

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

February 21, 2019

3:35 p.m.

**MEMBERS PRESENT**

Senator Mike Shower, Chair  
Senator Peter Micciche  
Senator Scott Kawasaki

**MEMBERS ABSENT**

Senator John Coghill, Vice Chair  
Senator Lora Reinbold

**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 good time; and providing for an effective date."

- HEARD & HELD

CONFIRMATION HEARING(S)

Commissioner, Department of Administration  
Kelly Tshibaka - Anchorage

- REMOVED FROM AGENDA

**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
02/19/19	(S)	Heard & Held
02/19/19	(S)	MINUTE(STA)
02/21/19	(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
02/19/19	(S)	Heard & Held
02/19/19	(S)	MINUTE(STA)
02/21/19	(S)	STA AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

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

**POSITION STATEMENT:** Answered questions related to SB 33.

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

**POSITION STATEMENT:** Answered questions about electronic monitoring during the hearing on SB 34.

CLAIRE RADFORD, Attorney  
Legislative Legal Services  
Legislative Affairs Agency  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As the drafting attorney, provided information related to the CS for SB 34, version M.

#### **ACTION NARRATIVE**

[3:35:25 PM](#)

**CHAIR MIKE SHOWER** called the Senate State Affairs Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators Kawasaki, Micciche, and Chair Shower.

#### **SB 33-ARREST;RELEASE;SENTENCING;PROBATION**

[3:36:27 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 welcomed Ms. Winkelman and Ms. Goode from the Department of Corrections to respond to questions that came up in the previous hearing, primarily about ankle monitors.

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**JEN WINKELMAN**, Director, Division of Probation and Parole, Department of Corrections (DOC), responded to the committee's request for information about the daily cost of the monitoring equipment DOC uses. She explained that the individual cost varies depending on the particular equipment that's required but the average cost to rent the equipment is \$6.75 per day. The next question was whether there were consequences if an individual failed to keep their monitoring equipment in

operating order. She checked with staff and learned that a defendant in pretrial status who does not maintain their equipment is charged with a misdemeanor for violating their conditions of release.

CHAIR SHOWER clarified that maintaining equipment is primarily keeping the battery charged.

MS. WINKELMAN agreed.

SENATOR MICCICHE asked if DOC or the monitoring company knows when a battery dies.

MS. WINKELMAN explained that when the battery gets low it sends a warning alert to both the probation officer and the defendant. If the device stops working, the officer responds to determine the reason for the failure. She noted that equipment does malfunction from time to time; failure is not always the result of a dead battery.

SENATOR KAWASAKI asked how she calculated the average cost of \$6.75.

MS. WINKELMAN explained that she broke the total annual cost into an average daily cost and divided by the number of individuals on the program. She noted that the cost of the various types of monitoring equipment ranges from \$3 to \$8. If the circumstances of the arrest relate to alcohol, for example, the monitoring equipment that's ordered would be very different than for a defendant whose arrest has no nexus to alcohol.

She advised that to answer the question about what the best monitor is, she reviewed a list of the things DOC looks for. These include the capability to attach to the ankle, notification if the device is tampered with or removed, and a device that is sealed and shock resistant. She noted that not all equipment works in all areas of Alaska and that has to be taken into consideration when contracting with different companies. For example, DOC has experienced difficulty getting equipment to work in Bethel and just one type works in Barrow.

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KELLY GOODE, Deputy Commissioner, Department of Corrections (DOC), Anchorage, said DOC is aware of just four or five companies that manufacture electronic monitoring (EM) equipment. She offered to follow up with information on which features each company offers.

CHAIR SHOWER said the primary question now is if the state is getting the features it needs.

SENATOR MICCICHE said he continues to believe that the private sector should provide this service, but the specifications and DOC's requirements need to be clear. He asked if DOC's requirements and expectations are clear.

