

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

May 17, 2021

1:36 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Tom Begich

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 105(HSS)

"An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to the right to representation by the Public Defender Agency; relating to the duties of the commissioner of corrections; relating to the detention of minors; relating to minors subject to adult courts; relating to the placement of minors in adult correctional facilities; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to sexual assault in the third degree; relating to sexual assault in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

- MOVED SCS CSHB 105(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 105

SHORT TITLE: DETENTION OF MINORS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/19/21	(H)	READ THE FIRST TIME - REFERRALS
02/19/21	(H)	JUD, HSS
03/05/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/05/21	(H)	Heard & Held
03/05/21	(H)	MINUTE(JUD)
03/08/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/08/21	(H)	<Bill Hearing Canceled>
03/10/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/10/21	(H)	Moved CSHB 105(JUD) Out of Committee
03/10/21	(H)	MINUTE(JUD)
03/12/21	(H)	JUD RPT CS(JUD) 4DP 3NR
03/12/21	(H)	DP: DRUMMOND, SNYDER, KREISS-TOMKINS, CLAMAN
03/12/21	(H)	NR: EASTMAN, VANCE, KURKA
04/15/21	(H)	HSS AT 3:00 PM DAVIS 106
04/15/21	(H)	Heard & Held
04/15/21	(H)	MINUTE(HSS)
04/27/21	(H)	HSS AT 3:00 PM DAVIS 106
04/27/21	(H)	Heard & Held
04/27/21	(H)	MINUTE(HSS)
04/29/21	(H)	HSS AT 3:00 PM DAVIS 106
04/29/21	(H)	-- MEETING CANCELED --
05/04/21	(H)	HSS AT 3:00 PM DAVIS 106
05/04/21	(H)	Heard & Held
05/04/21	(H)	MINUTE(HSS)
05/06/21	(H)	HSS AT 3:00 PM DAVIS 106
05/06/21	(H)	Moved CSHB 105(HSS) Out of Committee
05/06/21	(H)	MINUTE(HSS)
05/10/21	(H)	HSS RPT CS(HSS) NT 4DP 3NR
05/10/21	(H)	DP: SPOHNHOLZ, MCCARTY, ZULKOSKY, SNYDER
05/10/21	(H)	NR: FIELDS, KURKA, PRAX
05/13/21	(H)	TRANSMITTED TO (S)
05/13/21	(H)	VERSION: CSHB 105(HSS)
05/14/21	(S)	READ THE FIRST TIME - REFERRALS
05/14/21	(S)	JUD
05/17/21	(S)	JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

TRACY DOMPELING, Director
Division of Juvenile Justice
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Presented HB 105 on behalf of the administration.

MATT DAVIDSON, Social Services Program Officer
Division of Juvenile Justice
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Provided a summary of key sections of HB 105 on behalf of the administration.

CLAIRE RADFORD, Attorney
Legislative Legal Services
Legislative Affairs Agency
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 105 as bill drafter.

SUZANNE CUNNINGHAM, Legislative Liaison
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 105 on behalf of the administration.

NANCY MEADE, General Counsel
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 105 on behalf of the court system.

SENATOR TOM BEGICH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As invited testifier, provided historical perspective on the juvenile justice system and on HB 105.

ACTION NARRATIVE

[1:36:06 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:36 p.m. Present at the call to order were Senators Myers, Hughes, Kiehl, Shower, and Chair Holland.

HB 105-DETENTION OF MINORS

[1:36:43 PM](#)

CHAIR HOLLAND announced the consideration of CS FOR HOUSE BILL NO. 105(HSS), "An Act relating to care of juveniles and to juvenile justice; relating to employment of juvenile probation officers by the Department of Health and Social Services; relating to the right to representation by the Public Defender Agency; relating to the duties of the commissioner of corrections; relating to the detention of minors; relating to minors subject to adult courts; relating to the placement of minors in adult correctional facilities; relating to terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect; relating to sexual assault in the third degree; relating to sexual assault in the fourth degree; repealing a requirement for administrative revocation of a minor's driver's license, permit, privilege to drive, or privilege to obtain a license for consumption or possession of alcohol or drugs; and providing for an effective date."

[CSHB 105(HSS) was before the committee.]

CHAIR HOLLAND stated that the companion bill, SB 91, previously passed from the Senate Health and Social Services Committee and is currently in the Senate Judiciary Committee.

