

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 9, 2019

3:36 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. 92

"An Act relating to contributions from permanent fund dividends to the general fund."

- MOVED CSSB 92(STA) OUT OF COMMITTEE

SENATE BILL NO. 10

"An Act extending the termination date of the Statewide Suicide Prevention Council; and providing for an effective date."

- MOVED SB 10 OUT OF COMMITTEE

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 & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 92

SHORT TITLE: PFD CONTRIBUTIONS TO GENERAL FUND

SPONSOR(S): SENATOR(S) WILSON

03/18/19 (S) READ THE FIRST TIME - REFERRALS
03/18/19 (S) STA, FIN
03/29/19 (S) STA WAIVED PUBLIC HEARING NOTICE, RULE
23
04/04/19 (S) STA AT 1:30 PM BUTROVICH 205
04/04/19 (S) Heard & Held
04/04/19 (S) MINUTE(STA)

BILL: SB 10

SHORT TITLE: EXTEND SUICIDE PREVENTION COUNCIL
SPONSOR(s): SENATOR(s) KAWASAKI

01/16/19 (S) PREFILE RELEASED 1/7/19
01/16/19 (S) READ THE FIRST TIME - REFERRALS
01/16/19 (S) STA, FIN

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)
02/09/19 (S) Heard & Held
02/09/19 (S) MINUTE(JUD)
02/11/19 (S) MOTION TO DISCHARGE FROM JUD COMMITTEE
02/11/19 (S) DISCHARGED FROM JUD COMMITTEE U/C
02/11/19 (S) STA REFERRAL ADDED
02/11/19 (S) STA REPLACES JUD REFERRAL
02/11/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/11/19 (S) <Bill Hearing Canceled>
03/05/19 (S) STA AT 3:30 PM BUTROVICH 205
03/05/19 (S) Heard & Held
03/05/19 (S) MINUTE(STA)
04/04/19 (S) STA AT 1:30 PM BUTROVICH 205
04/04/19 (S) Heard & Held
04/04/19 (S) MINUTE(STA)

WITNESS REGISTER

SENATOR DAVID WILSON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SB 92.

KRIS CURTIS, Legislative Auditor
Legislative Audit Division
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Reviewed the audit for the extension of the
Statewide Suicide Prevention Council in SB 10.

BEVERLY SCHOONOVER, Acting Executive Director
Statewide Suicide Prevention Council
Juneau, Alaska
POSITION STATEMENT: Testified in support of SB 10.

DEBEN DAS, Board Member
National Alliance on Mental Illness (NAMI)-Fairbanks
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of SB 10.

JANE ANDRENE
Alaska Public Health Association (APHA)
Juneau, Alaska
POSITION STATEMENT: Testified in support of SB 10.

SAM TRIVETTE
Juneau Suicide Prevention Coalition
Juneau, Alaska
POSITION STATEMENT: Testified in support of SB 10.

BARBARA FRANKS, Chair
Statewide Suicide Prevention Council
Ninilchik, Alaska
POSITION STATEMENT: Testified in support of SB 10.

MONIQUE ANDREWS, representing self
Eagle River, Alaska
POSITION STATEMENT: Testified in support of SB 10.

JAMES BIELA, Lead Field Advocate
American Foundation for Suicide Prevention (AFSP) - Alaska
Chapter
Newtok, Alaska
POSITION STATEMENT: Testified in support of SB 10.

BRENDA MOORE, Chair
Alaska Mental Health Board
Alaska Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 10.

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

POSITION STATEMENT: Answered questions related to SB 32.

MICHEAL DUXBURY, Deputy Commissioner
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: asked him to repeat the two questions.

ACTION NARRATIVE

[3:36:28 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:36 p.m. Present at the call to order were Senators Coghill, Reinbold, Kawasaki, Micciche, and Chair Shower.

SB 92-PFD CONTRIBUTIONS TO GENERAL FUND

[3:37:13 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 92 "An Act relating to contributions from permanent fund dividends to the general fund."

He recapped that the bill was first heard on 4/4/19 and public testimony was heard and closed. He noted there was a proposed committee substitute.

[3:37:28 PM](#)

SENATOR COGHILL moved to adopt the committee substitute (CS) for SB 92, work order 31-LS0703\M, as the working document.

