

HB

290

<TARGET><BILL>HB 290</BILL><SUBJECT>HB
290</SUBJECT><COMM>HHSS30</COMM></TARGET>

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Governor Bill Walker
STATE OF ALASKA

January 17, 2018

The Honorable Bryce Edgmon
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Edgmon:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Criminal Justice Commission membership.

The Alaska Criminal Justice Commission was established to evaluate a broad spectrum of criminal justice subjects including sentencing and criminal justice practices, the rights of victims and of the accused, restitution, and reformation. The Commission's membership includes voices from the Alaska Native community, the judicial system, municipal law enforcement, victim's rights advocates and legislators (in a nonvoting, ex officio capacity) and many other perspectives.

Chapter One, 4SSLA 2017, added the Commissioner of the Department of Health and Social Services (DHSS), or the Commissioner's designee, to the Alaska Criminal Justice Commission as a nonvoting member serving ex officio. Because the Commissioner of DHSS oversees the Division of Juvenile Justice and the Division of Behavioral Health, their membership ought to include voting authority. This bill would change the Commissioner of DHSS, or the Commissioner's designee, from a nonvoting member to a voting member. Adjusting this Commissioner's membership to include voting authority will bring a juvenile justice and behavioral health perspective to the Commission's important work. Further, the DHSS Commissioner will bring needed input to help better integrate DHSS programming into the overall adult and juvenile criminal justice reform efforts.

This bill would also add as a member a resident of the state who was the victim of a felony crime. This addition will bring the needed perspective of victims to the Commission's evaluations of criminal justice subjects.

Furthermore, this will return to having an odd number of Commissioners for voting purposes which was the case prior to the enactment of Chapter One, 4SSLA 2017.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in blue ink that reads "Bill Walker".

Bill Walker
Governor

Enclosure



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Health and Social Services

Sectional Analysis for HB 290, Version A

“An Act relating to the membership of the Alaska Criminal Justice Commission; and providing for an effective date”

January 22, 2018

- Section 1:** This section amends AS 44.19.642(a) to increase the number of members of the Alaska Criminal Justice Commission from 14 to 15 by adding as a member a resident of the state who has been the victim of a felony crime under AS 11. The governor will appoint this individual for a three-year term. This bill further amends this section to include the Commissioner of Health and Social Services on the Alaska Criminal Justice Commission as a voting member.
- Section 2:** This is a conforming amendment to recognize that the member of the Commission who is the victim of a felony crime serves at the pleasure of the governor and may be reappointed, as is currently the case for the municipal law enforcement and victims' rights advocate members.
- Section 3:** Allows for an immediate effective date under AS 01.10.070(c).

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version:	HB 290
Fiscal Note Number:	1
(H) Publish Date:	1/19/2018

Identifier: 0586-DHSS-CO-1-8-18
 Title: CRIMINAL JUSTICE COMMISSION:
 MEMBERSHIP
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

Department: Department of Health and Social Services
 Appropriation: Departmental Support Services
 Allocation: Commissioner's Office
 OMB Component Number: 317

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No.
 If yes, by what date are the regulations to be adopted, amended or repealed? NA

Why this fiscal note differs from previous version/comments:

Not applicable; initial version.

Prepared By:	Tony Newman, Legislative Liaison	Phone:	(907)465-1611
Division:	Department Support Services	Date:	01/04/2018 04:02 PM
Approved By:	Shawnda O'Brien, Assistant Commissioner	Date:	01/08/18
Agency:	Health and Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

Analysis

This bill amends the membership of the Commissioner of the Department of Health and Social Services on the Alaska Criminal Justice Commission from a nonvoting position to a voting position. The bill also adds a new voting member to the Commission, a victim of a felony crime who is appointed by the Governor, bringing the total number of Commission members to 15.

The bill has no fiscal impact to the department.

FISCAL NOTE

STATE OF ALASKA
2017 LEGISLATIVE SESSION

Bill Version HB 290
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) HB290-JUD-AJC-1/19/18 Dept. Affected JUD
 Title CRIMINAL JUSTICE COMMISSION: MEMBERSHIP Appropriation ALASKA JUDICIAL COUNCIL
 Allocation ALASKA JUDICIAL COUNCIL
 Sponsor RULES BY REQUEST OF THE GOVERNOR
 Requester GOVERNOR OMB Component Number 771

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY18 Appropriation Requested	Included in Governor's FY18 Request	Out-Year Cost Estimates					
			FY18	FY19	FY20	FY21	FY22	FY23
OPERATING EXPENDITURES								
Personal Services								
Travel			1.9	1.9	1.9			
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	1.9	1.9	1.9	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
		FY18	FY19	FY20	FY21	FY22	FY23	
1002	Federal Receipts							
1003	GF Match							
1004	GF		1.9	1.9	1.9			
1005	GF/Prgm (DGF)							
1007	I/A Rcpts (Other)							
1037	GF/MH (UGF)							
	TOTAL	0.0	1.9	1.9	1.9	0.0	0.0	

POSITIONS							
	FY18	FY19	FY20	FY21	FY22	FY23	
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES		FY18	FY19	FY20	FY21	FY22	FY23
1250	UGF Revenue (UGF)						
1251	Non-UGF Revenue						
	TOTAL CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

Estimated **SUPPLEMENTAL (FY17) operating costs** 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY18) costs** 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? NO
 If yes, by what date are the regulations to be adopted, amended, or repealed? N/A Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

INITIAL VERSION

Prepared by Jessicah Mathes, Administrative Officer
 Division Alaska Judicial Council
 Approved by Susanne DiPietro, Executive Director
 Agency Alaska Judicial Council

Phone (907) 279-2526
 Date/Time 3/1/18 3:00 PM
 Date 3/1/2018

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 290

Analysis

The bill adds a member to the Alaska Criminal Justice Commission. Funding is requested for the new member to travel to meetings in Juneau and Anchorage four times per year beginning July 1, 2018 until the Commission sunsets in 2021. (The Commission is required by statute to meet a minimum of four times per year).