[1:37:16 PM](#)

TRACY DOMPELING, Director, Division of Juvenile Justice, Department of Health and Social Services (DHSS), Juneau, Alaska, read testimony on behalf of the administration, as follows:

Thank you for the opportunity to present on HB 105 today, a bill that brings Alaska into compliance with federal law and addresses both long-identified and newly emerging statutory issues related to juvenile justice. HB 105 updates Alaska statute with recent changes to the Juvenile Justice and Delinquency Prevention Act, hereafter referred to as JJDP. JJDP is the primary piece of federal legislation that guides juvenile justice practices around the country. Lack of compliance with JJDP will lead to grant penalties on the division's major federal grant. Without HB 105, DJJ will be subject to a 20 percent reduction to our Title II grant, which is about \$80,000 for federal FY 21 and we will be penalized each year moving forward if not in compliance.

HB 105 requires that minors who have been waived into the adult criminal justice system be held in juvenile

facilities until they're age 18. Currently minors who are subject to autowaiver or to discretionary waiver statutes are held in adult jails and correctional facilities in Alaska. This bill is limited in scope and intentionally does not have any impact on the crimes or sentences of minors who are subject to waiver into the adult's justice system, nor will this bill have any fiscal impact.

If implemented, the bill will improve the conditions of confinement for minors that are currently held in adult facilities. Minors can be difficult to manage in adult facilities and are often held in segregation units.

[1:39:07 PM](#)

MS. DOMPELING continued to read prepared testimony on HB 105, as follows:

To accomplish this, the bill will require the Department of Corrections (DOC) and the Department of Health and Social Services (DHSS) to develop agreements about the holding of minors who are in DOC custody, who have been waived, but to have them in our juvenile facilities with the Division of Juvenile Justice (DJJ).

According to the Department of Corrections (DOC), today there are approximately six minors in DOC facilities who have been charged with autowaiver offenses.

There's also a bulk of this bill, HB 105, that has conforming updates to the definitions of DJJ facilities and staff. These definitions have a real impact on our work as well as youth safety.

The bill will also make recommendations for changes to criminal statute after a case against a former DJJ employee resulted in acquittal of sexual abuse, after the lack of an updated definition of DJJ staff "for a position of authority."

[1:40:01 PM](#)

In addition, HB 105 adds DJJ's staff to the list of mandatory reporters of child abuse and neglect.

In closing, we just appreciate the governor's support in this important legislation, as well as the cooperation of the Departments of Corrections (DOC), Public Safety, and Law in the development of this proposal. The Senate Health and Social Services Committee made important changes to the Senate companion of HB 105, SB 91, that are reflected in this version of HB 105 before you today.

Thank you all for your consideration of this important bill. I'm happy to answer any questions you might have now or after Matt Davidson provides a quick summary of key bill sections.

[1:40:50 PM](#)

CHAIR HOLLAND, in response to a question from the audience, stated his intention to take public testimony on HB 105.

[1:41:12 PM](#)

MATT DAVIDSON, Social Services Program Officer, Division of Juvenile Justice, Department of Health and Social Services (DHSS), Juneau, Alaska, reported that the House Judiciary and Health and Social Services committees passed HB 105 out with amendments. The Senate Health and Social Services Committee also passed SB 99, the Division of Juvenile Justice's Definitions bill out of committee. As the director mentioned, HB 105 would bring Alaska into compliance with the JJDPA.

MR. DAVIDSON highlighted the major sections of HB 105, paraphrasing the sectional analysis of the CSHB 105(HSS):

Section 14 instructs the DOC to enter into agreements with DHSS for the detention and care of minors who are waived into the adult criminal justice system.

Section 17 updates the court findings and timing necessary for non-delinquent minors, who are often runaway minors or in the Office of Children's Services when the court needs to hold these minors temporarily in DJJ facilities pending another placement.

[1:43:02 PM](#)

Sections 22 and 25 update the autowaiver and discretionary waiver statutes with a reference to the new practice of holding waived minors in DJJ facilities.

Section 26 adds a new subsection in DJJ statute dealing with holding waived minors in DJJ facilities and detailing the limited circumstances and processes that allow for the exceptions to the new rule of holding all minors in DJJ facilities until the minor reaches the age of 18.

[1:43:30 PM](#)

Section 40 clarifies that court records related to minors waived into the adult criminal justice system are not considered confidential.

