

29th Alaska State Legislature

Senate Majority Leader

Joint Armed Services Committee

Co-Chairman

Judiciary Committee

Vice-Chairman

Resources Committee

State Affairs Committee

Legislative Council

Rules Committee



Senator John Coghill

Session Address:
State Capitol, Room 119
Juneau, AK 99801-1182
(907) 465-3719
Fax (907) 465-3258

Interim Address:
1292 Sadler Way, Suite 340
Fairbanks, AK 99701
(907) 451-2997
Fax (907) 451-3526
877-465-3719

www.aksenate.org

SECTIONAL ANALYSIS

Senate Bill 91

*Criminal Law/Procedure; Driv Lic; Pub Aid
Version H*

Section 1

AS 11.56.740. Violating a protective order.

A person does not commit the crime of violating a protective order if the person who asked for and got the protective order initiates the contact.

Section 2

AS 12.30.011(b). Release before trial.

Creates a new bail condition that allows the judge to order a person to comply with an electronic monitoring program provided in section 4.

Section 3

AS 12.55.015(a). Authorized sentences; forfeiture.

Conforming section to specify that community work service may only be imposed for an offense referred to in 12.55.055(a).

Section 4

AS 12.55.029. Credit for time spent on electronic monitoring toward a service of a sentence.

On order by a judge, provides credit against the total prison term imposed by the court for time spent on pre-trial electronic monitoring. The E.M. program is approved by the Department of Corrections and must impose substantial restrictions on the person's freedom of movement and behavior and must be confined to a residence with GPS monitoring and, if ordered by the court, alcohol monitoring. The defendant is not eligible for credit granted under this section if the person commits a criminal offense while on electronic monitoring,

Section 5

AS 12.55.039. Surcharge.

Increases the police training surcharges that were established in 1998.

Section 6

AS 12.55.055(a). Community work.

A court may order CWS as a probation condition only for crimes under the alcohol title, driving title, or for juveniles, but not for any other crimes.

Section 7

AS 12.55.055(c). Community work.

The court may offer a defendant convicted of an offense the option of performing community work in lieu of a fine. The value of community work in lieu of a fine is the state's minimum wage for each hour.

Section 8

AS 12.55.055. Community work.

The court may not offer a defendant convicted of an offense the option of serving jail time in lieu of performing uncompleted community work. If the defendant fails to complete the assigned community work within 20 days after the date set by the court, the court shall convert those community work hours to a fine, but not to time in prison.

Section 9

AS 12.55.085(b). Suspending imposition of sentence.

At any time a probation officer may administratively sanction a person on probation.

Section 10

AS 12.55.088(a). Modification of sentence.

The court may modify a sentence within five years after the original sentencing and before the unconditional discharge of the defendant.

Section 11

AS 12.55.090(b). Granting of probation.

Conforming to a statute repealed in section 33 which prevents judges from modifying a sentence of probation if it was part of a plea bargain.

Section 12

AS 12.55.090(c). Granting of probation.

A period of probation may not exceed 25 years for a felony sex offense, 10 years for an unclassified or class A felony, and five years for any other offense.

Section 13

AS 12.55.095. Reduction of probation for good conduct.

Conforming new section of law that authorizes the court to reduce the period of probation for a person for good conduct if the person qualifies for the reduction and the reduction is recommended by the Department of Corrections.

Section 14

AS 12.55.110. Notice and grounds for revocation of suspension.

If the court does not revoke probation, the court shall impose a sentence of imprisonment of not more than 10 days for a technical violation, the cumulative amount being 45 days. A “technical violation of probation” is a violation of the conditions of probation, but not the commission of a new crime.

Section 15

AS 12.55.155(d)(17). Factors in aggravation and mitigation.

Expands a mitigating factor at sentencing to be available for certain felons and broadens the court-ordered treatment available to the person to be eligible for the mitigating factor, excluding sex offenders.

Section 16

AS 28.15.165. Administrative revocations and disqualifications resulting from chemical sobriety tests and refusals to submit to tests.

A person whose driver’s license has been revoked for testing at .08 or greater on a preliminary breath test (PBT) or refusal to take a PBT may request that the department rescind the revocation. The department shall rescind a revocation if the department finds that the person has supplied proof that they have been acquitted, or all criminal charges against the person relating to the incident have been dismissed with prejudice.

Section 17

AS 28.15.181(f). Court suspensions, revocations, and limitations.

Authorizes the court to terminate a revocation for DUI or refusal if the person has successfully completed the therapeutic court treatment program, has not been convicted of DUI or refusal since completing the program, and has successfully driven for three years on a limited license.

Section 18

AS 28.15.201. Limitation of driver’s license.

