

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 18, 2019

2:11p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Scott Kawasaki

COMMITTEE CALENDAR

SENATE BILL NO. 32

"An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

- MOVED CSSB 32(STA) OUT OF COMMITTEE

SENATE BILL NO. 75

"An Act relating to a license to drive a commercial motor vehicle."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 97

"An Act repealing statutes that relate to art works in public buildings and facilities and that require a set percentage of construction costs to be spent on art."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 32

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

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/23/19 (S) READ THE FIRST TIME - REFERRALS
 01/23/19 (S) JUD, FIN
 02/06/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/06/19 (S) Heard & Held
 02/06/19 (S) MINUTE(JUD)
 02/08/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/08/19 (S) Heard & Held
 02/08/19 (S) MINUTE(JUD)
 02/09/19 (S) JUD AT 1:00 PM BELTZ 105 (TSBldg)
 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)
 04/09/19 (S) STA AT 3:30 PM BUTROVICH 205
 04/09/19 (S) Heard & Held
 04/09/19 (S) MINUTE(STA)
 04/11/19 (S) STA AT 3:30 PM BUTROVICH 205
 04/11/19 (S) Heard & Held
 04/11/19 (S) MINUTE(STA)
 04/15/19 (S) STA AT 6:00 PM BUTROVICH 205
 04/15/19 (S) Heard & Held
 04/15/19 (S) MINUTE(STA)
 04/16/19 (S) STA AT 3:30 PM BUTROVICH 205
 04/16/19 (S) Heard & Held
 04/16/19 (S) MINUTE(STA)
 04/18/19 (S) STA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

ROBERT HENDERSON, Deputy Attorney General
 Criminal Division
 Department of Law
 Anchorage, Alaska
POSITION STATEMENT: Discussed the amendments to SB 32.

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 32.

KATHRYN MONFREDA, Director
Division of Statewide Services
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 32.

STACIE KRALY, Chief Assistant Attorney General
Civil Division
Human Services Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: Offered to answer questions about the mental commitment process related to SB 32.

KELLY HOWELL, Special Assistant to the Commissioner
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 32.

CORNELIUS SIMS, Lieutenant
Alaska State Troopers
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Offered the trooper perspective during the hearing on SB 32.

ACTION NARRATIVE

[2:11:29 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 2:11 p.m. Present at the call to order were Senators Micciche, Senator Reinbold, and Chair Shower.

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

[2:12:18 PM](#)

CHAIR SHOWER 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."

CHAIR SHOWER reviewed the progress of the bill. The committee last heard the bill on April 16, 2019, when they adopted a committee substitute (CS), [work order 31-GS1029\U], that makes technical and conforming changes. Public testimony was heard and is closed. Written testimony could be submitted to senate.state.affairs@akleg.gov until the bill is reported from committee, possibly that evening. He noted there were amendments for the committee to consider.

[2:13:05 PM](#)

SENATOR MICCICHE moved to adopt Amendment 1, work order 31-GS1029\U.4, Marx/Radford, 4/16/19.

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 32(STA), Draft Version "U"

Page 28, line 27, through page 29, line 22:
Delete all material.

Renumber the following bill sections accordingly.

Page 34, line 27:
Delete all material.

Renumber the following paragraphs accordingly.

Page 34, line 28:
Delete "sec. 44"
Insert "sec. 43"

Page 34, line 29:
Delete "sec. 45"
Insert "sec. 44"

Page 35, line 4:
Delete "Section 48"

Insert "Section 47"
Delete "sec. 48"
Insert "sec. 47"

Page 35, line 7:
Delete "Section 50"
Insert "Section 49"

Page 35, line 8:
Delete "sec. 53"
Insert "sec. 52"

CHAIR SHOWER objected for discussion purposes.

[2:13:56 PM](#)

ROBERT HENDERSON, Deputy Attorney General, Criminal Division, Department of Law, Anchorage, explained that Amendment 1 removes the provision in Section 43, which was an attempt to codify the long-standing Alaska Supreme Court Ravin case that allowed people to maintain or keep small amounts of personal-use marijuana in their homes. Given what has happened with recreational marijuana, that section is not needed, he said.

CHAIR SHOWER asked for confirmation that everything else in the amendment was just renumbering.

MR. HENDERSON answered correct.

[2:15:35 PM](#)

CHAIR SHOWER removed his objection. Finding no further objection, Amendment 1 was adopted.

[2:15:49 PM](#)

SENATOR MICCICHE moved to adopt Amendment 2, work order 31-GS1029\U.3, Bruce/Radford, 4/16/19.

AMENDMENT 2

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 32(STA), Draft Version "U"

Page 30, line 29, through page 31, line 2:
Delete "center, or if a community residential center" [PRIVATE RESIDENCE BY ELECTRONIC MONITORING

UNDER AS 33.30.065. IF ELECTRONIC MONITORING] is not available, at another appropriate place [IMPRISONMENT UNDER (g) (1) (A) OF THIS SECTION SHALL BE SERVED AT A"

Insert "center or by electronic monitoring at a private residence [BY ELECTRONIC MONITORING] under AS 33.30.065. If a community residential center or electronic monitoring at a private residence is not available, imprisonment required under (g) (1) (A) of this section may [SHALL] be served at another appropriate place [A"

CHAIR SHOWER objected for discussion purposes.

[2:16:10 PM](#)

MR. HENDERSON explained that Amendment 2 brings the refusal statute in Section 45 in line with the language used in the primary DUI statute in Section 44. Using the same language clarifies that the intent of the legislature is the same with regard to ensuring that the Department of Corrections (DOC) commissioner has the authority to place a person at a community residential center (CRC) or use electronic monitoring for both DUI and refusal.

[2:17:07 PM](#)

SENATOR REINBOLD articulated her concerns with electronic monitoring, community residential centers, and halfway houses. She asked if this was for just DUIs.

MR. HENDERSON clarified that it is only for DUI and refusal.

SENATOR REINBOLD said, "Okay, I'm okay with that."

CHAIR SHOWER noted the committee lost its quorum.

[2:18:10 PM](#)

At ease

[2:45:48 PM](#)

CHAIR SHOWER reconvened the meeting and noted the committee was considering Amendment 2. He recognized that Senator Coghill was present.

MR. HENDERSON restated his explanation of Amendment 2.

[2:48:14 PM](#)

CHAIR SHOWER removed his objection. Finding no further objection, Amendment 2 was adopted.

[2:48:34 PM](#)

SENATOR COGHILL moved to adopt Amendment 3 work order 31-GS1029\U.8, Radford, 4/17/19.

