

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

May 14, 2021

1:41 p.m.

**MEMBERS PRESENT**

Representative Matt Claman, Chair  
Representative Liz Snyder, Vice Chair  
Representative Harriet Drummond  
Representative Jonathan Kreiss-Tomkins  
Representative Christopher Kurka

**MEMBERS ABSENT**

Representative David Eastman  
Representative Sarah Vance

**COMMITTEE CALENDAR**

HOUSE BILL NO. 172

"An Act relating to admission to and detention at a subacute mental health facility; establishing a definition for 'subacute mental health facility'; establishing a definition for 'crisis residential center'; relating to the definitions for 'crisis stabilization center'; relating to the administration of psychotropic medication in a crisis situation; relating to licensed facilities; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 183

"An Act renaming the Alaska Criminal Justice Commission the Alaska Criminal Justice Data Analysis Commission; relating to the membership of the Alaska Criminal Justice Data Analysis Commission; relating to the powers and duties of the Alaska Criminal Justice Data Analysis Commission; extending the termination date of the Alaska Criminal Justice Data Analysis Commission; relating to the duties of the Judicial Council; providing for an effective date by amending the effective date of secs. 41 and 73, ch. 1, 4SSLA 2017; and providing for an effective date by repealing the effective date of sec. 74, ch. 1, 4SSLA 2017."

- HEARD & HELD

SENATE BILL NO. 122

"An Act relating to the definition of 'victim.'"

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 172

SHORT TITLE: MENTAL HEALTH FACILITIES & MEDS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/12/21 (H) READ THE FIRST TIME - REFERRALS  
04/12/21 (H) JUD, HSS, FIN  
05/14/21 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 183

SHORT TITLE: CRIMINAL JUSTICE DATA ANALYSIS COMMISSION

SPONSOR(s): CLAMAN

04/21/21 (H) READ THE FIRST TIME - REFERRALS  
04/21/21 (H) JUD, STA, FIN  
05/14/21 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: SB 122

SHORT TITLE: VICTIM DEFINITION

SPONSOR(s): REINBOLD

04/07/21 (S) READ THE FIRST TIME - REFERRALS  
04/07/21 (S) JUD  
04/14/21 (S) JUD AT 1:30 PM BUTROVICH 205  
04/14/21 (S) Heard & Held  
04/14/21 (S) MINUTE(JUD)  
04/19/21 (S) JUD AT 1:30 PM BUTROVICH 205  
04/19/21 (S) Scheduled but Not Heard  
04/21/21 (S) JUD AT 1:30 PM BUTROVICH 205  
04/21/21 (S) Heard & Held  
04/21/21 (S) MINUTE(JUD)  
04/23/21 (S) JUD AT 1:30 PM BUTROVICH 205  
04/23/21 (S) <Bill Hearing Canceled>  
04/26/21 (S) JUD AT 1:30 PM BUTROVICH 205  
04/26/21 (S) Moved SB 122 Out of Committee  
04/26/21 (S) MINUTE(JUD)  
04/28/21 (S) JUD RPT 5DP  
04/28/21 (S) DP: HOLLAND, MYERS, HUGHES, SHOWER,  
KIEHL  
05/05/21 (S) TRANSMITTED TO (H)  
05/05/21 (S) VERSION: SB 122  
05/06/21 (H) READ THE FIRST TIME - REFERRALS

05/06/21 (H) JUD  
05/10/21 (H) JUD AT 1:00 PM GRUENBERG 120  
05/10/21 (H) -- MEETING CANCELED --  
05/12/21 (H) JUD AT 1:00 PM GRUENBERG 120  
05/12/21 (H) Heard & Held  
05/12/21 (H) MINUTE (JUD)  
05/14/21 (H) JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

STEVE WILLIAMS, Chief Executive Officer  
Alaska Mental Health Trust Authority  
Anchorage, Alaska

**POSITION STATEMENT:** Presented during the hearing on HB 172;  
Presented during hearing on HB 183.

HEATHER CARPENTER, Health Care Policy Advisor  
Office of the Commissioner  
Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Presented during the hearing on HB 172.

STEVE PEARCE, Agent  
Citizens Commission on Human Rights  
Seattle, Washington

**POSITION STATEMENT:** Testified in opposition to HB 172.

MARK REGAN, Legal Director  
Disability Law Center of Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 172.

LISA GENTEMANN  
Eagle River, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 172.

RENEE RAFFERTY, Regional Director of Behavioral Health  
Providence Health Services  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 172.

LIZZIE KUBITZ, Staff  
Representative Matt Claman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 183 on behalf of  
Representative Claman, prime sponsor.

KAREN BUCHKOSKI, Audit Manager  
Legislative Audit Division  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 183.

SUSANNE DIPIETRO, Executive Director  
Alaska Judicial Council  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 183.

SENATOR LORA REINBOLD  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, presented SB 122.

ANDREW DUNMIRE, Legislative Counsel  
Legislative Legal & Research Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on SB 122.

KACI SCHROEDER, Assistant Attorney General  
Central Office  
Criminal Division (Juneau)  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on SB 122.