Section 41 authorizes the division to share important information about waived minors under its confidentiality statute.

[1:44:04 PM](#)

MR. DAVIDSON turned to SB 99, which was incorporated into HB 105. These provisions update the terms and definitions of DJJ staff and facilities. The new definitions are found in Sections 44 through 46 but the bulk of the bill made conforming changes. He highlighted that the major update was in Section 6, which provided a definition for position of authority related to sexual abuse of a minor. This change was made when a former DJJ staff was acquitted of sexual abuse of a minor because the statutory definition of position of authority did not specifically list DJJ staff. Section 55 would add DJJ to the mandatory reporting requirement for child abuse and neglect. The bill also would update important DJJ statutes, codify best practices and correct drafting errors from previous legislation related to driver's licenses and underage drinking.

[1:45:30 PM](#)

SENATOR KIEHL stated that the policy call to fix the drafting issue appears to handle minor consuming citations in open court rather than as minor offenses confidentially handled by DJJ.

[1:46:25 PM](#)

MR. DAVIDSON answered that this would codify the current practices related to underage drinking. He stated that the division does not have any authority over underage drinking. In 2016, the legislature passed Senate Bill 165 that changed rules and made it clear underage drinking was a district court offense; that those cases would not be referred to DJJ. That bill also repealed statutes that referred habitual minor consuming offenders to DJJ. Thus, HB 105 does not change the current practices.

[1:47:40 PM](#)

SENATOR SHOWER stated his intention was to introduce a bill next year to consider whether the most serious offenders under the age of 16 would be handled by DJJ. He referred to page 12, line 18 of HB 105, which uses probable cause but pointed out that line 22 uses reasonable cause rather than reasonable suspicion. He asked whether reasonable cause was a new term.

[1:49:34 PM](#)

MR. DAVIDSON responded that the language in Section 17 mirrored a federal Act amended in 2018 related to the detention of status offenders. This would only be used in rare cases, such as when a minor in OCS custody was a runaway, placing himself/herself in danger. In those instances, OCS would petition the court for an arrest warrant, which permits law enforcement to temporarily transport the runaway to a DJJ facility for his/her protection, pending another non-secure placement. He was unsure of the difference between reasonable cause and reasonable suspicion. He stated that runaway minors have not committed any crime but the court can still issue an arrest warrant. He reported that the division reports about five of these cases per year to the federal government.

[1:51:08 PM](#)

SENATOR SHOWER asked if the statutes will now contain the terms probable cause, reasonable cause and reasonable suspicion.

[1:51:34 PM](#)

MR. DAVIDSON responded that he could not speak to what terms are used in other sections of law but this language pertains to AS 47.141, Child in Need of Aid (CINA) statutes. He explained that this does not relate to a criminal proceeding but to a civil proceeding in the statutes.

[1:52:10 PM](#)

SENATOR SHOWER referred to Section 17 on page 12. He noted that lines 20, 22, 24, 27 and 30, each end with a semicolon. He said he previously held discussions with the administration about adding "and" after the semicolon. Although the administration finds the semicolon means "and", it would be better to add an "and" after the semicolon on each line. He suggested he could offer a conceptual amendment to address this but deferred to Legislative Legal to comment.

[1:53:08 PM](#)

At ease

[1:53:57 PM](#)

CHAIR HOLLAND reconvened the meeting.

[1:54:19 PM](#)

SENATOR SHOWER restated his question. He referred to page 12, Section 17, and asked whether an "and" should be added after the ";" on lines 20, 22, 24, 27 and 30.

[1:55:03 PM](#)

CLAIRE RADFORD, Attorney, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, Juneau, Alaska, speaking as the attorney who drafted HB 105, answered that "and" was implied in those instances. However, for the sake of clarity an "and" could be added to line 30 after "court;" to make it clear.

[1:55:28 PM](#)

SENATOR SHOWER acknowledged that the department had suggested that the most important one to clarify by adding "and" was on line 30 to paragraph 5.

[1:55:52 PM](#)

SUZANNE CUNNINGHAM, Legislative Liaison, Department of Health and Social Services (DHSS), Anchorage, Alaska, agreed that the department previously discussed this clarification with Senator Shower. She said the department agrees that it makes sense to clarify this, so it is clear that an order that an issued under AS 47.10.141 (k) must include paragraphs (1) through (6).

