

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 19, 2019

3:32 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator Lora Reinbold
Senator Peter Micciche
Senator Scott Kawasaki

MEMBERS ABSENT

Senator John Coghill, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 33

"An Act relating to pretrial release; relating to sentencing; relating to treatment program credit toward service of a sentence of imprisonment; relating to electronic monitoring; amending Rules 38.2 and 45(d), Alaska Rules of Criminal Procedure; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 34

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 33

SHORT TITLE: ARREST;RELEASE;SENTENCING;PROBATION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/23/19 (S) READ THE FIRST TIME - REFERRALS
01/23/19 (S) STA, JUD, FIN
02/07/19 (S) STA AT 3:30 PM BUTROVICH 205
02/07/19 (S) Heard & Held
02/07/19 (S) MINUTE(STA)
02/14/19 (S) STA AT 3:30 PM BUTROVICH 205
02/14/19 (S) Heard & Held
02/14/19 (S) MINUTE(STA)
02/19/19 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 34

SHORT TITLE: PROBATION; PAROLE; SENTENCES; CREDITS
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/23/19 (S) READ THE FIRST TIME - REFERRALS
01/23/19 (S) STA, FIN
02/07/19 (S) STA AT 3:30 PM BUTROVICH 205
02/07/19 (S) Heard & Held
02/07/19 (S) MINUTE(STA)
02/11/19 (S) JUD REFERRAL ADDED AFTER STA
02/12/19 (S) STA AT 3:30 PM BUTROVICH 205
02/12/19 (S) Heard & Held
02/12/19 (S) MINUTE(STA)
02/14/19 (S) STA AT 3:30 PM BUTROVICH 205
02/14/19 (S) Heard & Held
02/14/19 (S) MINUTE(STA)
02/19/19 (S) STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JOHN SKIDMORE, Director
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Delivered a sectional analysis of SB 33.

JEN WINKELMAN, Director
Division of Probation and Parole
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Answered questions and agreed to provide follow-up information related to SB 33.

KELLY GOODE, Deputy Director
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Answered questions and agreed to provide follow-up information related to SB 33.

ERIK REED, representing self
Mat-Su, Alaska

POSITION STATEMENT: During the hearing on SB 34, asked a question about Section 18 that prohibits a person from earning good time while on electronic monitoring post sentence.

SID ATWOOD, representing self
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 34, testified that it was treatment that gave him a chance to have a good life.

MICHAEL BERGER, representing self and the people on the streets that were unable to attend
Anchorage, Alaska

POSITION STATEMENT: Testified that he opposes SB 34 on the grounds that continuous change will not achieve the goal [of rehabilitation].

TALIA EAMES, Reentry Program Coordinator
Central Council Tlingit and Haida Indian Tribes of Alaska
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 34.

LYNDA WATTS, representing self
Juneau, Alaska

POSITION STATEMENT: During the hearing on SB 34, urged the committee to keep some parts of Senate Bill 91 because it has helped a lot of people get on the right track.

ARIEL WALKER representing self
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 34, credited Senate Bill 91 for her successful three years of recovery.

CLINTON CERDA representing self
Palmer, Alaska

POSITION STATEMENT: During the hearing on SB 34, spoke in favor of Senate Bill 91.

LEE BREWING, representing self
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 34, testified that many factors should be considered before Senate Bill 91 is fully repealed.

LYNNETTE CLARK representing self
Fox, Alaska

POSITION STATEMENT: Stated that she generally likes the direction SB 34 is headed but she opposes allowing any credit for time served while on electronic monitoring.

JOE SCHLANGER, representing self
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 34.

ANNE DOERPINGHAUS, representing self
Fairbanks, Alaska

POSITION STATEMENT: During the hearing on SB 34, commented in opposition to privatization and sending prisoners out-of-state.

MARTY KINCAID, representing self
Palmer, Alaska

POSITION STATEMENT: During the hearing on SB 34, cited the Alaska Criminal Justice Commission Annual Report and highlighted that commission the recommends using a problem-solving rather than punitive approach to lower crime rates.

ACTION NARRATIVE

[3:32:29 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Kawasaki, Reinbold, Micciche, and Chair Shower.