AMENDMENT 3

OFFERED IN THE SENATE
TO: CSSB 32 (STA)

BY SENATOR SHOWER

Page 1, line 2:

Delete "**relating to DNA testing;**"

Page 13, lines 6 - 23:

Delete all material.

Renumber the following bill sections accordingly.

Page 34, lines 7 - 8:

Delete all material.

Renumber the following paragraphs accordingly.

Page 34, line 9:

Delete "sec. 26"

Insert "sec. 24"

Page 34, line 11:

Delete "sec. 28"

Insert "sec. 26"

Page 34, line 12:

Delete "sec. 29"

Insert "sec. 27"

Page 34, line 13:

Delete "sec. 30"

Insert "sec. 28"

Page 34, line 14:

Delete "sec. 31"

Insert "sec. 29"

Page 34, line 15:

Delete "sec. 32"
Insert "sec. 30"

Page 34, line 16:
Delete "sec. 33"
Insert "sec. 31"

Page 34, line 17:
Delete "sec. 34"
Insert "sec. 32"

Page 34, line 18:
Delete "sec. 35"
Insert "sec. 33"

Page 34, line 21:
Delete "sec. 37"
Insert "sec. 35"

Page 34, line 22:
Delete "sec. 38"
Insert "sec. 36"

Page 34, line 23:
Delete "sec. 39"
Insert "sec. 37"

Page 34, line 24:
Delete "sec. 40"
Insert "sec. 38"

Page 34, line 25:
Delete "sec. 41"
Insert "sec. 39"

Page 34, line 26:
Delete "sec. 42"
Insert "sec. 40"

Page 34, line 27:
Delete "sec. 43"
Insert "sec. 41"

Page 34, line 28:
Delete "sec. 44"
Insert "sec. 42"

Page 34, line 29:
Delete "sec. 45"
Insert "sec. 43"

Page 34, line 30:
Delete "sec. 36"
Insert "sec. 34"

Page 34, line 31:
Delete "sec. 36"
Insert "sec. 34"

Page 35, line 1:
Delete "sec. 36"
Insert "sec. 34"

Page 35, line 4:
Delete "Section 48"
Insert "Section 46"
Delete "sec. 48"
Insert "sec. 46"

Page 35, line 7:
Delete "Section 50"
Insert "Section 48"

Page 35, line 8:
Delete "sec. 53"
Insert "sec. 51"

CHAIR SHOWER objected for discussion purposes.

[2:48:52 PM](#)

MR. HENDERSON explained that Amendment 3 deletes the proposal to create a new class A misdemeanor crime of failing to provide a DNA sample upon arrest. Given the discussion this proposal has generated, the Department of Law and law enforcement will take more time to evaluate the need and potential effectiveness of such a provision, he said.

SENATOR REINBOLD expressed disappointment with losing such a large tool and warned that she would object and vote no.

CHAIR SHOWER offered his understanding that the amendment prevents someone who would not otherwise be guilty of a crime from being charged with a crime simply for refusing.

MR. HENDERSON said law enforcement and the Department of Law determined they need to think about whether there is an effective way, in addition to a court order, to encourage people to submit a DNA sample.

[2:52:06 PM](#)

CHAIR SHOWER said he looks at it as a personal rights issue. He doesn't want to hold this as a hammer over someone who has not otherwise committed a crime. He supports the amendment knowing that it does not take away any of the tools that already exist for law enforcement.

SENATOR MICCICHE commented that he agrees with both Senator Shower and Reinbold, which is problematic. He would like the tool to be available, but he's uncomfortable with the idea that people who are arrested and found to be innocent would be charged with a separate crime for refusal. He said he'd support the amendment and continued work to find an effective tool.

CHAIR SHOWER reiterated his interest in protecting constitutional rights.

SENATOR REINBOLD said she agrees with protecting rights, but she also supports collecting DNA swabs from anybody who is arrested for a crime against a person.

CHAIR SHOWER assured her that DNA samples will be collected in cases of crimes against a person.

[2:56:16 PM](#)

MR. HENDERSON confirmed that law enforcement will still be able to seize DNA. But if the amendment passes, refusing to provide a DNA sample will not be a separate crime.

SENATOR REINBOLD asked if the amendment prevents law enforcement from charging sex offenders and child kidnappers that refuse to submit a DNA sample with a class A misdemeanor.

MR. HENDERSON responded that removing bill Section 24 essentially leaves the law as is.

SENATOR REINBOLD asked for clarification that the amendment deletes sections [24 and 25] of the bill.

MR. HENDERSON answered yes; the amendments to AS 11.56.760 will not go into effect but the statute itself will remain.

SENATOR REINBOLD asked for further clarification that for all practical purposes the amendment removes the new text.

MR. HENDERSON said that's correct; no changes will be made to that statute.

[3:00:28 PM](#)

SENATOR REINBOLD offered her understanding that law enforcement will still be able to collect DNA, but refusal will not be a misdemeanor.

MR. HENDERSON agreed.

SENATOR REINBOLD expressed hope that this issue would be revisited. She said she'd be the first to jump in line to carry this tool, which can prevent wrongful convictions.

CHAIR SHOWER said everything is on the table for the entire criminal package.

SENATOR MICCICHE recapped that under current law there is a requirement to give a DNA sample for certain crimes but there is no sanction for refusal. He offered his understanding that law enforcement is able to obtain a DNA sample with a warrant.

MR. HENDERSON confirmed that law enforcement could seek a court order to obtain the sample, using reasonable force if necessary.

SENATOR MICCICHE reiterated his interest in finding an effective tool to motivate people to voluntarily give a sample. Waiting for a warrant would probably add a couple of hours to the process, he said.

MR. HENDERSON said that's correct and the committee discussion caused the Department of Law to think about whether there is a different way to motivate or incentivize someone to provide the required DNA sample as opposed to a new criminal offense.

CHAIR SHOWER said this isn't finished and more data may be forthcoming.

SENATOR REINBOLD said she likes the idea of imposing a new crime for refusal because it's more efficient and it can help prevent wrongful convictions. She indicated she was ready to move on.

[3:04:19 PM](#)

CHAIR SHOWER removed his objection and asked if there was further objection.

SENATOR REINBOLD objected.

A roll call vote was taken. Senators Coghill, Micciche, and Shower voted in favor of Amendment 3, and Senator Reinbold voted against it. Therefore, Amendment 3 was adopted by a 3:1 vote.

[3:05:11 PM](#)

SENATOR COGHILL moved to adopt Amendment 4 work order 31-GS1029\U.7, Radford, 4/17/19.