[1:56:30 PM](#)

CHAIR HOLLAND asked if the bill is correct in its current form.

[1:56:37 PM](#)

MS. CUNNINGHAM answered that adding an "and" after "court;" on line 30 would add an additional level of clarity.

[1:57:19 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, Anchorage, Alaska, concurred with the suggestion to add "and" on line 30 for clarity. She opined that the terms of probable cause and reasonable cause had very minor differences in meaning, were closely aligned, and would make little difference in any court determination. She pointed out that Section 17 included two different standards. Thus, if a child in OCS custody was a runaway minor, the court would need to make a finding of probable cause.

[1:58:48 PM](#)

SENATOR HUGHES asked for an explanation of the slight difference between probable cause and reasonable cause.

[1:58:57 PM](#)

MS. MEADE answered that the difference in meaning was minuscule. She described probable cause as the finding that a law enforcement officer must make in order to believe that a criminal action has taken place or was about to occur. She viewed reasonable cause as slightly above probable cause, which would be underpinned by more findings.

SENATOR HUGHES asked whether all foster children are ordered to be placed in foster homes by court order. She envisioned that some children might run away from home when good parents set appropriate parameters but these children could also be running away from something bad that was occurring in the home. She asked whether the foster child's record could be cleared if the child fled from an unsafe situation. She pointed out that a natural child who runs away from home would not be arrested or be subject to a criminal record.

[2:01:12 PM](#)

MS. MEADE responded that all of these foster children would be under 18 years of age, so their records would not be public records. She explained that these situations arise in exceedingly rare instances and the cases all relate to CINA. When the foster parents inform OCS that their foster child is a runaway, OCS would make a determination, but would not immediately go to court to seek an arrest warrant unless there was an underlying problem, such as that the child was a chronic runaway, had a criminal record, or had difficulty adhering to the current court order. She offered her belief that OCS would need to determine that it had no other option except to place the child at the McLaughlin Youth Center for a maximum of seven days. She acknowledged that sometimes foster children leave their foster homes to go someplace, such as the Covenant House or they have a legitimate reason for leaving. In those instances, OCS would not seek an arrest warrant to detain them for seven days.

[2:03:46 PM](#)

MS. DOMPELING agreed that this process was rarely used. It is a violation to have non-delinquent minors in secure facilities. The Juvenile Justice Reform Act (JJRA) or JJDPa already have standards in statute, which were made even more stringent for

non-delinquent status offenders to be held in DJJ facilities. She agreed with Ms. Meade that in the past three years, this process was used for about five youth per year.

[2:04:34 PM](#)

SENATOR HUGHES stated that this would mean that a nondelinquent runaway would be placed in a DJJ facility. However, in order to align with the new federal laws, minors who were charged as adults would be in a DJJ facility until they reach 18 years of age. She expressed concern that the DJJ facility could house a runaway but also a murderer. She expressed concern about the safety and security of youth housed at DJJ facilities. She asked whether DJJ facilities were as secure as the adult prisons.

[2:05:47 PM](#)

MS. DOMPELING responded that DJJ occasionally houses individuals under the age of 16 who have committed unclassified and class A felonies. She explained that minors over the age of 16 are waived minors. Thus, DJJ already encounters this situation. However, DJJ provides its staff with information and training on adolescent development, trauma and informed care and an understanding of the adolescent mind. Thus, DJJ believes that it can safely handle security for its youth, even when it brings in 16-year-old minors charged with felony offenses. Further, JJDPA instituted even tighter guidelines for nondelinquent minors being held in these facilities, she said.

[2:07:38 PM](#)

SENATOR HUGHES asked if DJJ facilities separate the "hard core felons" from youth detained as runaways or if the population was comingled.

[2:08:13 PM](#)

MS. DOMPELING answered that there could be comingling since DJJ facilities are detention facilities. She said all DJJ facilities are secure facilities. Nondelinquent youth can be held seven days but they are usually in and out of their facilities fairly quickly. She explained that youth were not locked in their rooms but were kept busy in educational programming.

[2:09:08 PM](#)

SENATOR HUGHES commented that the state continues to struggle in its adult facilities with low-level felons associating with hardened offenders. Inappropriate behaviors can be modeled and influence the low-level felons, she said. She related her understanding that DJJ's goal was to limit comingling and place the runaways as quickly as possible. She expressed concern that

someone being held for murder could adversely impact a runaway teenager who was awaiting placement to another foster home.