Criminal Justice Meeting-JNU (same-day travel > 12 hrs travel status)

Airfare (ANC-JNU and/or JNU-ANC; \$400 flat rate projection)

Surface Transportation (\$20 taxi one-way (x2))

Meals & Incidentals (Per Diem \$45 travel day)

Total (4 meetings) = \$1,940.00



ALASKA CRIMINAL JUSTICE COMMISSION

Annual Report

November 1, 2016

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I. Introduction/Background

This is the Alaska Criminal Justice Commission's second annual report to the Alaska State Legislature. The first report was submitted in February 2016. After the passage of Senate Bill 91 (SB91) in the 2016 legislative session, the Commission's reports to the legislature are now due on November 1 of every year.¹

The Alaska Criminal Justice Commission was formed by Senate Bill 64 (SB64), an omnibus bill signed into law in July 2014. The bill was the product of a bipartisan effort to introduce evidence-based "smart justice" reforms to Alaska's criminal justice system. Such reforms had proven successful in other states, and Alaska's legislators were concerned about the growth of Alaska's prison population and high rates of recidivism.

SB64 gave the Commission a broad mandate to examine the state's criminal laws, sentences and practices. Since the Commission began meeting in September 2014, it has heard from community stakeholders, state agencies, scholars and the public regarding what works and what does not work in Alaska's criminal justice system. The Commission also partnered with the Justice Reinvestment Initiative (JRI), a program of the Pew Charitable Trusts, which gave the Commission the benefit of valuable technical assistance and knowledge of best practices from other states.

After extensive study and discussion, in March 2015 the Commission began forwarding a number of recommendations to the legislature. The Commission continued to send recommendations throughout the year, culminating in December 2015 with a large package of reforms developed with the assistance of JRI. The Commission's recommendations formed the basis of SB91, a 123-page criminal justice reform bill which the legislature passed in May 2016 and which Governor Walker signed into law in July 2016.

Though SB91 represents a significant accomplishment for the State of Alaska in general and the criminal justice system in particular, the work of the Commission is far from complete.

What is "Smart Justice"?

"Smart justice" is a name for a movement to implement "smart" criminal justice reform. This trend is motivated both by the continuing upward trajectory of prison costs nationally and by the recognition that lengthy jail sentences do not decrease recidivism and, for some offenders, makes it worse.

Smart justice measures help ensure that lengthy sentences and prison spaces are reserved for dangerous offenders, and encourage states to focus scarce public safety resources on offenders that are a real threat to the community.

There is also a growing perception that lengthy sentences can be counterproductive (as well as wasteful) for populations who won't be helped by jail, such as drug addicts or the mentally ill.

At its core, smart justice means using evidence-based research to identify more cost-effective approaches to deal with criminal offenders.

¹ This filing is mandated by Ch. 36 SLA 2016 §166 ("SB91"). The bill also extended the sunset of the Commission to 6/30/21. Ch 36 SLA 2016 §167.

The Commission continues to examine areas potentially in need of reform, and will forward additional recommendations to the legislature for the upcoming legislative session. The Commission will also begin to focus on monitoring the success of SB91's implementation once the bill's provisions begin to take effect.

MEMBERS OF THE ALASKA CRIMINAL JUSTICE COMMISSION ARE:

Gregory P. Razo, Chair, Alaska Native Justice Center
Alexander O. Bryner, Retired Supreme Court Justice
John Coghill, Alaska State Senate, ex officio
Jeff L. Jessee, CEO, Alaska Mental Health Trust Authority
Wes Keller, Alaska House of Representatives, ex officio (Until January 2017)
Jahna Lindemuth, Alaska Attorney General
Walt Monegan, Commissioner, Alaska Department of Public Safety
Stephanie Rhoades, District Court Judge, State of Alaska
Kristie L. Sell, Lt., Juneau Police Department
Brenda K. Stanfill, Executive Director, Interior Alaska Center for Non-Violent Living
Quinlan G. Steiner, Alaska Public Defender
Trevor N. Stephens, Superior Court Judge, State of Alaska
Dean Williams, Commissioner, Alaska Department of Corrections

II. Process

A. Progress to date

This Commission previously reported on its progress to the Legislature on February 1, 2016. As of that date, the Commission had sent a number of proposed reforms to the Legislature for consideration. In the 2016 legislative session, these reforms were introduced as Senate Bill 91 (SB91). Throughout the session, Commission members and JRI staff were on hand to explain the Commission's proposed reforms—and the evidence behind them—to the legislature and to the general public. In May 2016, both the House and the Senate passed the bill. Governor Walker signed the bill in July 2016.