SB 33-ARREST;RELEASE;SENTENCING;PROBATION

[3:33:39 PM](#)

CHAIR SHOWER announced the consideration of Senate Bill 33; "An Act relating to pretrial release; relating to sentencing; relating to treatment program credit toward service of a sentence of imprisonment; relating to electronic monitoring; amending Rules 38.2 and 45(d), Alaska Rules of Criminal Procedure; and providing for an effective date." He asked Mr. Skidmore to go through the sectional analysis for SB 33.

[3:34:06 PM](#)

JOHN SKIDMORE, Director, Criminal Division Department of Law, Anchorage, provided the following overview of SB 33:

Section 1: Legislative intent. Expressing intent that the Alaska Court System use videoconferencing for pretrial hearings.

Section 2: Increases the amount of time available for an arraignment to happen from 24 hours to 48 hours from the time of arrest. Eliminates language related to proceeding with an arraignment regardless of the availability of a risk assessment conducted by a pretrial services officer.

He advised that when the law changed in 2016, arraignments were still held within 24 hours of arrest in 95 percent or more of the cases. The expectation is that this will continue. The benefit of 48 hours is that it allows more discretion in three areas: 1) when arrests occur on weekends and holidays the additional day provides relief for prosecutors who are not paid to work on those days; 2) when a case is particularly complex it may take more time to determine the appropriate charge; and 3) when the volume of cases is high in any one day it may translate to rushed analyses. He pointed out that when Alaska first adopted the 48 hour rule in 2010, just two other states required arraignments within 24 hours. The other states all had systems that allowed more time.

[3:38:21 PM](#)

SENATOR KAWASAKI asked what happens when an individual is not arraigned within the required time.

MR. SKIDMORE replied he has not encountered that, but a possible consequence would be the case is dismissed, the defendant is released, and the state would need to refile charges.

SENATOR MICCICHE noted that the language in the bill says, "including Sundays and holidays" but it does not specifically say "Saturday." He further noted that the language continues to say that the requirement applies to municipal police officers and the troopers. He questioned why that sentence remains in Section 2 because there are only state courts.

MR. SKIDMORE explained that while Section 2 doesn't specifically say weekends, it's clear that it is always 48 hours regardless of what type of day it may have been. Regarding the second question, he said the language makes it clear that this applies in all cases whether the charge is by a municipality or the

state. He also agreed that there are no municipal courts, just state courts.

CHAIR SHOWER asked if the specific listing of municipal police officers and troopers blanket-covers any officer that might make an arrest.

MR. SKIDMORE replied the rule is meant to be inclusive applying to any and every peace officer who is making an arrest. While there are officers beyond those two designations, he had not considered whether an amendment was needed to be more specific.

CHAIR SHOWER commented that it seems to be a loophole.

MR. SKIDMORE continued.

Section 3: Eliminates language related to a risk assessment conducted by a pretrial services officer.

He related that in some respects this is a conforming amendment, but the language is also removed because the risk assessment tool has fundamental flaws. If the policy decision is to continue to use a risk assessment tool, it needs be refined before it's used in state law.

Section 4: Eliminates language requiring a judicial officer to review any condition of release that has prevented the defendant from being released. Also eliminates language requiring a judicial officer to find by clear and convincing evidence that a less restrictive condition cannot reasonably ensure the defendant's appearance or the safety of the victim.

MR. SKIDMORE said removing the requirement that the court review and change the conditions of release to allow a person to be released appropriately returns the law to the pre-Senate Bill 91 language. Section 4 also appropriately eliminates the clear and convincing evidence standard for the court to find that additional restrictions are needed. This is a return to the prior law that is based on a preponderance of the evidence in what the courts believe to be appropriate.

MR. SKIDMORE continued.

Section 5: Eliminates inability to pay as a reason for a judicial officer to conduct subsequent bail hearings and a review of the person's conditions of release.

He explained that this provision indicates that the courts should and can review a person's bail status if they have not been released from custody after 48 hours, but the inability to pay should not be considered new information because it was considered initially.