AMENDMENT 4

OFFERED IN THE SENATE BY SENATOR MICCICHE
TO: CSSB 32(STA), Draft Version "U"

Page 19, line 5:

Delete "AS 17.30"

Insert "**AS 03.05, AS 17.30, and AS 17.38** [AS 17.30]"

Page 21, line 22, following "AS 17.30":

Insert "**or AS 17.38**"

Page 22, line 30, following "AS 17.30":

Insert "**or AS 17.38**"

CHAIR SHOWER objected for discussion purposes.

SENATOR MICCICHE explained that he and Senator Kawasaki worked on the amendment to clarify that the changes to Title 11 do not apply to either the legal marijuana or hemp industries. They have heard a lot of concern and it is important to clarify the two sections.

MR. HENDERSON said this adds industrial hemp and recreational marijuana to the exceptions outlined in AS 17.30, the pharmaceutical regulation statutes. Individuals engaged in those activities would not be subject to criminal penalties outlined in Title 11.71.

SENATOR COGHILL asked if the administration supports the amendment.

MR. HENDERSON replied the administration has no objection to the amendment.

[3:07:06 PM](#)

CHAIR SHOWER removed his objection. Finding no further comment or objection, he stated that Amendment 4 is adopted.

SENATOR MICCICHE requested the committee skip ahead to Amendment 6.

[3:07:42 PM](#)

SENATOR COGHILL moved to adopt Amendment 6 work order 31-GSU1029\U.5, Radford, 4/17/19.

AMENDMENT 6

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 32(STA), Draft Version "U"

Page 33, line 7:
Delete "1981"
Insert "2009"

[3:07:55 PM](#)

CHAIR SHOWER objected for discussion purposes. He said the right to own a gun for people who have been involuntarily committed is a question that goes back to 1981. Because it raises many issues, he asked experts from the Department of Law and the courts to discuss whether or not it is necessary to look back that far.

MR. HENDERSON said this provision is about sharing data with the court system that is otherwise confidential. When someone is adjudicated mentally incompetent and committed to a mental health institution, that information is generally confidential. This amendment allows information going back to 1981 to be transmitted from the court system to the Department of Public Safety (DPS) for inclusion into the national database. When someone has been adjudicated mentally ill for the purpose of this statute, it means that they are a prohibited person under federal law. As a prohibited person under federal law, they are not allowed to possess a firearm. It is no different from being a felon. Felons are not entitled to possess a firearm, both under federal and state law. A person found mentally incompetent

is also a prohibited person for purposes of federal law. As originally drafted, SB 32 allows the court system to share that data back to 1981.

[3:11:14 PM](#)

NANCY MEADE, General Counsel, Administrative Services, Office of the Administrative Director, Alaska Court System, Anchorage, explained that starting in October of 2014, the legislature passed a bill requiring the court system to start sending all mental commitment orders of 30 days or more to DPS so it would be entered in that database. That statute was not retroactive and the court has not released orders before 2014. The bill would allow the court to go back to 1981 to find mental commitment orders of 30 days or more and transmit those to DPS. This would be a significant lift for the courts because records that old are on microfiche and stored at different locations around the state.

The fiscal notes show that it would take two project attorneys a year or more to go through the 21,500 old probate commitment cases to find which ones were 30 days or more and transmit those to DPS. As to the question about how many cases would qualify, she said there were 131 in 2015, 166 in 2016, 154 in 2017, and 97 in 2018. She said it's a policy call for the legislature, but there would be no additional cost to look back to 2011 because the cases would be on CourtView. If the lookback remains 1981, she would ask to extend the effective date another year. The court would not be able to gather this information by the end of 2019 as stipulated in the bill.

[3:14:27 PM](#)

KATHRYN MONFREDA, Director, Division of Statewide Services, Department of Public Safety, Anchorage, said DPS receives daily reports of individuals who are involuntarily committed for 30 or more days. They receive multiple reports daily of individuals found incompetent or are in the process of being found competent or incompetent to stand trial for criminal charges. The names are entered into the state system and NICS so they are available on a nationwide basis. She said the federal government wants all states to submit this information and there is even stronger federal legislation to tighten the restriction on handguns. The NICS Act Record Improvement Program (NARIP) will have \$25 million in grants that state courts can apply for and this effort would be covered by the grants.

CHAIR SHOWER asked Ms. Kraly if she had anything to add.

[3:17:01 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Civil Division, Human Services Section, Department of Law, Juneau, said she was available to answer questions about the mental commitment process related to SB 32 and how that might affect the decision on the amendment.

CHAIR SHOWER said his intent had been to talk about the amendment and then pull it, but now he wonders about that decision.

SENATOR REINBOLD said it sounds like Ms. Meade supports the amendment.

MS. MEADE clarified that the court has not taken a position on the amendment, but it would be easier to provide the information from 2011 forward as opposed to 1981. She reiterated that it is a policy call.

SENATOR REINBOLD asked if going back to 1981 would be beneficial.

MS. MEADE said it's up to Department of Law to explain why they want to look back to 1981. She believes it has something to do with the federal government.

[3:18:50 PM](#)

SENATOR COGHILL noted that the legal draft note mentions it hails back to the 1993 Brady Act, which didn't come into effect until 2014. The question was about equal protection. He asked if mirroring the language on the reporting system would put the state on the same journey as the federal government on the equal protection question.

MR. HENDERSON asked if the question was about mirroring the language back to 1993 as opposed to 1981.

SENATOR COGHILL said the question is whether it's more appropriate to look from 2014 forward when the Brady Act took effect.

MR. HENDERSON said under current law, everything from 2014 forward is submitted by the court. SB 32 seeks to look back farther than 2014 because this is such powerful information and because some of those individuals can be very dangerous. He said those individuals are already prohibited under the law from possessing a firearm. He said this law is designed to prevent

people who are mentally ill and who have been committed as being mentally ill from possessing firearms.

SENATOR COGHILL suggested the Finance Committee look at both a near and far step-in date.

MR. HENDERSON said DOL is working with the court to create a workable effective date.

SENATOR REINBOLD asked Mr. Henderson if he supports the amendment.

MR. HENDERSON replied it has been the administration's position that this should be retroactive to 1981. That is the date the mental commitment process was enacted by Alaska statute.

SENATOR REINBOLD asked why a clerk can't do the look back instead of a lawyer.

MS. MEADE said it requires deciphering earlier cases and looking at the statutes and how they've changed. There has to be assurance that due process was afforded in the case and that takes some analysis.

SENATOR REINBOLD asked Mr. Henderson if the information would be worth the effort.