SHAUN SEHL, Victims Advocate Attorney  
Alaska Office of Victims' Rights  
Anchorage Alaska

**POSITION STATEMENT:** Answered questions during the hearing on SB 122.

#### **ACTION NARRATIVE**

[1:41:50 PM](#)

**CHAIR MATT CLAMAN** called the House Judiciary Standing Committee meeting to order at 1:41 p.m. Representatives Claman, Kreiss-Tomkins, Drummond, and Snyder were present at the call to order. Representative Kurka arrived as the meeting was in progress.

**HB 172-MENTAL HEALTH FACILITIES & MEDS**

[1:42:21 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 172, "An Act relating to admission to and detention at a subacute mental health facility; establishing a definition for 'subacute mental health facility'; establishing a definition for 'crisis residential center'; relating to the definitions for 'crisis stabilization center'; relating to the administration of psychotropic medication in a crisis situation; relating to licensed facilities; and providing for an effective date."

CHAIR CLAMAN stated that there was a proposed committee substitute and explained the changes that would occur should the committee substitute be adopted. He said that the first change would be to create separate sections for crisis stabilization centers, crisis residential centers, and evaluation facilities to clarify the purpose and use of each facility. The next change would be a clarification that the process for involuntary commitment starts over for readmission into a crisis residential center or a crisis stabilization center. He said that the next change would be to establish a definition of "health officer" which refers to a non-law enforcement officer who may be involved in the process. He stated the next change would be a standard for the court to determine ex-parte applications for involuntary admission crisis residential center and would clean up the definitions section of the bill. Next it would amend the criminal procedure provisions in Title 12 to include crisis residential centers and would amend the domestic violence provision in Title 18 to include crisis residential centers.

[1:44:05 PM](#)

REPRESENTATIVE SNYDER moved to adopt the proposed committee substitute (CS) for HB 172, Version 32-GH1730\I, Dunmire, 5/14/21, as a working document. There being no objection, Version I was before the committee.

CHAIR CLAMAN noted that the bill had been presented by the governor's office and that he had been working with the department on the development of the committee substitute that was now before the committee.

[1:45:16 PM](#)

STEVE WILLIAMS, Chief Executive Officer, Alaska Mental Health Trust Authority, shared with the committee an anecdote from an Alaska State Trooper during his law enforcement experience in responding to an individual experiencing a mental health crisis. He stated that upon responding, the trooper had been required to evaluate the situation to determine whether a mental health crisis existed, and further consider potential impacts to public safety. He explained that the trooper was required to place the individual in handcuffs and place him/her in the back of the patrol car, even though the individual had not committed any crime. He further explained that when the trooper arrived at the local hospital seeking emergency mental health care, he was informed that the emergency room was full, and the individual would not be accepted for care. He shared that the trooper placed the individual back in the patrol vehicle and drove his entire shift seeking care for the individual and was unable to attend to other law enforcement duties. He stated that HB 172 would establish lower levels of care in which law enforcement or other first responders would have the ability to take an individual [who has committed no crime] to seek the care required.

[1:49:03 PM](#)

HEATHER CARPENTER, Health Care Policy Advisor, Office of the Commissioner, Department of Health and Social Services, referred to the presentation [included in the committee packet], titled "HB 172 Additional Document - Introduction Presentation to HJUD Committee 5.14.2021.pdf," and drew attention to slide 2, which read [original punctuation provided]:

Currently, Alaskans in crisis are primarily served by law enforcement, emergency rooms, and other restrictive environments

- Behavioral health crisis response is outside the primary scope of training for law enforcement, and reduces focus on crime prevention
- Limited Designated Evaluation & Treatment (DET) capacity in four communities: Juneau (BRH), Fairbanks (FMH), Mat-Su (MSRH), Anchorage (API)
- Emergency rooms are not designed for and can be overstimulating to someone in an acute psychiatric crisis

MS. CARPENTER explained that the four community DET facilities each have a limited number of beds available for voluntary or involuntary care for a patient, consisting of 12 beds in Juneau,

20 beds in Fairbanks, 16 beds at MSRH, and additional beds at the Alaska Psychiatric Institute (API). She explained that if someone is not located in one of those communities, there exists a need to transport them to one, which often requires air travel. She stated that emergency rooms are busy and are not a therapeutic environment for an individual experiencing a behavioral health crisis, and they would await proper care until a time at which they could be transported to a DET.

MS. CARPENTER drew attention to the infographic at the bottom of slide 2 and explained that the approach for treatment for a physical health crisis was incompatible with that which is necessary for treatment of a behavioral health crisis.

[1:51:06 PM](#)

MR. WILLIAMS drew attention to slide 3, which read [original punctuation provided]:

HB172 will:

- Effectuate a "No Wrong Door" approach to stabilization services
- Enhance options for law enforcement and first responders to efficiently connect Alaskans in crisis to the appropriate level of crisis care
- Support more services designed to stabilize individuals who are experiencing a mental health crisis
- 23-hour crisis stabilization centers
- Short-term crisis residential centers

MR. WILLIAMS drew attention to the infographic at the bottom of slide 3 and explained that it depicted a more appropriate approach to a behavioral health emergency. He added that in addition to the 23-hour crisis stabilization center, the short-term residential stabilization center as defined under HB 172 would provide 120 hours, or 5 days of service. He added that individuals who are seeking care on a non-voluntary basis are a small percentage of those seeking care; however, the facilities would need to have the ability to accept either voluntary or involuntary patients.

