

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

May 2, 2024

5:20 p.m.

MEMBERS PRESENT

Senator Matt Claman, Chair
Senator Jesse Kiehl, Vice Chair
Senator James Kaufman
Senator Cathy Giessel
Senator Löki Tobin

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 66(FIN) AM

"An Act relating to homicide resulting from conduct involving controlled substances; relating to misconduct involving a controlled substance; relating to sentencing; and providing for an effective date."

- MOVED SCS CSHB 66(JUD) OUT OF COMMITTEE

SENATE BILL NO. 223

"An Act relating to the appointment of an assistant adjutant general; and providing for an effective date."

- MOVED SB 223 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 66

SHORT TITLE: CONTROLLED SUB;HOMICIDE;CRIMES;SENTENCING

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/08/23	(H)	READ THE FIRST TIME - REFERRALS
02/08/23	(H)	JUD, FIN
02/27/23	(H)	JUD AT 1:30 PM GRUENBERG 120
02/27/23	(H)	Heard & Held
02/27/23	(H)	MINUTE(JUD)
03/01/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/01/23	(H)	Heard & Held

03/01/23 (H) MINUTE(JUD)
 03/03/23 (H) JUD AT 1:00 PM GRUENBERG 120
 03/03/23 (H) Heard & Held
 03/03/23 (H) MINUTE(JUD)
 03/06/23 (H) JUD AT 1:30 PM GRUENBERG 120
 03/06/23 (H) Heard & Held
 03/06/23 (H) MINUTE(JUD)
 03/24/23 (H) JUD AT 1:00 PM GRUENBERG 120
 03/24/23 (H) Moved CSHB 66(JUD) Out of Committee
 03/24/23 (H) MINUTE(JUD)
 03/27/23 (H) JUD RPT CS(JUD) NEW TITLE 4DP 1DNP 1NR
 1AM
 03/27/23 (H) DP: C.JOHNSON, CARPENTER, ALLARD, VANCE
 03/27/23 (H) DNP: EASTMAN
 03/27/23 (H) NR: GROH
 03/27/23 (H) AM: GRAY
 04/13/23 (H) FIN AT 1:30 PM ADAMS 519
 04/13/23 (H) Heard & Held
 04/13/23 (H) MINUTE(FIN)
 05/01/23 (H) FIN AT 1:30 PM ADAMS 519
 05/01/23 (H) Heard & Held
 05/01/23 (H) MINUTE(FIN)
 05/05/23 (H) FIN AT 9:30 AM ADAMS 519
 05/05/23 (H) Moved CSHB 66(FIN) Out of Committee
 05/05/23 (H) MINUTE(FIN)
 05/08/23 (H) FIN RPT CS(FIN) NEW TITLE 2DP 5NR 2AM
 05/08/23 (H) DP: EDGMON, D.JOHNSON
 05/08/23 (H) NR: CRONK, HANNAN, STAPP, ORTIZ, FOSTER
 05/08/23 (H) AM: JOSEPHSON, GALVIN
 05/11/23 (H) TRANSMITTED TO (S)
 05/11/23 (H) VERSION: CSHB 66(FIN) AM
 05/12/23 (S) READ THE FIRST TIME - REFERRALS
 05/12/23 (S) JUD, FIN
 05/15/23 (S) JUD WAIVED PUBLIC HEARING NOTICE, RULE
 23
 05/16/23 (S) JUD AT 9:00 AM BUTROVICH 205
 05/16/23 (S) -- MEETING CANCELED --
 02/28/24 (S) JUD AT 1:30 PM BUTROVICH 205
 02/28/24 (S) Heard & Held
 02/28/24 (S) MINUTE(JUD)
 04/29/24 (S) JUD AT 1:30 PM BUTROVICH 205
 04/29/24 (S) Heard & Held
 04/29/24 (S) MINUTE(JUD)
 05/02/24 (S) JUD AT 5:15 PM BELTZ 105 (TSBldg)