Section 6: Conforming amendment. Eliminates reference to AS 33.07.

Section 7: Largely reenacts the bail statute as it was prior to January 1, 2018. Eliminates the requirement that the release decision be tied to a person's risk assessment score. Eliminates the presumptions of release and the requirement that a judicial officer find by clear and convincing evidence that no less restrictive condition can ensure the appearance of the defendant or safety of the community or victim before a judicial officer can impose monetary bail.

MR. SKIDMORE explained that under current law, AS 12.30.011 ties the risk assessment tool to the court's determination of what bail would be appropriate. The implementation of that concept was found to be flawed and Section 7 returns the law to pre-Senate Bill 91 language almost verbatim. The exception is that there is a rebuttable presumption that there is a substantial risk that a person charged with certain types of crimes either will not appear, or they pose a danger to the victim or others. The language is different than the law pre-Senate Bill 91 because the Alaska Court of Appeals in *Hamburg v. State of Alaska* found it was unconstitutional to say that reasonable bail could not be set for certain persons.

Section 8: Eliminates the requirement that a pretrial services officer not be available in the area before a third-party custodian can be appointed.

He explained that current law says if the pretrial services officers in the Pretrial Enforcement Division (PED) do not have a PED officer available in a community, a court could consider a third-party custodian. When a PED officer is available, third-party custodians could not be considered. The premise of Section 8 is the reverse, and instead gives the court as many options as possible in determining what conditions would be appropriate for a person's release. He said the more options the court has, the more likely it will find conditions other than monetary bail to

ensure the individual will appear for court hearings and present the least risk to the community when they are released.

Section 9: Reenacts the prohibition on appointing individuals who may be called as a witness in the case from being appointed as third-party custodians.

He summarized that somebody with material information about a case should not serve as a third-party custodian. This section also ensures the third-party will be more objective and reasonable than somebody who has a connection to the case.

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Section 10: Prohibits the court from granting jail credit for time spent on electronic monitoring before trial.

MR. SKIDMORE advised that this addresses the point that giving somebody jail credit for being released pretrial on electronic monitoring (EM) does not fit the Chaney criteria [State of Alaska v. Donald Scott Chaney] for an appropriate sentence.

Section 11: Conforming amendment to the changes made by section 10.

Section 12: Adds prosecuting authority to the list of entities that can be notified if a person is discharged from a treatment program for noncompliance.

He advised that prosecutors want notification so they can request a bail hearing and the court can address the conditions of release based on the person's discharge from a treatment program for noncompliance.

Section 13: Limits the amount of jail credit that can be granted for time spent in a treatment program to 180 days.

MR. SKIDMORE said Section 13, like Section 10, is designed to create efficiencies and eliminate the incentive to extend treatment as long as possible. He shared his experience that not many treatment programs last longer than 180 days and opined that a person who needs longer treatment should be convicted and sentenced before following up with the appropriate treatment.

Section 14: Conforming amendment. Conforms to the change made in section 2.

Section 15: Adds authority for the commissioner of the department of corrections to supervise pretrial defendants.

He explained that this addresses the elimination of the Pretrial Enforcement Division and clarifies that the DOC maintains the authority to supervise pretrial by its probation and parole officers.

Section 16: Requires the commissioner of the department of corrections to make officers available to the courts for pretrial supervision. Also allows the commissioner to contract with private entities for electronic monitoring services.

MR. SKIDMORE explained that SB 33 provides that pretrial supervision will be available in every community throughout the state and this section allows DOC to contract with private EM companies to help DOC conduct that supervision.

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SENATOR MICCICHE said he supports returning to private sector electronic monitoring. He asked if individuals under electronic monitoring could be held responsible for the cost of the equipment, so they have some "skin in the game" and also remove the cost burden from the state.

MR. SKIDMORE replied there would be potential for individuals to be responsible for the cost of renting the equipment if they were released directly to a private EM company, but he didn't know if that possibility exists for individuals released to the DOC for monitoring. He suggested directing that question to the Department of Corrections representative.