[1:53:24 PM](#)

MS. CARPENTER drew attention to slide 4, titled "Building Blocks of Psychiatric Crisis System Reform," which provided background

information on the conception of HB 172 and read as follows [original punctuation provided]:

- SB74 - Medicaid Reform (2016)  
Improve Access, quality, outcomes, and contain costs
- 1115 Behavioral Health Waiver  
Targets resources and services to "super utilizers"  
Provides flexibility in community behavioral health services and supports  
Creates new crisis service types that promote interventions in the appropriate settings and at the appropriate levels
- System must be intentionally designed and promote a "no wrong door" philosophy

MS. CARPENTER added that the 1115 waiver would provide more treatment options, closer to a patient's home, and drive down costs by diverting patients from costly inpatient hospital care to the lower levels of care [that would be created should HB 172 pass] in all 9 regions served. She explained that appropriately trained mental health professionals would select appropriate levels of care to prevent a behavioral health crisis from escalating.

[1:56:28 PM](#)

MR. WILLIAMS referred to slide 5, titled "GOAL: Design and implement a behavioral health crisis response system analogous to the physical health system," and explained the infographic depicted differences between physical and behavioral health crises. He said that the system proposed under HB 172 is based on the "Crisis Now" framework, which was in use in other states such as Arizona and Georgia and had the endorsement of organizations including the Substance Abuse Mental Health Services Administration (SAMHSA), the National Association of State Mental Health Program Directors (NASMHPD), the National Alliance on Mental Illness (NAMI), and the National Action Alliance on Suicide Prevention (NAASP).

[HB 172 was set aside and brought back before the committee following a recess to a call of the chair.]

[1:57:50 PM](#)

**ADJOURNMENT**

CHAIR CLAMAN recessed the meeting of the House Judiciary Standing Committee at 1:58 p.m. to a call of the chair.

[3:37:09 PM](#)

CHAIR CLAMAN called the House Judiciary Standing Committee meeting back to order. [Due to technical difficulties, attendance at the call back to order was not captured.]

**HB 172-MENTAL HEALTH FACILITIES & MEDS**

[3:37:16 PM](#)

CHAIR CLAMAN announced that the next order of business would be a return to HOUSE BILL NO. 172, "An Act relating to admission to and detention at a subacute mental health facility; establishing a definition for 'subacute mental health facility'; establishing a definition for 'crisis residential center'; relating to the definitions for 'crisis stabilization center'; relating to the administration of psychotropic medication in a crisis situation; relating to licensed facilities; and providing for an effective date." [Before the committee, adopted as a working document during the portion of the meeting prior to the recess, was the proposed committee substitute (CS) for HB 172, Version 32-GH1730\I, Dunmire, 5/14/21 ("Version I").]

[3:37:36 PM](#)

MR. WILLIAMS referred to the presentation [included in the committee packet], titled "HB 172 Additional Document - Introduction Presentation to HJUD Committee 5.14.2021.pdf," and drew attention to slide 6, which depicted the stakeholder engagement. He explained that some of the stakeholders may be or become providers of care, while others may exist as a safety net within communities to prevent escalations to needs in crisis care and provide aftercare.

[3:40:04 PM](#)

MS. CARPENTER referred to slide 7, titled "Enhanced Psychiatric Crisis Continuum of Care," and she explained that the bracketed services illustrate the existing gap in available care. She provided an example from Bartlett Regional Hospital (BRH), which provides a Crisis Now approach to its system to aid in achieving its goal of providing the most appropriate service at the most appropriate time with the most appropriate setting to its patients. She stated that BRH serves all Southeast Alaska and

has elected to expand its services to cover multiple levels of care needed. She stated that 33 percent of patients who are assessed for a mental health crisis are admitted for care, and it provides lower levels of care for those not admitted. She stated that having only 12 beds available, it must make choices to serve patients in an inpatient setting when a Crisis Now approach may be more appropriate.

MR. WILLIAMS referred to slide 8, titled "Crisis Stabilization Center (23 hour)," and he explained that it is one of the components of the new system of care as proposed under HB 172. He shared the content of the slide, which read as follows [original punctuation provided]:

Provides prompt, medically monitored crisis observation and psychiatric stabilization services

- No wrong door - walk-in, referral, and first responder drop off
- Staffed 24/7, 365 with a multi-disciplinary team
- High engagement/Recovery oriented (Peer Support)
- Immediate assessment and stabilization to avoid higher levels of care where possible
- Safe and secure
- Coordination with community-based services

MR. WILLIAMS added that the environment would be designed to be recovery-oriented and would include medical and behavioral health professionals as well as people with lived experience as part of the staffing.

[3:44:39 PM](#)

MR. WILLIAMS referred next to slide 9, titled "Short-Term Crisis Residential Stabilization Center," and he explained that it is the next component level of the new system of care as proposed under HB 172. He shared the content of the slide, which read as follows [original punctuation provided]:

A 24/7 medically monitored, short-term, crisis residential program that provides psychiatric stabilization

- Safe and secure - serves voluntary and involuntary placements
- High engagement/Recovery oriented (Peer Support)
- Multi-disciplinary treatment team
- Short-term with 16 or fewer beds

- Stabilize and restore - avoid need for inpatient hospitalization where possible
- Coordination with community-based services

MR. WILLIAMS explained that this next level of care would be appropriate for patients who were not able to achieve stabilization at the Crisis Stabilization Center (23-hour) as determined by staff at that facility.

