

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 14, 2019

3:32 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator John Coghill, Vice Chair
Senator Lora Reinbold
Senator Peter Micciche
Senator Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 73

"An Act relating to succession to the offices of governor and lieutenant governor in case of vacancy; and providing for an effective date."

- HEARD & HELD

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. 23

"An Act making special appropriations from the earnings reserve account for the payment of permanent fund dividends; and providing for an effective date."

- BILL HEARING CANCELED

SENATE BILL NO. 24

"An Act making special appropriations from the earnings reserve account for the payment of permanent fund dividends; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 73

SHORT TITLE: SUCCESSOR OF LIEUTENANT GOVERNOR

SPONSOR(S): SENATOR(S) COGHILL

03/04/19 (S) READ THE FIRST TIME - REFERRALS
03/04/19 (S) STA, JUD
03/14/19 (S) STA AT 3:30 PM BUTROVICH 205

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)
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03/12/19 (S) STA AT 3:30 PM BUTROVICH 205
03/12/19 (S) Heard & Held
03/12/19 (S) MINUTE(STA)
03/14/19 (S) STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

RADAMES MERCADO, Intern
Senator Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 73 on behalf of the sponsor.

ROBERT HENDERSON, Deputy Attorney General
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 33.

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

POSITION STATEMENT: Answered questions and provided information related to SB 33.

KELLY GOODE, Deputy Commissioner
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 33.

NANCY MEADE, General Counsel
Administrative Services
Office of the Administrative Director
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 33.

ACTION NARRATIVE

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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 Coghill, Kawasaki, Micciche, Reinbold, and Chair Shower.

SB 73-SUCCESSOR OF LIEUTENANT GOVERNOR

[3:33:22 PM](#)

CHAIR SHOWER announced the consideration of SB 73, "An Act relating to succession to the offices of governor and lieutenant governor in case of vacancy; and providing for an effective date."

[3:33:35 PM](#)

SENATOR COGHILL, sponsor of SB 73, told the committee that the bill represents an original idea from his intern Radames Mercado.

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RADAMES MERCADO, Intern, Senator Coghill, Alaska State Legislature, Juneau, introduced SB 73 speaking to the following sponsor statement: [Original punctuation provided.]

SB 73 changes the current succession model for the governor to simplify and expand the current "chain of command".

The bill streamlines the confirmation process and creates a longer line of succession to better prepare the executive branch for a cataclysmic emergency.

Today, the line of succession is unprepared for a; in the current environment, an earthquake or plane crash could alter the Alaskan political climate in a moment's notice.

This bill's longer line of succession goes through eight of the fourteen commissioners so Alaska can always have a backup of talented individuals who would be able to run the state in a crisis.

SB 73's new line of succession would save precious time for the Legislature and commissioners; there would be no committee meetings to approve of a commissioner to be the successor to the lieutenant governor, as would happen in the normal committee hearing for the commissioner role.

The bill maintains the statute requiring a special election within a set time frame whenever a vacancy occurs in the position of both the governor and lieutenant governor so the chief executive is always elected by the Alaskan people.

With this bill, Alaska will finally have a set line of succession the people of Alaska will be able to understand and clearly follow, removing all disorganization from the current system and increasing productivity in the confirmation process.

MR. MERCADO recounted the following list of succession: attorney general, commissioner of health and social services, commissioner of education and early development, commissioner of administration, adjunct general of military and veterans' affairs, commissioner of commerce community and economic development, commissioner of labor and workforce development, and the commissioner of public safety. He noted the existing statute designates the attorney general as acting governor in the event that the offices of governor and lieutenant governor are both vacated. A special election would be held within 60-90 days to elect a new governor and lieutenant governor unless a general election was upcoming.

He explained that his reasoning for not including either the president of the Senate or speaker of the House in the line of succession is because he doesn't believe either of those elected offices should be vacated to fill a position temporarily.

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SENATOR COGHILL asked him to talk about the reason he selected the effective date.

MR. MERCADO explained to avoid any appearance of partisanship he selected an effective date that falls after this administration's current term. Thus the bill would become effective on a Monday in December following the 2022 state governor's election

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SENATOR REINBOLD agreed with the reasoning for the effective date. She reviewed the succession list and questioned why he settled on that order.