2:10:03 PM

SENATOR SHOWER related his interest in working with the department on a stand-alone bill in the next legislative session to address these issues. He agreed that comingling presents dangers, including predatory behavior. Since runaway teenagers are more vulnerable, the issue needs to be solved.

2:10:55 PM

SENATOR KIEHL directed attention to the repealed statutes listed at the end of the bill. He recalled that the first two statutes being repealed relate to revocation of driver licenses. He said he was unsure the impact that repealing these two sections would have, in terms of the division's flexibility to consider each case differently according to their needs.

2:11:40 PM

MR. DAVIDSON referred to the first two repealed statutes in Section 56, which relate to the mandate that DJJ revoke driver's licenses for minors charged with misconduct for possession of controlled substances, such as possession of marijuana, whose cases are handled informally. He explained that in 2016, the legislature repealed the requirement that the division revoke driver's licenses for similarly charged youth, who are adjudicated delinquent for those same offenses. AS 47.12.060(b)(5) required the division to seek revocation of driver's licenses when court cases are not pursued, such as for possession of marijuana. The court still would still have flexibility and the option to repeal licenses for those same offenses or notify the Division of Motor Vehicles on license revocations for misconduct involving weapons and controlled substances.

2:13:37 PM

SENATOR KIEHL asked whether the division retains the ability to revoke the individual's license in an informal resolution.

MR. DAVIDSON responded that DJJ could petition the court but the statutes being repealed mandated revocation for all licenses for misconduct involving weapons and controlled substances. He explained that the license revocations are not related to driving offenses but are made due to possession of a minor amount of a controlled substance. The division has the option to seek a more formal court order to revoke driver's licenses.

[2:14:56 PM](#)

SENATOR KIEHL related his understanding that at that point the division would no longer informally resolve the case.

MR. DAVIDSON answered that was correct.

SENATOR SHOWER asked whether DJJ anticipates any change to recidivism. He asked how much federal money would be protected by this change.

MS. DOMPELING asked whether he was speaking to the recidivism of waived minors.

SENATOR SHOWER agreed.

[2:15:42 PM](#)

MS. DOMPELING responded yes. She stated that waived minors in DJJ facilities would be required to participate in education programs that the division partners within local school districts. She related her understanding that DOC allowed the option for waived minors to participate in educational programming whereas DJJ required them to participate. She stated that the lack of education was a criminogenic risk factor for minors and adults. She explained that helping waived minors obtain education, such as their high school diploma or GED, before they turn 18 years of age was a step in the right direction.

SENATOR SHOWER asked how much federal money this change would protect.

[2:16:57 PM](#)

MS. DOMPELING answered that the grant award this fiscal year was \$425,000. If the award amount stayed the same, the 20 percent penalty would total \$85,000, it would take 50 percent of the remaining balance of award for total compliance. She calculated that of the \$425,000 Title II grant award, the division could use \$225,000 for things not focused on compliance with the JJRA but to get waived minors out of DOC facilities.

[2:17:59 PM](#)

CHAIR HOLLAND called on Senator Begich to speak to HB 105 because of his interest in juvenile justice.

[2:18:11 PM](#)

SENATOR TOM BEGICH, Alaska State Legislature, Juneau, Alaska, provided his background in the juvenile justice system. He

stated that for 21 years he served on and chaired the Juvenile Justice Advisory Committee (JJAC). He said he also served on the National Association for Juvenile Justice, working on revisions to the Juvenile Justice and Delinquency Prevention Act of 1974. He said he worked on revisions to the Act in 1992, in the late 1990s and in the early 2000s. He reported that the current federal funding is based on last year's authorization and appropriation from the Department of Justice to the states. Alaska receives the minimal base amount because of its population but he anticipated the amount would increase. Under the current administration's proposed budget, that amount will increase. In the past, as much as \$750,000 has been directly connected to the "core requirements" of JJDPA Act, which was referred to earlier.

He explained that some funding was previously directed to non attendant care shelters. These grants were awarded to communities to provide runaways with alternative facilities rather than placing them in detention facilities. This also frees up law enforcement officer time to attend to other police business. He said it was worth noting that a number of these facilities were set up around the state.