CHAIR SHOWER objected for discussion purposes.

[3:38:04 PM](#)

SENATOR DAVID WILSON, Alaska State Legislature, Juneau, sponsor of SB 92 explained that the CS intends to clarify the intent of the bill. It removes language from AS 43.23.130 dealing with

Pick.Click.Give. and adds Sec. 43.23.135 relating to contributions to the general fund and creates a mechanism for donations to the general fund. He explained that Title 43 is the revenue and taxation statute and chapter 23 deals with the permanent fund dividend (PFD). He said the CS creates a separate button on the electronic application to clarify that this option is not intended to compete with any charitable donations of the Pick.Click.Give program.

SENATOR WILSON reviewed the following "Explanation of Proposed Changes Version A to Version M.":

Section 1: All material from Page 1, line 3, through page 3, line 6, is deleted. It is replaced with a new section of law "Sec. AS 43.23.135. Contributions to the General Fund"

- Part (a)
 - Defines the parameters and increments for contributing to the general fund,
 - Establishes that donations through Pick.Click.Give. take priority over donations to the general fund if there is a shortfall, and;
 - Requires a seven percent administration fee is deducted from donations to the general fund.
- Part (b)
 - Notes that a public agency that claims a dividend on an individual's behalf is not permitted to make contributions from that dividend.
- Part (c)
 - Explicitly states that this is separate from the Pick.Click.Give. "button" or mechanism in the dividend application.

[3:40:51 PM](#)

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

[3:41:19 PM](#)

SENATOR COGHILL asked for confirmation that returning all or part of one's dividend to the state general fund would not be tax free.

SENATOR WILSON agreed that at this time there is no escaping the tax. He noted the Legislative Legal opinion last year.

[3:41:49 PM](#)

At ease

[3:42:40 PM](#)

CHAIR SHOWER reconvened the meeting.

SENATOR WILSON said the Legislative Legal Services memo last year advised that there is no simple solution to make dividend contributions to the general fund nontaxable. He suggested contacting a tax professional on the best way to proceed.

SENATOR COGHILL said he wanted the record to be clear that this donation would not be tax free. He also expressed appreciation that the sponsor addressed the confusion associated with the Pick.Click.Give program.

[3:44:00 PM](#)

SENATOR REINBOLD stated support for the statutory PFD and emphasized the importance of understanding that Alaskans receive the dividend because the state holds the subsurface rights in Alaska. She said most of the people in her district want their dividend if they don't have subsurface rights. She offered her perspective that teachers and public employees typically say, "take my permanent fund dividend and tax me." SB 92 provides that opportunity. She described the bill as a good compromise and said she would probably be a [cosponsor].

[3:45:48 PM](#)

SENATOR MICCICHE referenced the Legislative Legal Services memo and observed that it appears that this donation could be tax free. He said he'll look at that further as the bill moves on to the finance committee. His interest is keeping all the money in the state instead of sending 30 percent of the donation to the federal government in tax. [That assumes the 30 percent tax bracket.]

CHAIR SHOWER stated support for the bill. Based on public testimony he expects people to donate between \$400 million and \$500 million of their dividends to the general fund.

SENATOR WILSON commented on a conversation he had with a committee member about having the same idea at the same time.

[3:48:44 PM](#)

SENATOR COGHILL moved to report [CSSB 92(STA)], version M, from committee with individual recommendations and [forthcoming] fiscal note(s).

CHAIR SHOWER stated that without objection, CSSB 92(STA) moved from the Senate State Affairs Standing Committee.

[3:49:10 PM](#)

At ease

SB 10-EXTEND SUICIDE PREVENTION COUNCIL

[3:52:44 PM](#)

CHAIR SHOWER reconvened the meeting and announced the consideration of SENATE BILL NO. 10 "An Act extending the termination date of the Statewide Suicide Prevention Council; and providing for an effective date."