MR. MERCADO said he put the attorney general first because that person understands and can execute the law. The commissioners of DHSS and DEED are next because they deal with a significant portion of the budget. The commissioner of DOA is next because he or she would have good organizational skills and know how to deal with a governing body. Adjunct general of DMVA was selected because of the significant military population in Alaska.

CHAIR SHOWER cautioned that the committee will have to think carefully about the idea of an active duty military officer serving in a political position such as governor of a state. He added that he believes that most people in the country would be nervous about that because throughout history the U.S. has been careful to ensure that military officers become civilians before

moving into political seats of power. He opined that military officers, too, would probably be uncomfortable being asked to wear the two hats.

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MR. MERCADO said he understands that perspective but he doesn't see it as a problem because the position is temporary, not more than a year, and he believes the deputy commissioner for DMVA could step into the adjutant general's position in the interim.

CHAIR SHOWER said he appreciates the thought process but he continues to have concern with this selection. It's open to debate, he said, but it's probably not the best choice.

MR. MERCADO responded that he welcomes different viewpoints because it will help him make a stronger line of succession for the State of Alaska.

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SENATOR REINBOLD asked if he would support an elected attorney general because she believes that would take politics out of that position. She also expressed reservation about selecting the commissioners of DHSS and DEED based on their oversight of large budgets because she doesn't want to create competition for larger budgets.

MR. MERCADO said he hadn't considered an elected attorney general but if he or she were elected, that would eliminate the need for a special election. He noted that he would not disclose his position on the topic.

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SENATOR MICCICHE acknowledged that the state has some exposure in its current succession plan and said he would be more comfortable if the positions in line for succession were elected or at least confirmed by the legislature.

MR. MERCADO responded it's up to the legislature to confirm or deny the attorney general and the other individuals on the list. If they wouldn't be suitable to serve as lieutenant governor or governor on a temporary basis, that's reason to deny their confirmation during the legislative process.

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SENATOR COGHILL highlighted that it would require a change in the constitution to have an elected attorney general.

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SENATOR KAWASAKI said his concerns are similar to Senator Micciche's. He asked if adopting this line of succession essentially says that the person the governor selects as commissioner must also be qualified to assume the office of governor or lieutenant governor.

MR. MERCADO replied it would be up to the legislature to determine whether or not the person was qualified to hold the office.

SENATOR KAWASAKI said he appreciates the effort to articulate the succession plan [for governor and lieutenant governor] in Art. III, Sec. 10-13 Constitution of the State of Alaska. However, the proposed list could be comprised of people that the legislature has not confirmed, so there is no oversight over who that person might be. He asked if that's correct.

MR. MERCADO agreed that is correct. He clarified that this was just an introduction to address a [succession] problem that has gone unnoticed since statehood.

SENATOR KAWASAKI offered his belief that a lot of people noticed last year when someone who had been appointed, not elected, became the lieutenant governor designee through a memo. He asked Mr. Mercado if he'd looked at a succession plan that designated the Speaker of the House of Representatives as the next in line. He or she is elected by the voters in their district and elected to be speaker by the members of their legislative body. He asked if that wouldn't be a better avenue to explore.

MR. MERCADO replied the general concept is that the governor and lieutenant governor are elected by the Alaskan people as a whole, whereas the speaker and president are only elected by people in their district. Further, requiring these elected officials to run in a special election negates the fact that they were elected to serve potentially longer terms. If they aren't required to run in a special election, just a small portion of Alaskans will have voted for them, not the full state. Another point against the speaker or president being in the line of succession is that it creates the potential for the governor and lieutenant governor to be from different political parties. That can cause issues, he said.

SENATOR REINBOLD asked if he looked at the succession plans in other states.

MR. MERCADO directed attention to a chart that lists all the states, and Puerto Rico, and their lines of succession. He highlighted that Missouri has put the attorney general at the bottom of the list. The other states address the issue in a variety of ways and he believes "this is an interesting way for the Alaskan way to have their line of succession."

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CHAIR SHOWER found no further questions and thanked Mr. Mercado for presenting an idea to start the conversation.

CHAIR SHOWER held SB 73 in committee.

SB 33 - ARREST; RELEASE; SENTENCING; PROBATION

[3:56:59 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 said the bill was heard last on 3/12/19 and public testimony was held and closed. He advised that written testimony could be submitted to senate.state.affairs@akleg.gov up until 6:00 pm on the day that the bill moves from committee. The intent today is to adopt the proposed committee substitute (CS) that makes only technical and conforming changes.

