

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 18, 2021

3:04 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Matt Claman, Vice Chair
Representative Geran Tarr
Representative Andi Story
Representative Sarah Vance
Representative James Kaufman
Representative David Eastman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 118

"An Act relating to state identifications and driver's licenses for persons in the custody of the Department of Corrections; relating to the duties of the commissioner of corrections; relating to living conditions for prisoners; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 103

"An Act relating to house rules for assisted living homes."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 118

SHORT TITLE: EXPANDING PRISONER ACCESS TO COMPUTERS

SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

03/01/21	(H)	READ THE FIRST TIME - REFERRALS
03/01/21	(H)	STA
03/18/21	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HB 103

SHORT TITLE: ASSISTED LIVING HOMES: HOUSE RULES

SPONSOR(s) : RULES BY REQUEST OF THE GOVERNOR

02/18/21 (H) READ THE FIRST TIME - REFERRALS
02/18/21 (H) STA, HSS
03/18/21 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

LINDSAY BIRK, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 118 on behalf of Representative Kreiss-Tomkins, prime sponsor.

DON HABEGER, Community Coordinator
Juneau Reentry Coalition
Juneau, Alaska

POSITION STATEMENT: Provided invited testimony pertaining to HB 118.

KELLY GOODE, Deputy Commissioner
Department of Corrections
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony pertaining to HB 118.

JOHN LEE, Director
Division of Senior and Disability Services
Department of Health and Social Services
Palmer, Alaska

POSITION STATEMENT: Introduced HB 103 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

CRAIG BAXTER, Assisted Living Home Manager
Division of Health Care Services
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Answered questions pertaining to HB 103.

ACTION NARRATIVE

[3:04:00 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:04 p.m. Representatives Story, Vance, Eastman, Kaufman, Claman, and

Kreiss-Tomkins were present at the call to order. Representative Tarr arrived as the meeting was in progress.

HB 118-EXPANDING PRISONER ACCESS TO COMPUTERS

[3:04:54 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 118, "An Act relating to state identifications and driver's licenses for persons in the custody of the Department of Corrections; relating to the duties of the commissioner of corrections; relating to living conditions for prisoners; and providing for an effective date."

[3:05:10 PM](#)

CHAIR KREISS-TOMKINS, as prime sponsor, provided introductory remarks on HB 118. He recalled that last year, a number of hearings in the House State Affairs Standing Committee pertained to rehabilitation, improving Alaska's correctional facilities, and reducing recidivism. Subsequently, a committee bill was put forth that included statutory recommendations by the Department of Corrections (DOC) and stakeholders but "died" in the House Rules Standing Committee at the end of the Thirty-First Alaska State Legislature. He noted that HB 118 is a continuation of that legislation.

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LINDSAY BIRK, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, on behalf of Representative Kreiss-Tomkins, prime sponsor, presented HB 118. She paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

The intent of this bill is to remove the restriction prohibiting a prisoner from possessing a computer in their cell, expanding access to safe and secure internet for purposes of rehabilitation and reintegration, and provide prisoners with easier access to state identification upon release.

HB 118 creates an easier process of reentry and rehabilitation for inmates and lessens the risk of reoffending. By allowing access to safe and secure internet, inmates are better able to prepare themselves for reentry into the outside world.

According to a study released by the Department of Justice, 68% of prisoners are arrested again within three years, 83% during the following nine years. One of the key reasons for reoffending is the difficulty prisoners face securing employment post incarceration. Access to online job training, therapy and visitation helps to alleviate the risk of reoffending.

Another important element of this bill is it provides easier access to identification for prisoners upon release, allowing them an important tool for reintegration. Both expanding internet access for prisoners and providing prisoners with easier access to state identification help ease the difficulties of reentry and will help to lower the risk of recidivism.

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CHAIR KREISS-TOMKINS opened invited testimony on HB 118.

3:10:00 PM

DON HABEGER, Community Coordinator, Juneau Reentry Coalition, informed the committee that a reentry coalition is a local organization that engages community partners, local businesses, and individuals to support those transitioning from corrections back into the community. The purpose, he said, is to ensure that local resources are available to support successful reentry and reduce the incidence of reincarceration. He added that when burdens to successful reentry manifest themselves, reentry coalitions work to alleviate those barriers. He explained that reentry coalitions base their work on evidence-based principles and rely on the risk-need responsivity model, which is also used by DOC through its level of service inventory revised assessment, which is given to inmates incarcerated for more than 90 days. The model teaches that treatment benefits increase when interventions begin early in the corrections process. He relayed that reentry coalitions believe that Alaska has erected an artificial statutory barrier, which adds difficulty to treatment delivery during incarceration. He stated that HB 118 would address this issue by allowing access to technology to increase rehabilitative treatment, training, reentry case management, pro-social development, and related programming during incarceration. He reported that utilizing safe and secure modern technology as a delivery medium improves community public safety outcomes, as individuals are better prepared for life on the outside. Additionally, he said the importance of

