.

SENATOR BEGICH, after a brief reiteration of people charged with a single conviction of simple possession and those with multiple convictions, said he understood her point. He suggested that the only reason would be to remove these cases from the 700 or so cases. He was unsure of the total number SB 8 would affect.

CHAIR HUGHES said in the materials or in discussion of other states, including Vermont, he stated the individuals could have [the record] removed by petition. However, Vermont also set out additional conditions, including that the person would only be eligible 5 years after sentence completion and that all restitutions must be paid. She said that in instances in which the person was convicted of a subsequent crime 10 years must have passed since the sentence was completed and restitution for all crimes had been made. She recapped that the bar in Vermont was much higher than a simple petitioning the court. She asked whether he would be open to raising the bar to be certain people were clean. She asked for further clarification on when the marijuana law passed.

[2:44:39 PM](#)

DR. LIENEMANN recalled that the marijuana law went into effect in February 2015.

SENATOR BEGICH pointed out that Vermont is not one of the states that has legalized possession and use of marijuana. He related a scenario in which a person committed a crime of possession of marijuana, first in 2012 and again in 2014. He pointed out that three years has lapsed since 2015. It is not currently illegal for a person to use marijuana so it would be difficult to assign a criminal penalty, and he was not willing to do so; however, he offered to sit down to hold discussions with the Chair's office.

[2:45:35 PM](#)

SENATOR SHOWER asked how plea bargains are considered in the bill. He said it seemed like it might be a loophole, but he was unsure.

DR. LIENEMANN related her understanding from discussions with the court system, that the final criminal record is reflected in the court system's database. She said if the person was charged with several crimes but pled down to the elements listed in SB 8, the charges would be removed from CourtView. She reiterated that the conviction would still remain in the system for most higher-level background checks, but it would no longer appear in CourtView.

[2:47:14 PM](#)

SENATOR BEGICH added prosecutors would also have access to the records and case file. He recalled that had been discussed last year.

SENATOR SHOWER offered to discuss this with the sponsor. He referred to the rights of the employer and what is restricted. He would like to better understand when the provisions would be specifically applied or excluded. He offered his belief that in certain fields an employer needs to know information about their employees, for example, in the Department of Transportation and Public Facilities (DOTPF).

[2:48:20 PM](#)

SENATOR MICCICHE asked the record to reflect that simple possession and someone making a mistake is one thing, but a person with a long history of criminal behavior is different since it demonstrates judgment issues that a future employer may wish to know about.

CHAIR HUGHES concurred with that point.

[2:49:02 PM](#)

SENATOR BEGICH said Senator Micciche's comment was an appropriate one. He expressed a willingness to work with Senator Micciche to find a way to make it work.

[2:49:25 PM](#)

SENATOR REINBOLD echoed Senator Micciche's concern. She asked to have Mr. Duxbury come before the committee to provide his perspective on the number of times an individual uses marijuana before being arrested as well as the number of cases that are typically dismissed prior to conviction. She recalled Mr. Duxbury discussed on KTVA the percentage of cases involving marijuana. He also indicated marijuana use was a gateway to so much more. She said she is not an expert and would like to hear his views on marijuana use.

[2:50:11 PM](#)

CHAIR HUGHES expressed her concern about SB 8 creating a loophole for the 18-20-year-old age group, since marijuana is still not legal for them. She expressed further concern that a person could permanently lose eligibility for employment with the state if the person unintentionally or otherwise conceals a fact when submitting a job application. She did not want to set up a person to fail.

[CHAIR HUGHES opened public testimony on SB 8.]

[2:51:56 PM](#)

CATHLEEN MCLAUGHLIN, Director, Partners Reentry Center (PRC), offered to make comments to put this into perspective. She stated the PRC has served 7,500 high-risk high-needs individuals who would be homeless if the PRC had not assisted them. The PRC works with reentrants whose parole and probation conditions mandate that they do not use marijuana. That condition still holds true whether marijuana use is legal or not, she said. She offered her belief that SB 8 would only retroactively affect 700 people and the bill does not necessarily affect those being served in the criminal justice system. She related a scenario in which the PRC wanted to hire someone deemed as highly qualified, but the person had previously been convicted of simple possession of marijuana 10 years ago, prior to attending college. That banned the person from being employed in this industry, she said. She surmised that SB 8 intends to target this type of person rather than the clients the PRC serves.

[2:54:17 PM](#)

SENATOR REINBOLD asked for further clarification on what she meant by high-risk and high-needs individuals.

MS. MCLAUGHLIN said the PRC assists people who would otherwise be homeless, whose chance of recidivism is very high. She related that Alaska has a 66 percent recidivism rate and the PRC focuses on this population in an effort to reduce recidivism and enhance public safety. These are individuals with strong and lengthy continual felony and misdemeanor records. She stated that the PRC uses a tool called the LSIR, that those with a score of 29 or higher are considered high-risk high-needs individuals. These are individuals whose criminal behaviors create a risk to the community when they are released, she said.

[2:55:20 PM](#)

CHAIR HUGHES asked her to explain the acronym LSIR.

MS. MCLAUGHLIN explained the acronym LSIR helps the DOC classify individuals with a minimum, medium, or maximum risk-leveled behaviors. She offered to report back on the acronym.

[2:55:46 PM](#)

SENATOR MICCICHE asked whether alcohol was also on the list of conditions for parole or probation.

MS. MCLAUGHLIN answered absolutely, that the court establishes probation and parole conditions based on the underlying crime.

SENATOR MICCICHE said she had previously mentioned the age group 18-20 and noted that the legislature treats minor consuming differently for that age group, which is worth evaluating.

CHAIR HUGHES asked whether the 700 individuals were statewide.

MS. MCLAUGHLIN said she was referring to an attachment by Nancy Meade that gave a ballpark figure.

[2:56:43 PM](#)

CHAIR HUGHES asked the sponsor to provide information on the proposed 700 people potentially affected by SB 8 and whether these individuals had other convictions.

[2:57:16 PM](#)

MS. MCLAUGHLIN reported that the acronym LSIR refers to level of service inventory revised.

[2:57:22 PM](#)

SENATOR SHOWER related his understanding that the people with a higher risk and a demonstrated behavior are not necessarily the

ones that SB 8 would clear, since those are the ones who would present problems for employers, housing, or other issues that the public would want to know about. He suggested that the potential 700 people SB 8 would address do not seem to be the people that PRC treats. He said it seemed like the intent of the bill and the people she serves are like "apples and oranges".

MS. MCLAUGHLIN agreed. She said that none of the individuals the PRC serves or who work with the center have only one conviction.

[2:58:48 PM](#)

CHAIR HUGHES closed public testimony on SB 8. She held SB 8 in committee.

CHAIR HUGHES made announcements on the future committee schedule.

[2:59:36 PM](#)

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