[3:24:04 PM](#)

MR. HENDERSON said there has been a widespread societal decision that certain individuals should not have access to firearms and this would be an effective tool to keep firearms out of the hands of those individuals. This amendment is designed to make sure that the people who are already prohibited do not have access to new firearms.

CHAIR SHOWER asked what happens when a commitment is less than 30 days.

MS. MEADE said the more commonly ordered mental commitment is a three-day hospitalization. Those orders aren't sent to the Department of Public Safety (DPS) and those individuals are not restricted from possessing firearms. Responding to a question from the chair, she reiterated that this only applies to commitments of 30 days or longer.

CHAIR SHOWER followed up on Senator Coghill's comments asking if there was any data to show that the longer it's been since a

person received mental health treatment, the less likely they would be to commit a crime that is related to their mental health.

MR. HENDERSON suggested he ask Ms. Kraly and Ms. Monfreda. He didn't know if that data was available.

MS. MEADE said she didn't believe there was any data to show that someone who was mentally committed in 2000, for example, should still be disqualified from buying a firearm because they are still a threat. Without data, it would be up to the legislature to make the policy call.

CHAIR SHOWER asked if it would matter because of the supremacy of federal law

MR. HENDERSON said this isn't about the legal status of any one individual. The question here is whether the federal firearm [licensor] will have access to check NICS to see if the applicant is a prohibited person.

CHAIR SHOWER asked Ms. Monfreda if she had anything to add.

[3:27:54 PM](#)

MS. MONFREDA offered her perspective that keeping guns out of the hands of people who are mentally ill will also help reduce the number of suicides. She added that she is personally frustrated that pseudonyms are sometimes used when court cases involving mental health hospitalizations are reported. She cited a specific example and said that makes it impossible to know whether the person is in NICS.

MS. KRALY said she can't add anything because DOL does not have the data that Senator Shower is requesting.

CHAIR SHOWER said his sense is that the date should be changed.

SENATOR MICCICHE suggested that there should be a cost benefit analysis to find out if it's worth looking back to 1981.

MR. HENDERSON said part of the issue is that the Department of Law doesn't know how many cases there are. However, as Ms. Monfreda described, there are federal grant monies available because this is a priority for the administration and the Department of Justice.

CHAIR SHOWER asked how much the state could expect to receive.

MS. MONFREDA replied there has been \$25 million in NARIP grant funding every year for the last four years and there will be \$25 million this year. As she explained earlier, it's necessary for a state to have a law that allows for restoration of rights. The states that don't have that law are ineligible. She said the entire \$25 million has not been distributed each year so it's likely Alaska will get what it asks for and recover the cost.

[3:32:05 PM](#)

KELLY HOWELL, Special Assistant to the Commissioner and legislative liaison, Department of Public Safety (DPS), Anchorage, stated that the federal grant funds were the result of the NICS Act Records Improvement Program (NARIP), which was enacted as a result of the Virginia Tech shooting. The person who committed that crime had a prohibited mental health history and purchased his firearm through a federally licensed dealer. His prohibited mental health records were not in the NICS database. Had they been, he would not have been able to purchase the firearm that he did.

CHAIR SHOWER asked if the state had everything in place to apply for the grant.

MS. HOWELL answered yes and DPS has received funds through the NICS Act Records Improvement Program already.

SENATOR MICCICHE asked Ms. Meade whether the court can do this.

MS. MEADE answered yes. She corrected her earlier statement in regard to Senator Reinbold's question. The court's fiscal note shows the project would require range 14A employees, not attorneys. She was misremembering because they do need someone with the ability to discern certain things in the files, she said. To look back to 1981, the fiscal note is \$140,400. She said the court would be reluctant to pull the fiscal note on the promise of a federal grant.

SENATOR REINBOLD listed potential efficiencies. She said she believes this is a very good idea because it helps protect law-abiding people who are not mentally ill to keep their guns.

SENATOR COGHILL said he accepts what the court said, but data analytics is a two-edged blade. If focus is maintained on the bad guys, that's good, but it can be misused.

[3:36:12 PM](#)

At ease

3:36:51 PM

CHAIR SHOWER reconvened the meeting and withdrew his objection.

SENATOR COGHILL withdrew Amendment 6.

3:37:14 PM

SENATOR COGHILL moved Amendment 5 work order 31-GS1029\U.9, Radford, 4/17/19.

AMENDMENT 5

OFFERED IN THE SENATE BY SENATOR MICCICHE
TO: CSSB 32(STA), Draft Version "U"

Page 1, line 2, following "**probation;**":

Insert "**relating to driving while license canceled;**"

Page 24, following line 1:

Insert a new bill section to read:

"* **Sec. 36.** AS 12.25.180(a) is amended to read:

(a) When a peace officer stops or contacts a person for the commission of a class C felony offense, a misdemeanor, or the violation of a municipal ordinance, the officer may, in the officer's discretion, issue a citation to the person instead of taking the person before a judge or magistrate under AS 12.25.150, except the officer

(1) may arrest if

(A) [(1)] the person does not furnish satisfactory evidence of identity;

(B) [(2)] the peace officer reasonably believes the person is a danger to others;

(C) [(3)] the crime for which the person is contacted is one involving violence or harm to another person or to property;

(D) [(4)] the person asks to be taken before a judge or magistrate under AS 12.25.150; or

(E) [(5)] the peace officer has probable cause to believe the person committed a crime involving domestic violence; in this **subparagraph** [PARAGRAPH], "crime involving domestic violence" has the meaning given in AS 18.66.990;

(2) shall arrest if the crime for which the person is contacted is one involving driving while a license is canceled, suspended, revoked, or in violation of a limitation, as provided under AS 28.15.291."

Renumber the following bill sections accordingly.

Page 29, following line 22:

Insert a new bill section to read:

"* Sec. 45. AS 28.15.291(b) is amended to read:

(b) Driving while license canceled, suspended, revoked, or in violation of a limitation is

[(1)] a class A misdemeanor [IF THE PERSON VIOLATES (a)(1) OF THIS SECTION]; upon conviction, the court shall impose a minimum sentence of imprisonment of not less than 10 days

(1) [(A)] with 10 days suspended if the person has not been previously convicted under (a)(1) of this section or a similar law of another jurisdiction; or

(2) [(B)] if the person has been previously convicted under (a)(1) of this section or a similar law in another jurisdiction [;

(2) AN INFRACTION IF THE PERSON VIOLATES (a)(2) OR (3) OF THIS SECTION].

Page 34, line 18:

Delete "Act."

Insert "Act;

(36) AS 12.25.180(a), as amended by sec. 36 of this Act;

(37) AS 28.15.291(b), as amended by sec. 45 of this Act."

