



# ALASKA STATE LEGISLATURE

## SENATOR JOHN COGHILL

State Capitol, Room 119, Juneau, AK 99801-1182 (907) 465-3719  
301 Santa Claus Lane, Suite 3B, North Pole, AK 99705 (907) 488-5725

### CSSB 64 - SECTIONAL ANALYSIS

**CSSB 64:** “An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for offenders in court-ordered treatment programs; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving while under the influence or refusing to submit to a chemical test; relating to court termination of a revocation of a person’s driver’s license; relating to limitation of drivers’ licenses; relating to restoration of a driver’s license; relating to conditions of probation and parole; and providing for an effective date.”

**Section 1:** AS 12.55.027(c) is amended to read:

An incarcerated person shall receive credit against a sentence of imprisonment, including periods when the person is permitted to leave their facility for an expressly limited time and place.

**Section 2:** AS 22.20 is amended to add new sections.

The new sections shall create the Alaska Sentencing Commission.

AS 22.20.510 outlines the membership of the Alaska Sentencing Commission:

1. Three members of the Senate (to be chosen by the President).
  - a. One shall be a minority caucus member.
2. Three members of the House (to be chosen by the Speaker).
  - a. One shall be a minority caucus member.
3. The chief justice of the Alaska Supreme Court **or** another active or retired justice **or** an active or retired judge of the Court of Appeals designated by the chief justice.
4. An active or retired superior court judge designated by the chief justice for a three-year term.
5. An active or retired district court judge designated by the chief justice for a three-year term.
6. A member of the Alaska native community appointed by the governor for a three-year term. Serves at the pleasure of the governor.
7. The attorney general or a designee of the attorney general.
8. The commissioner of corrections or a deputy commissioner designated by the commissioner.

CSSB 64 - SECTIONAL ANALYSIS

Sen. Coghill’s Office

Page 1 of 6

9. The commissioner of public safety or a deputy commissioner designated by the commissioner.
10. The commissioner of health and social services or a deputy commissioner designated by the commissioner.
11. The director of the Public Defender Agency or a deputy public defender designated by the director.
12. The director of the office of public advocacy or deputy director designated by the director.
13. A victims' rights advocate appointed by the governor for a three-year term. Serves at the pleasure of the governor.

The Office of the Governor shall provide staff and administrative support to the commission.

AS 22.20.520 outlines that commission members shall serve without compensation but are entitled to per diem and travel expenses.

AS 22.20.530 outlines that a majority of the members shall constitute a quorum.

The commission shall meet at least quarterly and keep its records available for public inspection.

AS 22.20.540 outlines powers and duties of the commission. The commission shall evaluate and make recommendations for improving criminal sentencing practices. In doing so, the commission shall consider:

1. Statutes and court rules.
2. Sentencing practices, including presumptive sentencing.
3. Means of promoting uniformity and proportionality in sentencing.
4. Alternatives to traditional forms of incarceration.
5. Analysis of parole and probation.
6. The effectiveness of treatment and rehabilitation programs.
7. Crime and incarceration rates.
8. The relationship between sentencing priorities and correctional resources.
9. Truth and certainty in statutes and sentencing practices.
10. The effectiveness of the state's current methodologies and collection of criminal justice data.

The commission may select and maintain consultants to assist the commission.

The commission may collect and compile information concerning sentencing practices.

The commission may recommend legislative and administrative action on sentencing.

AS 12.20.550 outlines the methodology for the commission. The commission shall consider the information and views for a variety of constituencies.

Recommendations shall be based on the following factors:

- A. The seriousness of each offense.
- B. Prior criminal history.
- C. The need to rehabilitate criminals.
- D. The need to confine offenders.
- E. The extent to which criminal offenses harm victims.
- F. The effect of sentencing to deter an offender.
- G. The effect of sentencing as a community condemnation of criminal acts.
- H. The elimination of unjustified disparity in sentences.
- I. The resources available to agencies in the criminal justice system.
- J. The effect of sentencing on reducing the rate of recidivism in the state.

AS 22.20.560 outlines the expected annual report and recommendations. The commission shall submit to the governor and legislature an annual report.

AS 22.20.570 is the definition.

