

ALASKA STATE LEGISLATURE

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Senate Bill 91 **Summary of Changes**

SSSB 91\N to SSSB 91\P **Sponsor Substitute to CS (STA) Work Draft**

Prepared by the Senate State Affairs Committee 3/3/2016

1. Amends various statutes to reflect Misconduct Involving a Controlled Substance (MICS) renumbering, reflected throughout the bill. For instance, sections 1 & 2 regarding Murder in the Second Degree, and Murder of an Unborn Child now appear in the bill for this reason.
2. Reestablishes Criminal Trespass in the Second Degree, Criminal Mischief in the Fifth Degree, and Harassment in the Second Degree as class B misdemeanors, rather than offenses. (Removed former § 8, 13, 26)
3. Removes the section which would increase the felony property crime threshold for Vehicle Theft in the First Degree. That section had proposed increasing that threshold from \$750 to \$2,000. (Removed former § 9)
 - **Note:** The felony threshold for all property crimes was increased from \$500 or less, to \$750 on July 1, 2014, pursuant to SB 64 in the 28th Legislature.
4. Reduces the Fraudulent Use of an Access Device threshold for a class C felony to \$50. (Former § 7 / New § 9)
 - **Note:** This crime was reclassified from a class A misdemeanor to a class C felony and lowered in felony threshold from \$500 to \$50 in 2005 upon the unanimous passage of HB 131 (Ch. 67, SLA 05). Law enforcement stakeholders working collaboratively with the sponsor brought this issue to the committee and the sponsor requested that this crime not be included in the raise up to \$2,000 in felony property thresholds.

5. Removes from the bill the imposition of an annual inflation adjustment of the value of property that distinguishes between misdemeanor and felony property offenses. (Removed former § 17)
6. Reestablishes Failure to Appear (FTA) as a misdemeanor, rather than an offense. Retains bill language clarifying that in a prosecution for FTA, it is not a defense that the defendant was not provided or did not receive a notice or reminder notification from a court or judicial officer. (Former § 18-19 / New § 16)
7. Requires that a person convicted of a violation of condition of release shall have that record published on CourtView, as Violation of Condition of Release under SB 91 is reduced from a crime to an offense. (Former § 21 / New § 17, 73)
8. Returns Disorderly Conduct to a class B misdemeanor, while retaining the bill's reduction from 10 days maximum term of imprisonment to 24 hours maximum term of imprisonment. (Former § 24-25, New § 20)
9. Reestablishes the delivery of any amount of a schedule IA, IIA, or IIIA controlled substance to a person under 19, who is at least three years younger than the person delivering the substance, as MICS-1 (unclassified felony), rather than MICS-2 (class A felony). Reestablishes the conduct related to the manufacture of methamphetamine around children as MICS-1, rather than MICS-2, and reestablishes this within the existing felony sentence presumptive range in AS 12.55.125. (Former § 21, 31 / New § 25, 35)
10. Elevates possession of any amount of a schedule IA or IIA controlled substance around school grounds, youth recreation centers, and school busses from MICS-3 to MICS-2, but decreases the MICS-2 penalty from class A felony to class B felony. (Former § 31-32 / New § 25-26)
11. Aligns the manufacture of methamphetamine and possession of methamphetamine precursors with the manufacture of other scheduled substances in MICS-2. (Former § 31 / New § 25-27)

12. Adds several more exceptions to the presumption of citation by an officer when stopping or contacting a person, by including property offenses, theft in the second degree, sexual offenses, escape, unlawful evasion, and unlawful contact. Existing exceptions are broadened by deleting “significant” from the danger required or the flight risk provisions. Allows an arrest for criminal trespass in the second degree or criminal mischief, and no longer requires that a person be held for *no more than* 24 hours. (Former § 37 / New § 33)
13. Establishes total immunity from civil action for damages for failure to comply with the provisions of section 33 regarding when an officer may cite or arrest, if an improper arrest is made. (New § 34)
14. Limits the number of bail review hearings a defendant is entitled to due to “new information” now that a person’s inability to post the required bail can be taken into account under SB 91. (Former § 40 / New § 37)
 - **Note:** The CS work draft may not reflect the committee’s intent that the number of new bail review hearings be capped at one for “new information” *relating to a person’s inability to post the required bail*. An amendment to clarify this has been requested.
15. Authorizes the court to require a secured appearance or performance bond for several new types of offenses including Terroristic Threatening, Possession of Child Pornography, Escape in the Third Degree, Unlawful Evasion, Unlawful Contact in the First Degree, Misconduct Involving Weapons in the First, Second, and Third degrees, and all sex offenses. (Former § 44 / New § 41)
16. Ensures the Suspended Entry of Judgement provision in SB 91 does not provide for record confidentiality under the recently passed House Bill 11. Individuals who plead guilty or who are convicted would now under the CS have their cases remain on CourtView, with notation of Suspended Entry of Judgment. Also, excludes persons convicted of a crime involving domestic violence from eligibility for Suspended Entry of Judgment. (Former § 59 / New § 57, 73)
17. Increases the maximum term of probation from five years to ten years for unclassified felonies or felony sex offenses (currently 25 years); increases the maximum term of probation from three years to five years (currently 10 years) for all other felonies except domestic violence; and increases to four years for all domestic violence offenses. (Former § 61 / New § 59)