MS. GOODE said she reached out to a couple of the providers and they raised no issues regarding meeting the state's requirements and expectations. She noted that the committee also expressed interest in knowing whether these companies could mobilize quickly should the bill pass. The providers she spoke with said it would take a little time to ramp up, but they could meet the need as private contractors.

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CHAIR SHOWER stated he would hold SB 33 in committee.

**SB 34-PROBATION; PAROLE; SENTENCES; CREDITS**

[3:46:13 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL 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 good time; and providing for an effective date."

He stated that the bill is sponsored by the Rules Committee at the request of the governor. This is the fifth hearing and public testimony was taken and is concluded. He noted that the proposed committee substitute (CS) contains technical changes requested by Legislative Legal Services and an amendment requested by the Department of Law (DOL). The intent is to adopt the CS, have DOL and the drafter give an explanation of the changes and answer questions, and hold the bill in committee for further consideration.

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SENATOR MICCICHE moved to adopt the work draft CS for SB 34, work order 31-GS1031\M, as the working document.

3:48:01 PM

CHAIR SHOWER objected for discussion purposes. He noted who was available to answer questions and asked Ms. Schroeder to come to the table.

3:48:40 PM

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law (DOL), advised that the CS for SB 34, version M, contains changes requested by DOL on behalf of the Department of Corrections.

Sections 9 and 10 amend AS 33.16.090, returning discretionary parole to the pre-Senate Bill 91 law and moving all the prohibitions to subsection (a). The prohibition that was removed from subsection (b) is the new language in AS 33.16.090(a)(1)(D). The language in the new subparagraph (E) clarifies that a prisoner who is not eligible for good time deduction from their sentence, is also not eligible for discretionary parole. The prisoners specifically cited as ineligible are repeat sex offenders or unclassified and class A sex offenders.

Sections 13 and 14 amend AS 33.16.130, fully reverting to the pre-Senate Bill 91 language and removing timelines that were enacted by Senate Bill 91. The original bill was a partial reversion. The CS also removes a section that was in the original bill that required people to be on parole for at least one year. That section will remain in statute in its existing form. Corresponding to that, the language in AS 33.16.210(c)(1) on page 10, line 18, is retained. It requires a parolee to have completed at least one year on parole before a parole officer may recommend them for early discharge. The original bill deleted that language.

Section 17 reinserts language that was deleted in the original bill. It gives the parole board the authority to toll when somebody is in violation status. Their parole time would not continue to run throughout the term they are in violation status. This is consistent with the way probation is done.

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CHAIR SHOWER asked if there were questions, particularly about the provisions that were not in the original bill.

SENATOR MICCICHE asked if the changes in Section 22 were conforming.

MS. SCHROEDER said Section 22 is the repealer section and the only change DOL requested was to remove a statute that was included in error. AS 33.16.090(b)(2) was also added to the repealer section because of the first change she described that places all the prohibitions for discretionary parole in AS 33.16.090(a).

SENATOR MICCICHE asked if she would update the bill matrix to reflect the changes and provide it to the chair for reposting.

MS. SCHROEDER agreed.

CHAIR SHOWER asked the drafting attorney if she had anything to add.

[3:55:25 PM](#)

CLAIRE RADFORD, Attorney, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, Juneau, advised that Section 7 was added to update the cross references as a result of the renumbering in Section 6.

CHAIR SHOWER asked her to walk through the cross references.

MS. RADFORD explained that in Section 6, AS 33.05.040(a)(4) is repealed and the subsequent paragraphs are renumbered. Because (a)(5) was cross referenced in AS 33.05.040(b), Section 7 was added to reflect that it is now (a)(4).

CHAIR SHOWER asked Mr. Edwards if he had anything to add.

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JEFFREY EDWARDS, Executive Director, Alaska Board of Parole, said not at this time.

CHAIR SHOWER removed his objection. Finding no further objection, he announced that version M was adopted.

CHAIR SHOWER held SB 34 in committee.

[3:58:16 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 3:58 pm.