Page 34, line 21:

Delete "sec. 37"

Insert "sec. 38"

Page 34, line 22:

Delete "sec. 38"

Insert "sec. 39"

Page 34, line 23:

Delete "sec. 39"

Insert "sec. 40"

Page 34, line 24:
Delete "sec. 40"
Insert "sec. 41"

Page 34, line 25:
Delete "sec. 41"
Insert "sec. 42"

Page 34, line 26:
Delete "sec. 42"
Insert "sec. 43"

Page 34, line 27:
Delete "sec. 43"
Insert "sec. 44"

Page 34, line 28:
Delete "sec. 44"
Insert "sec. 46"

Page 34, line 29:
Delete "sec. 45"
Insert "sec. 47"

Page 34, line 30:
Delete "sec. 36"
Insert "sec. 37"

Page 34, line 31:
Delete "sec. 36"
Insert "sec. 37"

Page 35, line 1:
Delete "sec. 36"
Insert "sec. 37"

Page 35, line 4:
Delete "Section 48"
Insert "Section 50"
Delete "sec. 48"
Insert "sec. 50"

Page 35, line 7:
Delete "Section 50"
Insert "Section 52"

Page 35, line 8:
Delete "sec. 53"
Insert "sec. 55"

CHAIR SHOWER objected for discussion purposes.

3:37:36 PM

SENATOR MICCICHE stated that the goal of Amendment 5 is to discuss returning to "may" arrest or moving forward to "must" arrest for someone driving without a license. Current law provides that a police officer who stops a person for committing an infraction or a violation shall issue a citation instead of taking the person before a judge or magistrate except the officer may arrest under certain circumstances. The amendment contemplates "shall" arrest for a person driving while their license is canceled, suspended, revoked, or in violation of a limitation as provided under AS 28.15.291. He acknowledged that a conceptual amendment may be necessary.

MR. HENDERSON said the two aspects of Amendment 5 are the substantive change to the law and the arrest statute. He said DPS would be better suited to describe the day-to-day impacts of mandatory arrest for driving while license suspended.

SENATOR MICCICHE asked Mr. Henderson to talk about why the Department of Law doesn't believe Section 36 is necessary.

MR. HENDERSON explained that Section 36 is unnecessary because the decision of whether or not to arrest should be at the discretion of the officer at the time. Page 2, lines 1-3, of the amendment has the mandatory arrest and that is where DOL has concern about the impact on the day-to-day operations of law enforcement.

MR. HENDERSON said Amendment 5 also inserts new Section 45 to return driving with license suspended to a class A misdemeanor and impose a ten-day mandatory minimum. Providing some background, he explained that under Senate Bill 91, driving with license suspended, cancelled, or revoked changed from a class A misdemeanor to a violation if it was based on an administrative revocation. It remained a class A misdemeanor if it was based on a DUI revocation. Amendment 5 reverts to a class A misdemeanor for driving with license suspended regardless of the underlying premise of the revocation. It also creates the not less than ten days with ten days suspended for the first offense and then a mandatory minimum of ten days for the second offense. He said if the committee moves forward and makes driving with suspended

license a class A misdemeanor, additional changes to AS 28.15.291 must occur. He deferred to Ms. Meade to explain.

[3:42:54 PM](#)

MS. MEADE said if the committee makes the policy call to return all driving with license suspended to a class A misdemeanor, it will be necessary to make changes to AS 28.15.291(a). That section differentiates between the treatment for DUI driving with license suspended and driving with license revoked or suspended for any other reason. Senate Bill 91 left driving with license suspended as a class A misdemeanor for DUI but made it be an infraction for anybody else. Statutory changes would be necessary to ensure that the statute as a whole reads appropriately.

SENATOR COGHILL recalled that someone driving with license suspended because of a DUI is well aware of the suspension, but someone driving with a license revoked because they didn't pay child support may not be aware. The question was about culpability and knowledge of the revocation. The decision at that time was that a fine was better than an arrest whereas an arrest was appropriate for knowingly driving with license suspended.

SENATOR REINBOLD said she too had been working on this issue.

SENATOR MICCICHE said it's the main issue in many crime meetings he's had, but he is more concerned about law enforcement's perspective.

SENATOR REINBOLD thanked the sponsor for the amendment and asked if "shall" arrest on page 2, line 1, was the key.

SENATOR MICCICHE said he wanted to clarify the intent. The violation isn't working because people keep driving after multiple violations. He was looking for a way to separate people who may have had their license cancelled or revoked for some reason that may not be related to driving and it's been difficult.

SENATOR COGHILL said his understanding is that Senator Micciche thinks the best thing to do is to remove people who drive with several infractions from the road. He suggested that the "shall" arrest language will probably need a qualifier.

SENATOR MICCICHE agreed.

[3:48:47 PM](#)

CORNELIUS SIMS, Lieutenant, Alaska State Troopers, Department of Public Safety (DPS) expressed a preference for the term "may" arrest to give officers discretion to take the totality of the circumstances into consideration. He distinguished between stopping a parent with a car full of kids and finding they were driving with license suspended and stopping somebody and learning that the person was driving with license suspended and that they had multiple offenses on their driving record.

CHAIR SHOWER warned that he was going to play devil's advocate. He asked if there was a way to achieve the sponsor's intent of taking people driving with license suspended off the road and ensuring there was some consequence for their behavior, without overburdening the already very busy troopers.

LIEUTENANT SIMS said before the law changed, officers were taking people with serious and multiple driving while license revoked (DWLR) offenses off the road because they weren't learning from the citations that they previously received or prior court appearances. He opined that officers would use discretion appropriately and take people with multiple DWLRs to jail.

[3:53:35 PM](#)

SENATOR MICCICHE commented that officers have the right to arrest today when someone is driving with a revoked or suspended license. He asked what tool troopers need to get a driver off the road that doesn't fit under AS 12.25.180 right now.

LIEUTENANT SIMS responded that troopers are alerted through the DMV system that somebody's license is suspended or revoked. He related his experience of stopping people who admitted that they knew their license was suspended or revoked and taking many of them to jail. He said the committee talked about the lines that would need to be changed to differentiate between sentencing and when it becomes more of an infraction, but he didn't recall the location. He offered his perspective that fewer arrests were made after that change in the law. Before, the officers had discretion.

SENATOR MICCICHE asked if he was saying it would take care of the issue to leave the changes to Section 36 in place and change the word "shall" to "may" in the amendment.

LIEUTENANT SIMS answered yes.

SENATOR MICCICHE asked if he was also suggesting leaving the 20 differences on page 29.