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SENATOR COGHILL moved to adopt the CS for SB 33, work order 31-GS1030\M, as the working document.

CHAIR SHOWER found no objection and version M was adopted.

[3:58:32 PM](#)

ROBERT HENDERSON, Deputy Attorney General, Criminal Division, Department of Law, Anchorage, introduced himself.

SENATOR COGHILL referenced Section 5 and asked for the rationale for not including the inability to post bail. He also asked what the parameters are for posting bail outside of inability to pay.

MR. HENDERSON explained that this returns to the pre-Senate Bill 91 version of the bail statute, which is that the person's inability to post bail standing alone, is not new information in

a subsequent hearing. The distinction that Section 7 draws is that is a valid factor to consider when a person initially appears before the court. If there is a subsequent bail hearing, Section 5 eliminates a person's inability to pay to stand alone as the only factor to consider.

SENATOR COGHILL asked where the new information generally comes in.

MR. HENDERSON replied that Section 5 talks about the subsequent bail hearing and the new information referred to in that section relates to Section 4. He explained that when a person comes in and is initially arraigned, bail is set by the judicial officer (or it could also have been previously set by warrant). At that time the person is advised of their rights, including the right to counsel.

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SENATOR COGHILL asked if the clear and convincing evidence standard still applies for the other factors considered in Section 7.

MR. HENDERSON said returning to the pre-2016 law means returning to the court reaching its decision as to the appropriate bail based on the preponderance of the evidence standard.

SENATOR COGHILL asked if the goal is still the least restrictive. It's the evidence level that is different.

MR. HENDERSON agreed; the court still shall impose the least restrictive available means, which means not excessive bail.

SENATOR COGHILL asked for a reminder about the difference between the standards for clear and convincing and a preponderance of the evidence.

MR. HENDERSON explained that the lowest level of proof is reasonable suspicion, meaning that the person can articulate a reasonable basis for their decision. The next level, probable cause, is that it is more likely than not. A preponderance of the evidence is the standard proposed in most civil cases. Clear and convincing is a higher standard that is generally imposed in family and child and child-in-need-of-aid (CINA) cases. The court has to be confident in the evidence presented to make the decision. Finally, proof beyond a reasonable doubt is the highest standard in the law. Before the state can convict somebody of a criminal act in front of a jury, it has to prove

that the evidence leads to only one reasonable and logical conclusion.

SENATOR COGHILL offered the conclusion that if a person is unable to make monetary bail, they must meet a higher standard to get a subsequent bail hearing as a non-monetary issue.

MR. HENDERSON clarified that under the current law, depending on a person's risk level, the court is presumed to release on their own recognizance (OR) unless it finds by clear and convincing evidence that a monetary bail is warranted. The bill removes that presumption and the bail decision is instead based on the totality of the circumstances based on a preponderance of the evidence.

SENATOR COGHILL related that that was where he was heading.

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SENATOR REINBOLD said she believes that bail is excessively low in most circumstances and she would like a provision that prohibits that. She asked if the prosecution looks into a person's finances if a defendant says they can't pay their bail.

MR. HENDERSON clarified that looking into a person's finances is not the purpose of a bail hearing. He said that when there is discussion about a review of bail regarding ability to pay, the person's finances have usually been reviewed by the court. If the person is represented by defense counsel, that officer of the court is operating in good faith on information received from their client. The prosecution relies on that information unless there is reason to dispute it.

SENATOR REINBOLD responded that she doesn't know of a single case of a defendant saying they had money for bail. She opined that some effort should go into looking at a defendant's finances, there should be a penalty for lying about ability to pay, and the bail hearing should look carefully at the danger the person poses to the public. Victim and public safety should be paramount and trials and punishment should be swift. The focus should not be about getting people back out on the street quickly, she said.

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SENATOR MICCICHE said he heard that someone with a criminal history acknowledged that it wasn't until their third arrest when family and friends gave up and no longer bailed them out that they decided to turn their life around. He asked Mr.

Henderson if he recognizes that that monetary bail has value and if providing some other method of release doesn't eliminate the potential that loved ones or friends will get tougher and help the offender realize the seriousness of their behavior.

MR. HENDERSON said his personal experience is that every defendant is different and some do and some do not have family and friends that will help. The DOL does not consider the source of funds for bail; it's the prerogative of the family or friends whether or not to post bail. He asked if that answered the question.

