

MEMORANDUM

ALASKA COURT SYSTEM

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TO: Representative Austerman, House Finance Co-Chair
Representative Stoltze, House Finance Co-Chair
Representative Neuman, House Finance Vice-Chair

House Finance Committee Members:

Representative Costello
Representative Edgmon
Representative Holmes
Representative Munoz
Representative Thompson
Representative T. Wilson
Representative Gara
Representative Guttenberg

FROM: Doug Wooliver
Deputy Administrative Director
Alaska Court System

DATE: February 5, 2014

RE: House Finance Questions of the Alaska Court System

During the court system's January 30, 2014 House Finance Committee Budget Overview I was asked questions for which I promised answers; below are the answers. Please let me know if you have additional or follow-up questions.

I. CRIMINAL TRIAL RATES

Three separate but related questions were asked about the increasing percentage of criminal cases that go to trial: (1) did the trial rate increase as a result of the lengthier sentences for sex offenses that the legislature passed in 2006 (SB 281); (2) did the court system already receive funding for the increased trial rates through a fiscal note on either SB 218 or the governor's DV bill of 2011 (HB127); and (3) have we seen an increase in criminal trials as a result of the recent change in how the Department of Law negotiates certain plea agreements?

A. SB 218

Senate Bill 218 roughly doubled the sentences for sex offenses. Although the conventional wisdom is that a significant increase in the penalties for a crime will generally result in a higher trial rate, I am not aware of a study that has been done to determine whether such a result followed passage of SB 218. In order to answer this question, a study would need to compare

the trial rate of offenders sentenced under the earlier provisions with those sentenced under the newer provisions. Unfortunately, short of a review of each individual case, the court system does not have a way to go back and make that comparison. Our current computer systems, which capture all the relevant data for such a research project, have not been in place long enough to give us enough accurate information for a meaningful comparison. This would be a very worthwhile research project, but it is not one we can do without either better data or a significant time commitment.

B. Past fiscal notes

The court system submitted an indeterminate fiscal note on SB 218 (attached), but noted that the bill was likely to lead to an increase in jury trials. Similarly, although HB 127 made several changes to the statutes, none directly impacted the court system and we did not submit a fiscal note on that legislation.

C. Recent change in plea bargaining practices

Members were also interested in knowing whether the Department of Law's July decision to no longer enter into sentencing pleas in cases involving certain criminal offenses¹ has resulted in an increase in jury trials.

At the hearing I told the committee that the court was still looking at our data to see if the change in policy has had an impact on trial rates. We continue to look for more data to make that determination and I will update the committee as we learn more.

II. DRIVER'S LICENSE REVOCATIONS

I was also asked to explain the interplay between the revocation of a person's driver's license following a criminal conviction for driving under the influence, and the revocation of that same license for the same driving offense following an administrative action. The distinction between criminal and administrative license revocation is far from obvious and is a frequent source of confusion.

When a person is arrested on suspicion of driving under the influence, the arresting officer seizes the person's driver's license and issues a temporary license good for seven days. If the person does not request a hearing on the revocation, the temporary license will expire at the end of seven days and the license revocation will take effect (AS 28.15.165). The revocation

¹ The offenses covered by the new plea policy are all unclassified and class A felonies, all sex offenses and human trafficking crimes, and all felony and misdemeanor crimes of domestic violence.

will last anywhere from a minimum of 90 days for a first offender to a minimum of five years for someone with three or more prior DUI convictions (AS 28.15.181(c)).

If the person requests a hearing before a hearing officer, the temporary license will remain in effect until the hearing is held and the decision is issued.

While the administrative process is going on, the criminal prosecution is also moving forward. If the person is convicted, his or her license will be revoked for a period of time that is generally the same as the administrative revocation. Alaska Statute 28.15.181(c) states that the two periods of revocation may be either concurrent or consecutive. In other words, the statute allows the revocations to either run at the same time, or one after the other. In most cases the periods are concurrent and the driver will have his or her license revoked for one period of time, but that is not always the case.

The specific question I was asked was how is it that a person can have his or her license revoked for a DUI, get it back, and then later have it revoked again for the same offense. My understanding is that this is not a common occurrence, but it does happen. A typical scenario is when a person is arrested for DUI, gets his or her license revoked through the administrative process, but contests the criminal charge. That could delay the criminal case for several months, during which time the person may have served the period of administrative revocation and had his or her license returned. If the person is eventually convicted of the criminal charge, the statute gives the judge a choice. He or she may decide, based on the particular facts of the case, that the proper result is either a revocation concurrent with the earlier one, in which case the person will keep his or her license, or consecutive to the earlier one, in which case the person will again lose his or her license. There are other scenarios that can lead to consecutive revocations, but this is one example.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSSB 218(FIN)
 (S) Publish Date: 2/9/06

Revision Date/Time (Note if correction):

Title Criminal Sentencing and Polygraphs

Dept. Affected:

RDU Alaska Court System

Component Trial Courts

Sponsor Senator Bunde

Requester

Component No. _____

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Judiciary Committee Substitute for SB 218 significantly increases the presumptive sentences for those convicted of sexual offenses. It is likely that the longer sentences will increase a defendant's willingness to go to trial. Although the additional costs associated with those trials will fiscally impact the court system, the extent of the impact is too speculative to support a fiscal note.

Prepared by: Doug Wooliver, Administrative Attorney

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Date/Time 1/26/06 @ 9:00 am

Approved by: Doug Wooliver for Stephanie Cole, Administrative Director

Agency: Alaska Court System

Date 1/26/2006