SENATOR BEGICH said he served on those committees under then Governors Sheffield, Cowper, Hickel, Knowles, Murkowski and Walker. JJAC's goal was to create the best juvenile justice system in the country. This is part of that process. By supporting DJJ with SB 99, which was incorporated in HB 105, it will ensure the law passed in 2018 during the Trump administration would continue to keep Alaska in compliance, not lose federal funds and ensure that Alaska can continue to provide alternatives throughout the state.

[2:21:01 PM](#)

SENATOR HUGHES asked about the idea of comingling runaways with felons such murderers.

[2:15:31 PM](#)

SENATOR BEGICH answered that he worked as director, of the Division of Juvenile Justice, Department of Health and Social Services (DHSS) for many years. During his tenure, there was never an incident from comingling that led to further victimization. The division trains its professional staff to ensure that separation is maintained in a safe and secure manner. He emphasized that developing alternatives for minors rather than placing them in adult facilities was deemed more appropriate because of their amenability to treatment. Those who

were deemed non-amenable to treatment were automatically waived at the age of 16, although the court maintained jurisdiction to waive those youth in cases of extreme culpability or non-amenable to treatment. He offered his belief that DJJ was the best place for all juveniles to be detained. Even though the funding amounts are small compared to billion dollar budgets, these funds leverage significant levels of alternatives to detention. The loss of these federal funds would create more risk not less.

[2:23:27 PM](#)

SENATOR HUGHES related that three committee members were involved in the repeal of Senate Bill 91. She said that rehabilitation was the next step. One vision was to use certain facilities, such as the Palmer Correctional Facility, for only low-level offenders and focus the effort on education and rehabilitation to improve their chances. She emphasized the importance of using that same concept for young people.

[2:24:37 PM](#)

SENATOR KIEHL referred to Section 41 on page 27. He stated that the division touched briefly on the goal but he was unsure if he understood the implications of the language on lines 22-25 in subparagraph (E).

[2:25:11 PM](#)

MR. DAVIDSON explained that the intent of the changes to AS 47.12.310, DJJ's confidentiality statute, was to clarify that DJJ can share appropriate information regarding a case involving minors with DOC to facilitate the care, supervision and rehabilitation of those minors. For example, DJJ sometimes receives requests from DOC and wants to share medical information for minors who graduated from DJJ but committed another offense and were housed at DOC. The division has authorization to share predisposition reports for classification or other purposes. One intent was to share appropriate information to allow DOC to aptly care for a former juvenile offender. The other change was to clarify DJJ could share information about waived minors.

MR. DAVIDSON referred to page 28 [Section 43], which addresses sharing information on the class of waived minors being held in DJJ temporarily pending their 18th birthday.

SENATOR KIEHL said the information was helpful, especially if DOC were to move to the rehabilitation model Senator Hughes mentioned. He expressed concern that the language would also

give law enforcement access to records. He asked whether that was the intent.

[2:27:56 PM](#)

MR. DAVIDSON responded that the intent was not to allow all juvenile records to be shared. He said AS 47.12.310(b)(2)(E) would read, as follows:

AS 47.12.310(b) is amended to read:

(b) A state or municipal agency or employee shall disclose ...

(2) appropriate information regarding a case to ...

(E) a law enforcement or corrections agency of this state or another jurisdiction as may be necessary for the protection, rehabilitation, care, or supervision of any minor or former juvenile offender or for actions by that agency to protect the public safety;".

MR. DAVIDSON stated that the division was very secure and it does not share information with law enforcement agencies indiscriminately. For example, DJJ would share information with law enforcement if someone left DJJ without permission; the division would work with law enforcement to bring the minor back into custody.

[2:29:28 PM](#)

MS. DOMPELING related that DJJ might give information about tattoos to assist law enforcement in identifying minors. She characterized it as a continuity of care, that DJJ was more rehabilitative-oriented. She asked why DOC should need to compile information that could easily be shared.

SENATOR KIEHL expressed concern that it would allow information to be shared if law enforcement requested it. He suggested an amendment could split it so the former offender information could be provided to DOC but not change the law enforcement provision.

[2:32:20 PM](#)

MS. DOMPELING responded that she did not think the division would object if it made more sense to separate it. She did not necessarily believe that separating it would change the scope of what the division would provide to law enforcement. It would just add more to the ability to provide information to DOC.

[2:32:52 PM](#)

CHAIR HOLLAND opened public testimony and after first determining no one wished to testify, closed public testimony on HB 105.

