

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

February 9, 2019

12:59 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Mike Shower

OTHER LEGISLATORS PRESENT

Representative Sharon Jackson

COMMITTEE CALENDAR

SENATE BILL NO. 32

"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."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 32

SHORT TITLE: CRIMES; SENTENCING; MENT. ILLNESS; EVIDENCE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/23/19	(S)	READ THE FIRST TIME - REFERRALS
01/23/19	(S)	JUD, FIN
02/06/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/06/19	(S)	Heard & Held
02/06/19	(S)	MINUTE(JUD)
02/08/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/08/19	(S)	Heard & Held
02/08/19	(S)	MINUTE(JUD)

02/09/19

(S)

JUD AT 1:00 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DON ROBERTS JR., representing himself
Kodiak, Alaska

POSITION STATEMENT: Urged members to review Section 49 of SB 32.

CARY CARRIGAN, Executive Director
Alaska Marijuana Industry Association
Anchorage, Alaska

POSITION STATEMENT: Expressed concern that SB 32 may adversely affect legal marijuana businesses.

SHANTA BULLOCK, representing herself
Anchorage, Alaska

POSITION STATEMENT: Expressed concern about the penalties for first-time unclassified felons in SB 32.

KAREN LOWRY, Co-Owner
Alaskan Bloom
Fairbanks, Alaska

POSITION STATEMENT: Expressed concern about Section 32 of SB 32, which may adversely affect legal marijuana businesses.

JAKE WARDEN, Chief Executive Officer
AlaskaSense; General Manager
CanAbaska

Anchorage, Alaska

POSITION STATEMENT: Agreed with Cary Carrigan's testimony on SB 32.

MARK WEAVER, representing himself
Palmer, Alaska

POSITION STATEMENT: Raised question about SB 32.

TERRIA BANBENHUERK, representing herself
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 32, suggested the committee listen to people with experience in the system to understand what works to reduce recidivism.

PATRICIA PATTERSON, representing herself
Kenai, Alaska

POSITION STATEMENT: Expressed concern that SB 32 would criminalize possession of marijuana obtained legally.

JANET KINCAID, representing herself
Palmer, Alaska

POSITION STATEMENT: During the hearing on SB 32, expressed concern that Senate Bill 91 was not given adequate time or funding to work.

MICHAEL BERGER, representing himself
Anchorage, Alaska

POSITION STATEMENT: Supported treatment for prisoners during the hearing on SB 32.

SHARON CISSNA, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified that SB 32 is focused primarily on negative aspects.

SID ATWOOD, representing self
Anchorage, Alaska

POSITION STATEMENT: Advocated for drug and alcohol treatment programs and expressed concerns about increased incarceration as a means to reduce crime during the hearing on SB 32.

MARY GEDDES, representing herself
Anchorage, Alaska

POSITION STATEMENT: As someone who worked in the criminal justice system for 35 years, expressed concern about increased sentences, the lack of non-incarceration sanctions, and the fiscal impacts of SB 32.

ROBIN CARVALHO, representing herself
Wasilla, Alaska

POSITION STATEMENT: Advocated for limited license option and treatment for underlying mental health issues during the hearing on SB 32.

JOE SCHLANGER, representing himself
Wasilla, Alaska

POSITION STATEMENT: Expressed concern about the risk of sexual abuse of minors in schools, advocated for a 20-year minimum sentence for pedophiles, enhanced reporting, and emphasis on victims and not criminals during the hearing on SB 32.

NICK BROCKETT, representing himself
Wasilla, Alaska

POSITION STATEMENT: During the discussion of SB 32, stated that crime occurs because it is tolerated and advocated for stronger penalty provisions.

JESSE SUMMER, representing himself
Wasilla, Alaska

POSITION STATEMENT: During the discussion of SB 32, expressed concern about the high incidence of theft, and the adverse impact Senate Bill 91 had on law enforcement.

EDIE GRUNWALD, representing herself
Wasilla, Alaska

POSITION STATEMENT: Supported electronic monitoring, urged focus on victims, and expressed concern that Sections 30, 31, and 33 reduced penalties for drug possession during the hearing on SB 32.

ERIK REED, representing himself
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 32. He expressed concern that the convicted felon of a DUI that resulted in his wife's death is on electronic monitoring. He urged members to focus on justice for victims.

CLIFFORD SMITH, Owner/Operator
VIP Alaska
Kenai, Alaska

POSITION STATEMENT: During the hearing on SB 32, suggested adding penalties for failure by an offender to charge or recharge the electronic monitoring equipment, and expressed concern that Sections 45 and 46 cap the cost of imprisonment at private facilities at \$2,000.

VERNON SMITH, Kenai Peninsula AMIA
Kenai, Alaska

POSITION STATEMENT: Expressed concern that SB 32 may adversely affect legal marijuana businesses.

RYAN TUNSETH, Owner
East Rip
Kenai, Alaska

POSITION STATEMENT: Echoed concerns that SB 32 may adversely impact the legal marijuana industry. He urged the committee to strategically review Senate Bill 91 since going to a pre-Senate Bill 91 will not fix the problems.

CHRIS EICHENLAUB, representing himself
Eagle River, Alaska

POSITION STATEMENT: Offered general support for SB 32 and expressed concern about that the public bears the cost of

increased crime. He urged the committee to focus on victims and strengthen crimes, that adding more law enforcement will not reduce crime.

LYNETTE CLARK, Chairman
Alaska Independent Party
Fox, Alaska

POSITION STATEMENT: Testified in opposition to SB 32, expressing concern that repealing Senate Bill 91 has become a mantra. Although some provisions in Senate Bill 91 created a revolving door for criminals, that SB 32 is a mistake.

CODY COMAN, representing himself
Wasilla, Alaska

POSITION STATEMENT: Echoed Mr. Carrigan's testimony and concerns that SB 32 may adversely affect the legal marijuana industry.

TIM KELLY, representing himself
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 32 due to concern about recidivism rates. He advocated for incarcerating long-term felons out of state to save money, and to increase penalties for DUIs, that Alaska is soft on crime.

AARON COMAN, representing himself
Palmer, Alaska

POSITION STATEMENT: Echoed Mr. Carrigan's concerns that SB 32 would adversely affect the legal cannabis industry.

RODGER BRANSON, representing self
Eagle River, Alaska

POSITION STATEMENT: During the hearing on SB 32, expressed concern about an "us against them" attitude and advised that peer recovery can be a huge asset to the state and a means for those in recovery to give back to others.

JESSICA SPURRIER, representing herself
Juneau, Alaska

POSITION STATEMENT: During the discussion of SB 32, urged members to support criminal justice reform that promotes rehabilitation and advocated for increased supervision to reduce crime and increase public safety, and not just increase incarceration.

MICHAEL VANLINDEN, representing himself
Juneau, Alaska

POSITION STATEMENT: As a graduate of the therapeutic court program, advocated for treatment and limited licenses provision in Senate Bill 91 and expressed concern that it will be dismantled in SB 32.

WILLIAM J. MUSSER, representing himself
Juneau, Alaska

POSITION STATEMENT: During the hearing on SB 32, spoke in support of treatment and how it helped him.

BRIAN ENDEL, representing himself
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 32, but suggested the committee incorporate the good parts of Senate Bill 91 into SB 32.

VICKI WALLNER, Member
Stop Valley Thieves
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 32, noting the system was broken before Senate Bill 91, that the bill had some good provisions, but it went too far, that it eroded the public trust, and sent the wrong message to criminals.

MIKE COONS, President
Greater Alaskan Chapter of Alaska Association of Mature Citizens
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 32 since changes to drug possession can help prosecute drug dealers. He advocated that pedophiles and rapists should be sentenced to life imprisonment with no parole and "hard time" should be instituted for prisoners.