[3:45:52 PM](#)

MR. WILLIAMS drew attention to slide 10, titled "Enhanced crisis response would reduce the number of people entering the most restrictive levels of care," on which an infographic depicted outcomes discovered by experiences collected from care providers in other states, and the data reflected had been collected in the State of Georgia and had been interpolated from over 1.5 million calls to its crisis care line. He explained that for every 100 calls received by the crisis care line, 90 were resolved over the telephone, and of the 10 instances of a crisis mobile team dispatched, 7 of those did not result in transport. He explained that of the three crisis interventions that required transport, only one instance occurred in which care for more than 23 hours had been required. He added that the City of Phoenix, Arizona, had reported similar outcomes.

MS. CARPENTER drew attention to slide 11, titled "Alaska Statute Title 47," and explained that Title 47 is the statute which addresses involuntary commitment. She explained that HB 172 would update this statute. She stated that stakeholders had collaborated and made observations of successful programs in other locations to inform the drafting of HB 172. She noted that a settlement had been reached between the State of Alaska and the Disability Law Center in September 2020, a part of which was an agreement to advocate for statutory changes that would permit involuntary holds and 72-hour evaluations for patients at a less restrictive setting. She added that the settlement with the Disability Law Center had culminated in the draft HB 172 and committee substitute before the committee for its consideration.

[3:51:05 PM](#)

MR. WILLIAMS referred to slide 12 of the presentation, titled "Current Flow for Involuntary Commitment," and he recalled his earlier testimony regarding the Alaska State Trooper who had spent more than eight hours attempting to seek care for an individual. He explained that should the committee substitute

be adopted and HB 172 pass, the process of transfer from law enforcement to the crisis stabilization center could be reduced to take no more than 10 minutes, as evidenced by data provided from the State of Georgia and the City of Phoenix.

MR. WILLIAMS referred to slide 13 of the presentation, titled "Proposed Statutory Changes," and slide 14, titled "Flow for Involuntary Commitment with Statutory Changes," which depicts the anticipated flow for involuntary commitment under HB 172 as different from what currently exists, as depicted on the previous slide.

[3:55:13 PM](#)

MS. CARPENTER summarized slide 15, titled "Key Takeaways," which read as follows [original punctuation provided]:

HB172 Does:

- Provide law enforcement with additional tools to protect public safety
- Expand the number of facilities that can conduct a 72-hour evaluation
- Add a new, less restrictive level of care
- Facilitate a faster and more appropriate response to a crisis, expand the types of first responders that can transport an individual in crisis to an appropriate crisis facility
- Create a "no wrong door" approach to providing medical care to a person in psychiatric crisis

HB172 Does Not:

- Interfere with an officer's authority or ability to make an arrest
- Change who has the current statutory authority to administer crisis medication
- Change current statutory authority for who can order an involuntary commitment
- Reduce the individual rights of the adult or juvenile in crisis; the parents' rights of care for their child; or existing due process rights of the individual in crisis

[3:58:14 PM](#)

REPRESENTATIVE SNYDER asked whether a peace officer would be allowed to take an individual in crisis to either a

stabilization center or a residential center or whether there would exist a sequential order of priority that the officer would be obligated to follow.

MS. CARPENTER answered that a community might not have all the services that would be permitted under HB 172 and that the bill had been conceived to serve all communities in Alaska.

MR. WILLIAMS added that Alaska is unique in its [diverse] communities and that HB 172 would provide a framework for communities to operate within the suite of services that they may have and had been developed in conjunction with community feedback.

[4:01:56 PM](#)

CHAIR CLAMAN opened public testimony on HB 172.

[4:02:31 PM](#)

STEVE PEARCE, Agent, Citizens Commission on Human Rights, stated his organization's concerns with HB 172, including that it would double the period of involuntary confinement prior to judicial action, and he recommended that it be changed to allow for earlier judicial representation. A stated goal of the bill was to achieve recovery and he questioned whether patients [as stakeholders] had provided any feedback and that recovery could indicate psychiatric compliance and not [necessarily] an improvement in health. He stated that forced medication may occur immediately upon confinement and that patients may have other health factors that may contribute to problems with compliance or resistance to ongoing treatment. He referred to a letter that was provided [included in the committee packet].

[4:05:18 PM](#)

MARK REGAN, Legal Director, Disability Law Center of Alaska, referred to written testimony that had been submitted to the committee and noted that it had been drafted in response to the underlying bill and had not taken into consideration the committee substitute before the committee. He summarized from the letter [included in the committee packet.] He suggested that [Version I] would not provide an individual with attorney representation when a judicial order for an individual to be involuntarily held occurs. He noted that the different systems for civil commitment for medium term, 30-days or more for evaluation should provide for short-term treatment as a stated

goal. He asked that the language in the proposed bill and committee substitute be carefully reviewed to ensure that an individual is not subject to multiple 3-day holds in a crisis residential center.