[3:59:52 PM](#)

JEN WINKELMAN, Director, Division of Probation and Parole, Department of Corrections, Juneau, said the department will need to look into holding individuals responsible for the cost of their private company electronic monitoring. The people being monitored by the Pretrial Enforcement Division currently are not paying for the EM services. The department will look into that in the context of the bill, she said.

SENATOR MICCICHE requested she provide the information to the chair when it's available. He also asked if the bill should clarify that an individual on EM would be personally responsible

for keeping their EM equipment in working order. He noted a provider in his district offered this suggestion.

MS. WINKELMAN said this matter also came up in the discussion of SB 32 and is something the department will look into and provide an answer to the committee.

CHAIR SHOWER offered his understanding that previously there were 13 private EM companies in the state and now there are just 3.

MS. WINKELMAN said she wasn't sure about the numbers.

CHAIR SHOWER noted the head nod in the audience. He asked if DOC was communicating with the private monitoring companies in the state or waiting to see whether or not the bill advanced.

MS. WINKELMAN deferred the question to Ms. Goode

[4:02:27 PM](#)

KELLY GOODE, Deputy Director, Department of Corrections, Anchorage, Alaska, advised that the department was waiting to see what happens to the bill but would reach out to answer some of the questions the committee has raised. She acknowledged that Senator Micciche raised a good question and reiterated that DOC would look into that and give the committee an answer.

CHAIR SHOWER said he raised the question because this industry has been depressed and he was concerned about whether they could quickly handle the load should the bill pass.

MS. GOODE said she would reach out to the companies that are still in business and ask what "ramp up" would look like.

CHAIR SHOWER commented, "We don't want to turn that on and suddenly realize we don't have the capacity."

SENATOR MICCICHE opined that electronic monitoring is a perfect example of what the state should not be done in-house.

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SENATOR REINBOLD echoed the previous comments about making individuals responsible for maintaining their EM equipment. She requested information about the best and worst EM equipment currently available.

MS. GOODE stated that DOC would look into matter and follow up with their findings.

SENATOR REINBOLD emphasized that, "These people need to be held accountable. Not only the defendant, but [also] the people who are providing the services."

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CHAIR SHOWER observed that private contractors can generally be held to a higher standard than the state. He opined that requiring defendants to have skin in the game is a good idea and that the people who work for these EM companies and live in the community certainly have skin in the game.

SENATOR KAWASAKI asked how many people are currently on electronic monitoring.

MS. WINKELMAN replied DOC currently has 887 people are on pretrial EM, and just under 200 people who have been sentenced are on electronic monitoring.

SENATOR KAWASAKI asked if DOC does all the pretrial electronic monitoring.

MS. WINKELMAN answered yes.

SENATOR KAWASAKI asked how many of the people who are on electronic monitoring post sentence are monitored by DOC versus a private company.

MS. WINKELMAN replied the Department of Corrections is monitoring all the people currently serving their sentence on EM.

CHAIR SHOWER commented that the three remaining private EM companies must be doing things in addition to electronic monitoring in order to remain financially viable.

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SENATOR MICCICHE said he was thinking about requiring electronic monitoring to be privatized; he believes that having defendants compensate the private company for their monitoring would shift the majority of the cost from the state. He asked what the annual cost is to monitor the [887] people that are currently on pretrial EM.

MS. WINKELMAN offered to follow up with the cost information.

SENATOR MICCICHE expressed interest in getting the answer. Should the bill pass, he said the EM numbers and costs will increase dramatically and he didn't believe the state should pick up the peripheral segments of the costs that could be picked up by the defendants.

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MR. SKIDMORE, responding to Senator Shower's earlier question about the time to ramp up for increased electronic monitoring, clarified that any proposal for electronic monitoring is something the court evaluates. That requires the private EM company to go into court to confirm they offer the service, what it looks like, and that they are prepared to offer the service. Referring to Senator Micciche's comment about mandatory EM, he advised the committee to keep in mind that providing some flexibility at the start would allow a slow transition to private EM for the [887] people now on DOC electronic monitoring. Subsequent cases would be under private EM provided a private company was capable of taking on new cases. This would allow the system to transition itself without a requirement in the law.

CHAIR SHOWER commented that that approach makes sense.