LIEUTENANT SIMS replied the change would be from "shall" to "may."

3:58:01 PM

SENATOR REINBOLD said she would not support that because she wants officers to arrest somebody who is driving with a cancelled, suspended, or revoked license. A small fine doesn't work and only the threat of arrest will stop defiant thrill seekers who endanger the lives of others. She recounted her experience in an accident that was not her fault but resulted in her car being totaled. The woman was driving with kids in a car that was not titled and had bad brakes. She opined that the officer used terrible judgement when he let the woman drive off with the children. She said the police need to be held accountable and that's why she she's so supportive of the amendment, with the caveats that DOL and the courts did by splitting sections a and b.

SENATOR COGHILL said he understands why the officer asked for "may" because there are many administrative revocations that have nothing to do with driving. People should be held accountable for things like not paying child support but there are other options than revocation. He said "may" probably offers that discretion but the amendment makes it a class A misdemeanor so the potential for jail time does arise. He asked Mr. Henderson to list the administrative revocations.

MR. HENDERSON said he would follow up with the information. He added that returning all driving with license suspended to a class A misdemeanor will send a message to law enforcement to reprioritize this offense because it was deprioritized when it became a violation. Law enforcement, prosecutors, and the judiciary follow the priorities of the legislature, he said.

SENATOR MICCICHE asked if the discretionary term "may" sends a message that the legislature wants officers to arrest for the nonadministrative infractions.

CHAIR SHOWER suggested the language specify "shall" arrest for non-administrative infractions and "may" arrest for administrative infractions.

SENATOR MICCICHE solicited Mr. Henderson's view of splitting administrative and non-administrative penalties.

[4:05:33 PM](#)

MR. HENDERSON asked if the committee wanted all driving with license suspended to be a class A misdemeanor; whether they wanted the arrest to be mandatory or discretionary; and whether they wanted two types of arrests for DWLS - DUI and non-DUI. He suggested that driving while license suspended because of DUI should be a mandatory arrest. If driving with license suspended because of an administrative revocation remained a violation, no change would be required.

SENATOR COGHILL said he's hearing that the committee wants to ramp up to a misdemeanor, which would require a change. He asked if AS 28.15.291(b) applies to just the DUI laws.

MR. HENDERSON replied it is the motor vehicle licensing provision. Whether the committee wants driving while license suspended to be a violation or a misdemeanor is a policy decision which will drive the question of mandatory or discretionary arrest. "I think you have to flip them and answer them separately," he said.

SENATOR MICCICHE said he wanted to get this right but wondered if there was a way to do this today.

SENATOR COGHILL suggested changing "shall" to "may" on page 2, line 1 of the amendment. That requires an action and increases the penalty to a misdemeanor.

[4:10:08 PM](#)

At ease

[4:29:51 PM](#)

CHAIR SHOWER reconvened the meeting and explained that the discussion during the at ease was about the path forward and that the decision was to withdraw Amendment 5.

[4:30:11 PM](#)

SENATOR COGHILL withdrew the motion to adopt Amendment 5, 31-GS1029\U.9.

[4:30:20 PM](#)

SENATOR COGHILL moved Amendment 8, work order 31-GS1029\U.14, Radford, 4/18/19.

AMENDMENT 8

OFFERED IN THE SENATE

TO: CSSB 32(STA), Draft Version "U"

Page 1, line 2, following "probation;":

Insert "relating to driving while license canceled;"

Page 24, following line 1:

Insert a new bill section to read:

"* **Sec. 36.** AS 12.25.180(a) is amended to read:

(a) When a peace officer stops or contacts a person for the commission of a class C felony offense, a misdemeanor, or the violation of a municipal ordinance, the officer may, in the officer's discretion, issue a citation to the person instead of taking the person before a judge or magistrate under AS 12.25.150, except the officer

(1) may arrest if

(A) [(1)] the person does not furnish satisfactory evidence of identity;

(B) [(2)] the peace officer reasonably believes the person is a danger to others;

(C) [(3)] the crime for which the person is contacted is one involving violence or harm to another person or to property;

(D) [(4)] the person asks to be taken before a judge or magistrate under AS 12.25.150; or

(E) [(5)] the peace officer has probable cause to believe the person committed a crime involving domestic violence; in this subparagraph [PARAGRAPH], "crime involving domestic violence" has the meaning given in AS 18.66.990;

(2) shall arrest if the crime for which the person is contacted is one involving driving while a license is canceled, suspended, revoked, or in violation of a limitation, as provided under AS 28.15.291."

Renumber the following bill sections accordingly.

Page 29, following line 22:

Insert new bill sections to read:

"* **Sec. 45.** AS 28.15.291(a) is amended to read:

(a) A person commits the crime of driving while license canceled, suspended, revoked, or in violation of a limitation if the person drives [(1)] a motor vehicle on a highway or vehicular way or area at a time when that person's driver's license, privilege to drive, or privilege to obtain a license has been canceled, suspended, or revoked in this or [UNDER CIRCUMSTANCES DESCRIBED IN AS 28.15.181(c) OR A SIMILAR LAW IN] another jurisdiction, [; (2) A MOTOR VEHICLE ON A HIGHWAY OR VEHICULAR WAY OR AREA AT A TIME WHEN THAT PERSON'S DRIVER'S LICENSE, PRIVILEGE TO DRIVE, OR PRIVILEGE TO OBTAIN A LICENSE HAS BEEN CANCELED, SUSPENDED, OR REVOKED UNDER CIRCUMSTANCES OTHER THAN THOSE DESCRIBED IN (1) OF THIS SUBSECTION;] or the person drives [(3)] in violation of a limitation placed on that person's license or privilege to drive in this or another jurisdiction.

"* **Sec. 46.** AS 28.15.291(b) is amended to read:

(b) Driving while license canceled, suspended, revoked, or in violation of a limitation is

[(1)] a class A misdemeanor [IF THE PERSON VIOLATES (a)(1) OF THIS SECTION]; upon conviction, the court shall impose a minimum sentence of imprisonment of not less than 10 days

(1) [(A)] with 10 days suspended if the person has not been previously convicted under (a)(1) of this section or a similar law of another jurisdiction; or

(2) [(B)] if the person has been previously convicted under (a)(1) of this section or a similar law in another jurisdiction [;

(2) AN INFRACTION IF THE PERSON VIOLATES (a)(2) OR (3) OF THIS SECTION]."

Renumber the following bill sections accordingly.

Page 34, line 18:

Delete "Act."

