STATE OF ALASKA 2019 LEGISLATIVE SESSION				Bill Version Fiscal Note Number () Publish Date		HB 49		
Identifier (file name) HB049CS(FIN)-DOA-PDA-5-4-19 Title CRIMES; SENTENCING; MENT. ILLNESS; EVIDENCE				Dept. Affected Appropriation	Legal	Administration	Services	
Sponsor				Allocation		olic Defender Ag	gency	
Requester (H) Finance					OMB Compone	ent Number	1631	-
Expenditures/				(The	ousands of Do	llars)		
Note: Amounts of	do not include inflatio	n unless otherwise						
		FY2020 Appropriation Requested	Included in Governor's FY2020 Request		Out-Y	ear Cost Est	imates	
OPERATING EX		FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personal Service	es	1,046.6		***	***	***	***	***
Travel		22.8						
Services Commodities		218.7 12.8					-	
Capital Outlay		12.0						
Grants, Benefits								
Miscellaneous								
TOTAL	OPERATING	1,300.9	0.0	***	200	**	***	***
FUND SOURCE		Vi-		ATT	ousands of Dol	lars		
1002 Federal				la l				
1003 GF Mato	ch							
1004 GF	(0.05)	1,300.9						
1005 GF/Prgn 1007 I/A Rcpts				,				
1007   I/A RCPU	s (Other)							
1007	(001)	1,300.9	0.0	***	naa-	***	***	***
						,		
POSITIONS								
Full-time		10						
Part-time				V				
Temporary			~					
CHANGE IN RE		FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
1004 Gen Fur	, ,		10		100			
1002 Fed Rcp		- 00	- 00	0.0	0.0	0.0	0.0	0.0
TOTAL CHAN	NGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Estimated SUP	PLEMENTAL (FY20	19) operating co	its	0.0	(separate su	pplemental app	ropriation requi	red)
	ITAL (FY2020) cost			0.0	(senerate ca	pital appropriat	ion required)	
Estimated CAP	11AL (F12020) COSC	•		333333	. (Separate ca	pital appropriati	orrequired	
	reate or modify a fu			No				
(Supplemental/C	Capital/New Fund- di	scuss reasons and	I fund source(s)	) in analysis sec	ction)			
ASSOCIATED F	REGULATIONS							
Does the hill dire	ect, or will the bill res				y?	No		
- occ the bill dill	date are the regulation	ns to be adopted,	amended, or re	pealed?		Discuss det	ails in analysis s	section.
				-141-1	lassa nata aa	ough)		
If yes, by what d	unda different from m		omments (II II	illiai version, p	timated fiscal in	nact in FY 202	n if this hill is ar	nacted into law.
If yes, by what d	note differs from p	ommittee substitut	a This note on					
If yes, by what d	note differs from p on House Finance c	ommittee substitut	e. This note on	ly snows the es	umated nood in	ipact iii i zoz	.0 11 (1113 011 13 01	
If yes, by what d	note differs from p on House Finance c	ommittee substitut	e. This note on	ly snows the es	umated nocui m	ipact iii i zoz	O II tills bill is ci	
If yes, by what d	note differs from p on House Finance c	ommittee substitut	e. This note on	ly snows the es	imated notal in	ipact iii i zoz	O II tills bill is ei	
If yes, by what d	note differs from p on House Finance c	ommittee substitut	e. This note on	ly snows the es	imatod noodi m	ipact iii i zoz	o ii tiilo biii io ei	
If yes, by what d	note differs from p on House Finance c	ommittee substitut	e. This note on	ly snows the es	imated nocus	ipace iii i 202	0 11 (110 5)11 15 61	
If yes, by what d	note differs from p on House Finance c	ommittee substitut	e. This note on	ly snows the es	imated iisedi ii	ipace iii i i 202	on this bin is co	
If yes, by what d Why this fiscal Updated based	on House Finance c	ommittee substitut	-	ly snows the es	innated iiseai ii		907-334-4414	
If yes, by what d	on House Finance c	ommittee substitut	-	ly snows the es	-	Ph on:		
If yes, by what d Why this fiscal Updated based  Pregared by Division	Beth Goldstein Public Defende	ommittee substitut , Acting Public De த Agency	-	ly snows the es	-	Ph one Date/Time	907-334-4414 5/4/10 10:48 6	
If yes, by what d Why this fiscal Updated based  Pregared by	Beth Goldstein Public Defender Chery' Lowerts	ommittee substitut , Acting Public De த Agency	fender	ly snows the es		Ph one Date/Time	907-334-4414	