having valid state ID [identification] upon release [from incarceration] cannot be overstated. He pointed out that simple things, such as accepting a job and filling out the I-9, cannot be accomplished without one. He said the bill would require the Division of Motor Vehicles (DMV) and DOC to work together to ensure a state identification (ID) card is on hand upon release, which would improve the reentry process. He emphasized that the [Juneau] Reentry Coalition supports the state ID provision in HB 118.

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KELLY GOODE, Deputy Commissioner, Department of Corrections, expressed that the department supports this legislation. She addressed the state ID provision, explaining that currently, 12 percent of inmates released do not have a valid ID. Those released from DOC without a valid ID receive a voucher, which allows them to start the process at DMV. Further, she reported that of the 12 percent, or 300 individuals, who are released without an ID, about 100 use the voucher system. She said DOC is working with DMV to find a way to close that gap so that every inmate released will have an ID on hand. She continued by noting that DOC supports changing the statutory requirement that does not allow inmates to have a computer device in their cell. She added that the change would allow the department to provide education and communication opportunities for inmates.

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REPRESENTATIVE VANCE said her understanding was that the computers would be in a controlled environment. She inquired about the need to have computer access in individual cells.

MS. GOODE noted that despite the terminology, tablets are often used to provide this education and communication link. She explained that current state statute prohibits the use of a tablet from inside an inmate's cell even for reasons such as a family phone call or [educational] course. She offered her belief that should the bill pass, the department would write policy to ensure that this technology is used in a secure manner.

REPRESENTATIVE VANCE inquired about protecting the department against liability. She offered the example of an individual who claimed it was a civil right for every inmate to have a tablet. She acknowledged that [the legislature] does not "necessarily" want to limit access; however, she said, it's a matter of money and security. She questioned how to legally protect [DOC].

MS. GOODE suggested that DOC work with the Department of Law (DOL) while building policy on this matter. Further, she addressed the issue of security, noting that the tablets would not provide broad or "free-flowing" access to the Internet. She assured the committee that DOC has a constitutional obligation to protect victims' rights; therefore, the tablets would allow access only in a controlled environment. She reiterated that the department would work with DOL to ensure that the policy is legal and fair for everyone.

REPRESENTATIVE VANCE asked whether regulations during [the COVID-19 pandemic] have been relaxed to allow the tablets to be used for visitation and telehealth. She asked how the experience has been for DOC and what the department has learned "during the time of this new period of access through the Internet."

MS. GOODE replied that the department would have liked to [allow the use of tablets] but current state law prohibits it. She noted that telehealth was utilized via (indisc.) through medical, but not with tablets or individual offenders.

REPRESENTATIVE VANCE asked for verification that the proposed statutory change would allow the department to utilize telehealth for [inmates] and visitation with loved ones.

MS. GOODE explained that it would provide "what the department looks at," such as education, social programs, and visitation with family. She offered to follow up with the general telehealth programs that are available for the inmate population.

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REPRESENTATIVE VANCE referred to page 6, line 26, of HB 118 and asked why the term "healthcare" not "telehealth" is used.

CHAIR KREISS-TOMKINS recalled that the language was incorporated in partnership with DOC. He acknowledged that if healthcare is proscriptive to the possibility of telehealth, that's not the intent. He said amending that to be explicitly clear could be an easy fix.

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REPRESENTATIVE CLAMAN referenced page 6, subsection (i) and asked if, without the proposed change, that subsection would prohibit the department from providing tablets or computers to prisoners under any circumstance.

MS. GOODE said that is the section of statute that is being revised to offer as much as possible through the tablets. She surmised that when [the original statute was written] in the 1990s, the idea that prisoners could use tablets in a secure manner did not exist. She conveyed that the intent was to be more expansive so that when telehealth and healthcare options became available, DOC would be allowed to offer them.

REPRESENTATIVE CLAMAN asked how the department plans on preventing prisoners from using the tablets for inappropriate purposes.

MS. GOODE said DOC would work with vendors that offer secure networks to ensure that the proper security is in place.