Insert "Act;

(36) AS 12.25.180(a), as amended by sec. 36 of this Act;

(37) AS 28.15.291(a), as amended by sec. 45 of this Act;

(38) AS 28.15.291(b), as amended by sec. 46 of this Act."

Page 34, line 21:
Delete "sec. 37"
Insert "sec. 38"

Page 34, line 22:
Delete "sec. 38"
Insert "sec. 39"

Page 34, line 23:
Delete "sec. 39"
Insert "sec. 40"

Page 34, line 24:
Delete "sec. 40"
Insert "sec. 41"

Page 34, line 25:
Delete "sec. 41"
Insert "sec. 42"

Page 34, line 26:
Delete "sec. 42"
Insert "sec. 43"

Page 34, line 27:
Delete "sec. 43"
Insert "sec. 44"

Page 34, line 28:
Delete "sec. 44"
Insert "sec. 47"

Page 34, line 29:
Delete "sec. 45"
Insert "sec. 48"

Page 34, line 30:
Delete "sec. 36"
Insert "sec. 37"

Page 34, line 31:
Delete "sec. 36"
Insert "sec. 37"

Page 35, line 1:
Delete "sec. 36"
Insert "sec. 37"

Page 35, line 4:
Delete "Section 48"

Insert "Section 51"
Delete "sec. 48"
Insert "sec. 51"

Page 35, line 7:
Delete "Section 50"
Insert "Section 53"

Page 35, line 8:
Delete "sec. 53"
Insert "sec. 56"

CHAIR SHOWER objected for discussion purposes.

[4:30:39 PM](#)

SENATOR MICCICHE moved to conceptually amend Amendment 8.

SENATOR COGHILL offered a suggestion about the process to conceptually amend an amendment.

[4:31:23 PM](#)

CHAIR SHOWER withdrew his objection to Amendment 8.

[4:31:51 PM](#)

At ease

[4:32:18 PM](#)

CHAIR SHOWER reconvened the meeting.

[4:32:22 PM](#)

SENATOR MICCICHE moved to adopt Conceptual Amendment 1 to Amendment 8.

Page 1, line 4 through page 2, line 6:
Delete all language.

Page 2, line 29:
Delete (1) following (a).

Page 2, line 30:
Delete (1) following (a).

SENATOR MICCICHE explained that these changes return the discretion to arrest to the officer and returns the penalty for driving without a license to a misdemeanor, which is what the law was prior to passage of Senate Bill 91.

CHAIR SHOWER found no further discussion or objection and stated that the conceptual amendment to Amendment 8 is adopted. Amendment 8, as amended, was before the committee.

SENATOR MICCICHE said he would like to hear what Public Safety has to say about the amendment.

[4:34:06 PM](#)

MS. HOWELL advised that DPS agrees with the recommendation to give troopers and all law enforcement the discretion to care for those circumstances where arrest may not be appropriate. It will certainly be a tool to help them enforce the law and arrest when the circumstances warrant. DPS supports his amendment.

SENATOR REINBOLD voiced a preference for mandatory arrest citing her "two horrible experiences with cops in Juneau." She said neither accident was her fault and she'd like law enforcement officers to be held more accountable. She asked if anything else in that section would improve public safety.

MS. HOWELL replied she didn't believe so. Returning the law to what it was pre-Senate Bill 91 will satisfy the concerns of law enforcement that they weren't able to arrest when it seemed appropriate to do so.

SENATOR REINBOLD asked for assurance that this returns a significant tool to law enforcement.

MS. HOWEL confirmed that it would.

CHAIR SHOWER asked for clarification that if officers see something [in a car they have stopped], they have probable cause [to look further].

MS. HOWELL deferred to the Department of Law.

[4:36:34 PM](#)

MR. HENDERSON said the basic premise is that if officers are investigating driving with license suspended and they make a stop, that is the scope of the investigation. If they see something that would lead a reasonable person to believe that an additional crime has been or is being committed, that

establishes the potential for probable cause to take further action. He said an important distinction is that the investigation can only be expanded if other evidence comes forth during the processing of that stop.

CHAIR SHOWER wanted it to be clear that if an officer pulls somebody over and other things are discovered, that takes the stop to another level.

SENATOR MICCICHE clarified that it is not the intent that officers will use that stop to look around for something else. That would be unconstitutional. He agreed that officers currently have the discretion to arrest if they have probable cause.

SENATOR REINBOLD said she wants to make sure that this addresses the concerns the police have been voicing in Kenai and elsewhere. If they need something more to stop criminal activity, I want to give it to them, she said. "I want to make sure we're giving them a tool to take that next step if we need to."

[4:39:47 PM](#)

At ease

[4:41:07 PM](#)

CHAIR SHOWER reconvened the meeting. Finding no further comments or objection, he stated that Amendment 8, as amended, is adopted.

[4:41:27 PM](#)

SENATOR COGHILL moved Amendment 7 work order 31-GS1029\U.12, Radford, 4/18/19].

AMENDMENT 7

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 32(STA), Draft Version "U"

Page 13, line 24, through page 14, line 15:

Delete all material and insert:

"(a) A person commits the crime of terroristic threatening in the second degree if the person makes a threat that

(1) places [KNOWINGLY MAKES A FALSE REPORT THAT A CIRCUMSTANCE (1) DANGEROUS TO HUMAN LIFE EXISTS OR IS ABOUT TO EXIST AND (A)] a person [IS PLACED] in reasonable fear of serious physical injury to any person with reckless disregard that the threat may cause

(A) the [; (B) CAUSES] evacuation of a building, public place or area, business premises, or mode of public transportation;

(B) [(C) CAUSES] serious public inconvenience; or

(C) the public or a substantial group of the public to be in fear of serious physical injury

[(D) THE REPORT CLAIMS THAT A BACTERIOLOGICAL, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL SUBSTANCE THAT IS CAPABLE OF CAUSING SERIOUS PHYSICAL INJURY HAS BEEN SENT OR IS PRESENT IN A BUILDING, PUBLIC PLACE OR AREA, BUSINESS PREMISES, OR MODE OF PUBLIC TRANSPORTATION]; or

(2) causes any person to reasonably believe that a circumstance exists or is about to exist that is dangerous to the proper or safe functioning of an oil or gas pipeline or supporting facility, utility, or transportation or cargo facility; in this paragraph, "oil or gas pipeline or supporting facility" and "utility" have the meanings given in AS 11.46.495."

Page 34, line 9:

Delete "repealed and reenacted"

Insert "amended"

CHAIR SHOWER objected for discussion purposes.

CHAIR SHOWER explained that Amendment 7 addresses the concerns about terroristic threats that Legislative Legal Services articulated. It mitigates the objections the committee had that simply communicating a threat could be a class C felony. It establishes boundaries by saying a person makes the threat with reckless disregard of the potential causes.