SB 91 represents a significant achievement for Alaska. It will concentrate state resources on the most high-risk offenders, which is projected to reduce recidivism and thereby increase public safety. Most, though not all, of SB 91's provisions were based on the Commission's recommendations. These reforms include (but are not limited to!) the following:

- Modifying the TANF/Food Stamp ban so that those convicted of drug felonies may receive these benefits upon proof of probation compliance or rehabilitation.
- Giving peace officers the discretion to issue a citation for a class C felony in lieu of arrest.
- Creating a pre-trial services program within the Department of Corrections which will make pre-trial release recommendations and supervise those who are released.
- Reclassifying certain low-level offenses to reduce terms of imprisonment.
- Realigning presumptive sentencing ranges with prior presumptive terms for non-sex-related offenses.

- Revising the caps for terms of probation for all offenses.
- Requiring the Department of Corrections to create institutional case plans for all prisoners and reentry plans for prisoners about to re-enter society.
- Expanding eligibility for discretionary parole and creating administrative and geriatric parole.
- Concentrating parole and probation resources on newly-released parolees and probationers, and creating incentives for parolees and probationers to comply with their conditions of probation and parole.
- Requiring Community Restitution Centers (CRCs) to provide treatment for residents.
- Providing victims with increased notice regarding a defendant's sentencing and discharge to probation or parole, and increased opportunities to be heard regarding these processes.

SB91 also extended the sunset of the Commission to 2021, and tasked the Commission with overseeing the implementation of SB91's reforms and measuring its success.

In addition to assisting legislators during the drafting of SB91, the Commission continued to meet throughout the year. It also formed or continued five subject-specific workgroups (outlined below) to address areas of Alaska's criminal justice system still in need of reform. Between January 1 and November 1, 2016, the Commission met as a plenary body six times, and the workgroups met 23 times total.

B. 2016 Workgroups

As noted above, five Commission workgroups met in 2016 to discuss specific topics within the field of criminal law. The workgroups were comprised of several Commissioners as well as practitioners whose duties or experience related to the workgroup's topic. They each met regularly to discuss their subject matter and decide whether to make any recommendations for change in that area. If the workgroup agreed upon a proposed statutory, regulatory, or policy change, it would forward that recommendation to the full Commission for consideration. The workgroups are listed below; their substantive findings and recommendations will be discussed in Part III.

- Drug and alcohol-related driving offenses (Title 28)
- Behavioral Health
- Presumptive Sentencing and the Three-Judge Panel
- Restorative Justice and Victim Restitution
- Barriers to Reentry

A Practitioner's Guide to SB91

For a more detailed explanation of the changes to the law following the passage of SB 91, consult *A Practitioner's Guide to SB91* in Appendix C below. This guide was developed by staff at JRI with input from Commission staff and Alaska practitioners. It is also available on the Commission's website at <http://www.ajc.state.ak.us/alaska-criminal-justice-commission>.

C. SB91 Implementation and Technical Assistance

Once SB91 was passed in July 2016, the departments and agencies required to make operational changes began the substantial task of implementing those changes. To assist with this implementation, the state has applied for, and received, a federal grant from the Bureau of Justice Assistance that will provide funding and technical assistance for the first two years of implementation. Technical assistance is being provided by the Crime and Justice institute (a division of the nonprofit Community Resources for Justice) which provides research and consulting services using evidence-based practices to improve public safety.

The initial funds were approved in September 2016. CJi immediately began assisting the Department of Corrections, which has a number of reforms to implement, by training probation officers and by developing a risk assessment tool for use in the new Pre-Trial Services Unit.

D. Outreach

The Commission is committed to engaging with the public and continues to seek opportunities for public participation in and education about the Commission's work. The Commission's meetings are open to the public and advertised on the Commission's website. These meetings are routinely attended by at least 15-20 community stakeholders and interested citizens. Each meeting has a designated time for public comment and any public testimony is recorded by staff.

Commissioners and staff have also made numerous presentations to community and professional groups and attended community events, including forums on public safety. Commissioners and staff have also briefed media, attorney groups, and citizen groups about SB91. The Commission's website also contains a wealth of explanatory and educational materials about the Commission's work, the research behind the Commission's recommendations, and the provisions in SB91.

The Crime and Justice Institute

- ✓ A division of the Boston-based nonprofit Community Resources for Justice
- ✓ Provides nonpartisan policy analysis, consulting, and research services to improve public safety throughout the country
- ✓ Partners with JRI
- ✓ Providing Alaska with technical assistance, including training for state employees, for the implementation of SB 91

III. Research and Recommendations

The sections below are summaries of the activities of each workgroup that met in 2016. In some cases, the workgroup was able to come to consensus on recommended changes to statutes or policy; in other cases, the workgroup either had yet to come to a conclusion on a given topic or had yet to transmit a recommendation to the full Commission for consideration.

When a workgroup was able to come to a consensus on a recommendation, this recommendation was then forwarded to the full Commission for approval. These recommendations are summarized below. The Commission will also separately send the Legislature a detailed description of each recommendation and an explanation of the research and reasoning behind it. (In the case of restitution and Title 28, those recommendations will be contained in the separate reports to the legislature, as mandated by SB 91.)