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MR. SKIDMORE continued the Sectional Analysis for SB 33.

Section 17: Clarifies that probation officers may be made available to district courts.

He advised that under current law, probation officers do not have responsibilities in district court because they are generally assigned to just felony cases. However, if they were to handle pretrial services, they would have a significant role in district courts. Section 17 ensures that they are available to district courts as well as superior courts.

Section 18: Adds pretrial supervision to the list of duties which a probation officer may perform and clarifies that when performing those duties probation officers are pretrial services officers.

MR. SKIDMORE said this section helps transition the responsibilities from a separate pretrial division to probation and parole officers.

Section 19: Lays out the duties of a probation officer when acting as a pretrial services officer. These duties include arresting defendants and filing criminal complaints for violations of conditions of release.

He described these as critical components to ensure enforcement occurs.

Section 20: Conforming amendment. Eliminates the reference to AS 33.07, which is where the pretrial services program is currently located. AS 33.07 is repealed in the bill. SB 33 Sectional Analysis.

He explained this helps put the responsibility for pretrial services with probation and parole officers.

Section 21: Eliminates the requirement that the Department of Corrections report to the Alaska Criminal Justice Commission on pretrial defendant risk levels and charges and pretrial recommendations made by pretrial services officers.

He explained that this maintains the authority within DOC to supervise someone pretrial, but the risk assessment will not be written up and sent to the courts. Therefore, a report is not necessary.

Section 22: Conforming amendment to the changes made in section 23.

He noted that this updates language in the court rules to reflect the use of new technology. The term "television" is updated to "two-way video teleconferencing."

Section 23: Expands the types of pretrial hearings available to the Alaska Court System to use videoconferencing.

MR. SKIDMORE said this section encourages judges to use video teleconferencing by giving them the discretion to determine when video teleconferencing would be used as opposed to a defendant making that determination. He highlighted that discussion is ongoing with the Court System to ensure that the language works for the Court System. He noted that further changes may be suggested later on.

Section 24: Allows a defendant or the defendant's counsel to consent to a continuance of trial.

He explained that this is to help eliminate the requirement for transportation to courts. Under current law, a continuance can only occur with the defendant's consent. This has created problems when the defendant refuses to consent to give their attorney more time to prepare, the case goes to trial and the defendant is convicted, and the defendant subsequently files for post-conviction relief arguing that their attorney was ineffective. This is an effort to streamline the process and place the responsibility on the defendant's attorney to ask for the continuance.

Section 25: Repealer section.

He said the first repealer is about credit for the sentencing for pretrial electronic monitoring or treatment. The second repealer deals with the Pretrial Enforcement Division; those duties are transferred to probation and parole officers.

Section 26: Applicability section.

Section 27: Transition section. Ensures that the Department of Corrections can still monitor any defendant that is currently on pretrial release and under the supervision of the Department of Corrections despite the transfer of that authority from the pretrial services program to probation.

Section 28: Uncodified law talking about the requirement of a two-thirds majority vote to change the Court Rules discussed in the bill.

Section 29: Effective Date. This Act takes effect on July 1, 2019.

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CHAIR SHOWER questioned why the bill talks about danger to victims, other persons, or the community, but does not talk about property crimes despite their prevalence, in his area in particular.

MR. SKIDMORE clarified that property crimes are not excluded although not expressly called out. This is the same language that existed prior to Senate Bill 91. He directed attention to

page 6 that lists the factors to be considered as to whether somebody poses a danger to the community. DUI is one of those crimes and all class A felonies fall in that category. Also, subsection (c) on line 29 says a person who commits a felony offense while on conditions of release is a presumption of dangerousness and should be taken into consideration by the courts.

CHAIR SHOWER asked if there are any associated Court Rule changes.

MR. SKIDMORE replied he did not anticipate any Court Rule changes other than those listed in the bill.

CHAIR SHOWER said he wanted that on the record.

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SENATOR REINBOLD opined that DUI is a person crime and she believes in holding high or drunk drivers accountable. She said she also wants a discussion at some point about a particular couple who continue to drive impaired and without a license.

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SENATOR MICCICHE clarified that SB 33 is about pretrial bail issues.