BILL: SB 223

SHORT TITLE: ASSISTANT ADJUTANT GENERAL APPOINTMENT

SPONSOR(s) : RULES BY REQUEST OF THE GOVERNOR

02/12/24 (S) READ THE FIRST TIME - REFERRALS
02/12/24 (S) STA, JUD
02/27/24 (S) STA AT 3:30 PM BELTZ 105 (TSBldg)
02/27/24 (S) Heard & Held
02/27/24 (S) MINUTE(STA)
03/21/24 (S) STA AT 3:30 PM BELTZ 105 (TSBldg)
03/21/24 (S) Heard & Held
03/21/24 (S) MINUTE(STA)
04/23/24 (S) STA AT 3:30 PM BELTZ 105 (TSBldg)
04/23/24 (S) Moved SB 223 Out of Committee
04/23/24 (S) MINUTE(STA)
04/24/24 (S) STA RPT 3DP 1NR 1AM
04/24/24 (S) AM: KAWASAKI
04/24/24 (S) DP: CLAMAN, MERRICK, BJORKMAN
04/24/24 (S) NR: WIELECHOWSKI
05/01/24 (S) JUD AT 1:30 PM BUTROVICH 205
05/01/24 (S) -- MEETING CANCELED --
05/02/24 (S) JUD AT 5:15 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

TERI WEST, Division Director
Division of Administrative Services
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Answered questions pertaining to HB 66 fiscal notes.

BREANNA KAKARUK, Staff
Senator Matt Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the explanation of changes from version Y to N of HB 66.

ANGIE KEMP, Director
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Discussed Conceptual Amendment 1 to HB 66 and answered questions.

APRIL WILKERSON, Deputy Commissioner
Office of the Commissioner
Department of Corrections

Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 66.

ANGELA LAFLAMME, Legislative Liaison
Department of Military and Veterans Affairs (DMVA)
Anchorage, Alaska

POSITION STATEMENT: Introduced SB 233 on behalf of the administration and presented the sectional analysis.

ACTION NARRATIVE

[5:20:00 PM](#)

CHAIR MATT CLAMAN called the Senate Judiciary Standing Committee meeting to order at 5:20 p.m. Present at the call to order were Senators Giessel, Kiehl, Tobin, and Chair Claman. Senator Kaufman arrived thereafter.

HB 66-CONTROLLED SUB;HOMICIDE;CRIMES;SENTENCING

[5:20:38 PM](#)

CHAIR CLAMAN announced the consideration of CS FOR HOUSE BILL NO. 66(FIN) am "An Act relating to homicide resulting from conduct involving controlled substances; relating to misconduct involving a controlled substance; relating to sentencing; and providing for an effective date."

[5:21:23 PM](#)

TERI WEST, Division Director, Division of Administrative Services, Department of Corrections, Juneau, Alaska, answered questions pertaining to fiscal notes on HB 66.

[5:21:32 PM](#)

SENATOR TOBIN asked how DOC plans to address the potential increase in the number of incarcerated individuals and what treatment services DOC would provide. She pointed out that HB 66 has a zero fiscal note; however, treatment services for additional individuals would have associated costs.

[5:22:15 PM](#)

MS. WEST indicated that DOC is aware that HB 66 may result in an increased number of incarcerated individuals. While the exact number is unknown, it is expected to be minimal. She said DOC is currently at 83 percent capacity. DOC would monitor the increase for fiscal impacts; however, DOC is funded for general capacity.

[5:22:23 PM](#)

SENATOR KAUFMAN joined the meeting.

[5:22:56 PM](#)

SENATOR TOBIN said that she is a member of the DOC budget subcommittee and expressed concerns about the potential fiscal impact of HB 66. She commented that the public may consider a zero fiscal note to imply zero budgetary impact.

[5:23:25 PM](#)

MS. WEST said that the substance abuse component of the DOC budget, which was approximately \$1.4 million for the previous year, has been lapsing money.

[5:23:44 PM](#)

SENATOR TOBIN asked for clarification that DOC anticipates the aforementioned \$1.4 million budget component to cover general costs, as well as treatment for the increased number of incarcerated individuals.

[5:23:57 PM](#)

MS. WEST replied yes.

[5:24:12 PM](#)

SENATOR GIESSEL noted that she is a nurse practitioner and expressed surprise that DOC has lapsing funds as treatments for substance misuse can be costly. She asked whether injectables are being used.

[5:24:43 PM](#)

MS. WEST replied that DOC is utilizing all available resources to address inmates' needs. She added that DOC works closely with substance abuse treatment providers.

[5:25:18 PM](#)

CHAIR CLAMAN said the proposed Senate committee substitute (SCS), version N, is before the committee.