A. Drug- and Alcohol-Related Driving Offenses (Title 28)

The Commission was initially tasked with looking into the effectiveness of Alaska's laws on drug and alcohol-related driving offenses in SB64, the bill that created the Commission in 2014. (These offenses

are found in Title 28 of Alaska’s statutes, so the workgroup was often referred to as the “Title 28 Workgroup.”) Initially, the Title 28 workgroup met as a subcommittee of the Barriers to Reentry workgroup. Beginning in January 2016, however, the Commission agreed to make the subcommittee a stand-alone group, in order to respond to all Title 28-related questions from the Legislature – both those in SB64 and those anticipated to be in SB91. The final version of SB91 required the Commission to send the Legislature a report on Title 28 by December 1, 2016.²

Workgroup members represented a variety of organizations and agencies whose work touches on drug and alcohol-related driving offenses. In addition to several Commissioners, workgroup members included representatives from the DMV, the Municipality of Anchorage, the Department of Law, the Department of Public Safety, the Public Defender Agency, Partners for Progress, and the Department of Health and Social Services. The group reviewed practices from other states, the practices of the Municipality of Anchorage, statistics from the DMV, and the work of the Impaired Driving Task Force.

Both SB91 and SB64 asked the Commission to look into specific topics relating to Title 28. The following is a summary of the workgroup research for each topic:

- **Administrative and judicial processes for license revocation.** In Alaska, there are two ways to revoke a person’s drivers’ license: administrative revocation and judicial revocation. The legislature asked the Commission to determine whether both processes should be maintained. The workgroup found there was some overlap in these processes, but that each also had its own utility.
- **Ignition interlock devices.** The workgroup looked into the efficacy of ignition interlock devices (IIDs), which are breathalyzers that can lock the ignition of a vehicle if they detect alcohol. IIDs effectively reduce recidivism during times that they are being actively and properly used; however, this effect does not continue after the IID is removed. Furthermore, the IID requirement can be circumvented by some defendants who have access to a different vehicle, and not all defendants are able to afford the device. An individual’s alcohol intake can also be detected with a device such as SCRAM, an ankle bracelet that provides continuous alcohol monitoring via transdermal alcohol testing. Both devices can be defeated, but it is more difficult to defeat individual monitoring devices as opposed to vehicle monitoring.
- **Fines.** The workgroup examined the range of sanctions in Title 28—including imprisonment, probation, fines, and license revocation—for their effectiveness in reducing recidivism, promoting rehabilitation, and protecting the public. It found that there is no evidence to suggest any particular level of fine (whether high or low) was more effective in reducing recidivism, and Alaska’s fines are higher than those of other states.

Workgroup Research

- Title 28
 - Behavioral Health
 - Presumptive Sentencing
 - Restorative Justice and Restitution
 - Barriers to Reentry

² SB91 sec. 182.

- **License revocations.** The workgroup found that license revocation was generally an effective sanction, but that there is no conclusive evidence that longer periods of license revocation are more effective than shorter periods. Preliminary research suggests that longer periods of license revocation may be counterproductive.
- **Other approaches to reducing recidivism and promoting rehabilitation.** The Commission looked at several model rehabilitative programs that promote offender accountability and emphasize swift, certain, and proportionate sanctions. The most effective programs combined multiple strategies. Studies suggest that a combination of supervision, technology, and treatment services are most effective in achieving public safety outcomes and behavior change. Additionally, it is critical to identify special supervision conditions that directly target the treatment needs and criminogenic factors associated with DUI offenses.

As noted above, both SB64 and SB91 required the Commission to send the legislature a full report on possible reforms for Title 28. The Commission will send this report to the legislature on December 1, 2016. It will contain detailed research and analysis explaining the above findings, as well as the Commission’s recommendations for reform.

B. Behavioral Health

In 2011, the Criminal Justice Working Group (an interagency, operations-focused committee of Alaska’s criminal justice practitioners) asked researchers in medicine and law at the University of Nevada, Las Vegas (UNLV) to undertake a review of Alaska’s behavioral health statutes, both civil and criminal, and recommend areas for improvement. After an exhaustive review of these statutes and extensive interviews with professionals working the areas of criminal justice and behavioral health, UNLV issued its report, recommending a number of reforms. In January 2016, the Criminal Justice Working Group asked the Commission, as a group with diverse perspectives and a mandate to study potential areas of reform in the criminal justice system, to review the UNLV study and to consider which recommendations, if any, to forward to the legislature.

Workgroup Research

- Title 28
- Behavioral Health
- Presumptive Sentencing
- Restorative Justice and Restitution
- Barriers to Reentry

In response, the Commission formed the Behavioral Health Workgroup. This was a diverse set of stakeholders including Commissioners, state department and division representatives, local law enforcement, rural and urban community behavioral health providers, the tribal health system and victim advocates.

The group decided to take a holistic look at behavioral health practices in Alaska, aiming to identify assets, barriers, and gaps of Alaska’s criminal justice and community behavioral health programs and practices for persons with mental health disorders. It used the Sequential Intercept Model, a tool used nationally by states and communities to assess available resources, determine gaps in services, and plan for community change. The model identifies intercept points — opportunities for linkage to services and for prevention of further penetration into the criminal justice system. Using this model as well as the UNLV study, the workgroup forwarded several recommendations to the Commission, which the Commission approved. The following is a summary of approved recommendations relating to Behavioral Health.

