



DRAFT CS HB 49

- ***Eliminate Marriage as a Defense to Sexual Assault***
 - Repeals marriage as a defense to sexual assault except in cases where there is consent and the conduct is illegal due to the nature of the relationship but-for the marriage (probation officer/probationer, peace officer/person in custody, DJJ officer/person 18 or 19 an under the jurisdiction of the Division of Juvenile Justice).

- ***Sexual Abuse of a Minor in the Third Degree Sentencing***
 - Makes sexual abuse of a minor in the third degree a sexual felony when there is a *6 year age* difference, thus increasing the sentencing range from 0-2 to 2-12 years.

- ***Enticement of a Minor***
 - Deletes “online” from the crime of “online enticement of a minor” making *any* solicitation of a minor to commit sexual acts a B felony.

- ***Indecent Viewing***
 - Makes indecent viewing or production of a picture of a child and production of a picture of an adult a registerable sex offense and sentenced as a sexual felony. Conduct involving the viewing of a picture of an adult would be a class A misdemeanor.
 - Indecent Viewing involves conduct such as setting up a camera in a locker room to capture the private exposure of other people.

- ***Theft***
 - Removes inflation adjustment.

- ***Failure to Appear***
 - Removes the 30 day grace period for FTA to ensure better enforcement for defendants appearing in court for the hearings, including trial.
- ***Violating Conditions of Release***
 - Pre-SB 91:
 - Class A misdemeanor if the person violates conditions while on release for a felony.
 - Class B misdemeanor if the person violates conditions while on release for a misdemeanor.
- ***Escape***
 - Makes it a class C felony
 - for a person to tamper or remove an electronic monitoring device while under official detention for a misdemeanor; or
 - tamper or remove an electronic monitoring device or leave one's residence or other place designated by a court as a condition of release before trial.
- ***Threats***
 - Creates a generalized terroristic threatening statute to address threats of harm.
- ***Drugs***
 - ***Possession*** – First two offenses would be a class A misdemeanor subject to a sentencing range of 0-365 days. On the third offense it would be a class C felony.
 - ***Drug Distribution*** - Returns distribution of drugs to class B and A felonies from the current C and B levels and removes quantity as an element.
 - ***Methamphetamine Manufacturing and Distribution*** - Re-enacts the enhanced sentences for those who make methamphetamine around children or who engage children in the manufacture of methamphetamine.
- ***Arraignment***
 - Allows 48 hours after arrest to arraign a defendant and set bail.
- ***Presumptions For Release on Bail***
 - Removes the presumptions that are in current law which require the judge to release unless they find by clear and convincing evidence that there is no nonmonetary condition that will ensure the defendant's appearance in court

or Removes inability to pay as a reason for the court to review a bail setting; and

- Makes the risk assessment tool a factor that the judge can consider when determining bail and conditions of release.

- ***Pretrial Electronic Monitoring***

- Prohibits a court from granting credit towards a person’s sentence for time spent on electronic monitoring before trial for *certain offenses*.

- ***Probation Lengths***

- Increases the maximum probation length for sex felonies to 25 years and 10 years for all other offenses.

- ***Caps on Sanctions for Technical Violations and Absconding***

- Repeals the caps on the sanctions for technical violations (currently 3, 5, and 10 days for the first three violations respectively) and absconding (up to 30 days). Returns discretion to judges and the parole board to impose a sanction appropriate for the offender, the type of violation, and the underlying offense.

- ***Early Termination Of Probation And Parole***

- Returns to a true recommendation of the probation or parole officer *instead* of a mandated recommendation after 1 or 2 years without violation.

- ***Felony sentences*** –Increases A and B felony presumptive ranges by approximately 1 year.

Felony Level	Current Law	CS HB 49
Class A	First Felony: 3-6 (20 max) Second Felony: 8-12 (20 max) Third Felony: 13-20 (20 max)	First Felony: 4-7 (20 max) Second Felony: 9-13 (20 max) Third Felony: 14-20 (20 max)
Class B	First Felony: 0-2 (10 max) Second Felony: 2-5 (10 max) Third Felony: 4-10 (10 max)	First Felony: 1-3 (10 max) Second Felony: 2-6 (10 max) Third Felony: 5-10 (10 max)
Class C	First Felony: 0-2 (5 max) Second Felony: 1-4 (5 max) Third Felony: 2-5 (5 max)	Same as current law.

- ***A Misdemeanor Sentencing***

- Remove 30-day presumptive sentence for A misdemeanors and returns discretion to judges to impose 0-365 days. Also increases the sentencing range for B misdemeanors from 0-10 days to 0-30 days.

- ***Presumptive Sex Offense Sentencing***
 - Clarifies that *any* prior felony counts as a prior felony for presumptive sentencing purposes in sex cases. This means prior felonies, even when they are a non-sex felony, trigger an increased presumptive range for a sex offense.

- ***Driver's License after Felony DUI***
 - Allows a person to obtain a driver's license if they have been convicted of a felony DUI that was not associated with a crime against a person (vehicular assault etc.), their license has been revoked for 10 years and in the preceding 10 years the person has not committed a new criminal offense.

- ***Driving with License Suspended/Revoked/Canceled***
 - Returns DWLS to a crime.
 - Under current law it is a crime only if the person has had their license revoked due to a DUI.

- ***Out Of State Sex Offender Registration***
 - Requires anyone convicted of a registerable sex offense in another state to register in Alaska if they are present in the Alaska.

- ***Earned Compliance Credits***
 - Grants credit against a person's term of probation or parole upfront. The reduction to a person's period of probation or parole will be at 1/3 *instead* of 30 days for every 30 days the person goes without a violation. If a person violates, they will have time added back on to their period of probation or parole. This restructuring of earned compliance credits is similar to how statutory good time is awarded to prisoners in custody. Also, prohibits certain offenders from getting earned compliance credits.

- ***Parole Eligibility*** – Returns to restricting what crimes are eligible for discretionary parole. Makes the following crimes ineligible:
 - Non-sex class A felonies (Robbery 1, Assault 1, Arson 1, Escape 1, MIW 1);
 - B felonies if the person had one or more prior felony convictions;
 - C felonies if the person had two or more prior felony convictions; and
 - B and C sex felonies (Sexual Assault 2, Sexual Abuse of a Minor 2, Distribution of Child Pornography).

- ***Parole Release Presumptions***
 - Returns discretion to the parole board by eliminating a presumption of release.

- ***Parole Application***
 - Requires the person to actually apply for discretionary parole rather than forcing the parole board to have a hearing automatically.

- ***ASPIN Use At Grand Jury***
 - Allows APSIN (rap sheet) to be used at grand jury when an element of the offense requires proof of prior convictions.

- ***Increase Use of Video-Teleconferencing*** – Encourages the use of videoconferencing for all pretrial court hearings.

- ***Involuntary Commitments***
 - Requires the Alaska Court System to transmit information regarding involuntary commitments that have occurred since October 1, 1981 to the Department of Public Safety.