[3:53:19 PM](#)

SENATOR SCOTT KAWASAKI, bill sponsor, Alaska State Legislature, Juneau, said SB 10 extends the termination date of the Statewide Suicide Prevention Council. Members of the National Alliance for the Mentally Ill (NAMI) have been in the capitol the last several weeks to talk about suicide and highlighting that talk is an important aspect of prevention. In the U.S. there are about 12 suicides per 100,000 people whereas the Alaska rate is roughly double that number. For Alaska Native males there are 52 suicides per 100,000 and someone who serves in the armed services is twice as likely to die by suicide as a civilian. He continued the introduction of SB 10 speaking to the following sponsor statement:

Senate Bill 10 would extend the termination date of the Statewide Suicide Prevention Council to 2027, ensuring another eight years of support for suicide prevention efforts in Alaska. The Council would otherwise be terminated on June 30, 2019.

According to the Alaska Department of Health and Social Services Section of Epidemiology, the suicide rate in Alaska increased by 13 percent between 2012 and 2017, making suicide the leading cause of death for Alaskans between the ages of 10 and 64. As a matter of public health, the state has a responsibility to address this disturbing trend and must actively continue to pursue strategies to prevent suicide in Alaska.

The Statewide Suicide Prevention Council was created in 2001 and consists of 14 public and private members, including four state legislators. Under AS 44.39.350, the Council is statutorily responsible for:

- Advising legislators and the Governor on ways to improve Alaskans' health and wellness by reducing suicide;
- Improving public awareness of suicide and risk factors;
- Enhancing suicide prevention efforts;
- Working with partners and faith-based organizations to develop healthier communities;
- Creating a statewide suicide prevention plan and putting it in action; and
- Building and strengthening partnerships to prevent suicide.

The Council holds public meetings, publishes a 5-Year State Suicide Prevention Plan, and works with schools and community groups to provide resources that educate Alaskans on how to prevent suicide.

Last year, the Council partnered with the Alaska Community Foundation and Alaska Children's Trust to continue the GCI Suicide Prevention Grant Program. Nine grants were funded in 2017 across the state, totaling \$100,000. The Council also helped secure funding for a 5-year grant from the National Institute of Mental Health to create the Alaska Native Collaborative Hub for Resilience Research, which will help Alaska Native communities share knowledge, guide research, and identify culturally-relevant suicide prevention strategies in rural Alaska. [He noted this is one reason for the large fiscal note.]

Terminating the Statewide Suicide Prevention Council would jeopardize the state's efforts at addressing this heartbreaking, but preventable, issue.

I respectfully ask for your support of SB 10 this year.

[3:56:20 PM](#)

SENATOR MICCICHE disclosed that he serves as one of the legislative representatives on the Statewide Suicide Prevention Council. He said there is no question that the council supports

this extension because suicide is a very serious issue in the state. He said there is a lot of work to do to reduce the rate.

CHAIR SHOWER commented on the heartbreaking statistics of suicide among active duty and veteran members of the armed services. He stated wholehearted support for SB 10.

He asked Ms. Curtis to go through the audit.

[3:59:09 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Alaska State Legislature, Juneau, explained the purpose of the sunset audit was to determine whether this council is serving the public interest and should be extended. Overall the audit found the council operated in the public interest by actively broadening awareness of suicide prevention and coordinating the efforts of other suicide prevention entities. Additionally, the council fulfilled its statutory duty by issuing the 2018-2022 Suicide Prevention Plan and is working closely with stakeholders to refine the plan's strategies, resources, and indicators. The division recommends an 8-year extension for the council, which is the maximum allowed in statute.

She directed attention to Exhibit 2 on page 4 that shows the council is completely funded by general fund appropriations. In FY 18, the council expended just under \$600,000. Exhibit 5 on pages 9-10 has a detailed list of the council's activities during the audit period. It shows that the council is very active.

MS. CURTIS said the audit made two administrative recommendations for improvement, beginning on page 12 of the audit.

Recommendation No. 1: The council's executive director should develop and implement procedures to ensure public notices for meetings are published timely and accurately.

The audit found five of 18 meetings between July 2014 through March 2018 were not public noticed or not public noticed properly. This was caused by a lack of written procedures.

Recommendation No. 2: The council chair should develop and implement written procedures to ensure performance evaluations are completed annually for the council's executive director.

Statutes require annual evaluations. The audit found that just two of four audits were completed. It was unclear why the evaluations did not take place.