- **Pre-trial Diversion for the behavioral health population.** The Commission recommends that the Department of Corrections consider implementing a pre-trial diversion program for those with behavioral health problems. The Commission also recommends that the Department of Corrections convene a group of stakeholders to assist in the development and implementation of this program.
- **Allow defendants to return to a group home on bail.** The Commission recommends amending AS 12.30.027(b), which involves bail conditions for those charged with crimes involving domestic violence. The amendment would allow defendants charged with assault on a co-resident or staff of an assisted living facility, nursing homes, or other supported living environments to return to that living environment while on bail, provided the victim is given notice and the victim's safety can reasonably be assured.
- **Information sharing.** The Commission recommends that the legislature enact a statute creating a standardized Release of Information (ROI) form that will be universally accepted by all state-funded agencies providing health and behavioral health services.
- **Add behavioral health information to felony presentence reports.** The Commission recommends that the legislature amend the relevant statutes to require that felony presentence reports discuss any assessed behavioral health conditions, if such assessments exist, so that judges will have information on a defendant's behavioral health needs at sentencing.
- **Amend Alaska's mental health statutes.** The Commission recommends that the Department of Health and Social Services review the proposed statutory changes in the UNLV study and work with the Commission to provide a report analyzing the proposed changes, identifying those changes that have major stakeholder support, and providing recommendations for implementation.
- **Include the Commissioner of DHSS on the Commission.** Given the significant number of justice-involved individuals with behavioral health needs, the Commission recommends including the Commissioner of the Department of Health and Social Services to this Commission.

The UNLV Study

- ✓ Commissioned by the Criminal Justice Working Group
- ✓ An extensive look at Alaska's behavioral health statutes, both criminal and civil, from medical and legal researchers at the University of Nevada, Las Vegas
- ✓ Identifies gaps in law and policy and proposes a number of changes to Alaska's statutes

As noted above, these are summaries of the Commission's recommendations; the full recommendations will be sent to the legislature in December with detailed explanations and analysis.

At the October 2016 Commission meeting, it was decided that the Behavioral Health Workgroup would become the Standing Committee on Behavioral Health.

C. Presumptive Sentencing and the Three-Judge Panel

The Commission formed the Presumptive Sentencing Workgroup at its January 2016 meeting. Though previous workgroups had examined certain sentencing issues, and SB 91 addressed those issues by lowering sentencing ranges, the Commission had not yet addressed the overall sentencing system, often described as “presumptive sentencing”. The Commission tasked the workgroup with taking a broad look at Alaska’s sentencing structure. The workgroup’s membership consisted of practitioners in criminal justice law, including public defenders and district attorneys; current and former judges; and victims’ rights advocates.

The group began by reviewing findings from a recent study by the Alaska Judicial Council, which analyzed Alaska’s 2012-2013 felony sentencing patterns. This was the first study of sentencing practices in Alaska following extensive changes to the sentencing statutes in 2005 and 2006. Some of these findings provided an evidentiary basis for SB91 reforms.

The workgroup noted the very substantial reforms to non-sex felony sentencing and felony probation and parole structures enacted in SB91, and it considered the Commission’s own impending responsibilities for monitoring SB91 implementation and evaluating its effects. Ultimately, the Workgroup concluded that it was disinclined this year to consider major structural changes to our sentencing system since (1) since there was no known evidence-based (‘better’) alternative and (2) the results ‘weren’t in’ from the SB91 reforms, many of which became effective only a few months ago and some of which have not commenced as of this writing.

However, the group did agree that for this year, it would consider more discrete issues. The workgroup discussed (a) possible additions to the list of statutory mitigating factors (“mitigators”) that allow judges to sentence below the presumptive sentencing range; (b) fixes for the three-judge-panel statutes; and (c) a change to the law of probation. The workgroup forwarded a proposal for two additional mitigators to the Commission. The workgroup intends to continue meeting to address the remaining issues.

The Commission has approved the workgroup’s proposal for **adding two statutory mitigators** to AS 12.55.155(d). These mitigators would allow judges to sentence a defendant below the presumptive range in cases if the defendant has demonstrated an “**acceptance of responsibility.**” One would apply in cases where a defendant has entered into a timely plea agreement, and one would apply in cases where a defendant has not entered into a plea agreement, but has otherwise demonstrated an acceptance of responsibility. Both mitigators are expected to conserve prosecutorial, defense and court resources by promoting timely resolutions of criminal cases. Timely resolutions are also usually consistent with victims’ interests.

As with the behavioral health recommendations, the Commission will send this recommendation separately to the legislature with a detailed analysis and explanation in December.

Workgroup Research

- Title 28
- Behavioral Health
- Presumptive Sentencing
- Restorative Justice and Restitution
- Barriers to Reentry

D. Restorative Justice and Victim Restitution

At the beginning of 2016, the Commission identified Restitution and Restorative Justice as one of its priorities for the year. In SB91, the Commission was also tasked with reporting on restitution to the legislature. The Commission's report is due on December 1.

The Restitution and Restorative Justice workgroup comprised a diverse group of stakeholders, including Commissioners, victims' rights advocates, public defenders, prosecutors, the Violent Crimes Compensation Board, the Municipality of Anchorage, and the Alaska Court System. The group largely focused on mechanisms of restitution collection and improving restitution payment rates. Commission staff performed an extensive data analysis of available restitution collection data, which helped inform the group's discussions. Commission staff found that restitution payment rates in Alaska are comparable to those in other states, though there is room for improvement.

Much of the group's discussion surrounded the significant shift in restitution collection that will take place within the next year. Until recently, the Department of Law had a dedicated restitution collection unit. Governor Walker vetoed the funding for this unit, so it will be closed by the end of the fiscal year. Starting in January 2017, felony probationers will have their restitution payments scheduled and overseen by their probation officers. Misdemeanor probationers and those not on probation will make their restitution payments to the court system.

The group also looked at ways that victims could be compensated for their losses without having to wait for offenders to be sentenced and ordered to pay restitution, as well as ways to help victims ask for restitution.