The court or the department revoking a driver’s license may grant limited license privileges if

- The revocation was for a felony conviction.
- The person has successfully participated for at least six months, or successfully completed, the therapeutic court program.
- The person provides proof of insurance.
- The person has an ignition interlock device installed at all times.
- The person is enrolled in or has completed the Alcohol Safety Action Program (ASAP).
- The person has not previously been granted a limited license and had it revoked.

- The person is participating in the 24/7 Sobriety program for a minimum of 120 days from the date the limited license was granted.

The court may immediately revoke the limited license if the person is convicted of a DUI or refusal or the person is not in compliance with the therapeutic court program.

Section 19

AS 28.35.028(b). Court-ordered treatment.

Conforming amendment to account for the limited license option permitted by section 18.

Section 20

AS 28.35.030(o). Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverages, inhalant, or controlled substance.

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

- The person has driven successfully on a limited license for three years.
- The person has successfully completed the therapeutic court program.
- The person has not been convicted of a DUI or refusal since the revocation.
- The person has completed the mandatory revocation periods in statute.
- The person provides proof of insurance.

Section 21

AS 33.05.020. Duties of commissioner; probation officers and personnel; ignition interlock devices.

The Department of Corrections shall create an administrative sanction procedure for probationers who commit technical violations of probation. At a minimum, the procedure must require sanctions applied by the probation officer be approved by the commissioner or designee, and provide for a timely judicial review of the sanction imposed. This procedure shall be developed in consultation with the Department of Law, the Public Defender Agency, and the Court System.

Section 22

AS 33.05.025. Probation incentive reduction; time computation.

A probation officer shall recommend to the court a probation incentive reduction for good conduct if the defendant complies successfully with all of the conditions of probation. The month-for-month time credit is not available to a person convicted of a sexual felony or a crime involving domestic violence.

Section 23

AS 33.05.040. Duties of probation officers.

A probation officer shall recommend to the court a probation reduction for a probationer who is eligible for the reduction under Section 22.

Section 24

AS 33.05.070(b). Arrest of probationer.

Conforming section to the authority of the court to modify a sentence of probation.

Section 25

AS 33.16.210. Discharge of parolee.

The parole board shall unconditionally discharge a mandatory parolee if the person successfully completes all treatment programs recommended by the risk and needs assessment and commits no new offenses or serious parole violations during the first two-thirds of the term of mandatory parole.

Section 26

AS 33.20.010(c). Computation of good time.

A prisoner shall receive good time while in a treatment program, in a private residence, or while on electronic monitoring.

Section 27

AS 33.20.025. Earned good time.

A non-violent offender shall receive a deduction of one-sixth the term of imprisonment following the successful completion of rehabilitative programming. A prisoner may only receive this deduction once, and is not eligible for the deduction if the prisoner has been sentenced for a crime against a person, a sexual felony, a mandatory 99-year term of imprisonment.

Section 28

AS 33.30.011. Duties of commissioner.

Conforming section to require the commissioner to approve programs to qualify a prisoner for earned good time credit and establish minimum standards for electronic monitoring programs provided by private vendors.

Section 29

AS 33.30.061(c). Commissioner to designate facility.

The commissioner may not designate a prisoner to serve a term of imprisonment by electronic monitoring if the prisoner is serving a term of imprisonment for a crime involving domestic violence against a household member with whom they are engaged or were engaged in a sexual relationship.

Section 30

AS 33.30.095. Duties of commissioner before release of prisoner.

The commissioner shall establish a program to prepare a prisoner who is serving a sentence of imprisonment exceeding one year for the prisoner's discharge that begins 90 days before the date of the prisoner's discharge. The program must include instruction on obtaining state identification and community resources, as well as an individualized reentry plan and probation orientation.

Section 31

AS 47.27.015. Disqualifying conditions.

A person convicted of a felony drug crime is disqualified from receiving temporary assistance or food stamps unless the person demonstrates to the Department of Health and Social Services that the person is successfully participating (or has completed) probation or parole, is successfully

serving (or has completed) mandatory participation in treatment or has taken action toward rehabilitation.

Section 32

A direct court rule amendment to Criminal Rule 35(b) to authorize the court to modify or reduce a sentence within five years of the original sentencing, but before 180 days of the unconditional discharge of the defendant, to comport with section 10 of the bill.

Section 33

Repeals a provision that prevents a court from granting credit for time spent in a private residence or under electronic monitoring. This section also repeals a provision that limits the discretion of the court to modify a period of probation established through a plea agreement under Rule 11.

Section 34

An indirect court rule amendment changing Rule 32 by directing the court to include a provision in the judgement that community work hours that are not completed shall be converted to a fine.

Section 35

Applicability provisions.

Section 36

Conditional effect: Section 8 of the act goes into effect only if section 34 of the act receives the required two-thirds majority vote to amend a court rule.

Section 37

Establishes an effective date for several sections of the bill of July 1, 2015.

Section 38

Establishes an effective date for section 25 of the bill of January 1, 2016.