CHAIR CLAMAN asked whether the right to counsel for involuntary commitment is explicitly stated in current statute.

MR. REGAN answered that a peace officer would typically bring an individual to a residential facility, or they would be admitted to an emergency room, and individuals were often turned away for treatment. He stated that, the way the bill is drafted, individuals would have more direct access to evaluation and treatment. He suggested that individuals may be required to wait up to eight days for treatment.

CHAIR CLAMAN stated that the committee would continue to consult with the Disability Law Center of Alaska for its input on HB 172.

[4:11:42 PM](#)

LISA GENTEMANN testified in opposition to HB 172. She stated her concern that the passage of HB 172 could result in legal harm to Alaskans. She stated that patient consent and human dignity should be considered.

[4:13:13 PM](#)

RENEE RAFFERTY, Regional Director of Behavioral Health, Providence Health Services, testified in support of HB 172. She stated that HB 172 would expand the crisis care continuum and would provide a framework from the perspective of the provider. She stated that jails and emergency rooms may be harmed because the facilities are not equipped with medication and facilities for care and evaluation and are subject to high costs. She encouraged additional consideration and improvement on the language contained in the bill.

[4:15:49 PM](#)

CHAIR CLAMAN ascertained that there was no one else who wished to testify, closed public testimony.

CHAIR CLAMAN announced that HB 172 was held over.

**HB 183-CRIMINAL JUSTICE DATA ANALYSIS COMMISSION**

[4:16:07 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE BILL NO. 183, "An Act renaming the Alaska Criminal Justice Commission the Alaska Criminal Justice Data Analysis Commission; relating to the membership of the Alaska Criminal Justice Data Analysis Commission; relating to the powers and duties of the Alaska Criminal Justice Data Analysis Commission; extending the termination date of the Alaska Criminal Justice Data Analysis Commission; relating to the duties of the Judicial Council; providing for an effective date by amending the effective date of secs. 41 and 73, ch. 1, 4SSLA 2017; and providing for an effective date by repealing the effective date of sec. 74, ch. 1, 4SSLA 2017."

[4:16:47 PM](#)

LIZZIE KUBITZ, Staff, Representative Matt Claman, Alaska State Legislature, on behalf of Representative Claman, prime sponsor, presented HB 183. She told the committee that the Alaska Criminal Justice Commission would be scheduled to sunset beginning June 30, 2021, and conclude its affairs by June 30, 2022. She stated that, in accordance with the recommendation offered by the auditor, rather than extend the commission in its current form, HB 183 would retain the commission's data collection and analysis functions. She stated that HB 183 would rename the commission to the Alaska Criminal Justice and Data Analysis Commission, would modify the membership of the commission, and would amend and restate the powers and duties of the commission, and would extend the termination date of the newly formed Alaska Criminal Justice and Data Analysis Commission to June 30, 2029.

MS. KUBITZ offered the sectional analysis [included in the committee packet], which read as follows [original punctuation provided]:

Section 1

AS 22.20.210. Staff and support for criminal justice commission.

Amends AS 22.20.210 to add "data analysis" to the name of the commission.

Section 2

AS 22.20.220. Prison inmate characteristics information.

Amends AS 22.20.210(a) to remove the termination date for collection of data collection by the Department of Corrections utilized by the Alaska Judicial Council for purposes of the commission's work.

### Section 3

AS 44.19.641. Creation of commission.

Amends AS 44.19.641 to add "data analysis" to the name of the commission.

### Section 4

AS 44.19.642. Membership; staff.

Amends AS 44.19.642(a) to make changes to the membership of the commission.

These changes include:

- Ensure representation of rural Alaska on the commission;
- Make the Deputy Attorney General for the Criminal Division of the Department of Law or their designee a voting member (rather than the Attorney General);
- Allow the public defender's designee to act as a voting member in place of the public defender;
- Place two peace officer representatives on the commission (rather than one municipal law enforcement representative)—one representing a rural community off the road system and one representing an urban community—appointed by the Alaska Chiefs of Police;
- Provide for the victims' rights advocate on the commission to be appointed by the Alaska Network on Domestic Violence and Sexual Assault;
- Make the Commissioner of the Department of Health and Social Services a voting member; and
- Create a new member seat for a formerly incarcerated person who has completed his or her sentence.

### Section 5

AS 44.19.645. Powers and duties of the commission.

Amends AS 44.19.645 to remove the duties of the former Alaska Criminal Justice Commission

to be replaced by the new duties of the Alaska Criminal Justice Data Analysis Commission.

These new duties include:

- Data analysis, research, and reporting on all aspects of Alaska's criminal justice system, including state laws, public safety, rehabilitation, crime and incarceration rates, the needs of victims, and other factors set forth in the Alaska Constitution;
- Receiving data related to the criminal justice system from the Alaska Department of Corrections, Department of Public Safety, Department of Law, and the Alaska Court System;
- Identifying areas for improving the efficiency and effectiveness of the criminal justice system;
- Recommending expenditures from the Recidivism Reduction Fund;
- Making other recommendations and providing analysis if requested by the Legislature, the Executive, or the Judiciary; and
- Issuing an annual report.