[5:26:05 PM](#)

BREANNA KAKARUK, Staff, Senator Matt Claman, Alaska State Legislature, Juneau, Alaska, presented the following explanation of changes from version Y to N of HB 66:

**House Bill 66
Summary of Changes
Senate Judiciary Committee
Version Y to Version N**

In the Committee Substitute to HB 66 version N we included the following changes:

- Add "affirmative defense in to murder in the second degree" provisions:
 - Sec. 2 11.31.110, page 2, line 19
 - Delete "11.41.110(a)"
 - Insert: "Sec. 11.41.110. Murder in the second degree. (a)"
 - Sec. 2 11.31.110, page 2, line 21
 - Delete the first occurrence of "a"
 - Insert "another"
 - Add new materials on page 3, lines 22-31 and page 4, lines 1-3
 - Sec. 2 11.31.110, page 3, line 19
 - Delete the first occurrence of "a"
 - Insert "another"
 - Update applicability to include murder in the second degree provisions
- Sec. 30 AS 12.63.010, page 22
 - Delete "appear in person at and" in two instances.
- Sec. 47.30.706(b), page 30, line 22
 - Delete "after entry of the ex parte order."
 - Insert "after the respondent's arrival at the evaluation facility"
- Sec. 47.30.715, page 31, line 11
 - Delete "under AS 47.30.705(a) or 47.30.706"
- Sec. 47.30.715, page 31, line 22
 - Delete "section, AS 47.30.705(a), or 47.30.706"
 - Insert "AS 47.30.700 - 47.30.815"
- Adding new legislation
 - HB 11: CRIME: ASSAULT IN THE PRESENCE OF A CHILD
 - HB 28: ACCESS TO MARIJUANA CONVICTION RECORDS
 - HB 286: CRIME VICTIM RESTITUTION
- Conforming changes:
 - Title change
 - Renumbering

[5:28:01 PM](#)

SENATOR TOBIN expressed confusion and requested a document detailing the explanation of changes.

MS. KAKARUK said she would provide this to the committee.

[5:28:37 PM](#)

CHAIR CLAMAN solicited a motion.

[5:28:43 PM](#)

SENATOR KIEHL moved to adopt the Senate committee substitute (SCS) for CSHB 66, work order 33-GH1482\N, as the working document.

[5:29:00 PM](#)

CHAIR CLAMAN found no objection and SCS CSHB 66, version N, was adopted.

[CHAIR CLAMAN said that all amendments were drafted to version Y and would therefore be offered as conceptual amendments.]

CHAIR CLAMAN solicited a motion.

[5:29:20 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment 1, work order 33-GH1482\Y.6.

33-GH1482\Y.6
C. Radford
5/1/24

CONCEPTUAL AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: SCS CSHB 66(JUD), Draft Version "Y"

Page 1, lines 8 - 9:
Delete "**Rule 6(s)**"
Insert "**Rule 6(s)(2)**"

Page 1, line 11, through page 2, line 12:
Delete all material.

Page 2, line 13:
Delete "**Sec. 2**"

Insert "**Section 1**"

Renumber the following bill sections accordingly.

Page 9, following line 21:

Insert a new bill section to read:

"* **Sec. 14.** AS 12.40.110(a) is amended to read:

(a) In a prosecution for an offense under AS 11.41.410 - 11.41.458, hearsay evidence of a statement related to the offense, not otherwise admissible, made by a child who is the victim of the offense may be admitted into evidence before the grand jury if

- (1) the circumstances of the statement indicate its reliability;
- (2) the child is under 16 [10] years of age when the hearsay evidence is sought to be admitted;
- (3) additional evidence is introduced to corroborate the statement; and
- (4) the child testifies at the grand jury proceeding or the child will be available to testify at trial."

Renumber the following bill sections accordingly.

Page 36, line 13, through page 38, line 5:

Delete all material and insert:

"DIRECT COURT RULE AMENDMENT. Rule 6(s)(2), Alaska Rules of Criminal Procedure, is amended to read:

(2) In a prosecution for an offense under AS 11.41.410 - 11.41.458, hearsay evidence of a statement related to the offense, not otherwise admissible, made by a child who is the victim of the offense may be admitted into evidence before the grand jury if

- (i) the circumstances of the statement indicate its reliability;
- (ii) the child is under 16 [10] years of age when the hearsay evidence is sought to be admitted;
- (iii) additional evidence is introduced to corroborate the statement; and
- (iv) the child testifies at the grand jury proceeding or the child will be available to testify at trial."

Renumber the following bill sections accordingly.