TRIADA STAMPAS, Policy Director
American Civil Liberties Union of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 32 since it promotes a return to policies that failed to stem increasing crime and recidivism rates, stating Alaska's crime rates are more fairly attributed to the state's struggling economy, insufficient availability of mental health and substance abuse disorder treatments and a raging opioid epidemic.

KARA NELSON, representing herself
Juneau, Alaska

POSITION STATEMENT: Testifying as someone in long-term recovery from substance abuse disorder and mental health issues,

advocated for the need for restorative justice practices during the discussion of SB 32.

ROBIN MITCHELL, representing herself
Chugiak, Alaska

POSITION STATEMENT: Testified in support of SB 32 and expressed concern that the courts are a revolving door for criminals.

CHERYL BOWIE, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 32 since increased incarceration does not reduce crimes. She advocated that law enforcement focus on violent crimes, property crimes, sexual assault, and white-collar crimes. She expressed concern that offenders who served their time and are released are locked out of access to jobs and pain medication.

ROBERT DORTON, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified as a rehabilitated offender that treatment works but longer sentences do not. He said that Senate Bill 91 worked for him and needs more time to work. He advocated for treatment and means for prisoners to pay their way back to society.

JAMIE DONLEY, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 32, stating that prisoners get help while incarcerated, which allows them opportunities to become productive members of society.

ELIZABETH WILLIAMS
No More Free Passes
Anchorage, Alaska

POSITION STATEMENT: Testified in partial support of SB 32 since the bill will increase penalties for assault and other violent crimes but spoke against making simple drug possession a felony and treating violent and non-violent crimes the same.

VICKI JOE KENNEDY, representing herself
Kodiak, Alaska

POSITION STATEMENT: During the discussion of SB 32, expressed concern about the penalty for disorderly conduct since it may adversely affect activists, and stated that cannabidiol (CBD) can help with the opioid crisis.

LYNDA WATTS, representing herself

Juneau, Alaska

POSITION STATEMENT: As a convicted felon and rehabilitated prisoner, advocated for treatment and urged members to pick out the best parts of Senate Bill 91 and SB 32 since not everything about Senate Bill 91 was bad.

RICK IANNOLINO, Retired

FASD Diagnostic Clinic

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 32, suggesting the state should consider Norway's system with shorter sentencing, more treatment, and a very low recidivism rate.

SOL NEELY, representing himself

Ph.D., Professor

University of Alaska Southeast

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 32, advocating for other models like circle sentencing and restorative justice that make victims central to justice reform, and for treatment and not incarceration.

MORGAN EVENSEN, representing self

Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 32 and advocated for stronger consequences for crimes like murder and drugs to help keep our communities safe.

SHERRY HASSELL, representing herself

Soldotna, Alaska

POSITION STATEMENT: Testified in support of SB 32 and to repeal Senate Bill 91.

ANNETTE PANKOSKI, representing herself

Realtor

Soldotna, Alaska

POSITION STATEMENT: Urged members to repeal Senate Bill 91, which removed consequences that serve as a deterrent to crime, during the hearing on SB 32.

JENNIFER HOWELL, representing herself

Sterling, Alaska

POSITION STATEMENT: Testified in support of SB 32 and repealing Senate Bill 91 due to increased crime.

KACI SCHROEDER, Assistant Attorney General

Central Office, Criminal Division

Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 32.

ACTION NARRATIVE

[12:59:25 PM](#)

CHAIR SHELLEY HUGHES called the Senate Judiciary Standing Committee meeting to order at 12:59 p.m. Present at the call to order were Senators Reinbold, Kiehl, Micciche and Chair Hughes.

SB 32-CRIMES; SENTENCING; MENT. ILLNESS; EVIDENCE

[12:59:53 PM](#)

CHAIR HUGHES announced that the only order of business would be SENATE BILL NO. 32, "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."

[1:00:10 PM](#)

CHAIR HUGHES reviewed the work the committee did during its initial hearings. She reported that it has come to her attention that she may have a conflict of interest under the new ethics laws.

[1:00:59 PM](#)

CHAIR HUGHES opened public testimony on SB 32. She stated that written testimony is welcome and can be submitted to senate.judiciary@akleg.gov.

[1:01:39 PM](#)

SENATOR MICCICHE said that as the next committee of referral the Senate Finance Standing Committee will hear the bill and will take amendments.

[1:02:24 PM](#)

DON ROBERTS JR., representing himself, Kodiak, said he has been an Alaska resident for over 20 years. He expressed concern about Section 49 of SB 32 related to involuntary commitments. He related a scenario, such that someone who opted for voluntary commitment and was transferred to Anchorage would automatically

be switched administratively to involuntary commitment because it is administratively inconvenient for them to do otherwise. He urged the committee to review these procedures because it is easy for people to obtain an involuntary commitment. Although he said he was not subject to involuntary commitment, he said he is speaking from his own personal experience. The practices surrounding involuntary commitment lead to a lot of legal issues, including that the person committed cannot possess any firearms, he said. He cautioned that any report generated from the system does not give an accurate view.

[1:05:37 PM](#)

CARY CARRIGAN, Executive Director, Alaska Marijuana Industry Association, Anchorage, expressed concern that SB 32 may adversely affect legal marijuana/cannabis businesses. He referred to page 20, line 5 of SB 32, to the provision that specifies 25 plants of the genus cannabis is a criminal offense, but it does not provide an opt out provision for legal marijuana businesses. He pointed to the beneficial aspects and contributions of the marijuana industry, including that businesses pay state taxes and meet all the requirements established by law. He said that the language in SB 32 should be crystal clear and recognize the legal marijuana industry is operating well within statutory and regulatory parameters.

He expressed concern that the language "genus cannabis" is very broad and will capture marijuana and hemp. He said that it is important to identify the Chair Hughes' specific conflict of interest for the record to achieve total transparency. He offered that he does not question her integrity in any way. However, he related his understanding that the Senate Judiciary Standing Committee will not make any amendments due to the chair's potential conflict of interest. He said he hoped the legislature will properly address SB 32 to ensure it works in favor of the legalized cannabis industry and the emerging hemp industry.

[1:07:56 PM](#)

SENATOR MICCICHE advised members that he specifically asked for guidance on the legal marijuana industry yesterday and the Department of Law's response is that this bill does not relate to the legal cannabis trade or licensees associated with the legal marijuana industry. It is specific to illegal "black market" operations, he said. He suggested that Mr. Carrigan contact his office since he can provide the specific responses to confirm this.

[1:08:24 PM](#)

SHANTA BULLOCK, representing herself, Anchorage, offered her belief that a first-time offender of an unclassified offense should be eligible for "good time" and discretionary parole, especially if the person has been in prison for a long time without having any trouble.

She turned to the sex offender registry. She said that the state needs to review its registry since it is unconstitutional and keeps people from obtaining housing and jobs. She reported that Michigan passed a law recently that found the sex offender registry to be unconstitutional. She said that she did not understand why a polygraph would be part of anyone's probation since these tests have been proven many times to be unreliable and cannot be used in a court of law. In response to Chair Hughes, she confirmed that she thinks that first-time unclassified felons should be eligible for discretionary parole and "good time."

[1:11:29 PM](#)

KAREN LOWRY, Co-Owner, Alaskan Bloom, said she is the co-owner of a cannabis business. She expressed concern that Section 32 of SB 32 specifies possession of 25 or more genus cannabis plants, or three or more grams of marijuana would constitute a class C felony. She said she would like the legislature to create a carve-out for legal marijuana businesses operating in compliance under AS 17.38. She expressed concern that the legal marijuana businesses will be adversely affected by this bill.

[1:12:57 PM](#)

JAKE WARDEN, Chief Executive Officer, AlaskaSense; General Manager, CanAbaska, Anchorage, offered his support of the marijuana industry. He also agreed with Cary Carrigan's testimony. He thanked the legislature for its support to help the industry grow and change for Alaska and the U.S.