MS. CURTIS said the responses to the audit start on page 23. Both the Department of Health and Social Services (DHSS) commissioner and the council chair agree with the recommendations.

[4:01:51 PM](#)

SENATOR COGHILL asked if the evaluations were done properly but not timely.

MS. CURTIS said that's correct.

SENATOR COGHILL asked if there were extenuating circumstances to the lapse in public notice.

MS. CURTIS replied it was just an oversight by staff.

CHAIR SHOWER noted the positive responses to the recommendations.

[4:02:32 PM](#)

BEVERLY SCHOONOVER, Acting Executive Director, Statewide Suicide Prevention Council, Juneau, reported that the Statewide Suicide Prevention Council was established by the legislature in 2001 and serves as an advisory council to the legislature and governor regarding awareness and prevention. There are 13 volunteer members of the council appointed by the governor and four ex officio members appointed by the legislature. There is one staff member.

She said most of the council's activities involve collaboration among stakeholders, supporting outreach and educational plans through the Suicide Awareness Prevention and Postvention grant program, advocating for federal and local funding, and providing technical assistance. One example of statewide coordination efforts was the completion of the five year suicide prevention plan titled "Recasting the Net. Promoting Wellness to Prevent Suicides in Alaska." Hundreds of Alaskans participated in creating the plan. The number one goal is that Alaskans accept the responsibility for preventing suicide. All Alaskans are responsible for working together to prevent suicide and reduce the risk of suicide statewide. She summarized that the council brings people together to talk about suicide, evaluate

prevention efforts, and to advise agencies, the governor, and the legislature on ways to promote wellness and reduce suicide in Alaska. She highlighted that no other organization performs the statewide coordinator function. She asked the committee to support SB 10 to extend the council.

CHAIR SHOWER said he would add his name as a cosponsor.

[4:05:27 PM](#)

CHAIR SHOWER opened public testimony on SB 10.

[4:05:57 PM](#)

DEBEN DAS, Board Member, National Alliance on Mental Illness (NAMI)-Fairbanks, Fairbanks, stated that his wife has suffered from mental illness for about 40 years and he has been volunteering at NAMI-Fairbanks to help her, to help himself, and to help others who are in a similar situation. He said he has experienced the close link between mental illness and suicide in his family. The Statewide Suicide Prevention Council is particularly helpful in improving the health and wellness of Alaskans, enhancing public awareness of suicide, and providing guidance. He stated support for SB 10 as a board member of NAMI Fairbanks.

[4:08:49 PM](#)

JANE ANDRENE, Alaska Public Health Association (APHA), Juneau, stated that APHA is a 150 member statewide organization of public and behavioral health professionals that strongly supports SB 10 to extend the Statewide Suicide Prevention Council. She said it is vitally important for Alaska to have a central council that coordinates and collaborates on the issues associated with suicide. She also voiced support for the fiscal note, particularly the research project.

[4:09:56 PM](#)

SAM TRIVETTE, Juneau Suicide Prevention Coalition, Juneau, stated that he has been involved with the coalition and the Statewide Suicide Prevention Council for about 11 years. He and his wife have participated in statewide conferences and regional trainings with the council. The council has linked them with very valuable national experts and resources that they would not have known about otherwise. He said suicide will always be here but we need to continue to work to reduce the numbers. He is pleased to report that the council is fulfilling its mission. When he testified the first time the audit recommended abolishment. He recounted the problems the council had in the past and highlighted the positive signs. He said he is heartened

that the number of people calling the statewide crisis line has quadrupled in recent years. That tells you that people are starting to open up and reach out for help, he said. Furthermore, the council has developed a model to improve suicide awareness and prevention programs in the schools in Alaska. "I think they're doing a better job than we've ever done," he said.

CHAIR SHOWER agreed that the need will continue to be there.

[4:13:37 PM](#)

BARBARA FRANKS, Chair, Statewide Suicide Prevention Council, Ninilchik, stated that she is or has been associated with the National Suicide Prevention Lifeline, the NAMI Board, and the Alaska Psychiatric Institute (API) Board but she is removing those hats to speak as the mother of a child who died by suicide and whose husband died of cancer two days later. At that time there were no 800 numbers to call, websites to access, or books that talked about what to do if someone in your family had thoughts of suicide. She said the fact that the previous speakers are from different entities is evidence of cooperative work to follow the national strategic plan. She encouraged continued outreach and support for SB 10.