Page 38, line 8:

Delete "sec. 2"
Insert "sec. 1"

Page 38, line 9:

Delete "sec. 3"
Insert "sec. 2"
Delete "sec. 4"
Insert "sec. 3"

Page 38, line 10:

Delete "sec. 5"
Insert "sec. 4"

Page 38, line 11:

Delete "sec. 11"
Insert "sec. 10"
Delete "sec. 12"
Insert "sec. 11"

Page 38, line 12:

Delete "sec. 13"
Insert "sec. 12"

Page 38, line 14:

Delete "secs. 2 - 5, 11 - 13, and 29"
Insert "secs. 1 - 4, 10 - 12, and 29"

Page 38, line 30:

Delete "Rule 6(s) "
Insert "AS 12.40.110(a), as amended by sec. 14 of
this Act, and Rule 6(s)(2) "
Delete "sec. 46"
Insert "secs. 14 and 46"

Page 38, line 31:

Delete "applies"
Insert "apply"
Delete "sec. 46"
Insert "secs. 14 and 46"

Page 39, line 1:

Delete "sec. 46"
Insert "secs. 14 and 46"

Page 39, line 4:
Delete "Rule 6(s) "
Insert "Rule 6(s)(2) "

Page 39, line 8:
Delete "sec. 50"
Insert "sec. 49"

5:29:35 PM

CHAIR CLAMAN objected for purposes of discussion.

5:29:45 PM

At ease

5:30:07 PM

CHAIR CLAMAN reconvened the meeting. Conceptual Amendment 1 was before the committee.

5:30:16 PM

SENATOR KIEHL said that Conceptual Amendment 1 addresses the use of hearsay at grand jury hearings. He stated that HB 66 allows the use of hearsay at grand jury in most cases and opined that this excessively changes the function of grand juries in Alaska. He noted that this issue has come up previously. He explained that Conceptual Amendment 1 makes a much more limited change to the rules regarding the use of hearsay. It would also make it easier to use the current statute. He briefly explained the current statutory requirements which allows children under age 10 to provide testimony without testifying in front of a grand jury. This is the only hearsay currently allowed in grand jury hearings. Conceptual Amendment 1 would raise this to children under age 16.

SENATOR KIEHL emphasized that this would not allow hearsay at all grand jury hearings. He stated that the grand jury serves as a buffer between the government and the accused - to determine if there is probable cause that a crime was committed - and opined that this is not a high standard. He briefly discussed the history of grand juries. He opined that, outside of the current allowance, hearsay is not fair to defendants. He briefly discussed the role that witnesses play at grand jury hearings. He expressed concern that allowing hearsay at grand jury hearings would result in lighter consequences in cases of perjury. He emphasized that allowing hearsay removes an important safeguard in criminal felony trials. He asserted that criminal trials are not meant to be easy and opined that grand juries are already an easy step in the process. He acknowledged

that grand jury testimony is difficult for victims. He reiterated that Conceptual Amendment 1 expands the limited hearsay exception for children (who are the most traumatized and are potentially retraumatized in each retelling of their experience). He emphasized that this amendment would also protect the integrity of the criminal justice system.

[5:35:27 PM](#)

CHAIR CLAMAN asked the Department of Law (DOL) to offer its perspective on Conceptual Amendment 1.

[5:35:41 PM](#)

ANGIE KEMP, Director, Criminal Division, Department of Law, Juneau, Alaska, Discussed Conceptual Amendment 1 to HB 66 and answered questions. Agreed that Conceptual Amendment 1 expands current law. She stated that this amendment would allow a prosecutor to offer the statements that child sexual abuse victims make to child advocacy centers. (Certain statutory requirements must be met before this is allowable.) She pointed out that the age increase only applies to children 15 and under - which leaves out children aged 16 and older, as well as adult victims. In addition, young children who witness violent crimes (e.g. murder) would still be required to testify in front of a grand jury. She emphasized that Conceptual Amendment 1 has a narrow scope of application. She pointed out that this issue is of concern to Alaskans. She offered an example to illustrate that the majority of victims would not benefit from these changes. She emphasized that requiring witnesses to recount violent crimes in front of a grand jury can retraumatize them. She stated that Conceptual Amendment 1 does not go far enough to expand victim protections.

[5:40:40 PM](#)

MS. KEMP described a case in which the prosecution attempted unsuccessfully to introduce the testimony given by a 14-year-old sexual assault victim to a child advocacy center. She explained that prospective analysis requirements were not met; therefore, the 14-year-old victim was required to testify in front of a grand jury. She surmised that this was likely the most traumatic experience of the child's life. She opined that Conceptual Amendment 2 does not solve the problem. She pointed to current regulation that requires prospective analysis and stated that there is precedent to guide how these cases would be considered. She commented on the value of grand jury proceedings and related these to a probable cause analysis. She estimated that 32 other states, including the federal government, allow this testimony. She briefly discussed Alaska statehood and the history behind

the preclusion of rules of hearsay. She offered briefly discussed historical Alaska Supreme Court case law in which hearsay is shown to be an appropriate foundation for a case at grand jury. Hearsay was not precluded from case law until 1973.