[1:13:48 PM](#)

MARK WEAVER, representing himself, Anchorage, stated that penalties for felony drug possession should relate to the type of drug instead of the amount in possession. He said that he works in recovery services and has observed that tagging people with felonies for first-time possession sets them up for lifelong problems and prevents them from getting jobs. He expressed concern about the projected increase in the Department of Correction's (DOC) budget. He acknowledged that the drug epidemic is driving crime up, but he also cautioned that the state cannot incarcerate itself out of it. Additional treatment

options and facilities are available outside Alaska, but he has not seen any substance use disorder treatment programs within the department. He disagreed with removing some provisions of Senate Bill 91. Recently, figures were released that showed recidivism rates are down to 61 percent. He agreed that Senate Bill 91 is not perfect, but its goal was to address the underlying issues for crime. He would like to see the legislature provide services to correct the problems and not just warehouse people who have mental health or substance abuse disorders. He expressed concern about increasing the department's budget without having better outcomes for those who are incarcerated.

1:17:10 PM

TERRIA BANBENHUERK, representing herself, Anchorage, suggested the committee listen to people with experience in the system to understand what works to reduce recidivism. She also testified on sentencing and increasing the penalties for drug offenses to felonies. She said she supports reform and the goal and purpose of Senate Bill 91. Although she has previously been incarcerated, she also has seen the victim's perspective. She said that her son was brutally murdered in June 2015 in a drug-related incident, prior to passage of Senate Bill 91. The man who killed her son had been part of the system since he was a child. As prior testimony stated, correctional facilities lack services, she said. For example, recent changes closed the faith pod and moved male inmates to another facility. She characterized the TLC program as the most successful program; however, it is no longer offered at the Hiland Mountain facility. She said that she would like to see more focus on restorative justice practices to ensure people get treatment, and on underlying issues related to crime, including homelessness, addiction, and trauma. She does not trust the system to help the offender who murdered her son, but she would like to see him rehabilitated. She said that he does not trust the system, so she has taken it upon herself to help him. She encouraged the committee to include testimony from people with experience in the system. These people understand the system and could help identify what works best to reduce recidivism and increase public safety.

1:20:30 PM

CHAIR HUGHES stated people can submit testimony to senate.judiciary@akleg.gov.

1:20:36 PM

PATRICIA PATTERSON, representing herself, Kenai, stated that the legislature has already indicated it will protect legal marijuana businesses and legal transporters. However, AS 17.38 gives legal marijuana licensees the ability to possess more marijuana than the restrictions imposed in SB 32. She asked members to protect those who legally transport marijuana. She referred to proposed [Sec. 32, AS 11.70.040 (a)(3)(i)] of SB 32 which read "... three grams or more containing a scheduled IIIA or IVA controlled substance...". She said that "IIIA controlled substance" relates to marijuana. She interprets this to mean that a person could grow six plants but could only possess three grams, she said. She suggested that these provisions may make it confusing, since this law says one thing, but another law says something else. She asked for further clarification on marijuana laws and how it affects possession within or outside one's own home.

[1:23:34 PM](#)

At-ease.

[1:24:37 PM](#)

CHAIR HUGHES reconvened the meeting.

[1:25:11 PM](#)

JANET KINCAID, representing herself, Palmer, said she hoped the committee will not "throw out the baby with the bath water." She expressed concern that Senate Bill 91 was not given adequate time or funding to work. She said that Senate Bill 91 was not fully funded. She said, "We can't build enough jails. We need to help the people better there. We need to give them hope. We need to give them a village, and get out of this system, and get back on the road of bring healthy, taxpaying people that have their lives together."

[1:26:35 PM](#)

MICHAEL BERGER, representing himself, Anchorage, stated that he is a long-time convicted felon who has undergone treatment and is a recovering addict. He urged members to keep treatment options alive in sentencing and not to label first-time drug offenders as felons. He shared that he did not make any headway until he received treatment at AKEELA, [Inc., which provides behavioral health programs]. He acknowledged that treatment is not perfect, but it can help people change how they think and put "right before wrong." He said that before treatment he stole every day to get money for drugs. At the time it was all he thought about, he said. Without restructuring a person's way of thinking, it is not possible for them to get better. He urged

members to ensure that the state has continuity in addressing issues and in sentencing.

1:28:19 PM

CHAIR HUGHES recognized that Representative Sharon Jackson joined the meeting.

1:28:37 PM

SHARON CISSNA, representing herself, Anchorage, testified in opposition to SB 32. She said she has a college degree in sociology and has worked primarily with children whose parents were incarcerated. She said she has a small business, but she has also worked with the legislature for over 20 years. In over 50 years of living in Alaska, she has seen most legislative and local effort focused on criminal and criminal-related work. She said that SB 32 is primarily focused on the negative aspects.

CHAIR HUGHES asked her to submit written comments.

1:33:05 PM

SID ATWOOD, representing himself, Anchorage, thanked members for the opportunity to testify. He said that Alaska cannot arrest its way out of the drug problem and the U.S. was not able to do so with its war on drugs. The U.S. has more people incarcerated than anywhere in the world.

MR. ATWOOD said he has been sober for 42 years, that punishment never helped him, but the 12-step program, drug and alcohol treatment, and community support did. He related the high cost of incarceration, at \$168 per day, which could go a long way to provide programs. He said that Senate Bill 91 had some good programs. He hoped to meet with legislators next month as a member of the Advisory Board of Alcoholism and Drug Abuse.

1:35:13 PM

MARY GEDDES, representing herself, Anchorage, said she was speaking as a 35-year Alaska resident, that she has children and grandchildren, so she wants nothing more than to have a safe home and community. She said she has reviewed SB 32 and fully grasps the motivation behind it. However, she has spent her career working in the criminal justice system and is deeply concerned about the bill. She said a disconnect exists between good intentions and the negative outcomes of many of SB 32's provisions.

She said that people do not agree on ways to keep people safe or the best value for criminal justice dollars. However, many of

the provisions in SB 32 do not accomplish either purpose. The fundamental problem with SB 32 is that it calls for increased sentences. However, overwhelming evidence indicates that lengthening sentences does not reducing recidivism or crime. Using non-incarceration sanctions would be a less expensive approach. Enacting longer sentences increases the number of prisoners at a rate that is fiscally unsustainable, she said.

[1:38:36 PM](#)

ROBIN CARVALHO, representing herself, Wasilla, said her Mat-Su Valley community cried out for reform after it witnessed so much death and destruction and saw the toll it took on Alaskan families. She acknowledged that Senate Bill 91 had some good provisions. The bill allowed prisoners who served their time and paid their debt to society to obtain limited licenses, which allowed them to get productive jobs and care for their families. She asked people to show mercy and welcome them back to their communities. She urged members not to lose sight of the fact that crime is up nationwide, and much of it is related to mental health and a lack of treatment.

[1:41:44 PM](#)

JOE SCHLANGER, representing himself, Wasilla, expressed concern about the risk of sexual abuse of minors in schools and advocated to amend SB 32 to specifically address it. He pointed out that Lukis Nighswonger, [a Wasilla elementary school teacher] had at least 20 charges filed against him, but the Mat-Su Borough and Mat-Su Borough School District did not adequately cover or report the case. He said, "We've got to put a stop to this.". He said that children, teachers and schools need additional protection, including enhanced reporting. He offered his belief that minimum sentences should be increased to 20 years for first-time child molesters, especially since victims suffer for the rest of their lives. The emphasis needs to be on the victim and not on criminals, who often perpetrate multiple crimes with multiple victims.

[1:44:05 PM](#)

NICK BROCKETT, representing himself, Wasilla, said that the crime issues that Alaska faces are similar to ones in the rest of the nation because these crimes are tolerated. He said that the same level of problems does not exist in other countries because they do not tolerate crime. For example, the Philippines does not have a DUI [driving while under the influence] issue and Singapore does not have a drug problem, he said. If Alaska makes it a bad place for criminals, the criminals will move to the Lower 48, he said.