[4:20:39 PM](#)

Section 6

AS 44.19.646. Methodology.

Amends AS 44.19.646 to remove the duty of the commission to make recommendations, and adds the duty of conducting research and adopting a research agenda and priorities based on art. I, secs. 7, 12, and 24, Constitution of the State of Alaska (which relate to due process, criminal administration, and the rights of crime victims), and other issues of pressing concern to the criminal justice system.

Section 7

AS 44.19.647. Annual report and recommendations.

Amends AS 44.19.647(a) to remove the reporting responsibilities of the former Alaska Criminal Justice Commission to be replaced by the new duties of the Alaska Criminal Justice Data Analysis Commission. The commission's reporting responsibilities are related to the duties of the commission listed in Section 5.

Section 8

AS 44.19.647. Annual report and recommendations.  
Amends AS 44.19.647(b) to remove the reporting responsibilities of the former Alaska Criminal Justice Commission to be replaced by the new duties of the Alaska Criminal Justice Data Analysis Commission.

Section 9

AS 44.19.649. Definition.  
Amends AS 44.19.649 to update the definitions of "commission," "recidivism," and "technical violation."

Section 10

AS 44.66.010. Expiration of state boards and commissions.  
Amends AS 44.66.010(a)(12) to add "data analysis" to the name of the commission.

Section 11

AS 47.38.100. Recidivism reduction program.  
Amends AS 47.38.100(b) to add "data analysis" to the name of the commission.

Section 12

Amends Section 35, ch. 83, SLA 2014 to repeal Sec. 35. AS 22.20.210 on June 30, 2029.

Section 13

Repeals AS 44.19.642(b).

Section 14

Repeals Sections 74 and 76, ch. 1, 4SSLA 2017.

Section 15

Uncodified law - applicability

A person who is a member of the former Alaska Criminal Justice Commission on the day before the effective date of this Act continues to serve on the Alaska Criminal Justice Data Analysis Commission until the expiration of the member's term. When making new appointments or designations, makes Section 15 of the Act conditional on the guidelines established under AS 44.19.642(a), which relates to membership of the commission.

Section 16

Amends effective date provisions of Section 41, ch.1, 4SSLA 2017 to take effect on July 1, 2029.

Section 17

Amends effective date provisions of Section 73, ch.1, 4SSLA 2017 to take effect on June 30, 2029.

Section 18

Repeals Section 82, ch. 1, 4SSLA 2017.

[4:23:22 PM](#)

KAREN BUCHKOSKI, Audit Manager, Legislative Audit Division, Alaska State Legislature, informed the committee that the Division of Legislative Audit had conducted a sunset audit on the Alaska Criminal Justice Commission dated June, 2020, and drew attention to the audit report, entitled, "HB 183 Additional Document - A Sunset Review of the Office of the Governor, Alaska Criminal Justice Commission 6.12.2020.2020," [included in the committee packet] and directed attention to the background information section of the report, which begins on page 5, from which she read [original punctuation provided]:

The Alaska Criminal Justice Commission (commission) was established in 2014 when Senate Bill 64 was signed into law.

SB 64 was the result of a bipartisan effort to reduce the high costs of corrections and reduce prison populations and recidivism through evidence-based reforms. The commission was given a three-year term, ending June 2017. She added that State leaders tasked the commission with developing evidence-based recommendations aimed at safely controlling prison and jail growth and recalibrating the correctional investment to ensure the State achieved the best possible public safety return on State dollars. She added that, additionally, due to declining State operating budgets, legislative leaders requested the commission forward policy options that would avert future prison growth and reduce the prison population between 15 and 25 percent.

Over a seven-month period, the commission analyzed the State's criminal justice system, including a comprehensive review of sentencing, corrections, and community supervision data. Based on commission analysis, and directive from legislative leadership, the commission developed 21 evidence-based policy recommendations, known as the December 2015 Justice Reinvestment Report. The report also included six

recommendations for legislative consideration. According to the report, the recommendations protected public safety, held offenders accountable, and reduced the State's average daily prison population by 21 percent, netting estimated savings of \$424 million over 10 years.

Many of the recommendations in the commission's December 2015 Justice Reinvestment Report became the basis for criminal justice laws enacted in Senate Bill 91, signed into law July 2016. Senate Bill 91 extended the commission's term until June 2021, significantly expanded the commission's duties, and directed the commission to oversee the implementation of criminal justice reform and reinvestment.

Many of the reforms contained in Senate Bill 91 were blamed for an increase in crime. Within a year of Senate Bill 91's effective date, a separate bill was passed to make minor adjustments to Senate Bill 91 and another bill was passed five months later that substantially altered SB 91. The next year, a third bill made more substantive changes. In 2019, many of Senate Bill 91's provisions were fully repealed through House Bill 49. Criminal justice legislation from 2014 through 2019 is outlined in Exhibit 2.

MS. BUCHKOSKI then drew attention to page 7 of the audit report, from which she read [original punctuation provided]:

Overall, the audit concluded the commission met its statutory responsibilities by analyzing the effects of sentencing laws and criminal justice practices on the criminal justice system, and recommending improvements. Additionally, the commission conducted specific studies and reported results, as required by law.