REPRESENTATIVE CLAMAN referred to the "healthcare" language on page 6, line 26, and pointed out that healthcare is broad enough to include telehealth, but telehealth may not be broad enough to include all healthcare. Therefore, he opined that the term "healthcare" is appropriate. He directed attention to lines 22-24 and asked if the facilitating case plan would limit the ability for a sick prisoner to use a tablet to speak with a doctor. He questioned whether the case plan includes staying healthy while in prison.

MS. GOODE opined that the language that pertains to what's accessible from the tablet is broader rather than prohibitive.

REPRESENTATIVE CLAMAN asked for confirmation that the language would allow for a prisoner in his/her cell to use a tablet to communicate with a medical provider via telehealth.

MS. GOODE said she is unsure whether direct access to a provider would be available. She offered to follow up on that.

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REPRESENTATIVE CLAMAN reasoned that it raises the question of what an individual would be doing for his/her own health care in terms of communicating directly with a provider.

MS. GOODE noted that many inmates may have special diets, which is something in a case plan that could be viewed on a tablet. Another possibility could be using the tablet to fill out Medicaid forms. She opined that addressing healthcare in the bill allows for growth. She reiterated that the intent was to be expansive so that as technology changes, DOC could offer options to inmates in a safe and secure manner.

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REPRESENTATIVE KAUFMAN asked whether the tablets could be a hazard in terms of glass, which could be turned into a weapon.

MS. GOODE said DOC would work with providers and vendors that have developed safe and secure protection for the tablets, which has been proven in facilities nationwide.

REPRESENTATIVE KAUFMAN referenced a Washington Post article [included in the committee packet] that mentions devices that had been used to coordinate rebellion in various facilities. He asked if the system would enable "cross-communication coordination" between inmates that could be used against the guards.

MS. GOODE reiterated that this would not provide free-flowing Internet access. She assured Representative Kaufman that DOC would work with vendors to ensure that the institutions' needs are met, as well as the public's safety. She emphasized that the department has a constitutional obligation to protect victims.

REPRESENTATIVE KAUFMAN questioned whether monitored access to tablets in the library, for example, would be better than in-cell use.

MS. GOODE acknowledged that Representative Kaufman may be right, adding that in some institutions, tablets could be checked out for use in a general area. She cautioned against saying that [the tablets] would never be used in a single cell depending on the individual and the circumstance.

REPRESENTATIVE KAUFMAN reiterated his belief that there is a control issue [to address].

CHAIR KREISS-TOMKINS pointed out that DOC is full of professionals that do this work every day of every year. He imagined that as Ms. Goode had testified, the parameters would

be narrow. He added that the department is looking for the statutory discretion to do what is currently prohibited.

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REPRESENTATIVE EASTMAN observed that Section 3, paragraph (11), of the bill language specifies that the commissioner shall assist a prisoner with obtaining a valid state identification card before release. He asked why the new language in paragraph (11) [page 4, lines 17-21] repeats that instruction with an emphasis on 120 days.

CHAIR KREISS-TOMKINS asked whether Ms. Good could remember the particular origin of the added language.

MS. GOODE said she did not remember. She suggested that it could have been a drafting determination.

MS. BIRK said she was also uncertain.

CHAIR KREISS-TOMKINS requested that Ms. Birk follow up with the requested information.

MS. GOODE offered her understanding that the existing language [in paragraph (11)] indicates that DOC could continue using the voucher system for an individual who has been in prison fewer than 120 days; however, after 120 days, the legislature recommends that DOC work with the Department of Administration (DOA) to provide the prisoner with an identification card.

REPRESENTATIVE EASTMAN suggested that the legislature instruct the commissioner to ensure that all inmates have an identification card upon release rather than emphasizing those serving a term that exceeds 120 days. He sought to clarify why those prisoners would need an identification card more than any other prisoner.

MS. GOODE replied it's about timing. She pointed out that it takes several weeks to receive an official identification card from the DMV; therefore, DOC wouldn't have the time to obtain a new ID for a prisoner who is only serving a five-day term.

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REPRESENTATIVE EASTMAN asked why instruction on obtaining state identification is being removed from Section 5 [page 7, lines 1-2].

MS. GOODE offered her belief that the deletion in Section 5 was a drafting determination.

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REPRESENTATIVE STORY recalled that legislators were given the opportunity to experience the reentry assimilation. She reflected on the barriers to getting an identification card upon release. Additionally, she pointed out that 90 percent of incarcerated individuals reenter the system. She directed attention to Section 4, subparagraph (I), on page 6 and asked whether [prisoners] could take classes and participate in behavioral health sessions, as the equipment allows, and whether the department has adequate resources to facilitate that. Further, she asked what it would cost and expressed concern about the zero fiscal note.