18. Removes language from existing AS 12.55.090(h) limiting the number of victims who may give sworn testimony at a hearing to reduce or terminate probation and discharge a defendant before the period of probation for the offense has been completed. This was a request of the Office of Victims' Rights (OVR). (Former § 63 / New § 61)
19. Reestablishes the existing statutory presumptive range of imprisonment of two to four years for criminally negligent homicide where the victim is under the age of 16. (Former § 69 / New § 67)
20. Removes Assault in the Fourth Degree from the 0-30 day presumptive range for class A misdemeanors, replaces it at up to one year. (Former § 71 / New § 69)
21. Under Duties of a Prosecuting Attorney, requires the prosecutor to confer with the victim of any felony offense or domestic violence offense concerning a proposed plea agreement prior to entering into such an agreement. This broadens the requirement to confer *with victims of all felonies*, not just victims of domestic violence. This was added at the request of OVR. (New § 72)
22. Changes the earned compliance credit to be applied every thirty days, upon thirty days of compliance rather than each day for a single day of credit. Also clarifies that no proration of months shall be allowed. (Former § 88 / New § 88)
23. Excludes persons convicted of a sexual felony from eligibility for administrative parole, which is offered under the bill to prisoners convicted of class B or C felonies. (Former § 96 / New § 96)
24. Excludes persons convicted of a sexual or unclassified felony from eligibility for geriatric parole. Increases the age of eligibility for geriatric parole to 60 years of age, from 55 years of age in the previous version of the bill. Continues to require that at least 10 years of a sentence for one or more crimes in a single judgement have been served as a prerequisite. (Former § 97 / New § 97)
25. Changes from compulsory to discretionary the Board of Parole's unconditional discharge of a parolee upon their completion of one year of parole while in compliance and having completed all treatment programs required. Adds an exclusion for persons convicted of an unclassified felony offense, a sexual felony, or a crime involving domestic violence from eligibility for early unconditional discharge from parole. (Former § 117 / New § 117)

26. Corrects references to violators of parole, rather than probation. (Former § 118 / New § 118)
27. Corrects a drafting error in Section 129.
28. Establishes a testing program within the Department of Health and Social Services to determine eligibility for public assistance for persons convicted of drug offenses within the previous five years. Testing is required quarterly, upon renewal of benefits, and on a random basis for the use of *illegal* controlled substances. A person is disqualified from receiving public assistance for six months if tested positive for the illegal use of controlled substances. (New § 134)
29. An exception to the disqualification from receiving temporary assistance or food stamps is created for those persons in compliance with the testing program established in section 134. (Former § 133 / New § 135)
30. Establishes a severability clause that should the testing requirement established under section 134 or the application of it to any person or circumstances be held invalid by a court of competent jurisdiction, the remainder of this act and the application to other persons or circumstances are not affected. (New § 142)
 - **Note:** The committee requested for the CS that, should section 134 regarding testing be found invalid, the exemption offered in section 135 from the state ban on temporary assistance or food stamps for convicted drug felons would be removed—reinstating the ban as it exists presently in statute. An amendment has been requested to correct this oversight.
31. Removes retroactive application of administrative, geriatric, and discretionary parole provisions. They shall now apply to persons sentenced on or after the effective date of these sections, for conduct occurring before, on or after the effective dates. (Former § 141 / New § 141 – *Applicability*)