[5:43:52 PM](#)

SENATOR TOBIN pointed out that previously, there was concern regarding the legislature addressing court rule determinations, as there is a separate entity that addresses this. She asked what changed in the last year.

[5:44:19 PM](#)

MS. KEMP agreed and briefly described the mechanism by which criminal rules are determined. She indicated that this can be a lengthy process.

[5:45:21 PM](#)

SENATOR TOBIN asked for clarification regarding what has changed in the last year.

MS. KEMP clarified that nothing has changed. She stated that the Department of Law (DOL) believes that this change is within the legislature's purview. She pointed out that the legislature has made substantive changes to court rules in the past.

[5:45:51 PM](#)

SENATOR TOBIN asked for clarification of her understanding that nothing has changed in the past year; therefore, the committee's previous concerns remain salient.

[5:45:57 PM](#)

MS. KEMP said that she could not speak to this.

[5:46:07 PM](#)

SENATOR TOBIN pointed out that the example of a 9-year-old victim would not be applicable to HB 66, as current law allows this testimony from children ages 10 and under. She turned her attention to the role of peace officers and shared her understanding that, because a peace officer is involved when the testimony is gathered, Child Advocacy Centers (CAC) are able to provide hearsay testimony for grand jury proceedings. She asked why DOL interprets these changes as applicable to CACs when CACs are currently able to utilize this type of testimony in grand jury proceedings.

[5:46:59 PM](#)

MS. KEMP said that interviews at CACs are taken in a static environment and briefly described the role that law enforcement plays. She agreed that an officer may be in the vicinity; however, they are not typically able to conduct the interview. She explained that the interview is not necessarily admissible at grand jury. She said that the current statutory language excludes 10-year-olds (they would be required to testify in front of the grand jury).

[5:47:57 PM](#)

SENATOR TOBIN asked for clarification regarding the current statutory age requirement.

[5:48:02 PM](#)

MS. KEMP stated that current statute says "under 10" which is interpreted as ages 9 and under.

[5:48:11 PM](#)

SENATOR TOBIN directed attention to HB 66, page 40, lines 11-20. She shared her understanding that a peace officer is present (watching the recording) when a child is being interviewed. She asked for clarification that this interview testimony would not be admissible.

[5:48:41 PM](#)

MS. KEMP agreed that this would not be admissible. She explained that there are provisions in the current rule relating to officers providing summary of the work done by other officers. Officers are not able to summarize a child's testimony.

CHAIR CLAMAN opined that the same standards should apply to both state and federal court. He indicated that he does not support Conceptual Amendment 1.

[5:49:56 PM](#)

SENATOR KIEHL responded to earlier comments related to hearsay and the Alaska State Constitution. He pointed to Costello v United States (1956) as the keystone hearsay case for federal courts. He said that this was expanded over time to what it is today - and these changes occurred after statehood. He opined that at statehood, the hearsay law would lean toward limiting the use of hearsay at grand jury. He emphasized that the language in HB 66 is broad, and this precludes the use of the grand jury as a check. He expressed a willingness to work with other committee members to modify Conceptual Amendment 1 and emphasized that the intention is to protect both child victims of trauma and the integrity of the criminal justice system.

[5:51:30 PM](#)

CHAIR CLAMAN maintained his objection and asked for a roll call vote.

[5:51:34 PM](#)

A roll call vote was taken. Senators Kiehl, Tobin voted in favor of Conceptual Amendment 1 and Senators Giessel, Kaufman, Claman voted against it. The vote was 2:3.

CHAIR CLAMAN announced that Conceptual Amendment 1 failed on a vote of 2 yeas and 3 nays.

[5:52:27 PM](#)

CHAIR CLAMAN solicited a motion.

[5:52:34 PM](#)

SENATOR TOBIN moved to adopt Conceptual Amendment 2, work order 33-GH1482\Y.7.

33-GH1482\Y.7

C. Radford

5/1/24

CONCEPTUAL AMENDMENT 2

OFFERED IN THE SENATE

TO: SCS CSHB 66(JUD), Draft Version "Y"

Page 1, line 6, following "**violence**";":

Insert "**relating to the use and possession of electronic devices by prisoners;**"

Page 2, line 11:

Delete "sec. 46"

Insert "sec. 47"

Page 24, following line 30:

Insert a new bill section to read:

*** Sec. 31.** AS 33.30.015(a) is amended to read:

(a) The commissioner may not

(1) make per capita expenditures for food for prisoners in a state correctional facility operated by the state that exceed 90 percent of per capita expenditures for food that is available

to enlisted personnel in the United States Army stationed in the state;