**Section 3:** AS 28.15.181(f) is amended to read:

The court may terminate a revocation of license for a DUI or refusal offense if either:

1. The person's license has been revoked for the minimum period required:
  - i. 90 days for a first time misdemeanor offense.
  - ii. 1 year for misdemeanor second offense.
  - iii. 3 years for a misdemeanor third offense, or, if a felony, "for life" for a third offense.
  - iv. 5 years for a misdemeanor fourth offense, or, if a felony, "for life" for a fourth offense.
  - v. 5 years for a misdemeanor fifth offense, or, if a felony, "for life" for a fifth offense).

**or**

2. The person:
  - i. has successfully completed a court-ordered treatment program;
  - ii. has not been charged with or convicted of a DUI or refusal since completing the program;
  - iii. has been granted limited license privileges and having successfully driven under the limited license for the minimum period.

**Section 4:** AS 28.15.201 outlines when a court may grant limited license privileges. Limited license privileges may be granted if:

1. The revocation was for a DUI or refusal.
2. The person is participating in a court-ordered treatment program.
3. The court grants the limited license for a minimum time of either:
  - a. The period of revocation while the person is participating in the court-ordered treatment program; **or**
  - b. 5 years, for a person convicted of a felony DUI or refusal, including the period of revocation while the person was participating in the court-ordered treatment program.
4. The person provides proof of insurance.
5. The person agrees to be free from drugs and alcohol.
6. The person pays the cost of testing for the substances.

The court shall immediately revoke a limited license if the person is charged with or convicted of a DUI or refusal **or** tests positive for the use of alcohol or a controlled substance.

**Section 5:** AS 28.35.028(b) Procedure:

Once the court elects to proceed with this procedure the defendant shall enter a plea of “no contest” or “guilty.”

The court shall enter a judgment of conviction.

In a judgment of conviction and on probation conditions that the court considers appropriate, the court may withhold pronouncement of a period of imprisonment or a fine to provide an incentive for the defendant to complete the recommended treatment successfully.

The court may reduce the defendant’s sentence, including the time for imprisonment, fine, or license revocation.

**Section 6:** AS 28.35.030(o) (**DUI**) is amended to read:

Upon request, the department may consider a review of a felony driver’s license revocation and:

1. May restore the license if:
  - A. The license has been revoked for a period at least 10 years
  - B. The person has not been convicted of a criminal offense since the license was revoked; and

- C. The person provides proof of financial responsibility, and
- 2. Shall restore the driver's license if
  - A. The person has been granted limited license privileges and has successfully driven on the limited license for a period of 5 years.
  - B. Has not been convicted of a criminal offense since the license was revoked.
  - C. The person proves proof of financial responsibility.

**Section 7:** AS 28.35.032(q) (**Refusal**) is amended to read:

Upon request, the department shall review a driver's license revocation and:

- 1. May restore the driver's license if
  - A. The license has been revoked for a period of at least 10 years
  - B. The person has not been convicted of a criminal offense since the license was been revoked; and
  - C. The person provides proof of financial responsibility; and
- 2. Shall restore the driver's license if
  - A. The person has been granted limited license privileges and has successfully driven on the limited license for a period of 5 years.
  - B. Has not been convicted of a criminal offense since the license was revoked.
  - C. The person proves proof of financial responsibility.

**Section 8:** AS 33.05.020 (**Duties of commissioner; probation officers and personnel**) is amended to add a new subsection to read:

The commissioner shall establish a program with eligibility requirements for certain offenders. The program shall:

- 1. Include random drug testing.
- 2. Require the probation officer to file a petition to revoke probation if a probationer:
  - A. Fails to appear for an appointment.
  - B. Tests positive for drugs or alcohol.
  - C. Fails a condition of probation.
- 3. Include a means to give the court prompt notice of a violation and take action as necessary.

**Section 9:** AS 33.16.060 (**Duties of the parole board**) is amended by adding a new subsection to read:

The board shall establish a program with eligibility requirements for certain offenders. The program shall:

1. Include random drug testing.
2. Require the probation officer to file a petition to revoke probation if a probationer:
  - A. Fails to appear for an appointment.
  - B. Tests positive for drugs or alcohol.
  - C. Fails a condition of probation.
3. Include a means to provide the board prompt notice of a violation and take action as necessary.

**Section 10:** Applicability and changes.

**Section 11:** Transitional Provisions.

**Section 12:** This Act takes effect immediately.