SENATOR MICCICHE clarified that the point he was making is that the reason for bail is to put something at risk and have people realize that continuing their behavior will come at a cost. He noted that he wanted to talk to the court about whether they were considering revising the bail schedules in light of these [crime] bills.

MR. HENDERSON responded that the purpose of bail is twofold: 1) to ensure the defendant shows up for court and 2) to ensure that the community is safe. Under the current system, reformation of the criminal behavior is a post-conviction/sentencing issue. He added, "We should and we have tried to take steps in a pretrial status to make sure the person gets help, the correction of that behavior is a post-correction issue."

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SENATOR MICCICHE said he understands the explanation on formal community condemnation but he believes there's value in keeping repeat offenders in jail pretrial. He highlighted that the victims in his district would say they are victims of people on pretrial release who repeat their criminal behavior while awaiting trial.

SENATOR KAWASAKI listed the factors the court considers when setting bail conditions and asked if this discussion is about just the one.

MR. HENDERSON agreed that the ability to pay is just one factor the court considers in setting bail. What SB 33 does is make sure the judge has the tools necessary to set the appropriate bail. Holding someone without bail would be unconstitutional.

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SENATOR KAWASAKI asked for clarification that the judge has the discretion to deny bail on the pretext that the crime was extremely violent.

MR. HENDERSON said that's correct. He explained that the prosecution has identified to the court that an unclassified felony, a class A felony, a sexual felony, a felony DUI, or a crime against a person with previous convictions of a person crime are the types of highly dangerous, criminal behavior that need special focus. He directed attention to subsection (d) on page 6, line 13, that provides a rebuttable presumption that there is a substantial risk that the person will not appear and that they pose a danger to the victim, other persons, or the community.

CHAIR SHOWER highlighted the growing anger from citizens in his district and others throughout the state that people are released from jail and continue to commit the same types of crimes. He asked if the risk assessment tool is completely broken or if the Department of Law has identified areas that could be fixed.

MR. HENDERSON responded that he would discuss the inherent flaws in the tool and DOC could talk about how the tool is used on a day-to-day basis. He described the risk assessment tool as theoretically a good idea because most prosecutors and judges would say that more information is better, particularly when talking about bail. However, only assesses a person's criminal doesn't account for the surrounding circumstances of the offense such as whether the person was in possession of a weapon, associating with other felons, or if they were on bail at the time of arrest. He noted that the tool also didn't consider out-of-state convictions, but that has been partially addressed in House Bill 312 and it will be addressed going forward.

The risk assessment, which is based on static information, generates two risk assessment scores: 1) the risk of failure to appear and 2) the risk of new criminal activity. The flaw is that the current criminal law anticipated just one risk level and this forced bail decisions because of the presumptions in the law. Practitioners have addressed this by agreeing to rely on just the highest of the two scores. SB 33 fixes the problem by directing the court to address the totality of the circumstances.

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CHAIR SHOWER asked, 1) if SB 33 addresses the concerns the DOL has identified and 2) if the bill returns too much discretion to the judges.

MR. HENDERSON replied the answer to the first question is yes and the answer to the second question is no. He added that the pre-2016 law has sideboards for how the court can frame bail decisions. The law lists specific factors the court can consider and the rebuttable presumption talks about how the court should look at certain types of cases differently than less serious cases. SB 33 drives that point home, he said.

SENATOR REINBOLD recalled being "scared to death" about the phase 3, pretrial risk assessment tool when Senate Bill 91 passed. She described it as a faulty tool that was developed in a back room. The result is that "it allowed some of the most dangerous people I've ever seen back out on the streets in Alaska creating an epidemic in Alaska of crime." She acknowledged that House Bill 312 fixed the issues to a certain extent. She said her "bottom line" concern is whether judges are held accountable. "What's the penalty for the judge if he or she continues to release dangerous people? They're an important part of keeping the people safe," she said.

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JENNIFER WINKELMAN, Director, Division of Probation and Parole, Department of Corrections, Juneau, stated that it is a policy decision of this administration to eliminate the risk assessment tool. She agreed with earlier testimony that the tool considers just static factors and it only looks at the previous five years. She explained that DOC contracted with an outside agency to work with the Department of Law to develop the tool. She said she believes that the tool is similar to what other states use but she can see the flaw in using static factors to drive the release decisions.