[1:45:58 PM](#)

SENATOR REINBOLD acknowledged that she felt safe traveling in Asia.

[1:46:18 PM](#)

JESSE SUMMER, representing himself, Wasilla, said his business has been subject to multiple felony thefts. In fact, he has caught several thieves, who have admitted to theft in front of law enforcement. He also had ample evidence of these crimes. He surmised that the troopers were demoralized by Senate Bill 91 because they often must release offenders on unsecured bonds. He suggested that a secured bond could help, especially for felony offenses.

[1:48:23 PM](#)

EDIE GRUNWALD, representing herself, Wasilla, said she has visited several prisons and indicated that the Hiland Correctional Facility has some of the best mental health assistance in the state. She offered her belief that the state needs to focus on the victims. From the beginning, Senate Bill 91 was an invitation for criminals to come to Alaska. She said she supports electronic monitoring as a condition of release. After reviewing SB 32, it appears to her that the sentencing was raised, but the classifications reduced the penalties for drugs in proposed Sections 30, 31, and 33. She asked whether that was correct.

[1:49:48 PM](#)

CHAIR HUGHES said that is not correct; however, Kaci Schroeder from the Department of Law will make comments at the end of public testimony.

[1:50:11 PM](#)

MS. GRUNWALD asked whether the mandatory inflation rate is raised. She said that she offers her support so Alaska can get control over crime. She offered her belief that services for victims needs more support.

[1:51:48 PM](#)

CHAIR HUGHES agreed that the inflation adjustment was removed. She asked Ms. Schroeder to speak to this provision.

[1:52:30 PM](#)

ERIK REED, representing himself, Wasilla, said that over a year ago, he had a head-on collision with a drunk driver. He said:

My son and I survived. He was four. My wife passed away. Nobody has given any consideration or thought to us as victims. They have cared more about this process. The offender is currently on "house arrest" living with a best friend. He is free to see his children, his girlfriend, his wife; however, my son and I are not. It's been over a year. There has been no justice so I would ask that there be a timeframe to allow for victims to continue to move forward and have some sort of closure. Everybody wants to give the perpetrators the second chance, but nobody thinks about the victims. It's a lifelong injury that we sustain in our lives and breathe every single day and it's extremely tough. This guy is out, like I said, on "house arrest." Things have kept being pushed back over and over again. There's no closure for my son and I, and at any point in time, my son and I can be right back in the middle of that wreck. We go to therapy continuously and it's hard to explain to my boy what happened when he saw his mom take her last breath. And what happened to the guy that caused that accident, that is more important than this criminal's rights.

[1:54:01 PM](#)

CLIFFORD SMITH, Owner/Operator, VIP Alaska, Kenai, said that he is owner of a private electronic monitoring firm in Kenai. He thanked Senator Micciche for letting him know about the public testimony. He referred to Sections 19 and 20 of SB 32. He said that language was added to the bill to make it a crime to remove, tamper, or disable electronic monitoring equipment.

He suggested the committee may wish to consider adding language to address the failure by an offender to charge or recharge the electronic monitoring equipment. He described the differences in equipment. Failure to keep the device sufficiently charged is just as effective as tampering or disabling the electronic monitoring equipment.

MR. SMITH said he was glad to learn the cost of imprisonment at a private residence included provisions that require electronic monitoring must be paid for by the person being sentenced, except in cases where the court determines the offender is indigent. Section 46 seems to cap the cost of imprisonment at \$2,000 and asked the reason for the cap. He said he does not think this bill goes far enough.

[1:57:05 PM](#)

CHAIR HUGHES welcomed additional comments to be submitted in writing to senate.judiciary@akleg.gov.

[1:57:20 PM](#)

VERNON SMITH, Kenai Peninsula AMIA, Kenai, said he is a cultivator on the Kenai Peninsula. He expressed concern that legal cultivators of marijuana will be adversely affected by Section 32 of the bill.

[1:58:34 PM](#)

SENATOR MICCICHE said the committee has been receiving calls from the legal cannabis [marijuana] industry. He said that he will ask for a formal ruling on the applicability of SB 32 to ensure that the legal cannabis industry is protected. He said he will share that response once he receives it.

[1:58:59 PM](#)

RYAN TUNSETH, Owner, East Rip, Kenai, thanked Senator Micciche for the clarification. He echoed comments previously made on the legal marijuana community concerns. He said that he would like protections to be extended to all cannabis stakeholders, and not just licensed businesses.

He expressed concern that the belief seems to be that Senate Bill 91 created the crime problems and that SB 32 will fix them. However, when the attorney general was asked if the bill will fix the problems, he could not give any assurances it will, just that the state needs to do something. He expressed concern about the process being used to revise the criminal code. It was his understanding that Senate Bill 91 would be strategically reviewed, that areas that were deemed good ones would be kept, but others would be changed. However, just going back to pre-Senate Bill 91 law is not a fix. He said that he empathizes with the victims, and agreed it is important to keep them in mind. He said he appreciated hearing the victims' comments.

[2:01:48 PM](#)

CHRIS EICHENLAUB, representing himself, Eagle River, offered his general support of SB 32, that he wants "justice for all," not just for criminals. He expressed concern that the public bears the cost of crime in the form of shoplifting, increased insurance fees, and additional law enforcement. He offered his belief that more law enforcement does not reduce crime. Instead, what reduces crime is legislation passed by the legislature. He surmised that criminals know how far they can push things. He urged members to think about victims.

[2:05:00 PM](#)

LYNETTE CLARK, Chairman, Alaska Independent Party, Fox, testified in opposition to SB 32. The repeal of Senate Bill 91 has become a mantra for Alaskans. However, SB 32 is a mistake and a "knee jerk" reaction as a response to public pleas to eliminate Senate Bill 91, which was rushed from the start. She urged members to not make the same mistakes.

MS. CLARK asked members to be open to the public's concerns but to give them what works. Last summer her home was broken into, but since Senate Bill 91 was on the books and created "a revolving door," she did not even bother to report it. She warned her community that the next time her house is broken into that she will act. She said, "Please get this right and not rush it."

[2:07:05 PM](#)

CODY COMAN, representing himself, Wasilla, agreed with Mr. Carrigan's concerns that SB 32 would adversely affect the legal cannabis industry. He said he understands that SB 32 would only apply to the marijuana "black market," but he expressed concern that the bill would criminalize legal marijuana and natural hemp. He highlighted the importance of protecting the legal cannabis industry since it brings in millions of tax dollars to the state.

[2:08:53 PM](#)

TIM KELLY, representing himself, Wasilla, testified in favor of SB 32. He said that recidivism is a problem. He noted earlier testimony said that recidivism is down. However, when law enforcement stops arresting people, the statistics also reflect reductions in crime. He has tracked crime for nearly 40 years and has found recidivism rate runs 70-80 percent despite the efforts to control it. He offered his belief that the solution is to incarcerate people for long periods of time to prevent criminals from preying on citizens. He said Senate Bill 91 was passed to address budget issues. He suggested sending offenders with long-term sentences out-of-state to save half the costs of incarceration and allow room in Alaska's prison facilities for those with shorter offenses. He said [his vehicle] was hit by a person with multiple DUIs. He and his son could have been killed in the accident, he said. He offered his belief that Alaska has a huge problem with drunk drivers because Alaska is soft on crime.

[2:11:32 PM](#)

CHAIR HUGHES reminded the public that the committee welcomes additional written comments can be submitted to senate.judiciary@akleg.gov.

2:11:57 PM

AARON COMAN, representing himself, Palmer, stated that he works in the legal marijuana industry. He echoed Cary Carrigan's testimony and concerns. He thanked Senator Micciche for his willingness to request a legal opinion that clarifies that SB 32 will not apply to the legal cannabis operations. He referred to page 19, lines 19-21 of proposed Section 32, which read as follows:

(i) three grams or more containing a schedule IIIA or IVA controlled substance except a controlled substance in a form listed in (ii) of this subparagraph;

He referred to page 19, lines 13-14, of proposed Section 32, which read as follows:

(ii) schedule IIA controlled substance except a 14 controlled substance listed in AS 11.71.150(e)(11) - (15);

MR. COMAN expressed concern that these provisions need to be examined to be sure they do not adversely impact the legal marijuana industry. He expressed concern that it will place the burden on the public to prove any marijuana in their possession was legally acquired.