### STATE OF ALASKA 2019 LEGISLATIVE SESSION

BILL NO.	HB 49

### **Analysis**

This fiscal note reflects the estimated fiscal impact in FY 2020 if this bill is enacted into law.

This bill increases sentencing ranges, removes the provisions automatically adjusting theft thresholds for inflation, creates new crimes, and increases the charge level and penalties for crimes related to controlled substances.

There are new crimes created by this bill for generalized threats, fraudulent use of identification documents, possession of motor vehicle theft tools, and removal of electronic monitoring devices in broader circumstances.

The bill also eliminates the marriage defense under certain circumstances for sex assault prosecutions and increases penalties for repeat drug possession convictions. This bill adds restrictions to discretionary parole eligibility and removes the presumption of release. The bill reduces the standard by which the Court can impose monetary bail and removes a defendant's indigency as a basis to review bail conditions and adds restrictions on credit given for pre-trial electronic monitoring in certain circumstances.

The Department of Law has reported an expected increase in referrals from law enforcement for drug related crimes as a result of increasing charge levels and penalties for certain drug related crimes. With the prioritization of certain drug crime prosecutions, and increases in prosecutorial positions, there is anticipated workload growth. The Department of Law anticipates felony drug cases to increase to the levels they were at in 2016 and estimate an increase of least 740 felony cases annually. The agency anticipates the need of four attorney positions and four staff positions as result of these changes.

Additionally, the Department of Law has predicted an increase in cases as a result of the recriminalization of driving with license canceled, suspended, or revoked. Evaluating fiscal year 2015 data on these misdemeanor cases the agency anticipates needing an additional attorney and an additional staff position as a result of this provision. In addition to increased workload as a result of increased case filings, cases with increased penalties and higher charging levels require more litigation throughout all stages of litigation, but particularly increases in jury trials, contested sentencing hearings, and post-conviction litigation.

The Public Defender Agency has seen workload growth and increased appointments in recent fiscal years and is unable to absorb additional increases with current staffing. The agency anticipates needing a total of an additional five new attorney positions and five new staff positions to handle the anticipated workload from the passage of this legislation.