The Commission will send its complete research and analysis of the efficacy of Alaska's restitution collection system, along with its recommendations for improving restitution collection, in its report to the legislature on December 1, 2016.

The workgroup's focus this year has been specifically on victim restitution; its plan for next year is to look at restorative justice issues in the broader sense.

E. Barriers to Reentry

Prior to January 2016, the Barriers to Reentry Workgroup was divided into two subgroups, one devoted to employment and one to Title 28. As noted above, the Title 28 group was elevated to the level of Workgroup, and the Barriers Workgroup turned its attention to all reentry issues (aside from Title 28). The Barriers workgroup consisted of several commission members as well as representatives from DHSS, Partners for Progress, the Department of Corrections, and the Office of Victims' rights.

Workgroup Research

- Title 28
- Behavioral Health
- Presumptive Sentencing
- Restorative Justice and Restitution
- Barriers to Reentry

Workgroup Research

- Title 28
- Behavioral Health
- Presumptive Sentencing
- Restorative Justice and Restitution
- Barriers to Reentry

The group has discussed “ban the box” initiatives, which would bar employers from asking about felony convictions in employment applications. Staff discussed Ban the Box proposals with Department of Administration officials. Governor Walker’s office has indicated an interest in banning the box for state employment, and the workgroup will continue its ongoing dialogue with the Governor’s office on this initiative.

The workgroup also looked at barrier crimes in the context of licensure and state employment. Barrier crimes are certain crimes which, if they appear on a person’s record, would prevent a person from being licensed by the Department of Health and Social Services, from holding a job with DHSS, or from being a contractor with DHSS. DHSS has been working on revising the regulations surrounding barrier crimes. The Commission has asked DHSS to delay implementation of the proposed regulations, and the workgroup plans to offer its input during the regulatory process. The workgroup is also researching whether there is any need to reform policies regarding expungement and executive clemency. The group will continue to meet in the next year.

IV. Plans and Priorities

SB91 extended the life of the Commission to 2021. The Commission will continue to examine Alaska’s Criminal Justice system and identify areas in need of reform. In addition to following its original mandate, the Commission will also turn its attention to several new tasks.

A. Data collection, data analysis, and recommendations for reinvestment

SB91 also directs the Commission to oversee the implementation of the statutory changes it brought about. The Commission must gather data from the Department of Corrections, the Alaska Court System, and the Department of Public Safety to monitor the effect of the new laws. The data to be collected include (but are not limited to): information on criminal cases in the court system and their disposition; information on arrests and citations, and whether these arrests or citations led to convictions; information on the number of people in DOC custody, or under DOC supervision; the number of people on parole; and information about parole and probation violations and revocations.

The Commission has already tapped the Criminal Justice Working Group (CJWG) to help analyze this data. The Commission will use this analysis to determine whether the projected savings from SB91

Justice Reinvestment Priorities

- ✓ The Commission continues to recommend the following priorities for Alaska’s Justice Reinvestment:
- ✓ **Treatment services.** Fund treatment and programming in facilities and in the community to address criminogenic needs, behavioral health, substance abuse, and sexual offending behavior. Expand capacity for substance abuse treatment and detox centers and extend such facilities into communities that currently lack them.
- ✓ **Victims’ services in remote and bush communities.** Provide for emergency housing and travel, forensic exam training and equipment for health care providers, and community-driven programs that address cultural and geographic issues.
- ✓ **Violence prevention.** Provide for community-based programming focused on prevention, education, bystander intervention, restorative justice, evidence-based offender intervention, and building healthy communities.
- ✓ **Reentry and support services.** Expand transitional housing, employment, case management, and support for addiction recovery.

What's Next?

Recommendations, reports, and continuing workgroups

- Title 28 report- Due December 1, 2016
- Restitution report- Due December 1, 2016
- Social Impact Bonds report – Due December 15, 2016
- Additional legislative recommendations- to be delivered to the legislature by the end of the year
- Continuing work from current workgroups
- Formation of a standing committee on Behavioral Health
- Formation a workgroup dedicated to looking at Alaska's sexual offense statute, which will prepare a report to the legislature
- Monitoring the effects of SB91

are being realized, and if so, how to reinvest this money to redouble efforts to reduce recidivism and improve public safety. The Commission has already identified recommended areas for reinvestment (sidebar above). These recommendations may change if the data so warrant.

In addition to analyzing raw data from DOC, DPS, and ACS, the Commission, in partnership with the CJWG, will analyze the data produced by the **Results First Initiative (RFI)**. In 2015, the Commission recommended that state officials invite RFI to further state efforts at criminal justice reform. RFI is in the process of performing a complete inventory of state-funded adult criminal justice programs, with detailed benefit-cost analyses of these programs. The data from RFI will assist the Commission in making future recommendations for reinvestment.

B. Upcoming Reports

As noted above, the Commission will send the legislature reports on restitution and title 28 by December 1, 2016, as mandated by SB91. SB91 also requires the Commission to prepare a report on the potential use of social impact bonds to reduce recidivism in Alaska. The Commission will send this report to the legislature by December 15, 2016. Finally, the Commission will also send the legislature detailed recommendations regarding behavioral health and presumptive sentencing, as noted above.

C. Focus for the coming year

The Commission has decided that all current workgroups will continue to meet and identify potential areas for reform in the coming year. The Behavioral Health Workgroup will re-form as the Standing Committee on Behavioral Health, reflecting the broad relevance of behavioral health issues to criminal justice reform.