2:14:15 PM

RODGER BRANSON, representing himself, Eagle River, said he views himself as a mental health services consumer. He expressed concern about an "us against them" attitude that he has been hearing today. He asked to speak for those people who are in recovery. He acknowledged he heard several people testify that they work in prison ministries and recovery services. He said that is common for those in recovery to want to help others and that such peer recovery can be a huge asset to the state.

2:17:11 PM

JESSICA SPURRIER, representing herself, Juneau, stated that she works for JAMHI, [the Juneau Alliance for Mental Health, Inc.] Health and Wellness as coordinator of the Heroin and Prescription Opioid Misuse Program. She is also the facilitator for the Juneau Opioid Work Group and is in the process of completing her Master of Social Work degree. She said that SB

32, if passed, would send lots of people to prison for drug crimes.

She agreed that crime has been increasing but offered her belief that crime was on the rise well before the passage of Senate Bill 91. The phrase "correlation does not equal causation" is not just a catchy phrase, she said.

She said that prior to 2016, the prison population in Alaska was incredibly large. In fact, the state wanted to build a new prison to accommodate them. Yet, the crime rate continued to increase, she said. The state saw firsthand that more imprisonment did not lead to less crime. She wondered why returning to pre-2016 law would result in less crime. Alaska is in the midst of an economic recession, with the highest unemployment rate in the country, she said.

MS. SPURRIER expressed concern that a first-time offender possessing even a small amount of heroin could be convicted of a felony. A felony conviction is a life sentence, she said. Felons have difficulty getting jobs, housing, credit, or overcoming social stigma. These things can only hurt their chances of overcoming addiction. Fear of incarceration has not been a deterrent in drug-related crimes. However, treatment can help.

She said that the laws created by Senate Bill 91 were based on sound science and needs time to work, that similar laws have worked in other states, and can work in Alaska. Substance use disorder is a disease, she said. She asked members to support justice reforms that promote rehabilitation and increase supervision to reduce crime and increase public safety. In closing, she said "please remember that "an ounce of prevention is worth a pound of cure."

[2:19:59 PM](#)

MICHAEL VANLINDEN, representing himself, Juneau, stated that he is a graduate of the Alaska Therapeutic Court program and a felon. In 2014, he was charged with a felony DUI, but was given an opportunity for rehabilitation through the therapeutic court process. He has served his sentence, but he continues to carry the scarlet letter "F" wherever he goes. Five years later he still worries about whether he will be able to move on with his life. He must worry whether the legislature will repeal the law that drastically changed his life for the better.

He said, "I get punishing people for their crimes." However, the real question is whether people become better human beings on

the other side or if they are made worse. He expressed gratitude that he had an opportunity for treatment, and he got better. Now he works as a case manager and a chemical dependency counselor, helping those with substance use disorder and mental illness to get better. He was issued a limited license due to Senate Bill 91, which allows him to have a good job and provide for his family. He drives his son to school each morning.

MR. VANLINDEN said that the governor says he wants to help people to change, but [SB 32] would not have helped him. The governor also said he wants to be compassionate, but where is the compassion in SB 32. He offered his belief that SB 32 would be a huge step in the wrong direction. He expressed concern that SB 32 would adversely affect him. He wondered if the goal was to make more criminals or to help people change.

He said, "Just because you feel like the law is the problem doesn't make it true. If you look at the data, you'll see that we were headed this way, way before Senate Bill 91." He questioned why people would blame a law that was not fully implemented until last year. He sees people every day who have benefited from Senate Bill 91 and have gotten better because of it. He said that budget cuts to police, prevention programs, and behavioral health services have created a "perfect storm." The reality is that the burden has shifted to the community. He expressed concern about cutting funding for programs, mental health services, and prevention services for Alaskans. He offered to provide the remainder of his testimony to the committee.

[2:23:00 PM](#)

WILLIAM J. MUSSER, representing himself, Juneau, stated that he is a convicted felon, in recovery from a substance abuse disorder, and works as a chemical dependency counselor technician. He said he has gone through the prison and probation system, which he characterized as a broken system.

He said he is a broken individual who saw his sister lose her life by an intoxicated driver. No one knew how to help him, nor did they have the tools to fix him, so he victimized others, he said. He suggested that the system is set up for broken people to fail. He finally found someone who helped him and the only way to stop recidivism is find out what works for each individual, since the same approach will not work for everyone. He said it takes a lot of services and effort to help people. He acknowledged that the Juneau community tries to reach that standard. He said he is inspired by his community.

[2:25:42 PM](#)

BRIAN ENDEL, representing himself, Palmer, testified in support of SB 32. He said that he was opposed to Senate Bill 91 from its inception. The bill was destructive for Alaska, he said. He would like to reverse the direction, and see the legislature add in the good parts of Senate Bill 91 into SB 32. He quoted scripture in Ecclesiasticus 8:11. He said post-Senate Bill 91 law does not give people justice.

[2:27:24 PM](#)

VICKI WALLNER, Member, Stop Valley Thieves, Palmer, testified in support of SB 32. She said she is the founder of the 2014 social media group with over 17,000 members. She offered her belief that the system was broken before Senate Bill 91, but that bill went too far, that it eroded the public trust, and allowed offenders to be released quickly. This demoralized police and sent the wrong message to criminals. She said that the public is screaming for justice. The government's number one priority is to protect its citizens.

She said, "It's an absolute fact that an offender in jail is not creating new victims." She said she is glad the crime bills are separated into four bills. She acknowledged that Senate Bill 91 had some good provisions. However, the state did not save the money it was supposed to save under the bill. In fact, the state was considering reopening the Palmer Correctional Center, she said. In closing she said that people do not feel safe in their own communities.

[2:31:03 PM](#)

MIKE COONS, President, Greater Alaskan Chapter of Alaska Association of Mature Citizens, Palmer, testified in support of SB 32. He said his chapter just finished its meeting and discussed SB 32 and most of the members supported SB 32. He supported changes in drug possession amounts to allow the criminal justice system to prosecute dealers. He stated that he would like to see pedophiles and rapists get life with no parole since pedophile victims must live with the effects the rest of their lives. He offered his belief that users can get help behind bars. He said he supports the increased penalties and is "all for three strikes." He said he is a retired paramedic who has cut people out of cars because of drunk drivers. He said a felony DUI means the person has no regard for the law or for others. He recommended returning "hard time" to criminals and reverse the "soft aspects" of Senate Bill 91. He offered his belief that the criminal can get his/her act together while in

jail if they want to change, and if not, the state should not show any mercy. He said he wants to make Alaska an unsafe place for criminals and a safe place for Alaskans.

[2:33:05 PM](#)

TRIADA STAMPAS, Policy Director, American Civil Liberties Union of Alaska, Anchorage, testified in opposition to SB 32. She said that SB 32 would promote a return to policies that failed to stem increasing crime and recidivism rates. It was disappointing to learn that this committee will not be considering any amendments given that many legislators and the governor promised to repeal Senate Bill 91 and replace it with something better.

She said that many Alaskans are concerned about crime and many who have changed their behavior to avoid crime deserve an honest and robust discussion of what has worked and what has not worked. They also need to know that what will replace Senate Bill 91 will be better than the return to policies that were failing to protect them in 2015. The committee has heard from this administration that increasing criminal sentences and imposing heavier penalties on crimes are not guaranteed to lower crime rates. That is because the relationship between crime trends and sentencing policy is tenuous at best. Alaska's crime rates are more fairly attributed to the state's struggling economy, insufficient availability of mental health and substance abuse disorder treatments and a raging opioid epidemic.