STATE OF ALASKA 2019 LEGISLATIVE SESSION  Identifier (file name) HB049CS(FIN)-DOA-OPA-5-4-19				Bill Version Fiscal Note Number		HB 49			
					() Publish Date				
				Dept. Affected		Administration			
Title						Appropriation Allocation	Legal	and Advocacy S	
Spons		HOUSE RULES BY REQUEST OF THE GOVERNOR					CE OF Public Auve	ocacy	
Reque	ester	(H) Finance			1 17 18 11 11 11	OMB Compone	ent Number	43	
Expe	nditures/	Revenues			(Th	ousands of Do	llars)		
lote:	Amounts d	o not include inflatio	n unless otherwise						
			FY2020 Appropriation	Governor's FY2020		Out-Y	ear Cost Est	timates	
OPER	ATING EX	PENDITURES	Requested FY2020	Request FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
	nal Service		558.5	1 12020	***	***	***	***	***
Travel			12.1				100000000000000000000000000000000000000		
Servic			117.3		1 1 1 1 1 1 1 1 1 1 1		11/11/11/11/11		
Comm	nodities		6.8						
	al Outlay								
Grants	s, Benefits								
Misce	llaneous								
	TOTAL	OPERATING	694.7	0.0	***		***	***	***
UND	SOURCE				AT	nousands of Dol	ars)		
1002	Federal F								
1003	GF Matc	h							
1004	GF		694.7						
1005	GF/Prgm								
1007	I/A Rcpts								
1037	GF/MH (	UGF)	2015			***	***	***	***
			694.7	0.0				1-2-	
POSIT	TIONS			1					
Full-tir			5						
Part-ti	me			1					
Temp	orary								
CHAN	IGE IN RE	VENUES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
1004									
1002		,			5%, 15 A. L. M.		12212		
		GE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.
Fetim	ated SUP	PLEMENTAL (FY20	19) operating co	its	0.0	(separate su	pplemental app	ropriation requir	ed)
					0.0		pital appropriat		
		TAL (FY2020) costs				_ (Separate Ca	pilar appropriat	o.rroquirou)	
		eate or modify a fur apital/New Fund- dis		fund source(s	No ) in analysis se	ction)			
			- Casonia and	000100[0	,				
		EGULATIONS	ult in manufation of		d burners	2	Ma		
		ect, or will the bill res				cy r	No Discuss det	oile in englysis -	oction
ir yes,	, by what d	ate are the regulation	ns to be adopted,	amended, or re	pealed?		_ Discuss det	ails in analysis s	ection.
Why	this fiscal	note differs from p	revious version/e	omments (if i	nitial version	please note as	such)		
Indat	ted based o	on the changes made	e in the committee	substitute ado	pted by House	Finance. This n	ote only shows	the estimated fis	scal impact in
FY20:	20 if this bil	Il is enacted into law		oubotituto uuo	p		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		
120	LO 11 0110 D1	in to ortadioa into tax							
								/	
Dec	and by	lames Clincon	Director				Phone	907-269-3504	
	red by	James Stinson						e 5/4/19 11:30 A	M
Division		Office of Public					-		
	oved by	Cheryl Lowens					_ Date	5/4/2019	
Agend	су	Office of Manag	gement and Budge	et					
Devices	9/05/18 OMB/L	ED)						Page	1 of 2

(Revised 9/05/18 OMB/LFD)

### STATE OF ALASKA 2019 LEGISLATIVE SESSION

BILL NO. HB 49

### **Analysis**

This fiscal note reflects the estimated fiscal impact in FY 2020 if this bill is enacted into law.

This bill increases sentencing ranges, removes the provisions automatically adjusting theft thresholds for inflation, creates new crimes, and increases the charge level and penalties for crimes related to controlled substances.

There are new crimes created by this bill for generalized threats, fraudulent use of identification documents, possession of motor vehicle theft tools, and removal of electronic monitoring devices in broader circumstances. The bill also eliminates the marriage defense under certain circumstances for sex assault prosecutions and increases penalties for repeat drug possession convictions. This bill adds restrictions to discretionary parole eligibility and removes the presumption of

release. The bill reduces the standard by which the Court can impose monetary bail and removes a defendant's indigency as a basis to review bail conditions and adds restrictions on credit given for pre-trial electronic monitoring in certain circumstances.

The Department of Law has reported an expected increase in referrals from law enforcement for drug related crimes as a result of increasing charge levels and penalties for certain drug related crimes. With the prioritization of certain drug crime prosecutions, and increases in prosecutorial positions, there is anticipated caseload and workload growth. The Department of Law anticipates felony drug cases to increase to the levels they were at in 2016 and estimate an increase of least 740 felony cases annually.

Additionally, the Department of Law has predicted an increase in cases as a result of the recriminalization of driving with license canceled, suspended, or revoked.

In addition to increased workload as a result of increases in case filings, cases with increased penalties and higher charging levels require more litigation throughout all stages of litigation, but particularly increase jury trials, contested sentencing hearings, and post-conviction litigation.

The Office of Public Advocacy (OPA) anticipates an increase in workload related to the litigation of these cases. OPA receives approximately 25% of the cases referred to the Public Defender Agency as conflict cases. OPA has seen workload growth and increased appointments in recent fiscal years and is unable to absorb additional increases in with current staffing. In total, OPA is requesting three new attorneys and two new support staff to meet the anticipated increase in workload.