(2) provide, in a state correctional facility operated by the state,

(A) living quarters for a prisoner into which the view is obstructed; however, the commissioner is not required to renovate a facility to comply with this subparagraph if the facility is being used as a correctional facility on August 27, 1997, or if the facility was already built before being acquired by the department;

(B) equipment or facilities for publishing or broadcasting material the content of which is not subject to prior approval by the department as consistent with keeping order in the institution and prisoner discipline;

(C) cable television service other than a level of basic cable television service that is available as a substitute for services that are broadcast to the public in the community in which a correctional facility is located;

(3) allow a prisoner held in a state correctional facility operated by the state to

(A) possess in the prisoner's cell
a

(i) cassette tape player or recorder, [A] video cassette recorder (VCR), or telephone;

(ii) computer or electronic tablet unless used for a purpose approved under (I) of this paragraph [A COMPUTER OR MODEM OF ANY KIND];

(B) view movies rated "R," "X," or "NC-17";

(C) possess printed or photographic material that

(i) is obscene as defined by the commissioner in regulation;

(ii) could reasonably be expected to incite racial, ethnic, or religious hatred that is detrimental to the security, good order, or discipline of the institution or violence;

(iii) could reasonably be expected to aid in an escape or in the theft or destruction of property;

(iv) describes procedures for brewing alcoholic beverages or for manufacturing controlled substances, weapons, or explosives; or

(v) could reasonably be expected to facilitate criminal activity or a violation of institution rules;

(D) receive instruction in person, or by broadcast medium, or engage in boxing, wrestling, judo, karate, or other martial art or in any activity that, in the commissioner's discretion, would facilitate violent behavior;

(E) possess or have access to equipment for use in the activities listed in (D) of this paragraph;

(F) possess or have access to free weights;

(G) possess in the prisoner's cell a coffee pot, hot plate, appliance or heating element for food preparation, or more than three electrical appliances of any kind;

(H) possess or appear in a state of dress, hygiene, grooming, or appearance other than as permitted as uniform or standard in the correctional facility;

(I) use a computer or electronic tablet other than those approved by the correctional facility; the use of a computer or electronic tablet under this subparagraph may be approved only to facilitate the prisoner's rehabilitation or the prisoner's compliance with a reentry plan or case plan developed under AS 33.30.011, as part of the prisoner's employment, education, [OR] vocational training, access to legal reference materials, visitation, or health care, or for another purpose identified by the commissioner in regulation, and may not be used for any other purpose;

(J) smoke or use tobacco products of any kind."

Renumber the following bill sections accordingly.

Page 38, line 30:
Delete "sec. 46"
Insert "sec. 47"

Page 38, line 31:
Delete "sec. 46"
Insert "sec. 47"

Page 39, line 1:
Delete "sec. 46"
Insert "sec. 47"

Page 39, line 5:
Delete "sec. 46" in both places
Insert "sec. 47" in both places

Page 39, line 7:
Delete "Section 45"
Insert "Section 46"

Page 39, line 8:
Delete "sec. 50"
Insert "sec. 51"

[5:52:36 PM](#)

SENATOR CLAMAN objected for purposes of discussion.

SENATOR TOBIN commented that HB 66 is inclusive of the state's criminal legal system. She referred to a recent House floor debate related to incarcerated individuals, the state's responsibility, and the notion of restoration. She indicated that Conceptual Amendment 2 incorporates language from legislation introduced in the House. She said it would enable incarcerated individuals access to educational programming, resources, and electronic tablets. She opined that this would reduce recidivism and help incarcerated Alaskans find pathways to harm restoration and repair. She pointed out that discussions related to incarcerated individuals and electronic tablet use has occurred over many years and opined that committee members are familiar with this issue. She noted that this would also expand medical treatment options for this population. She emphasized the importance of ensuring that pathways to repair from harm are available to incarcerated individuals.

[5:54:42 PM](#)

CHAIR CLAMAN asked for the Department of Corrections' perspective on Conceptual Amendment 2.

[5:55:40 PM](#)

APRIL WILKERSON, Deputy Commissioner, Office of the Commissioner, Department of Corrections, Juneau, Alaska, stated that DOC takes a neutral stance on Conceptual Amendment 2. She expressed support and said that DOC agrees that these technologies would expand and increase DOC's efficiency, thus allowing DOC to provide reformative programming to the incarcerated population. She noted that DOC has a zero fiscal note related to the legislation and explained that this is because the legislation allows DOC to provide tablets to inmates and indicated that this would be done with existing resources. She said that DOC would make an additional budget request to the legislature in the future, if necessary.

