

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version: SB 91  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SSSB91CS(STA)-LAW-CRIM-03-04-16  
Title: OMNIBUS CRIM LAW & PROCEDURE;  
CORRECTIONS  
Sponsor: COGHILL  
Requester: Senate State Affairs

Department: Department of Law  
Appropriation: Criminal Division  
Allocation: Criminal Justice Litigation  
OMB Component Number: 2202

## Expenditures/Revenues

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

(Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	***	<b>0.0</b>	***	***	***	***	***

## Fund Source (Operating Only)

None							
<b>Total</b>	***	<b>0.0</b>	***	***	***	***	***

## Positions

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2017) 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If yes, by what date are the regulations to be adopted, amended or repealed?

## Why this fiscal note differs from previous version:

This version differs from the initial submission as this fiscal note still reflects the committee substitute of the bill adopted by the Senate State Affairs committee.

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Date: 03/04/2016 03:29 PM  
Date: 03/04/16

## FISCAL NOTE ANALYSIS

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### Analysis

This legislation makes significant changes to the current criminal code and incorporates policy recommendations from the Alaska Criminal Justice Commission.

#### **Reduction in Sentence Length**

The legislation reduces felony sentences and establishes a maximum imprisonment of 30 days for most misdemeanor cases. This maximum 30-day sentence can be exceeded if a jury finds that the conduct was among the most serious for that type of offense or if the defendant is convicted for an offense and has been convicted of similar offenses in the past.

The Department of Law anticipates an increase in the number of trials as well as an increase in the amount of work required for misdemeanors due to these changes. The increased work results from being required to prove aggravators for misdemeanors. This will involve litigating, first in the trial courts and then in the appellate courts, how these new aggravators will be applied and interpreted. It is unclear how many cases will fall into the categories requiring additional time, therefore the department is unable to quantify the impact of these sections at this time.

#### **Bail Hearings for Parole**

Under current law, parolees are not entitled to bail. This legislation reverses that by entitling a parolee who is not charged with a new crime or failure to comply with sex offender treatment to bail. This may require the Department of Law to appear at bail hearings for parolees. This section of the legislation may add a new responsibility to the Department of Law and increase the number of hearings it is required to attend.

It is unclear how many more hearings will be required. Therefore, the department is unable to quantify the impact of these sections at this time.

#### **Bail Reform**

The legislation makes significant changes to the bail process. Under the legislation a judge is required to order a person released on their personal recognizance unless they find on the record that there is clear and convincing evidence that less restrictive conditions will not reasonably ensure that the person will appear in court or protect the safety of the victims and the community.

## FISCAL NOTE ANALYSIS

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### Analysis Continued

Under current law a judge may not consider the person's inability to pay the bail when setting or amending bail. This law reverses that limitation of what a judge may consider and specifically requires a judge to consider whether a person has ability to post the bail amount.

Another new requirement is a risk assessment by a pretrial services officer. That assessment along with recommendations on conditions of release must be presented to the judge, prosecutor, and defense attorney before each person is arraigned. How those assessments are conducted, interpreted and applied will likely result in new litigation.

Because inability to pay would be an allowable basis for requesting a bail review hearing, bail review hearings will be available to a larger group of people resulting in a significant increase in hearings. It is unclear exactly how many more hearings or how much new litigation will result from these sections. Therefore, the department is unable to quantify the impact of these sections at this time.

#### **Capping Time Imposed for Technical Violations of Probation**

The legislation caps the amount of time a person can serve for first, second, and third technical violations of probation.

The department does not anticipate a fiscal impact from these sections at this time.

#### **Drug Offenses**

This legislation reduces the penalties for certain conduct related to controlled substances. It makes it a class B felony to manufacture or deliver 2.5 grams or more of a schedule IA (heroin), IIA (methamphetamine), or IIIA (zolazepam) controlled substance. It also makes it a class C felony to manufacture or deliver less than 2.5 grams of a schedule IA (heroin), IIA (methamphetamine), or IIIA (zolazepam) controlled substance. The legislation also reduces the penalty for possessing any of these substances to a class A misdemeanor.

The department does not anticipate a fiscal impact from these sections at this time.

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### Analysis Continued

#### **Suspended Entry of Judgment**

The legislation establishes a new judicial procedure in which a person is found guilty or pleads guilty to a crime and the judgment is not immediately entered. The person would be put on probation for a certain period of time. If the person successfully completes probation the judgment would not be entered and there would never be a formal entry of guilt for the person.

The department does not anticipate a fiscal impact from this section at this time.

#### **Pretrial Services Program**

The legislation establishes a pretrial services program in the Department of Corrections. This program shall develop and implement a pretrial risk assessment which will be conducted on all defendants before the defendant's first appearance before a judicial officer and supervise pretrial defendants who are released on bail as ordered by the court.

The department does not anticipate a fiscal impact from these sections at this time.