SB 91 also requires the Commission to form a workgroup to study Alaska's laws on sex-related offenses to determine "if there are circumstances under which victims' rights, public safety, and the rehabilitation of offenders are better served by changing the existing law."

Further information

For more information regarding the work of the Criminal Justice Commission, contact Commission Staff Attorney Barbara Dunham at 907-279-2526 or bidunham@ajc.state.ak.us.

APPENDIX A: ORGANIZATION

Representation. The legislative history of SB64's enactment showed a desire for convening a diverse group of agencies and interested parties in the criminal justice area who could work jointly to identify, vet and forward proposed reforms to the Legislature. Although the statute allowed for the designation of non-Commissioner state agency representatives, Commissioners almost always directly participate in Commission meetings.

Leadership. SB64 required the yearly election of Commission leadership. The Commission's first Chair, retired Supreme Court Justice Alexander O. Bryner, was elected in September 2014. Gregory Razo, elected in October 2015 and re-elected August 2016, succeeded Justice Bryner. A vice-chair (Jeff Jessee) was designated to cover exigencies.

Voting. The two Commission chairs have sought to have proposals resolved by consensus. Policies which lack consensus but have majority support will also be forwarded to the legislature, with an explanatory note regarding majority support.

Meetings. The Legislature expected the Commission to meet "at least quarterly" as a plenary body. It adopted a monthly meeting schedule for its first 18 months. Later, the Commission moved to an every-other-month schedule.

The Commission has never lacked a quorum. Meeting attendance is notably high, averaging 11.5 out of 13 total members (including non-voting members). Commission and public members utilize video- and audio-conferencing facilities to attend meetings when physical attendance is not possible.

In addition to attending plenary sessions, individual Commissioners have been present at numerous workgroup (committee) meetings staffed by the Alaska Judicial Council.

Committee Structure. The Commission created workgroups as needed to study issues in depth and to advance proposals to the Commission as a whole. These workgroups included Commissioners, interested agency representatives and public members.

Public notice and participation. All meetings are noticed on the State's online public notice website. Interested persons can also be placed on pertinent mailing lists notifying them of upcoming meetings and content. An audio-teleconference line is used for all meetings. All meetings allocate time for public comment.

Staffing. Although the Commission is one of the boards and commissions organized under the Office of the Governor, the Legislature and the Governor's Office tasked the Alaska Judicial Council (AJC) with its staffing and administrative support. A full-time attorney and a part-time research analyst hired by the Judicial Council staff the Commission; they are assisted by existing Judicial Council staff.

APPENDIX B: OFFICIALS

(Commission Members)

Alexander O. Bryner

Alex Bryner received his BA and JD from Stanford University Law School and moved to Alaska in 1969. He served as an assistant public defender, state district court judge, and was the U.S Attorney for Alaska (1977-1980). He was the Chief Judge for the Court of Appeals (1980-1997), a state Supreme Court justice (1997-2007) and its Chief Justice (2003-2007). Bryner has had a large variety of board memberships, including as board member of the Alaska Bar Association. Bryner currently has a part-time law practice.

John Coghill

John Coghill is a third-generation Alaskan and grew up in Nenana. He attended the University of Alaska Fairbanks. Coghill served in the US Air Force, worked as a school teacher, pastor's assistant and has been a small business owner. He began his political career in 1999 when he became a member of the House of Representatives for the 11th district. From 2003 to 2006, he was the House Majority Leader. In 2009, he was elected State Senator for District A. Coghill became the Senate Majority leader in 2013.

Jeff Jessee

Jeff Jessee grew up in Sacramento and received his JD from the UC Davis. He was an attorney for the Disability Law Center from 1980-1995, representing hundreds of individuals with mental disabilities, and a subclass in the litigation involving the state's mismanagement of the Alaska Mental Health Land Trust. As CEO for the Alaska Mental Health Trust Authority, he is responsible for leveraging Trust income and developing partnerships to enhance beneficiary-related services throughout the state.

Wes Keller

Wes Keller was born in Minnesota, graduated from the University of Wisconsin, and moved to Alaska in 1969. He obtained his secondary teacher certification in 1986 and administered the Teamster Training Center for three years. He also worked for oilfield services, as a residential building contractor and as a legislative aide. Keller has served as a state representative for the 14th district since 2007. He is now vice-chair of the House Judiciary Committee.

Jahna Lindemuth

Jahna Lindemuth was born and raised in Anchorage and received her J.D. from U.C. Berkeley in 1997. Ms. Lindemuth started her new role as Attorney General for the State of Alaska on August 8, 2016. Before becoming Attorney General, she spent 18 years in private practice at Dorsey & Whitney, LLP. While keeping up a full caseload, she donated many hours providing pro bono legal services to clients who could not afford an attorney, including representing one of the Fairbanks Four in a post-conviction relief proceeding in 2015. In reaching a settlement with the State of Alaska in December 2015, she helped secure the Fairbanks Four's release after eighteen years of imprisonment and the court vacated their convictions.

Walt Monegan

Walt Monegan is of Irish, Yupik, and Tlingit descent and grew up in Nyc, Alaska. He has a degree in Organizational Management from Alaska Pacific University and received training at Northwestern University, the John F. Kennedy School at Harvard University, and the FBI National Executive Institute. He was a member of the Anchorage Police Department and its chief, and served as the Interim Commissioner of the Alaska Department of Corrections. Currently, he is the Public Safety Commissioner.