CHAIR SHOWER asked if DOC believes that SB 33 corrects the "catch and release" loophole or flaw.

MS. WINKELMAN answered yes.

CHAIR SHOWER, noting that DOC earlier reported that about 45 percent of inmates in custody are unsentenced, he asked if DOC believes the bill will cause that number to rise.

MS. WINKELMAN deferred the question to the deputy commissioner.

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KELLY GOODE, Deputy Commissioner, Department of Corrections, Anchorage, confirmed that the proposed changes will change the prison population. She added that public safety is a goal of the administration and those challenges will be addressed as they're identified. She noted that the fiscal note will reflect this.

CHAIR SHOWER commented that the current draft of SB 33 will drive a larger fiscal note.

Ms. GOODE said she agrees in general.

SENATOR KAWASAKI emphasized the need for updated fiscal notes from all the relevant agencies. He recalled his and Senator Reinbold's unsuccessful efforts during their tenures in the House to amend the risk assessment tool to at least include out of state criminal history. They proposed a budget amendment the next year, but that, too, was unsuccessful. He noted that House Bill 312 provided a partial fix. He asked, absent the risk assessment tool, how folks will identify whether a person should or should not be released.

SENATOR COGHILL observed that DOC will no longer be part of the decision if the risk assessment tool is eliminated, as proposed in SB 33. He maintained that the tool isn't as static as some people claim because it did consider the current circumstance. He noted that criminal history wasn't collected before the tool was implemented so there wasn't a lookback. He related that part of the idea for the risk assessment was to keep low risk individuals out of jail and at some point, he'll ask how that worked.

[4:36:11 PM](#)

SENATOR KAWASAKI agreed with Senator Coghill that the pretrial risk assessment tool gave a numeric score on whether an individual posed a risk or not. The presumption was that if their score was low, they would be released. He restated his earlier question which was, absent the risk assessment tool, how will folks identify whether a person should or should not be released. He also asked if there will be an added cost.

MR. HENDERSON described the bail hearing process under SB 33 and under the pre-2016 law. He explained that bail is initially set at the first court appearance or by warrant. The court considers things like the type of offense, the level of the offense classification, and the person's criminal history. In a subsequent bail hearing the accused has generally proposed a

particular bail release such as electronic monitoring, reduction in the bail, or some other condition. The Department of Law receives notice of that at least 48 hours before the hearing and seeks victim input. At the hearing their goal is to apprise the court of the relevant factors to consider when setting bail or considering bail release. These factors could include ties to the community, length of residency in Alaska, length of residency in the community where the crime was committed, the family and support network or lack thereof, prior criminal history and its scope, and if the person showed up for past court hearings. The court is apprised of the factors and makes the ultimate bail decision.

SENATOR REINBOLD opined that a primary reason that Senate Bill 91 passed was the notion that it would fix the pretrial issues. Her perspective is that things have gotten worse because of pretrial delays. She emphasized that delays always benefit the defendant and she believes that judges need to be held accountable for this. She listed the factors the pretrial risk assessment tool did not consider such as whether the criminal possessed a weapon, felon to felon contact, out of state convictions, and convictions that occurred more than five years ago. She emphasized that it's not the fiscal note that's the most important consideration. Rather, it's the cost to the public, she said.

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SENATOR COGHILL said he continues to believe that risk assessment tools and pretrial accountability have value. He asked Ms. Goode if DOC had adopted regulations to implement the pretrial system as mandated by the 2016 law.

MS. GOODE said this administration learned that DOC had not developed regulations to implement Senate Bill 91 but work was started on the regulations for the risk assessment tool. The Department of Law is removing that work but she believe that DOC needs to look at the process with fresh eyes.

SENATOR COGHILL asked if the Department of Law will draft the regulations.

MS. GOODE confirmed that DOC would be working the Department of Law and reiterated the need to look at things with fresh eyes.

SENATOR COGHILL said he brought it up because it's important to understand that the 2016 law mandated developing regulations to implement the risk assessment tool and that never happened.

MS. GOODE responded that DOC is aware it didn't happen and is looking into it.

SENATOR REINBOLD asked if DOC has been implementing the law according to statute.

MS. GOODE answered yes.

SENATOR REINBOLD stressed that the law has been implemented and it is failing many Alaskans. The crime data supports this, she said. She stated support for SB 33.