The commission was effective as an advisory agency from 2015 through 2017 and its recommendations served as the basis for comprehensive criminal justice reform passed in 2016 (Senate Bill 91).

Further, its recommendations helped policy makers amend Senate Bill 91. However, beginning in 2018, criminal justice policy decisions were not rooted in commission recommendations and the commission's effectiveness waned.

As of April 2020, the commission does not routinely recommend improvements; however, it does continue to analyze criminal justice data and evaluate the impact

of commission recommendations and other changes on the criminal justice system. As required by statutes, several agencies submit data to the commission. The data is reviewed by commission staff, commission members, and/or other agencies under an agreement with the commission.

In accordance with AS 44.66.010(a)(12), the commission is scheduled to terminate on June 30, 2021. We do not recommend extending the commission's termination date. Rather than extend the commission in its current form, the need for and expectations of a criminal justice advisory commission should be reevaluated. Although we recommend sunsetting the commission, we do not recommend terminating its data collection and analysis functions.

Objective evidence regarding the effectiveness of the criminal justice system and laws governing the system are critical to future policy decisions. Legislation will be required to maintain the commission's data collection and analysis functions if the commission sunsets.

MS. BUCHKOSKI drew attention to the single recommendation, should the commission be extended, page 15 of the audit report, which read [original punctuation provided]:

We recommend the Alaska Judicial Council's3 executive director improve procedures to ensure meetings are properly publicly noticed and documented.

[4:29:05 PM](#)

STEVE WILLIAMS, Chief Executive Officer, Alaska Mental Health Trust Authority, stated that the current Alaska Criminal Justice Commission had met during the prior summer and discussed the future of the commission, the impending sunset date, and options for the data collection and analysis. He stated that the commission formed a Task Force consisting of members from the Alaska Native Justice Center, the Department of Law, The Office of the Public Defender, Department of Corrections, and the AMHTA, and it had prepared recommendations for the legislature. He referred to the committee packet item entitled, "HB 183 Supporting Document - Criminal Justice Taskforce Recommendation 12.3.2020.pdf."

MR. WILLIAMS stated that effective criminal justice systems cannot be based on solely data reported, and that an entity

should exist representing the criminal justice system, including the public, to analyze the data and provide recommendations on policy development to avoid unintended consequences. He stated that the commission had been evaluated and the recommendations were offered to the committee for including additional stakeholder groups to include victims' advocacy groups and representation of those who had been incarcerated.

MR. WILLIAMS shared with the committee that with consideration of the attorney general representation on the proposed new commission, the state's most senior prosecutor is the assistant attorney general of the Criminal Division and would have experience in litigation within the criminal justice system. He stated that the task force's recommendation had been reviewed and endorsed by the Alaska Criminal Justice Commission.

[4:36:58 PM](#)

SUSANNE DIPIETRO, Executive Director, Alaska Judicial Council, testified explained that the Alaska Judicial Council is staff to the Alaska Criminal Justice Commission. She noted that the research function of the commission would be the main component in the proposed commission. She stated that a constitutional obligation of the Alaska Judicial Council is to perform studies to improve the administration of justice and it had conducted research for over 40 years. She stated that the Alaska Justice Information Center has a research and findings mission and had offered many useful reports. She stated that the Alaska Judicial Council and the Alaska Justice Information Center were independent of each other and of the court system and had collaborated on research projects and shared complementary skills and abilities and areas of expertise, and she characterized the collaboration as "better than the sum of its parts." She noted that the Alaska Judicial Council is a state agency and the Alaska Justice Information Center consisted of members in academia.

[4:40:58 PM](#)

CHAIR CLAMAN opened public testimony on HB 183. After ascertaining that there was no one who wished to testify, he closed public testimony.

CHAIR CLAMAN announced that HB 183 was held over.

**SB 122-VICTIM DEFINITION**

[4:41:26 PM](#)

CHAIR CLAMAN announced that the final order of business would be SENATE BILL NO. 122, "An Act relating to the definition of 'victim.'"

CHAIR CLAMAN stated that Legislative Legal & Research services has permission to make any technical or conforming changes to the bill.

[4:42:02 PM](#)

REPRESENTATIVE SNYDER moved to adopt Amendment 1, labeled 32-LS0422\B.1 Dunmire 5/13/21, which read as follows:

Page 1, line 10:  
Delete "adult"  
Insert "[ADULT]"

CHAIR CLAMAN objected.

[4:42:10 PM](#)

REPRESENTATIVE SNYDER stated that the proposed amendment pertained to page 2, line 1, and without the adoption of the proposed amendment, the term "adult" in the bill could allow for an instance where a parent is a victim and is not deceased but becomes incapacitated and a minor child would not be allowed to engage the process in the same way as in an instance where a parent would become deceased.

[4:44:41 PM](#)

SENATOR LORA REINBOLD, Alaska State Legislature, as prime sponsor of SB 122, answered that the proposed amendment appeared to be sensible. Notwithstanding that, she suggested that the original bill may have contained a drafting error but that the intention had been that an adult child would be eligible for victims' benefits. She noted that "adult child" was included intentionally and was based on the scenario that she had described in previous testimony. In response to Chair Claman, she indicated that she did not support Amendment 1.