MS. GOODE stated that the bill is primarily an authorization bill that grants the authority to provide this technology as a means to deliver education. She conveyed that DOC is confident that the fiscal note is accurate, adding that it could be built upon later.

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REPRESENTATIVE EASTMAN shared his understanding that in subparagraph (I) [page 6, lines 20-27], the department is asking for statutory approval to allow an inmate to use a computer for any purpose. He inquired about the thought process behind that broad authority.

MS. GOODE explained that the language "and may not be used for any other purpose" was removed because it could be confining as technology advances and more services become available via tablet. She said the department was attempting to avoid boxing itself in; however, she added that DOC would understand if the legislature chose to include sidebars, as it's a policy call.

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CHAIR KREISS-TOMKINS announced HB 118 was held over.

HB 103-ASSISTED LIVING HOMES: HOUSE RULES

[3:41:52 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 103, "An Act relating to house rules for assisted living homes."

[3:42:09 PM](#)

JOHN LEE, Director, Division of Senior and Disability Services, Department of Health and Social Services (DHSS), explained that home and community-based services (HCBS) 1915(c) waivers exist to provide significantly lower cost home and community-based options for individuals who qualify for nursing home or institutional care. He stated that HB 103 would bring Alaska law into compliance with the HCBS Final Rule, which was issued by the Centers of Medicare and Medicaid Services (CMS). He related that currently, Alaska statutes are not in compliance with federal regulation that requires HCBS providers to give individuals on waivers the same access "to community and people" as those who are not on waivers. He indicated that the bill adds a citation to state statutes related to setting house rules in assisted living homes; for example, assisted living settings may not adopt house rules that unreasonably restrict the right of one resident over the right of another resident. He noted that Alaska statutes must be in compliance before March 2023 in order for the state to continue receiving federal reimbursements for the HCBS waiver. He expounded that the bill would address the federal requirements by inserting language into AS 47.33, which would bring Alaska into compliance with recent CMS changes related to HCBS. These requirements ensure that assisted living homes provide care that is as close to independent community living as possible. He reported that Alaska has approximately 700 assisted living homes that would be required to abide by the conditions defined under HB 103. The new statutory language would afford all residents in assisted living homes the same rights regardless of whether or not the home accepts Medicaid payment. He noted that of the 700 assisted living homes, more than 650 are already compliant through participation in the Medicaid waiver program.

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REPRESENTATIVE VANCE questioned whether a legal notice would be sent out to notify the homes of the required compliance changes.

MR. LEE reiterated that providers certified through Senior and Disability Services are already in compliance. He deferred to Mr. Baxter for further explanation of how additional providers would be notified of the requirements.

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CRAIG BAXTER, Assisted Living Home Manager, Division of Health Care Services, Department of Health and Social Services, confirmed that providers without current house rules that meet the setting standards would be notified.

REPRESENTATIVE VANCE asked how much time providers would have to come into compliance.

MR. BAXTER approximated "somewhere between 30 and 90 days" to update their house rules. He speculated that DOL would be consulted first, adding that he did not want to be heavy-handed in forcing facilities to update in a short period of time.

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REPRESENTATIVE VANCE referenced a supporting document, titled "HCBS Settings Final Rule: 42 CFR 441.301(c)" [included in the committee packet], noting that the highlighted section states that individuals are allowed to have visitors of their choosing at any time. She asked whether that would apply during the COVID-19 pandemic.

MR. LEE noted that the change to statute is required regardless of COVID-19. He explained that during the pandemic, certain regulations, such as the one referenced by Representative Vance, were waived.

MR. BAXTER stated that during the pandemic, limitations were placed on visitation to protect the residents of the facilities. He said the bill would affect facilities "outside the scope of the COVID-19 pandemic," adding that once COVID-19 restrictions were lifted, the expectation for visitation would go into effect.

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REPRESENTATIVE VANCE pointed out that state and federal regulations [pertaining to COVID-19] are not consistent and asked which purview is being followed.

MR. LEE said the flexibility to manage the waiver programs are contingent on the federal public health emergency. From the perspective of the Division of Senior and Disability Services,

he said, the regulations are waived because of the public health emergency.

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REPRESENTATIVE CLAMAN noted that the public health emergency is no longer in place unless the legislature takes action. He asked how that impacts the division.

MR. LEE explained that because the division flexibility is contingent on the federal public health emergency, the state's decision whether to extend the disaster declaration would have no impact on the bill.

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CHAIR KREISS-TOMKINS [announced that HB 103 was held over.]

[3:54:21 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 3:54 p.m.