[4:16:07 PM](#)

SHARON FISHEL, Education Specialist, Department of Education and Early Development (DEED), Juneau, stated that she is the staff that oversees the school-based suicide prevention services. She was available to answer questions.

[4:17:14 PM](#)

MONIQUE ANDREWS, representing self, Eagle River, stated that while she is a member of the Statewide Suicide Prevention Council, she is testifying as a mother and a member of the Alaska Army National Guard. She talked about the council's collaborative efforts to focus on youth as the most vulnerable population. She stressed that the efforts of the council are instrumental in ensuring that prevention services continue to be available for youth. She said we want children to develop resiliency skills. Some of these children may join the military when they grow up, she said, and we want them to be as equipped as possible to take on that huge responsibility. That is only done through efforts that start early. She said she supports the council as a mother whose child needs to learn resiliency skills from all sides. At home and at school we all need to be talking the same language, she said.

[4:20:14 PM](#)

JAMES BIELA, Lead Field Advocate, American Foundation for Suicide Prevention (AFSP) - Alaska Chapter, Newtok, stated that AFSP and the Statewide Suicide Prevention Council (SSPC) are aligned with the national strategy for suicide prevention as well as the American Indian and Alaska Native National Suicide Prevention Strategy Plan. SSPC is also aligned with the goal of AFSP to reduce suicide at least 20 percent by 2025. He said he has worked with the SSPC since the Alaska Chapter of AFSP was formed in 2010. He cited statistics of suicide rates nationally, in Alaska, and the military. He reported that the council has helped him in his work with elders and youths on suicide prevention and healing and to increase participation in AFSP International Survivor Suicide Loss Day. He stated that AFSP strongly supports SB 10 and the continuation of the Statewide Suicide Prevention Council.

[4:22:46 PM](#)

BRENDA MOORE, Chair, Alaska Mental Health Board, Alaska Department of Health and Social Services (DHSS), Anchorage, stated that she is also a member of the Statewide Suicide Prevention Council. She described how the council has changed over the years to the point where it now "has some momentum." When she started with the council suicide prevention wasn't well understood, particularly with tribal organization. This changed through partnering with the Alaska Federation of Natives to hold local and statewide summits. These summits resulted in an active regional suicide prevention coalition. The council collaborates and coordinates with the coalition and the Division of Behavioral Health prevention grantees. She noted that the council now has a member who represents the military. She emphasized the importance of the work the council does to coordinate the efforts of the various entities. She urged the committee to support SB 10.

[4:26:17 PM](#)

CHAIR SHOWER closed public testimony on SB 10.

[4:26:25 PM](#)

At ease

[4:26:48 PM](#)

CHAIR SHOWER reconvened the meeting and solicited a motion.

[4:26:59 PM](#)

SENATOR COGHILL moved to report SB 10, version A, from committee with individual recommendations and attached fiscal note(s).

CHAIR SHOWER found no objection and SB 10 moved from the Senate State Affairs Standing Committee.

[4:27:34 PM](#)

At ease

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

[4:29:46 PM](#)

CHAIR SHOWER reconvened the meeting and announced the consideration of 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."

He stated that this is the third hearing and the purpose today is to get answers to the questions that have been raised.

[4:31:57 PM](#)

SENATOR KAWASAKI read the first question:

Section 28: What was the average sentence length for disorderly conduct both pre- and post- SB 91? From the time of arrest, what is the average amount of time that a person is in custody for a disorderly conduct charge? (Presume no prior convictions or mitigators or aggravators)

ROBERT HENDERSON, Deputy Attorney General, Department of Law, Criminal Division, Anchorage, said DOL did not have that information, but they were checking to see if the Department of Corrections had it. He added that pre-Senate Bill 91, the maximum term for disorderly conduct was 10 days. Prior convictions, mitigators, and aggravators didn't change that maximum. Under the current law, the maximum term of imprisonment for disorderly conduct is 24 hours, regardless of the number of prior convictions or whether there are mitigators or aggravators.