[4:28:35 PM](#)

CHAIR SHOWER found no further comments and stated he would hold SB 33 in committee.

He recessed the meeting until 6:00 pm.

SB 34-PROBATION; PAROLE; SENTENCES; CREDITS

[6:03:05 PM](#)

CHAIR SHOWER reconvened the Senate State Affairs Standing Committee and announced the consideration of SB 34; "An Act relating to probation; relating to a program allowing probationers to earn credits for complying with the conditions of probation; relating to early termination of probation; relating to parole; relating to a program allowing parolees to earn credits for complying with the conditions of parole; relating to early termination of parole; relating to eligibility for discretionary parole; relating to GOODE time; and providing for an effective date."

He advised that the purpose of the evening meeting was to take public testimony. He asked the testifiers to limit their comments to three minutes and encouraged anyone who was unable to participate tonight could submit written testimony to: senate.state.affairs@akleg.gov.

[6:04:05 PM](#)

ERIK REED, representing self, Mat-Su, stated that he had a question about Section 18 that prohibits a person from earning good time while on electronic monitoring post sentence. He shared a personal story about being hit by a drunk driver in December 2017. He and his son survived but his wife was killed. The drunk driver spent just two weeks in jail before he was released on electronic monitoring. His third-party custodian is his best friend. Mr. Reed asked if the time this person spends on EM pretrial will be credited against his ultimate sentence. He opined that there isn't a lot of help for the victims, but a lot of time and money is spent rejuvenating criminals. He stated support for eliminating any credit for time served on electronic monitoring pretrial.

CHAIR SHOWER expressed sympathy for his loss. He advised that the governor's crime bills eliminate any credit for time spent while on electric monitoring pre or post trial.

MR. REED asked when the bill takes effect.

CHAIR SHOWER replied the effective date is July 1, 2019.

[6:07:51 PM](#)

SID ATWOOD, representing self, Anchorage, expressed sympathy to the previous testifier and agreed that victims sometimes get the short end. He shared that he is 42 years sober and currently does contract work through Partners for Progress working to help people coming out of prison get treatment and become better citizens and productive members of society. He said it was treatment that gave him a chance to have a good life.

[6:09:15 PM](#)

SENATOR REINBOLD joined the committee.

[6:10:28 PM](#)

MICHAEL BERGER, representing self and the people on the streets that were unable to attend, Anchorage, Alaska, said people who commit crimes absolutely deserve to be sanctioned, but the corrections goal to rehabilitate will not be achieved with continuous change. He suggested the Department of Corrections

look at opportunities for reform while people are inside and when they're released, they need to be treated like the reentry groups treat them. He said probation and parole are supposed to help once somebody is released from jail but as it stands, they are not getting enough support.

CHAIR SHOWER asked if he supports or opposes SB 34.

MR. BERGER said he opposes SB 34 on the grounds that continuous change will not achieve the goal [of rehabilitation].

[6:12:42 PM](#)

SENATOR KAWASAKI joined the committee.

[6:12:57 PM](#)

TALIA EAMES, Reentry Program Coordinator, Central Council Tlingit and Haida Indian Tribes of Alaska, Juneau, said that she is also a decorated veteran of the United States Air Force and she is testifying in opposition to SB 34. She said she has seen how caps on probation and parole violations and increased incentives have helped those returning to their community following incarceration. Eliminating the caps on technical violations will hurt those who are trying to maintain their employment, treatment, and family obligations outside of incarceration. She pointed out that these violations do not impact public safety; they are status offenses that do not include a new crime or victim. The 3, 5, and 10 day caps on technical violations ensure that swift and certain justice is served, and that people are not starting over after a mistake. She related success stories involving probation officers who worked with probationers "outside the walls."

She emphasized that returning the accumulation of good time from 1:1 to 3:1 will hurt those who are in compliance and drastically reduce an incentive that is working and saving the government money. This also applies to eliminating credit for time served on electronic monitoring. She pointed out that past bail schedules have proven to be discriminatory to the economically disadvantaged. Furthermore, current law that allows credit while on electronic monitoring has allowed many who would otherwise remain in a cell to hold jobs and have a chance to be productive citizens. She said that eliminating that incentive will not help in rehabilitation.