The state's own data shows that larceny, burglary, and motor vehicle theft began to spike prior to Senate Bill 91 being signed into law. While sentencing policy does not drive crime rates, it does drive incarceration rates and taking away a person's liberties is one of the most serious exercises of government power. In the decade prior to passage of Senate Bill 91, Alaska's prison population had grown 27 percent, with more than half the prison population being non-violent offenders and supervision violators while crime rates continued to climb.

[2:35:11 PM](#)

MS. STAMPAS said that these sentencing policies were also resulting in disproportionate incarceration of Alaska Natives, African Americans, and Latinos. Alaska's prisons were packed, forcing the state to consider building even more prisons. She said that the Department of Correction's fiscal note makes clear that SB 32 will exceed the current capacity and put Alaska back into the same untenable situation. Alaska's Constitution charges us to balance the need for protecting the public, community

condemnation of the offender, the rights of victims of crimes, restitution from the offender, and the principle of reformation.

MS. STAMPAS said the committee has heard testimony today about the importance of robust reentry programming and the treatment of substance use disorders. Since Senate Bill 91, more than \$40 million has been invested and this investment in the principle of reformation is an algorithm of current statistics of the reduction of recidivism. She said that SB 32 shifts the balance away from intervention to prevent crimes in favor of sentencing policies that have already been tried and failed. She urged members to vote against SB 32.

[2:36:31 PM](#)

CHAIR HUGHES remarked that the committee is not entertaining amendments. This is not because there is not any desire to do, or that committee members do not have any concerns. She said it is simply because she, as chair, has a conflict of interest due to what she believes is a flaw in the ethics law. She would like to be clear that there is not any rubber stamping of this bill.

[2:37:13 PM](#)

KARA NELSON, representing herself, Juneau, stated her opposition to SB 32. She said that she is a lifelong Alaskan who is in long-term recovery from substance abuse disorder and mental health issues. She was formerly incarcerated and is the mother of three Alaskans. She has walked shoulder to shoulder with hundreds of Alaskans who will not be able to testify today. She asked to reiterate the need for restorative justice practices. She said that she has heard a lot of testimony about what is and is not working. She offered her belief that incarcerating for longer periods of time does not enhance public safety or drive down crime. She acknowledged she could not comprehend the problems in communities. She asked members to keep justice for all in mind, even those Alaskans who have a criminal background. Many of them have been victims of crime, but their voices are not heard.

[2:39:46 PM](#)

CHAIR HUGHES thanked her for her work in the recovery field. She said she would make remarks after public testimony

[2:40:10 PM](#)

ROBIN MITCHELL, representing herself, Chugiak, testified that she was generally in support of SB 32. She stated that testimony should be thrown out [if anyone commits perjury] and the affected parties should be able to sue. She expressed concern

that judges are not made accountable and related a scenario from her own experience with guns stolen during a divorce proceeding to illustrate her point. She expressed concern that the courts are a revolving door for criminals.

CHERYL BOWIE, representing herself, Anchorage, testified in opposition to SB 32. She said that she has not heard testimony related to increasing mental health access and pain management access for formerly incarcerated individuals. She offered her belief that once a person is incarcerated, no matter what they achieve and accomplish in terms of compliance goals, the person is often not viewed as human and is locked out of access to jobs and medication. She suggested exploring ways to mitigate some of those risks. She further suggested uniform laws for the cannabis industry. She related that Illinois allows opioid prescriptions to be substituted with marijuana at dispensaries and doctors should work with patients in that regard. She said that patients, the disabled, and poor people are locked out of jobs, but need access to jobs and insurance. She suggested law enforcement should focus on violent crimes, property crimes, sexual assault, and white-collar crimes. She said she does not think putting people in jail for a long time or building more prisons will help us deal with the issues we face.

[2:46:15 PM](#)

ROBERT DORTON, representing himself, Fairbanks, said he obtained treatment in prison in Palmer in 2015. Once he was released to electronic monitoring, he had a chance to give back to the community via his 12-step program and an opioid crisis work group. He graduated from a re-entry program and is now a volunteer as a peer-support specialist. He obtained his GED and has been accepted at the University of Alaska Fairbanks. He emphasized that treatment works but longer sentences do not. Prisoners should be able to pay their way back to society instead of being stored away. He expressed gratitude for Senate Bill 91 and how it helped him. He urged members not to give up on the bill since it needs time to work. He said "the miracle is about to happen" so let it work. He said that people realize that drug addiction is a disease. He emphasized the focus should be on treatment. He is part of the faith community, he said.

[2:49:02 PM](#)

CHAIR HUGHES congratulated him on his progress and forward movement in his life.

[2:49:20 PM](#)

SENATOR REINBOLD said she sees Senate Bill 91 differently. She said thousands of Alaskans have suffered and hundreds of businesses have been affected by crime. She asked for further clarification on the treatment program he felt was successful.

MR. DORTON said he participated in the Residential Substance Abuse Treatment (RSAT) program. It gave him the tools to help him address his problems. He lamented the three years he spent in prison once he had the knowledge and not being able to use it.

[2:50:37 PM](#)

JAMIE DONLEY, representing herself, Anchorage, testified in support of SB 32. She said the last time she took her son to the park, he was running and encountered someone shooting up heroin. She offered her belief that those who were "sitting idly in prison" were actually being help while they were incarcerated. This gave them the opportunity become good, prosperous members of society, she said. She said she supports prison for those who commit crimes. In response to Chair Hughes, she said she is in support of SB 32. She added that she had a family member who was incarcerated for a drug offense pre-Senate Bill 91, got help while in jail, and is now a productive member of society. She surmised if her sister had been involved in drugs post-Senate Bill 91 that her family member would probably be dead.

[2:52:34 PM](#)

ELIZABETH WILLIAMS, Member, No More Free Passes, Anchorage, offered her partial support of SB 32 because the bill will raise sentences for assault and other violent crimes. She is against SB 32 for making simple drug possession a felony across the board. She cautioned against treating violent and non-violent crimes the same, which was one of the issues with Senate Bill 91. She suggested that the public was misled that it would only affect non-violent drug users, which was not the case. She said that Senate Bill 91 lowered sexual abuse of a minor in the third degree and all domestic violence charges. She offered her support to reinstate penalties for domestic violence and sexual assault that Senate Bill 91 reduced. She said research indicates that exposure to domestic violence is the worst thing that can happen to a child, so she advocates increasing sentences for domestic violence. Sending perpetrators of domestic violence to prison for six months to a year can give the victim and family to get their lives back together. She suggested treatment for addiction and consequences for those who commit violent crimes.

[2:55:07 PM](#)

VICKI JOE KENNEDY, representing herself, Kodiak, acknowledged that the budget cuts will mean drastic cuts. She said that cannabidiol (CBD) can help with the opioid crisis. She directed attention to Section 28, page 13, lines 10-13, which upset her since it changes the penalty for disorderly conduct from a 24-hour sentence and increases it to 10 days. She suggested that could adversely affect activists who engage in civil disobedience.

[2:59:01 PM](#)

LYNDA WATTS, representing herself, Juneau, said she is a person with disabilities and is someone who suffers from post-traumatic stress syndrome (PTSD), bipolar, and anxiety disorders. She was a victim of sexual abuse and raised in an alcoholic home. She developed a coping mechanism and is an alcoholic. She has two felony DUIs and a felony failure to appear, with over 30 convictions. She learned she was eligible for the Juneau Re-entry Coalition Program, which helped her turn her life around. The program merged with the Juneau Alliance for the Mentally Ill (JAMHI). She would like treatment programs that provide hope and counseling for people. She was a "blackout drunk" and the worst offender. She said it was a great honor to testify today in the presence of legislators. She urged members to pick out the best parts of Senate Bill 91 and SB 32 since not everything about Senate Bill 91 was bad. She said being sober is good and she hopes to be a role model for those who have been incarcerated to serve lengthy sentences. She asked members to focus on the numerous successes of people who benefitted from Senate Bill 91 and not the one who are problematic.