SENATOR KAWASAKI said he was trying to understand the impact of returning the maximum term of imprisonment for disorderly conduct to ten days.

[4:33:51 PM](#)

SENATOR KAWASAKI read question 2:

Section 32: How was the threshold for 1A and 2A drug position determined? How did the Department determine the threshold to show personal use versus intent to distribute?

MR. HENDERSON explained that the Alaska Criminal Justice Commission (ACJC) initially proposed a 2.5 gram threshold for schedule IA and IIA controlled substances, but the thresholds were changed during the legislative process. Under current law, trafficking under 1 gram of a schedule IA controlled substance is a class C felony and trafficking under 2.5 grams of a schedule IIA drug is a class C felony. Trafficking more than that amount is a class B felony.

The Justice Reinvestment Report to the Legislature said the rationale for the changes to the drug laws was that post-conviction admissions to prison for drug offenses had grown 35 percent in the 10 years prior to criminal justice reform and that felony drug offenders were spending more time in jail than they were 10 years ago. The proposal to reduce the sentences available to drug offenders was based on the commission's determination that there was little evidence of a deterrent effect in the sentencing scheme for drug offenders. Reclassifying drug trafficking of schedule IA and schedule IIA controlled substances achieved the intended goal to reduce sentencing and the prison terms available to drug traffickers. The reduction of presumptive sentencing for most offenses also reduced the availability of prison and jail as a sanction for drug trafficking.

CHAIR SHOWER asked the department representatives to follow up with responses to any lingering questions by Thursday, 4/12/19, and not later than next Tuesday.

[4:37:09 PM](#)

SENATOR COGHILL said he agrees in part about the intended effect of less charges but he also recalls there was discussion about charges that were bargained down pre-Senate Bill 91. He suggested it would be helpful to have a graph that shows the difference between the initial charge and the bargained down offense. Then maybe we can see how that has changed the existing law, he said. The point is to look at where the failure was to ensure we don't return to a failure.

MR. HENDERSON asked him to describe the graph he was requesting.

SENATOR COGHILL clarified that he was looking for a graph that shows the pre and post-Senate Bill 91 possession and trafficking charges, the convictions on the original charges, and the plea bargains. He recalled discussions about the felony charges that were bargained down to misdemeanors.

MR. HENDERSON said getting the information that includes both the charge and whether or not it was resolved at a lower charge for both pre and post-Senate Bill 91 will be difficult to get in the allotted time but he'd try.

SENATOR COGHILL said the bill goes to finance and it could be answered there. He recalled that the Criminal Justice Commission discussed that bargaining from a felony to a misdemeanor was quite significant pre-Senate Bill 91. You need to show in a chart how it was working before, how it doesn't work now, and how going back will be better, he said.

CHAIR SHOWER asked Mr. Henderson if he could get that information to the committee for Senator Coghill.

MR. HENDERSON said yes; it's a good point. He added that between 2015 and 2017, the Department of Law saw felony drug prosecutions drop about 70 percent. In part that was because DOL didn't have the tools to address some of the drug trafficking. It was also partially due to reducing felony possession offenses to the misdemeanor level. He suggested it might be helpful for the committee to hear Deputy Commissioner Duxbury describe this phenomenon with drug prosecutions.

SENATOR COGHILL said he'd like to hear that and how the felony charge for possession helped police get dealers.

[4:43:10 PM](#)

MICHEAL DUXBURY, Deputy Commissioner, Department of Public Safety, Anchorage, Alaska, asked him to repeat the two questions.

SENATOR COGHILL said the discussion is about returning possession and trafficking schedule IA and schedule IIA drugs to felony level offenses. His question is how many cases were bargained pre-Senate Bill 91 versus now. He said he's trying to find out if the problem was the drug amount or the felony charge on possession and if it was a police problem or a prosecution problem.

MR. DUXBURY said that when possession of small amounts of these drugs were no longer felonies, they found that the small dealers weren't interested in cooperating because the sanctions weren't impactful. There was systematic inertia. Then the prosecution didn't have the resources to handle the rising person on person and violent crimes. This all made it difficult for law enforcement to have an impact on the amount of drugs coming into communities.