MS. EAMES opined that the reduction in recidivism that we're beginning to see in Alaska is due in part to the policies that

SB 34 would overturn. Please keep this in mind as the bill moves through the legislature, she said.

[6:16:13 PM](#)

LYNDA WATTS, representing self, Juneau, stated that she is a person with disability who is in long-term recovery. What has helped her stay out of jail is the Juneau Reentry Coalition and JAMHI [Juneau Alliance for Mental Health Inc]. She talked about her childhood trauma, multiple arrests and incarceration and the difficulty she has had finding housing. She urged the committee to keep some parts of Senate Bill 91 because it has helped a lot of people get on the right track. Treatment is the cure for people whereas locking them up exposes them to new opportunities for criminal behavior.

[6:20:36 PM](#)

ARIEL WALKER representing self, Anchorage, said she has been in recovery for three years. She credited Senate Bill 91 for her release from prison to a long-term inpatient treatment program and reported that she has since graduated and has been living a successful life since. She said Senate Bill 91 gave her hope and hearing about reducing the earned credits from a month violation free for a month of credit to 3 days violation free for 1 day of credit was discouraging. "I treat my recovery as if it is day 1," she said.

[6:23:00 PM](#)

CLINTON CERDA representing self, Palmer, Alaska said he was speaking in favor of Senate Bill 91. He shared that he is a felon who received his third DUI in 2009. Under the current law he could possibly get a limited license this year because he has voluntarily participated in a treatment program and has been violation-free for going on 10 years. This might not be possible if new legislation passes. He talked about missed opportunities and the challenges associated with living where there are few public transportation options. He related that he has been doing very well and is ready to get his life back on track.

[6:24:27 PM](#)

SENATOR MICCICHE advised that none of the five crime bills talk about repealing the limited license for those who have a long-term record of violation-free sobriety. He asked Mr. Cerda if he supported or opposed the bill based on that information.

MR. CERDA asked if there was a specific page and line in the bill that makes that clarification.

SENATOR MICCICHE replied the bill does not address that issue but he could send an email to: senate.state.affairs@akleg.gov and the chair would send material that may be helpful.

[6:25:53 PM](#)

LEE BREWING, representing self, Anchorage, said he is the chair of the Advisory Committee on Alcoholism and Drug Abuse and he identifies as a person living in long-term recovery. He became addicted to heroin in high school, but treatment worked. He said he supported the criminal justice reform bills like Senate Bill 91 and he believes that many factors should be considered before that law is fully repealed. He highlighted crime rates that have been rising since 2011, the economic recession that has contributed to crime rates, and the opioid epidemic in the state. He said he's done everything within his power to rectify his past mistakes. He is a convicted felon who believes in treatment and that recovery is possible, he is a substance abuse counselor, and he has graduated college with a degree in applied science and human services. He said he found some things worked better than others, but incarceration did not help. It was traumatizing, humiliating, and disconnected him from society. He said one line from a TED talk titled "Everything You Know About Addiction is Wrong" sticks in his mind. The author said that "the opposite of addiction is connection." Mr. Brewing concluded his comments opining that, "The more we are connected as a community, the stronger we are in the fight against crime and the fight against addiction."

[6:28:26 PM](#)

CHAIR SHOWER said it's encouraging to hear from people who have found a good path forward to turn their life around and stay clean.

[6:29:06 PM](#)

SENATOR MICCICHE suggested that anything the committee could do to get a matrix of the crime bills in the public's hands the better because there is confusion about what is in each bill and what sections of law are and are not repealed.

CHAIR SHOWER added that many people don't understand that some parts of Senate Bill 91 have been retained or modified. He encouraged the use of social media to get the word out.

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SENATOR KAWASAKI commented that some people believe that the use of the phrase "repeal and replace" indicates that the entire Senate Bill 91 is being repealed, which is not the case. For

example, the limited driver's license that has a ten-year lookback is an important provision that was added to Senate Bill 91 and that is retained. About 40-50 other provisions in Senate Bill 91 are not repealed under the governor's crime legislation. He stressed the importance of getting information out to the public.