[3:02:58 PM](#)

CHAIR HUGHES wished her continued good fortune as she moves forward with her recovery efforts.

[3:03:25 PM](#)

RICK IANNOLINO, Retiree, FASD Diagnostic Clinic, Juneau, stated that he served as the coordinator for the Fetal Alcohol Spectrum Disorder Diagnostic Clinic for ten years. He stated his opposition to SB 32. He characterized most of his clients as people who suffered from post-traumatic stress syndrome (PTSD) and were from alcoholic families. Most families had been in and out of the correctional facilities for generations. He said that this bill promotes laws that are perhaps the most extreme in the U.S. He noted that the U.S. incarcerates a higher percentage of its citizens than any other country in the world. He said he reviewed the recidivism rate, which increased during the war on drugs and has been rising due to the opioid epidemic. He

suggested the state should consider Norway's system with shorter sentencing, more treatment, with a recidivism rate of 7 percent, not 75 percent. In response to Chair Hughes, he said the Prison Policy website states that Norway's rate is about 7 percent.

[3:07:41 PM](#)

MS. KENNEDY rejoined the teleconference. She stated that she is upset with Section 28, subsection (c), which increases the penalty for disorderly conduct from one day to ten days. She said she thinks the penalty is too harsh and asked members to reconsider the provision.

[3:09:19 PM](#)

SOL NEELY, Ph.D., representing himself, paraphrased from a prepared statement, which read as follows:

Thank you, Senator Hughes and the Senate Judiciary Committee. I am Dr. Sol Neely. I live in Juneau, and I'm representing myself.

I do come from an inter-disciplinary academic background rooted in the concrete realities of prison and reentry efforts. In Fall 2012, I started a prison education program that became in time a reentry effort, so every week of my life I attempt to balance the rigor of academic research with the realities of life lived in the prison and in reentry. My experiences in all this align with the data and evidence that show restorative justice measures work.

From this perspective, and as witnessed here today in much of the public testimony, it seems that what motivates SB 32 is either blind ideology and an emotional desire for revenge and retribution, which is not aligned with the mission of the department of corrections, or it is motivated by dark money and special interests. Our governor has campaigned in the interest of the latter by exploiting the former, and SB 32 is a product of this cynical exploitation of fear.

With all respect to victims of Alaska crime, it is simply dishonest to say supporters of criminal justice reform don't care about victims. We care deeply about victims, but we understand that there are ways to organize justice reform other than revenge and retribution, which do nothing toward healing and

restoration in our communities. The data on that is clear. And many of our incarcerated neighbors are in fact victims too - of abuse, drugs, racism, transgenerational trauma, or a failing economy. It is not as simple as separating victims and perpetrators of injustice. And we have multiple other models like circle sentencing and restorative justice that make victims central to justice reform. And this is the direction SB 91 was leading us. And as a former steering committee member of the Juneau reentry coalition, I want to reiterate that Alaskans need to allow enough time for existing justice reforms to be evaluated, so that any changes we make are data driven.

And my second point is related: We need treatment not incarceration. Data shows that it is less costly and more effective to serve people with behavioral health disorders in the community, rather than in expensive long-term institutional care. But when the governor calls for a war on criminals, he is calling for a cynical war on people, a war on our communities. We need healthy community predicated on respect not on skepticism.

For these reasons, I am resolutely opposed to SB 32 and ask you to resist the rhetoric of fear and muster the courage for evidence-based reform tied to broader issues that enrich our public resources instead of diminishing and privatizing them. Thank you.

[3:11:57 PM](#)

MORGAN EVENSEN, representing herself, Wasilla, testified in support of SB 32. She said she is 17 years old and grew up in the [Mat-Su Valley]. She has had friends murdered and seen drug problems in her community firsthand. There needs to be stronger consequences for these crimes. She said she does not know the solution, but she would like to see her community become safe. In closing, she said she looks to the legislature to listen to the people and victims and make this a great place for all.

CHAIR HUGHES thanked her for testifying before the committee.

[3:12:45 PM](#)

SHERRY HASSELL, representing herself, Soldotna, stated her support for SB 32 and the repeal of Senate Bill 91.

[3:13:26 PM](#)

ANNETTE PANKOSKI, representing herself, stated that she has been a realtor for over 13 years. She has been a resident of Alaska for nearly 33 years. Pre-Senate Bill 91 she had clients who did not even have keys to their homes. She urged members to repeal Senate Bill 91, which removed consequences. She supported consequences for criminal behavior as a deterrent to crime. She said that our communities and residents deserve to feel safe.

[3:14:38 PM](#)

SENATOR MICCICHE related that the repeal of Senate Bill 91 is in four bills. He asked whether she supported SB 32.

MS. PANKOSKI said she would like to further review SB 32.

[3:15:14 PM](#)

SENATOR REINBOLD echoed her observations that people did not used to lock their homes, but they must do so because of crime. She is a big supporter of SB 32, which will significantly bring the laws back to pre-Senate Bill 91. She said she was willing to discuss the bill and highlight the changes that were made in the bill.

[3:16:16 PM](#)

JENNIFER HOWELL, representing herself, Sterling, testified in support of SB 32 and repealing Senate Bill 91. She has reported criminal activity, but the troopers' hands are currently tied. She said her brother-in-law has been robbed three times by the same individual. However, the person has been released repeatedly and the charges have been reduced to misdemeanors. She cautioned that something is wrong when individuals are not afraid of the sentence.

[3:17:54 PM](#)

SENATOR KIEHL said he appreciated her testimony. He asked whether the person was charged with felonies.

MS. HOWELL responded that the arrests were for felonies, but the crimes were reduced to misdemeanors.

[3:18:32 PM](#)

CHAIR HUGHES, after first determining no one wished to testify, closed public testimony on SB 32.

[3:19:04 PM](#)

CHAIR HUGHES remarked that she has heard mentioned "justice for all." She said lawmakers have a responsibility that the public

has safe neighborhoods and communities. When people are put behind bars, they are not in the communities committing offenses. Treatment was failing in the Senate Bill 91 process. What she is working hard on with the administration is the importance of what is done during incarceration. She said inmates can sleep in, watch television, play cards, and spend idle time in prison. She would like to see inmates being prepared to be more productive citizens in society. The state needs to have private sector treatment programs available in the prison system with good success rates, including substance abuse treatment, family counseling, or work-training. The private sector organizations need to provide services in the facilities so inmates will have a network and support system on the outside. She said she hoped that they would have a job and housing lined up so they can be productive and have the means to pay their rent.

CHAIR HUGHES said that Alaska has been failing. It failed before and during Senate Bill 91, in terms of what happens in the Department of Corrections. She said, "That is a focus and that will address justice for all, because if we keep the criminals off the streets our neighborhoods will be safer. If we do the right thing in the prison walls, we will provide justice and a new opportunity for those who have committed the crime with the hope and the goal that when they exit, they will not return. This has worked in other places." She offered her belief that Alaska can reduce the recidivism rate from that 70 percent range. Other states have reduced recidivism rates below 30 and 40 percent. She has heard that one rate was as low as 17 percent, but the laws were tough. This is one of her goals, she said.

She said that prior to Senate Bill 91, she had worked as a contractor in the prison system and witnessed inmates who were not criminally minded pick up criminal habits inside the prison system from hardened criminals. These inmates exited the system and committed worse and worse crimes. She opined that the state must do things differently in the Department of Corrections and must set the goal to give inmates a chance to get back on track. She said this is important for safety and the state needs to invest funding, although this bill does not address funding aspects. However, the committee will hear future bills that will address funding. She said it is not "either/or" because the state can have tough laws to get them off the street and do things differently in the prison system that will allow criminals to get their lives turned around. It will also provide assurance that when offenders exit, they will be in better shape

than when they entered the correctional system. She said, "I just wanted to put that on the record because I know some of the people who supported [Senate Bill 91] and are opposing SB 32; you are only seeing one piece of the puzzle at this point."