CHAIR SHOWER commented on the need to get the terminology right regarding probation, parole, and pretrial.

[4:48:22 PM](#)

SENATOR COGHILL asked Ms. Winkelman to talk about the benefit and downside of transitioning pretrial services officers to probation officers.

MS. WINKELMAN explained that, by statute, both probation officers and pretrial services officers are officers of the court. Pretrial services officer duties extend to district court and probation officers, by statute, cover superior court. Her understanding is that the bill extends district court responsibilities to probation officers. She said the duties of these officers are interchangeable, their classification under the Department of Administration has been probation officer, and the recruitment for either position is for a probation officer. They discharge their duties dependent on the particular defendant, which is similar to police officers. "Bottom line, I think it would be seamless," she said.

SENATOR COGHILL asked how caseloads would be separated between pretrial services officers and probation officers.

MS. WINKELMAN explained that in urban areas probation officers have the opportunity for caseloads that are specialized for things like sex offenders or mental health. It depends on demand, but there isn't that opportunity in rural areas where the officer has to do it all, which ranges from writing the pre-sentence report to supervising a pretrial caseload. She reiterated that the training is the same for all officers.

SENATOR COGHILL said he's more likely to support the bill because it retains pretrial supervision. He said he continues to believe that it benefits public safety.

SENATOR REINBOLD shared that she, too, believes that pretrial supervision is a good idea.

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SENATOR MICCICHE asked Ms. Meade to discuss the revised bail schedule and if the changes in SB 33 might send a message to the court that the existing bail schedule is exacerbating the current situation.

NANCY MEADE, General Counsel, Administrative Services, Office of the Administrative Director, Alaska Court System, Anchorage, stated that the bail schedule was revised in December 2017 and there are no current plans to revise it. She said she didn't believe that SB 33 would require any changes to the bail schedule, but things may change by the end of the session.

SENATOR MICCICHE recalled asking about the bail schedule that seemed to be weighted toward release on own recognizance (OR) and being told that the courts viewed Senate Bill 91 as a signal from the legislature and the courts adjusted the bail schedule accordingly. He asked if she agrees that if the laws are adjusted accordingly in the other direction, the courts may tighten things and reduce OR a bit.

MS. MEADE confirmed that is a possibility. She explained that the recent changes were largely done to unify the bail schedules across all districts in the state. She also clarified that the new bail schedules did not result in materially more categories of OR releases than before. It was driven by the new criminal justice reform studies that did authorize more releases than otherwise.

SENATOR REINBOLD asked, 1) if Senate Bill 64 affected the bail schedule, 2) if there are several judges on the Criminal Justice Working Group, and 3) which judges would look at and potentially adjust the bail schedule.

MS. MEADE replied Senate Bill 64 did not result in changes to the bail schedules, but it did create the statute that established the Criminal Justice Commission. Membership of the commission includes a justice or retired justice, a superior court judge, and a district court judge. Those individuals stopped voting on the commission after they determined it was

not appropriate for them to be part of the policy calls coming out of the commission. Now those judges attend the meetings and provide guidance. The Criminal Justice Working Group includes Chief Justice Bolger and Attorney General Clarkson. That group deals with operational and logistical issues across the criminal justice agencies to help improve operations. She asked Senator Reinbold to restate the third question.

SENATOR REINBOLD responded saying she is pleased that the judges who serve on the commission no longer vote because it was a serious separation of powers issue when they did. She said the third question was which judges would look at and potentially adjust the bail schedule

MS. MEADE clarified that the statute required the court to be involved in the Criminal Justice Commission. She explained that the presiding judges from each judicial district have passed one statewide bail schedule to ensure consistency across the districts.

SENATOR REINBOLD asked for the names of the judges that would change the bail schedule.

MS. MEADE listed: Trevor Stephens from Ketchikan, Paul Roetman from Kotzebue, William Morse from Anchorage, and Michael MacDonald from Fairbanks.

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CHAIR SHOWER asked where the risk assessment tool was codified in law.

MR. HENDERSON said he'll check but he believes it's in AS 33.05.

CHAIR SHOWER suggested he send the answer by email.

SENATOR MICCICHE asked if he means the existence of the pretrial assessment tool or the content of the tool.

CHAIR SHOWER replied both. "Bottom line, I want to go over the whole thing," he said.

CHAIR SHOWER held SB 33 in committee.

[5:02:42 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 5:02 pm.