CHAIR SHOWER said it's important that people understand that this is an evolving process and it's important to be flexible and continue to update and change the criminal justice system to make it work going forward.

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LYNNETTE CLARK representing self, Fox, said she generally likes the direction the bill is headed but she opposes allowing any credit for time served while on electronic monitoring. She summarized testimony she heard on a different bill about a victim crossing paths with the offender in the community while he was released on electronic monitoring. She questioned who is really in jail under those circumstances. She voiced support for stronger sentences and agreed with Senator Micciche about privatizing electronic monitoring

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JOE SCHLANGER, representing self, Anchorage, Alaska testified in support of SB 34. He referenced Section 17 and said he'd like to see a longer sentence for that crime. He said he agrees that offenders need help, but the victims should also be given consideration. He opined that Senate Bill 91 created more victims and gave an example.

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ANNE DOERPINGHAUS, representing self, Fairbanks, said she believes that time spent in a correctional system should be meaningful and treatment-focused to bring about change. She opined that people need consequences when they commit a crime but privatizing prisons and sending offenders out-of-state and away from their families is not in the best interest of changing behavior. Most people are released from prison one day so it's important to provide incentivizes and promote changes that make everyone safe. She said she was dismayed to hear talk about privatization and closing facilities in Alaska. Contact with a support network on the outside is hugely important to prisoners. It can be done remotely to a certain extent, but it is much less effective, she said.

CHAIR SHOWER asked if she supports or opposes SB 34 in its current form.

MS. DOERPINGHAUS said her comments are in opposition to privatization and sending prisoners out-of-state.

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SENATOR MICCICHE clarified that SB 34 does not talk about prison privatization. The discussion about privatization in the context of SB 34 relates to electronic monitoring.

MS. DOERPINGHAUS said thanks for the clarification and reiterated that the people in prison need consequences and treatment.

SENATOR MICCICHE directed attention to the documents page on BASIS for SB 34 that includes a spreadsheet that clarifies what is in each of the crime bills. He said he finds the bill to be rather balanced and he believes she will too.

CHAIR SHOWER reiterated that written testimony can be submitted to senate.state.affairs@akleg.gov. It will be put in the record and distributed to the members.

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MARTY KINCAID, representing self, Palmer, stated that the Alaska Criminal Justice Commission Annual Report is a must read. She described it as an invaluable resource for evidence-based reforms and recommendations and opined that all legislation should be substantiated with data from this resource. She noted that the fiscal note analysis indicates that SB 34 will, among other things, increase incarcerations and remove incentives for good behavior. She commented that the general theme in the governor's crime bills is to respond to increased crime by more incarcerations. She noted that on page 10 the report says that incarceration rates have not affected crime rates since the 1990s and that there is diminishing return with increased incarceration rates. The summary further states that more people are successfully completing probation and parole and that low-risk offenders are more likely to follow the rules and earn compliance credits to complete probation or parole earlier, allowing officers to focus on higher risk individuals. She said it seems that SB 34 will combine low and high risk individuals.

She noted that a recent article in the Anchorage Daily News said the deputy chief attributed the decline in vehicle thefts after a three-year rise to the recent hiring of additional officers

and detectives. She opined that the approach to all crime bills should be fully funded police departments to enforce the laws and a fully funded court system to process the law.

She cited the Alaska Senate Majority 2019 web poll results about support or opposition for a large PFD if it means less money for roads, schools, and troopers; 48 percent strongly opposed, and 14 percent were somewhat opposed. She said above all there should be a path available for correction, rehabilitation, and restoration of individuals as healthy members of society. Increases in incarceration and sentencing is not substantiated by the facts to lower crime rates and it is financially unsustainable. The commission recommends using a problem-solving rather than punitive approach, she said.

SENATOR MICCICHE expressed surprise at how few testifiers called in.

CHAIR SHOWER advised that the Senate Bill 91 comparison spreadsheet would be uploaded on BASIS with the documents for this meeting.

CHAIR SHOWER closed public testimony and held SB 34 in committee.

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There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 6:48 pm.