[3:24:12 PM](#)

CHAIR HUGHES asked people to watch for the whole package because those who oppose Senate Bill 91 will find that sentences are being toughened, but the issues raised today can be addressed. This included providing inmates with opportunities for treatment to get their lives back on track.

[3:25:08 PM](#)

KACI SCHROEDER, Assistant Attorney General, Central Office, Criminal Division, Department of Law, Anchorage, in response to Chair Hughes, said that in regard to the concerns that were expressed about the language in SB 32 that pertains to marijuana, that was in place pre-Senate Bill 91. She explained that the initiative passed, was in statute in 2014, and coexisted before Senate Bill 91. This bill would reset the stage for the language to coexist again. As Mr. Henderson stated yesterday, the language in SB 32 targets the black-market aspects of the cannabis industry. She said the Department of Law arrived at that conclusion because the statutes are to be read harmoniously. The statutes are not to be read to invalidate other statutes if the statutes can be read together. The marijuana initiative is codified in AS 17.38 and the criminal activity is found in AS 11. She said that if the person is operating within the confines of AS 17.38, the person is fine. If the person is operating outside those confines, for example, not having a license or possessing more than an ounce of marijuana, the criminal law would "kick in." She acknowledged that some simple things can be done in AS 11 to address the concerns. She suggested that when SB 32 gets to the point where changes can be made, the administration welcomes working with members to make those changes.

CHAIR HUGHES asked whether any additional clarification needs to be placed on the record.

[3:26:55 PM](#)

MS. SCHROEDER answered that concern was raised about the thresholds for theft being the same as in Senate Bill 91. She explained that Senate Bill 91 raised the felony threshold to \$1,000; however, Senate Bill 54 brought it back down to \$750. The felony threshold remains at \$750, she said.

MS. SCHROEDER recalled that another issue raised in testimony was whether allowing an electronic monitor's battery to die would qualify as tampering in the escape statutes. She said the DOL believes that would be a close call so it may be something the committee would want to consider in the future.

[3:27:41 PM](#)

SENATOR KIEHL said that one thing that was raised by several public testifiers was a three-gram standard, which may be the result of confusion about schedule IV versus scheduled VI drugs. He asked for further clarification on the standard.

MS. SCHROEDER said she was unsure. She related that AS 17.38, which codifies the legal use of marijuana has a one-ounce threshold. She suggested she could review the criminal code for thresholds.

CHAIR HUGHES offered her belief that it is classified as one of the drugs that marijuana is so that might be something to review to ensure a problem does not exist.

[3:28:31 PM](#)

SENATOR MICCICHE said that one thing he supported in Senate Bill 91 was the limited [driver's] license option. He asked for clarification that the limited license option is not being eliminated. He explained the limited license option allows those who have abided by the rules for a long time the ability to have a limited license. This would remove an obstacle and allow them to drive to work, to church, and elsewhere.

MS. SCHROEDER answered that none of the bills in the governor's crime package touch on the limited license issue.

[3:29:16 PM](#)

CHAIR HUGHES remarked that she thinks that a loophole exists related to the 10-year span for someone to obtain a license. She offered her belief that resetting the clock should occur after the last violation. She explained that the current law allows a person to get their license returned in the first ten years if the person "stays on the straight and narrow." However, if the person missed that window, the only way for the person to get a driver's license would be to commit a DUI and go through the therapeutic court system. She clarified that she absolutely does not suggest this avenue. It should apply to someone who has "stayed clean" for a ten-year period, so this will need to be addressed.

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SENATOR MICCICHE related that the committee heard concern that the penalty for a simple [drug] possession would be returned to a felony in SB 32. He asked Ms. Schroeder to describe the option a judge must impose for a suspended imposition of sentence (SIS), which can keep the penalty at a misdemeanor with the stipulation for a recovery plan or other condition.

MS. SCHROEDER answered that there are two methods for that to happen. She said a judge can put someone on probation and if the person complies with the conditions of probation, which could include treatment, the conviction could be "set aside." That was in place prior to Senate Bill 91 and was not changed by it. She explained that Senate Bill 91 did introduce a suspended entry of judgment (SEJ), in which someone could, with the consent of the prosecution, be put on probation. She said it is very similar to an SIS, which could include treatment. Once the person successfully completed probation, the charge would be dismissed.

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SENATOR REINBOLD expressed concern about this provision. She offered her belief that the reason people possess drugs is to use or sell them, which often leads to theft, assault, burglary, assault, and homicide. She found the homicide rates in Alaska "astounding." She expressed further concerns with some of the limited licenses for people who do not pay their fines or do not carry insurance. She agreed the "DUI loophole" needs to be addressed. She said Alaska has a horrible problem with alcohol, so "going soft in this area is inappropriate." She said she supports early intervention. She noted that resource officers in schools just "wave the flag." She said that the problems are very serious and early intervention is often not being done. She related her understanding that the new ethics law hinders the committee from making changes in the bill. She remarked that crime statistics show crime has "gone through the roof."

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SENATOR MICCICHE said many testifiers were opposed to the changes in SB 32. He said that the Alaska Constitution calls for community condemnation, reformation, and restitution, but it also focuses on victims' rights. He said what was missing is that the focus on potential rehabilitation forgot the price for community condemnation. He said, "There is still a price to pay for the crime, no matter what happens in the future with rehabilitation and reformation." He said he supports programs that help people reform their lives and be successful. However, Senate Bill 91 eliminated a large part of it and people were not

paying an adequate price. He said that he supports SB 32 since it, along with the other three crime bills, provides a reasonable approach. He said we still believe in the hope of turning someone's life around during incarceration. He supports the programs that Chair Hughes mentioned. However, the basic price, the basic community condemnation, still needs to occur, which is why he supports SB 32.

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SENATOR KIEHL said he shares the view that treatment has not been robust enough. The committee has heard testimony from people on how effective treatment helped them turn their lives around, especially with the re-entry provision in place. He would share interest in putting more focus on treatment in the bill. At the same time, some people will not reform and should remain in prison. He said, "We know that putting non-violent offenders and folks who struggle with addiction in prison for a long time with the folks from whom we really need to be protected for a long time tends to increase crime. It tends to make more victims." He expressed concern with some provisions in SB 32, which he characterized as a recipe to increase crime in Alaska, one that would create more victims. He acknowledged that the ethics law, which could use a tweak, may stop the committee from preparing a committee substitute, but it does not stop Chair Hughes from voting on amendments in committee. He was interested in the committee taking up amendments on the bill.

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CHAIR HUGHES said the committee will discuss how to proceed. She reviewed upcoming committee announcements.

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CHAIR HUGHES remarked that she appreciated Senator Kiel's concerns. She said that to prevent the "recipe" that would create more victims is to separate the first-time non-violent offenders, and to separate those who are incarcerated due to substance abuse. She offered her belief that was part of the problem, that they were intermixed with the violent and criminally minded offenders, the habitual offenders. She said part of her proposal and vision is to put the first-time offenders in a separate facility to stop churning out people in worse shape who create more victims in the community. Further, it is important to toughen Alaska's laws to stop the influx of criminals from outside the state. She said that Alaska has become a haven from the 30 or other states that have "three strike laws" who come to Alaska. She has heard, anecdotally, from a few law enforcement officers that nearly half their cases

are related to suspects and offenders who come from outside Alaska. She said that drains the resources Alaska has to take care of its own and to make sure that neighborhoods are safe. It is important that Alaska does its best to ensure that those going into its system have an opportunity to turn their life around. She reiterated the importance to stop the influx and to separate the first-time offenders.

[SB 32 was held in committee.]

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There being no further business to come before the committee, Chair Hughes adjourned the Senate Judiciary Standing Committee meeting at 3:40 p.m.