[4:47:29 PM](#)

REPRESENTATIVE KURKA suggested that on page 2, on lines 1 and 2, there exist other potential victims that could be further

defined. He referred to the underlying statute and suggested that family members of victims are also victims. He asked the rationale for not including both adult and minor children in the definition.

[4:49:47 PM](#)

ANDREW DUNMIRE, Legislative Counsel, Legislative Legal & Research Services, Legislative Affairs Agency, answered that the determination to adopt the amendment would be one of legislative policy. He explained that should the amendment be adopted, and a scenario exist in which the victim of the crime were incapacitated but still able to testify, it could be interpreted that a minor child would be able to testify instead of the victim.

REPRESENTATIVE KURKA asked whether the definition of a victim was an individual who may wish to engage in litigation.

MR. DUNMIRE answered that the statute was a procedural statute used in criminal litigation and pertains to who shall be allowed to testify at a bail hearing or a sentencing hearing and does not apply to civil litigation. He further explained that in the case where an offender escapes custody, the Department of Corrections (DOC) has a statutory obligation to notify the victims of the crime, and the definition contained in the statute would determine who should be notified.

[4:51:57 PM](#)

REPRESENTATIVE SNYDER asked whether the proposed amendment would prohibit a minor from being allowed to testify on an incapacitated victim's behalf.

MR. DUNMIRE answered that is a policy decision and not necessarily problematic in the way that had been described.

[4:53:33 PM](#)

CHAIR CLAMAN asked the Department of Law (DOL) to answer how the DOL or DOC would meet its victim notification of escape or parole in current practice and what would change if the amendment were adopted.

[4:54:25 PM](#)

KACI SCHROEDER, Assistant Attorney General, Central Office, Criminal Division (Juneau), Department of Law, answered that the current practice of notification is as inclusive as possible on the part of DOL. She stated that the statute would not prohibit notification but that a guardian may be required to be involved in the notification. She predicted no change to the practice of notification should Amendment 1 be adopted.

[4:55:29 PM](#)

REPRESENTATIVE KURKA expressed his confusion that there exist two different lists regarding who can speak on behalf of an incapacitated victim and asked why the two lists should differ.

CHAIR CLAMAN added that legal theory is that minors are not legally considered competent to speak on their own behalf despite their actual ability to do so. He asked Mr. Dunmire whether the definition in subsection (b) related to that theory.

MR. DUNMIRE shared that his experience while practicing criminal law for over 10 years had involved many minor children offering testimony. He suggested that judges would have concern that a child would be capable of telling a truth from a lie and that minor children are often deemed capable of testifying in court.

[4:58:15 PM](#)

REPRESENTATIVE KURKA offered to clarify his question to extend to subsection (b) and (c) in which there exist individuals qualified to speak on behalf of the direct victim of a crime and who had become incapacitated and unable to speak on their own behalf, and he asked why it was proposed that there be two separate lists for one victim who was unable to testify due to their death and another in the case that they were unable to testify due to incapacitation.

REPRESENTATIVE SNYDER suggested that the amendment be revisited to ensure the intent to include equal representation for victims who are unable to testify.

SENATOR REINBOLD stated that discussions had taken place in the other body and the conceptual intention of the proposed amendment had been discussed and it had been decided to maintain the narrow focus of the change to existing statute due to the case of a deceased parent's two teenage daughters not being allowed to testify on behalf of their mother.

CHAIR CLAMAN asked the invited representative from the Office of Victims' Rights to opine on whether to delete the word "adult" as proposed under Amendment 1.

[5:02:25 PM](#)

SHAUN SEHL, Victims Advocate Attorney, Alaska Office of Victims' Rights, answered that her office had not experienced the courts misinterpreting subsection 19(b) and it would permit a parent of a live child who is not incapacitated or incompetent to advocate for their minor child. She provided an example in which a victim may be a minor and have experienced sexual assault and a parent could advocate for the child.

[5:04:38 PM](#)

The committee took an at-ease from 5:04 p.m. to 5:11 p.m.

[5:11:30 PM](#)

REPRESENTATIVE KURKA reiterated his question as to the reason for having two lists of associations to the victim of a crime to be eligible to advocate for the victim.

MS. SEHL answered that there exist situations in which a minor may not wish or are not able to testify on their own behalf, and in the case that [the adult] is still living, there should be a provision to allow for the adult to advocate.

REPRESENTATIVE KURKA stated that subsection (b) did not pertain to only minor victims, and he asked whether the lists in (b) and (c) could be combined.

MS. SEHL answered that it would be her preference to see proposed language to fully examine upon which to offer an opinion.

[5:16:44 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether there exist any known concerns or pitfalls that could be examined pertaining to the effect of adopting Amendment 1.

CHAIR CLAMAN suggested that an alternative to the proposed amendment could be considered and offered to the committee.

REPRESENTATIVE SNYDER [moved to] withdraw Amendment 1. [There being no objection, Amendment 1 was withdrawn].

CHAIR CLAMAN announced that SB 122 was held over.

[5:19:36 PM](#)

**ADJOURNMENT**

The House Judiciary Standing Committee meeting was recessed at 5:19 p.m. to Saturday, May 15, 2021, at 1 p.m. [The committee never reconvened because the meeting was canceled.]