SENATOR COGHILL said he's come to understand that a felony hanging over a small user encourages them to cooperate but he's still interested in looking for ways to help someone turn their life around after they've been charged with a felony.

[4:48:21 PM](#)

MR. DUXBURY said the best thing they can do for a small time user is to get the person into some form of treatment. When somebody is going to be charged and they decide to cooperate, the negotiations usually involve the prosecutor and the investigator whether it's the local police or the troopers. He said he can't gauge what the impact would be on the individual but DPS is focused on getting the large amounts and maintaining quality of life for the community. He restated that any plea negotiations involve a prosecutor and pre-Senate Bill 91 there was also the discretion to target places to make an impact on the amount of drugs coming into the community.

SENATOR COGHILL said he wanted it to be very clear that this is charging people with a felony to get to people who are committing felonies. He agreed that downward pressure is needed but this disregards those people who have been cooperative and need help to turn their lives around.

[4:52:15 PM](#)

SENATOR MICCICHE said he understands what Senator Coghill is saying and it's one reason he supported Senate Bill 91, but it's not working. He's talked to the troopers in his community about the drug house issue and their hands are tied. He said we're also not thinking about the user/dealer. He hopes to see more use of suspended imposition of sentence to try to negotiate with low level first-time users and help them turn their lives around but meanwhile the carrot won't work if there isn't a stick. He talked about the crime meetings in his community and related that the provision in the disorderly conduct statute to be able to hold someone was important because disorderly conduct can be a precursor to domestic violence. He asked Mr. Duxbury to

comment on increasing the maximum hold for disorderly conduct from 24 hours to 10 days.

MR. DUXBURY said taking the people who repeatedly victimize others out of circulation for a few days provides a cooling down period that seems to be helpful in breaking the cycle.

SENATOR MICCICHE highlighted that a common theme among people who have turned their lives around after convictions for possession of small quantities of drugs is that they didn't realize how far they'd fallen until they were faced with a significant charge. That's why he believes in combining the carrot of treatment with the stick that's the threat of a felony. He expressed hope that prosecutors will use the suspended imposition of sentence tools on first-time offenders.

CHAIR SHOWER commented that without the tools to get people into the system, law enforcement is not able to get help for them.

SENATOR COGHILL added that the police have said that they can only pick up somebody up and take them to jail. There aren't enough treatment facilities and certainly not enough to divert someone the day they're picked up. He stressed that charging somebody for one thing to encourage them to do something else means that charge will follow that individual for the rest of their life. [Senate Bill 91] intended to avoid that but what happened was there was no longer any leverage to get offenders to change their behavior. The police feel hamstrung because people bounce right out if they go to jail. He reiterated the caution that "we're charging somebody something, to do something else." He said he wanted people to understand, "that's why we're doing this."

[4:58:32 PM](#)

SENATOR MICCICHE offered his perspective that the only way to get hold of the problem is to impose a consequence for possessing a small quantity of drugs. If the arrest is for possession of meth, for example, the arresting officer probably won't know how the person, who may be a user/dealer, is funding their habit or if they're spreading that habit to others. If they're spreading the habit, their behavior will never change without a substantial consequence. But if the person really is a first timer who is in possession of just a small quantity, he said he hopes law enforcement will use the tools of suspending entry and give the person another chance.

SENATOR COGHILL said the proposed statute doesn't provide that latitude but he does agree that there is thievery associated with drug use.

CHAIR SHOWER transitioned the discussion by advising both the Department of Law and the Department of Public Safety that he had problems with some of the language in Section 27 regarding terroristic threats. He asked both agencies to be prepared to speak to that section on Thursday. He warned that he would "dive pretty hard" on the DNA swabbing and associated personal privacy issues. He also asked DOC if they had data that shows the numbers of drug possession felonies both pre and post-Senate Bill 91.

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SENATOR MICCICHE said his request was for clarification that the legal marijuana industry authorized in AS 17 is excepted from the increased penalties involving a controlled substance in Title 11. He said he will also ask about the constitutionality of separating revoked licenses from suspended licenses. If that's not possible, he would evaluate returning both to an arrestable offense.

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CHAIR SHOWER held SB 32 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 5:04 pm.