Gregory P. Razo

Greg Razo is of Yupik and Hispanic descent and grew up in Anchorage. He is the Vice President of Government Contracting for Cook Inlet Region, Inc. (CIRI). Razo has a JD degree from Willamette University. Before working at CIRI, Razo practiced law in Kodiak. He also served as an deputy magistrate and Assistant District Attorney. He is a director of Alaska Legal Services Corporation, the Alaska Federation of Natives, the Alaska Pro Bono Program, and is the board vice-chair for the Alaska Native Justice Center.

Stephanie Rhoades

Stephanie Rhoades moved to Alaska in 1986. She has a JD from Northeastern University School of Law. Rhoades worked in private practice and as an Assistant District Attorney. In 1992, she was appointed to the District Court in Anchorage. In 1998, she established the first mental health court in Alaska. Rhoades served on the Alaska Criminal Justice Assessment Commission from 1997 to 2000 where she chaired the Decriminalizing the Mentally Ill Committee. She also served on the Alaska Prisoner Reentry Taskforce.

Kris Sell

Kris Sell is a lieutenant with the Juneau Police Department. She joined the Department in 1997. She holds a degree in Broadcast Journalism from the University of Montana, and received additional training at the Management College at the Institute for Law Enforcement Administration and graduated from the FBI National Academy. She is the vice president of the Alaska Peace Officers Association and a member of the Juneau Suicide Prevention Coalition.

Brenda Stanfill

Brenda Stanfill is the Executive Director of the Interior Alaska Center for Non-Violent Living and has been a victim advocate in the state of Alaska for 20 years. She holds a Master's Degree in Public Administration from the University of Alaska, Southeast and serves on the Governing Board of the Alaska Network on Domestic Violence and Sexual Assault. Ms. Stanfill is active in many groups in her community such as the Domestic Violence Task Force, the Housing and Homeless Group, and the Wellness Coalition.

Quinlan Steiner

Quinlan Steiner was raised in Anchorage and is a fourth-generation Alaskan. He holds a Juris Doctor from the Northwestern School of Law of Lewis and Clark College and a B.A. in Business Administration from Seattle University. Steiner has been attorney for the State Public Defender agency since 1998 and was appointed Public Defender and head of the agency in 2005. He has been a member of the Criminal Rules Committee since 2006 and the Criminal Justice Working Group since 2008.

Trevor Stephens

Trevor Stephens was raised in Ketchikan. After obtaining a JD degree from Willamette University, he returned to Ketchikan, working in private practice, as an Assistant Public Defender, Assistant District Attorney and the District Attorney. On the bench since 2000, Stephens is the presiding judge of the First Judicial District, a member of the three-judge sentencing panel, and a member of the Family Rules Committee, Jury Improvement Committee, and the Child in Need of Aid Court Improvement Committee.

Dean Williams

Dean Williams started his state career in 1981 as a youth counselor in juvenile justice. He was the juvenile justice superintendent in Nome, and then eventually moved back to Anchorage to finish his first state career as the juvenile justice superintendent at Mc Laughlin Youth Center. There, he focused on school discipline and the over use of expulsion/suspension. Along with many partners, Commissioner Williams spearheaded the start of Step Up, Anchorage's first alternative school focused on expelled and suspended youth. The work on expulsion/suspension lead to several national appointments to continue the work on closing the "school to prison pipeline." Commissioner Williams then came back to public service as a special assistant in the Department of Public Safety, which eventually lead him to be Governor Walker's special assistant. He is currently the Commissioner of the Department of Corrections where he has the privilege to lead a fantastic team.

APPENDIX C: FURTHER INFORMATION AND PRACTITIONER'S GUIDE

The Alaska Criminal Justice Commission maintains a website with meeting times, agendas, and summaries for all plenary meetings and workgroup meetings. The website also has extensive substantive information, including research that the Commission has relied upon in formulating its recommendations. The resource page with this information may be found at: <http://www.ajc.state.ak.us/alaska-criminal-justice-commission/resource-list-compiled-by-commission-staff>. Below, you will find one such resource, A Practitioner's Guide to SB91, designed to guide Alaskans working in the field of criminal justice through the changes to the law brought by SB91.

**RECOMMENDATION TO THE ALASKA LEGISLATURE
FROM THE ALASKA CRIMINAL JUSTICE COMMISSION**

Recommendation 2-2018, adopted February 6, 2018:

**The Commissioner of Health and Social Services should be a voting member
of the Alaska Criminal Justice Commission**

In August 2016, the Alaska Criminal Justice Commission (“the Commission”) voted to add the Commissioner of the Department of Health and Social Services (DHSS) as a member of the Commission. In November 2017, the Alaska Legislature passed SB 54, which added the Commissioner of DHSS to the Commission as a non-voting member. The Commission’s original recommendation in 2016 did not explicitly state whether the Commission intended the Commissioner of DHSS to be a voting member.

On February 6, 2018, the Commission discussed this change and voted to clarify that the original intent of the 2016 recommendation was that the Commissioner of DHSS be added to the Commission as a voting member.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN

TO: HB 290

1 Page 2, line 15:

2 Delete "nonvoting member, serving ex officio, who is a"

3 Insert "[NONVOTING MEMBER, SERVING EX OFFICIO, WHO IS A]"

4

5 Page 2, line 17:

6 Delete "nonvoting member, serving ex officio, who is a"

7 Insert "[NONVOTING MEMBER, SERVING EX OFFICIO, WHO IS A]"