[5:57:04 PM](#)

SENATOR KIEHL sought confirmation that the department supports the stand-alone legislation and is neutral on Conceptual Amendment 2, which would roll that legislation into HB 66.

[5:57:19 PM](#)

MS. WILKERSON replied yes.

[5:57:30 PM](#)

SENATOR KAUFMAN asked if the tablets are connected to the internet.

[5:57:42 PM](#)

MS. WILKERSON replied no. She explained that DOC currently provides computers to inmates on a very structured, limited basis. Both the tablets and computers are on a closed, monitored network.

[5:58:24 PM](#)

SENATOR KAUFMAN surmised that the tablets would not be used for telehealth if they are not connected to the internet.

MS. WILKERSON replied that secure video conferencing is available in certain instances (e.g. for court hearings, which is a pilot project). She said that, in a secure setting, telehealth, telepsychiatry, and remote learning could be made available.

[5:59:21 PM](#)

SENATOR KAUFMAN asked whether the glass is secure so that inmates are not able to break the tablet screens and use the glass as a weapon.

MS. WILKERSON replied yes. She explained that the tablets are corrections grade and are used by federal and state corrections facilities. She said that DOC would model its program after programs that are currently in place in other states. She said DOC is considering Hiland Mountain Correctional Facility - a female-only prison in Eagle River - as a pilot location for this program. She explained that currently, inmates have access to attorney appointments and the law library. Education/remote learning and telehealth would be added.

[6:00:57 PM](#)

SENATOR KAUFMAN asked for clarification regarding the zero fiscal note, potential costs, and increased efficiency.

[6:01:19 PM](#)

MS. WILKERSON replied that DOC's goal is to apply the cost saved from switching from in-person appointments to cover costs associated with the tablets, including educational learning or curricula on the tablets. Identifying inefficiencies would help to alleviate manual labor, overtime, and officer/administrative staffing burdens. These funds could then be diverted to cover the costs of the tablets.

[6:02:13 PM](#)

SENATOR GIESSEL commented that HB 66 addresses court rules and sentencing, and commitment procedures and opined that the addition of tablets, karate, judo, etc. is unusual.

[6:02:53 PM](#)

CHAIR CLAMAN noted that HB 330, which would approve the use of tablets by DOC inmates, is making progress and asked if there is companion legislation in the Senate.

[6:03:12 PM](#)

SENATOR TOBIN replied that she does not know.

[6:03:38 PM](#)

SENATOR KIEHL shared his understanding that the Senate companion legislation is in its first committee of referral and has not been heard.

[6:03:52 PM](#)

CHAIR CLAMAN maintained his objection. He stated that his concerns are similar to Senator Giessel's comment. He indicated his support of tablets in correctional facilities but pointed out that this issue has come up in previous years (and has not

passed). He surmised that this is likely due to additional issues that need further consideration.

6:04:30 PM

CHAIR CLAMAN asked for a roll call vote.

6:04:32 PM

A roll call vote was taken. Senators Kiehl, Tobin voted in favor of Conceptual Amendment 2 and Senators Kaufman, Giessel, Claman voted against it. The vote was 2:3.

CHAIR CLAMAN announced that Conceptual Amendment 2 failed on a vote of 2 yeas and 3 nays.

6:04:56 PM

CHAIR CLAMAN solicited a motion.

6:05:04 PM

SENATOR TOBIN said Conceptual Amendment 3 is not offered.

6:05:32 PM

SENATOR TOBIN indicated that she does not support HB 66; however, she said that she would not object to its forward progress. She referred to the book, "We Keep Us Safe: Building Secure, Just, and Inclusive Communities," and explained the underlying premise of how to create inclusive, healthy, and safe communities. She quoted the book, which states that, "the opposite of criminalization is humanization." She opined that HB 66 increases penalties and systems of incarceration and the opportunity for individuals to become incarcerated. She stated that she is not against criminal justice or the rule of law; however, she expressed concern that HB 66 may increase the duration of incarceration without the opportunity for harm restoration. She pointed out that people make mistakes for many reasons and offered examples. She said that Alaska has one of the highest rates of child sexual assault and suggested that this can result in cycles of harm - which the state continually fails to disrupt.