[2:33:53 PM](#)

SENATOR SHOWER moved to adopt Conceptual Amendment 1 to HB 105, on page 12, line 30 of Section 17, after ";" add "and".

CHAIR HOLLAND objected for discussion purposes.

SENATOR SHOWER restated that Conceptual Amendment 1 would add "and" on page 12, line 30 of Section 17, after ";".

CHAIR HOLLAND removed his objection. There being no further objection, Conceptual Amendment 1 was adopted.

[2:34:35 PM](#)

At ease

[2:36:34 PM](#)

CHAIR HOLLAND reconvened the meeting.

[2:36:46 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment 2 to HB 105, which read:

Pg. 27, line 24:

Delete "or former juvenile offender"

Pg. 28, following line 26:

Insert a new subparagraph

"(O) a corrections agency of this state or another jurisdiction as may be necessary for the protection, rehabilitation, care, or supervision of a former juvenile offender"

[2:36:50 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[2:37:00 PM](#)

SENATOR KIEHL explained that Conceptual Amendment 2 would remove the language "former juvenile offender" and create a new subparagraph (O) related to information that could be released about former juvenile offenders. The intention was to clarify what the administration intended but it would not open juvenile justice records of former juvenile offenders to share with law

enforcement. This would limit disclosing information in accordance with the department's intent.

[2:37:54 PM](#)

CHAIR HOLLAND related his understanding that Conceptual Amendment 2 would remove the language "law enforcement" from subparagraph (E) and not replicate it in subparagraph (O). He asked if that was intentional.

[2:38:15 PM](#)

SENATOR KIEHL agreed it was intentional. He explained that law enforcement would not be in subparagraph (O) because this subparagraph relates to former offenders. This would allow DOC to share information about former offenders.

CHAIR HOLLAND thanked him for the clarification.

[2:38:35 PM](#)

SENATOR SHOWER asked whether the term "and" should be removed from subparagraph (N). He suggested adding "and" after ";" in subparagraph (O) as a conforming change.

SENATOR KIEHL responded that Legislative Legal Services would be allowed to make any technical and conforming changes to Conceptual Amendment 2.

[2:38:58 PM](#)

CHAIR HOLLAND agreed. He asked whether Conceptual Amendment 2 would affect paragraph (3).

SENATOR SHOWER confirmed that was his previous question.

CHAIR HOLLAND removed his objection.

[2:39:32 PM](#)

MS. DOMPELING expressed concern that removing the language "former juvenile offender" would mean that law enforcement could only call for information on minors who were under DJJ's jurisdiction. She related that her example of releasing information on a minor with a tattoo was for a person who was no longer under DJJ supervision. As an adult, the person would be considered a former offender which might limit the scope and shrink the information that could be shared.

[2:40:43 PM](#)

SENATOR KIEHL explained that Conceptual Amendment 2 would restore the status quo for law enforcement sharing. In the

example Ms. Dompeling provided, DJJ would have same authority it has today.

[2:41:11 PM](#)

MS. DOMPELING asked to have Conceptual Amendment 2 read.

[2:41:24 PM](#)

SENATOR KIEHL restated the effect of the specific portion of Conceptual Amendment 2 on page 27, line 24 that removed "or former juvenile offender" from subparagraph (E). He read:

(b) A state or municipal agency or employee shall disclose ...

(2) appropriate information regarding a case to ...

(E) a law enforcement or corrections agency of this state another jurisdiction as may be necessary for the protection, rehabilitation, care or supervision of any minor or for actions by that agency to protect the public safety;

SENATOR KIEHL stated that Conceptual Amendment 2 would remove "or former juvenile offender." However, it would not take away existing authority for the information sharing Ms. Dompeling previously described. Instead, it would limit the expanded authority to the Department of Corrections.

MS. DOMPELING, after reviewing the language, agreed that he was correct. She said she did not have any other concerns.

[2:42:38 PM](#)

CHAIR HOLLAND removed his objection. There being no further objection, Conceptual Amendment 2 was adopted.

[2:43:01 PM](#)

CHAIR HOLLAND asked for the will of the committee.

[2:43:05 PM](#)

SENATOR SHOWER moved to report CSHB 105(HSS), as amended, from committee with individual recommendations and attached fiscal note(s). There being no objection, SCS HB 105(JUD) was reported from the Senate Judiciary Standing Committee.

[2:43:25 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2:43 p.m.