He noted the need for a conceptual amendment to insert "or emergency protocol" on line 9 following "evacuation." This would cover institutions like schools that have lockdown procedures instead of building evacuations. The idea is to cast the net but not so broadly that it would cover things that were not intended

like the bar fight and heat of the moment threat to kill someone, which was discussed during an earlier hearing.

[4:42:55 PM](#)

At ease

[4:43:38 PM](#)

CHAIR SHOWER reconvened the meeting.

[4:43:42 PM](#)

SENATOR COGHILL moved to adopt Conceptual Amendment 1 to Amendment 7.

Following "evacuation" On page 1, line 9:

Insert "or emergency protocol" following
"evacuation."

CHAIR SHOWER objected for discussion purposes. He reiterated that the added language recognizes that some schools and other places follow lockdown procedures as opposed to evacuation.

CHAIR SHOWER found no further discussion or objection and stated that Conceptual Amendment 1 to Amendment 7 is adopted. He asked if there were questions or comments on Amendment 7, as amended.

SENATOR REINBOLD asked for clarification that the "and" was removed.

MR. HENDERSON said that is correct. "We have reformatted and reorganized to avoid that issue that we talked about at the last committee," he said.

SENATOR COGHILL commented that it was a good addition.

CHAIR SHOWER found no further discussion or objection and Amendment 7, as amended, was adopted.

[4:45:42 PM](#)

CHAIR SHOWER asked if there was final discussion and stated his intent to move the amended bill from committee that day.

SENATOR REINBOLD asked where she could find the 7 day provision.

MR. HENDERSON said he believes it's in Section 12 on page 7 of the CS.

CHAIR SHOWER agreed.

SENATOR REINBOLD asked for an explanation of the exact meaning.

MR. HENDERSON explained that Section 12 overall contains amendments to crimes of vehicle theft in the first degree. Subsections (a)(1) and (a)(2) are two separate ways somebody can commit that crime. Subsection (a)(1) addresses the situation of a person that, without authorization, drives, tows away, or takes a car, truck, motorcycle, motor home, bus, aircraft, or watercraft of another person. That is the most common vehicle theft. Subsection (a)(2) addresses the scenario of taking a propelled vehicle, such as an ATV, that belongs to another person. The crime may deprive the owner of the use of their vehicle for seven days or more. It is the long deprivation of the use of the property that helps the prosecution prove the case. He said that is prima facie evidence of intent to permanently deprive. The circumstantial evidence is that the person intends to steal the vehicle.

SENATOR REINBOLD asked for examples of both scenarios.

[4:49:39 PM](#)

MR. HENDERSON said subsection (A)(1) might be a person who steals a car from a driveway without permission. Subsection (a)(2)(C) might be a person who takes a snow machine or an ATV from someone's cabin and the owner finds it after the person had it for seven or more days. He said the 7 days is another way to prove the element.

SENATOR REINBOLD asked if somebody who steals a car for just an hour could be convicted under subsection (a)(1) and somebody who steals an ATV for an hour could be convicted under subsection (a)(1). But the person could also be convicted under subsection (a)(2) if the ATV was stolen for seven days or more.

MR. HENDERSON said that's correct; subsection (a)(2) talks about additional ways to prove the element.

SENATOR MICCICHE asked why propelled vehicle isn't in subsection (a)(1).

MR. HENDERSON said he would need to research the legislative history before giving an answer. He reminded the committee that when the value of the property is over \$750, there is also the crime of theft in the second degree so there are multiple ways of proving that theft.

SENATOR MICCICHE pointed out that if a vehicle is stolen for a little while but it isn't damaged and doesn't cost the owner anything while it's gone, it's just basic theft. He asked why that is viewed differently when a propelled vehicle may be somebody's primary source of transportation in Alaska.

MR. HENDERSON clarified that if somebody were to steal an ATV out of another person's driveway, the charge would be theft in the second degree, which is a class C felony and the same level of offense as vehicle theft. If somebody was convicted of both, the sentences would be merged

[4:52:34 PM](#)

SENATOR MICCICHE commented on the serious nature of vehicle theft in Alaska and asked if there was any thought about elevating that crime to a class B felony.

MR. HENDERSON answered no; that precise question was not considered.

SENATOR MICCICHE commented that this bill seems to be an appropriate vehicle to fix some of the crime issues that Alaskans are facing. He questioned why elevating the crime for vehicle theft wasn't considered.

MR. HENDERSON said the administration will think about that.

CHAIR SHOWER suggested it be addressed in the Finance Committee.

SENATOR REINBOLD said two years ago she was very thankful when she successfully amended Senate Bill 54 to add jail time on a first-time class C felony. One other amendment she proposed was to elevate the crime of vehicle theft to a class B felony. She asked Mr. Henderson if he agrees that somebody can be charged with a class B felony for car theft if the vehicle is valued over \$25,000.

MR. HENDERSON answered yes.

SENATOR REINBOLD said she proposed the amendment as a matter of equity and she'd support amending this bill to include that provision.

[4:56:58 PM](#)

SENATOR COGHILL said he was sorry to miss the debate and rewrite on the drug portion of the bill. He appreciates that the bill is removing the escalator of the CPI from the theft provision. He

appreciates many of the amendments to help those who have to pick up people and those who have to charge them, but just because something is in law doesn't mean it will happen as intended. That may continue to be a frustration, he said. He said he'll support the bill because of the increased penalty for the use and distribution of methamphetamine because that was something that the earlier crime bill didn't get quite right. He said he doesn't know that he agrees with the total schedule change, but there isn't time to debate it at this point. He reiterated that he would support moving the bill along.

SENATOR MICCICHE commended the committee for its good work on this key bill and noted that it was time to get it across the finish line.

SENATOR REINBOLD thanked everyone for their work on the bill and asked the two members that also sit on the Finance Committee to never forget the cost to the people. She said she would support the fiscal note on the bill even though she is a massive budget cutter.

CHAIR SHOWER thanked the committee for its work to get this crime bill across the finish line.

SENATOR COGHILL recommended the Finance Committee address the court rule change.

[5:02:45 PM](#)

SENATOR COGHILL moved to report CSSB 32, work order 31-GS1029\U as amended, from committee with individual recommendations and attached fiscal note(s) and authorization for Legislative Legal Services to make necessary technical and conforming changes.

CHAIR SHOWER found no objection and CSSB 32(STA) was reported from Senate State Affairs Standing Committee.

[5:03:38 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 5:03 pm.