SENATOR TOBIN expressed concerns about the sections of HB 66 that deal with individuals struggling with mental health issues. She asserted that the legislature has a duty to consider how the complexities of incarceration impact significant subpopulations. She said that she fears the unconstitutional detainment of individuals without due process. She opined that it is of utmost importance for the legislature to consider how and when individuals receive treatment. She referred to Centers for

Disease Control (CDC) data that shows an increase in overdose deaths among those recently released from incarceration. She asserted that the legislature is not doing its job to help individuals move through the processes of harm reduction, restoration, rehabilitation, and repair. She indicated that this is necessary for individuals to reenter - and thrive in - communities. She acknowledged that HB 66 addresses victims' rights; however, she asserted that the legislature has a duty to take a more inclusive and holistic approach. She expressed appreciation for the effort involved in drafting the SCS. She emphasized that she cannot support HB 66 in its entirety.

[6:08:38 PM](#)

CHAIR CLAMAN solicited the will of the committee.

[6:08:41 PM](#)

SENATOR KIEHL moved to report SCS CSHB 66, work order 33-GH1482\N, from committee with individual recommendations and attached fiscal note(s).

[6:09:08 PM](#)

CHAIR CLAMAN found no objection and SCS CSHB 66(JUD) was reported from the Senate Judiciary Standing Committee.

SB 223-ASSISTANT ADJUTANT GENERAL APPOINTMENT

[6:09:16 PM](#)

CHAIR CLAMAN announced the consideration of SENATE BILL NO. 223 "An Act relating to the appointment of an assistant adjutant general; and providing for an effective date."

[6:09:49 PM](#)

ANGELA LAFLAMME, Legislative Liaison, Department of Military and Veterans Affairs (DMVA), Anchorage, Alaska, explained that SB 223 would expand the pool of potentially qualified candidates for the positions of assistant adjutant general (ATAG) by changing an existing requirement to a preference. She explained that ATAG serves as a state director while holding a military designation (ATAG is commander of both the Army and Air National Guard). She said that there are limited positions within the Air National Guard that meet the federal designation requirements to fill these positions, and finding candidates has been difficult. SB 223 would remove the language requiring five years of service in the Alaska National Guard at the time of appointment. This would become a preference. She pointed out that this change is consistent with existing statutory language related to the qualifications for the adjutant general, who appoints ATAG

positions. These changes would expand the candidate pool to include anyone who meets the federal requirements for the position. This includes individuals leaving active-duty military service. She stated that DMVA would like to retain the preference, which reflects the department's intent to continue seeking individuals within the agency to fill these positions.

[6:11:24 PM](#)

CHAIR CLAMAN commented on the difference between the requirements for the adjutant general position (which does not require service in the National Guard) and the ATAG positions, (which do require previous service in the National Guard).

[6:11:40 PM](#)

MS. LAFLAMME confirmed that this interpretation is correct.

[6:11:42 PM](#)

CHAIR CLAMAN invited Ms. LaFlamme to proceed with the sectional analysis.

[6:11:47 PM](#)

MS. LAFLAMME paraphrased the following sectional analysis for SB 223:

Sectional Analysis
Senate Bill 223
Assistant Adjutant General Qualifications
(33-GS2609\A)

Section 1 amends AS 26.05.180(a) relating to headquarters staff of the Alaska National Guard regarding appointment and qualification of an assistant adjutant general by removing the requirement for at least five years of service in the Alaska Army National Guard or Alaska Air National Guard and replacing it with language providing the Adjutant General flexibility when appointing an assistant adjutant general to provide a preference to a candidate with at least five years of service.

Section 2 establishes the effective date of this legislation.

[6:12:33 PM](#)

SENATOR KIEHL asked what other requirements must be met for individuals to qualify for these positions.

[6:12:48 PM](#)

MS. LAFLAMME replied that to be eligible for promotion to a federally recognized general grade officer (i.e. brigadier general or O-7), individuals must be a federally recognized officer at O-6 level, or a colonel. In addition, specific Federal trainings, certifications, and board approval are required. Individuals must be in good standing. The final determination for advancing from O-6 to O-7 is made by a congressional delegation and approved by Congress. She commented that there are many federal requirements. She stated that by the time individuals have reached O-6 level, they have much more than 5 years of military experience. SB 223 would expand the candidate pool beyond those who have completed 5 years of experience in the Alaska National Guard.

[6:13:54 PM](#)

CHAIR CLAMAN opened public testimony on SB 223; finding none, he closed public testimony.

[6:14:13 PM](#)

CHAIR CLAMAN solicited the will of the committee.

[6:14:14 PM](#)

SENATOR KIEHL moved to report SB 223, work order 33-GS2609\A, from committee with individual recommendations and attached zero fiscal note(s).

[6:14:36 PM](#)

CHAIR CLAMAN found no objection and SB 223 was reported from the Senate Judiciary Standing Committee.

[6:14:57 PM](#)

There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 6:14 p.m.