STATE OF ALASKA 2019 LEGISLATIVE SESSION				Bill Version Fiscal Note Number () Publish Date		CSHB49(FIN)		
Identifier (file name) HB49CS(FIN)-DOC-DAS-05-04-19 Title Crimes; Sentencing; Mental Illness; Evidence				Dept. Affected Appropriation	Adm	Corrections inistration and S	upport	
					Allocation	Inform	nation Technolo	gy MIS
Sponsor Requester	Rules by Requ (H)FIN	uest of the Governor	ſ		OMB Compon	ent Number	698	
Expenditures/R	Revenues			(Th	nousands of Do	ollars)		
		on unless otherwise	noted below.					
	×	FY2020 Appropriation Requested	Included in Governor's FY2020 Request		Out-Y	ear Cost Es	timates	
OPERATING EXP		FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personal Services	3			***	***	***	***	***
Travel Services		100.0			489	70000		
Commodities		100.0			650			
Capital Outlay					AND THE RESERVE OF THE PERSON			
Grants, Benefits					4839		700	
Miscellaneous	PERATING	100.0	0.0	***	***	***	***	***
FUND SOURCE	FERAING	100.0	0.0	No. 100	housands of Do			
1002 Federal R	eceints			T (1)	nousands of Do	T T		
1003 GF Match					1000			
1004 GF		100.0	A A		ASSET			
1005 GF/Prgm			Yes		The second second			
1007 I/A Rcpts 1037 GF/MH (U			Vi Vi	5 VESSES	A Asserted Services			
1037  GF/WITI (C	JGF)	100.0	0.0	***	***	***	***	***
		- 18		10h.A97				
POSITIONS		4000		Village .				
Full-time Part-time		ABST	1000	650				
Temporary		199	ABB	YEA				
	ENVIEN	Evene	FYOOO	T FY2021	FY2022	FY2023	FY2024	FY2025
1004 Gen Fund		FY2020	FY2020	F12021	F12022	F12023	F12024	F12025
1002 Fed Rcpts								
	GE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	LEMENTAL (FY2	019) operating cos	ete					**
Does the bill crease (Supplemental/Canassociated Response the bill directly ges, by what danged by this fiscal in Updated to reflect	EGULATIONS  ct, or will the bill re te are the regulation tote differs from part that the Communication is the Communication in the Com	und or account? discuss reasons and esult in, regulation cloons to be adopted, previous version/o S. This fiscal note of	d fund source(s hanges adopte amended, or re	ed by your agen- epealed?	(separate ca	No Discuss det	_ ails in analysis s	ection.
Does the bill cre (Supplemental/Ca ASSOCIATED RE Does the bill direct If yes, by what da Why this fiscal in Updated to reflect 2.13.19 Governor  Prepared by Division	ate or modify a furpital/New Fund- or EGULATIONS ct, or will the bill rette are the regulation of the differs from particular of the control	esult in, regulation of ons to be adopted, sprevious version/o. S. This fiscal note of the country discusses the country discussion of the country d	hanges adopte amended, or re- comments (if i	ed by your agencepealed? initial version, estimated fisca	(separate ca	No Discuss det such) 020 if this bill is Phone Date/Time	e 465-3311	ection.  v. Based on th
Does the bill cre (Supplemental/Ca ASSOCIATED RE Does the bill directly lifyes, by what da Why this fiscal in Updated to reflect	ate or modify a furpital/New Fund-or EGULATIONS ct, or will the bill rette are the regulation of the differs from particular to the differs from particular	und or account? discuss reasons and esult in, regulation of ons to be adopted, previous version/o S. This fiscal note of	hanges adopte amended, or recomments (if in only shows the	ed by your agencepealed? initial version, estimated fisca	(separate ca	No Discuss det such) 020 if this bill is Phone Date/Time	ails in analysis s enacted into lav	ection.  v. Based on th

STATE	<b>OF ALASKA</b>	
2019 LF	GISLATIVE	SESSION

BILL NO.	CSHB49(FIN)
DILL NO.	CSHB49(FIN)

A	n	al	V	S	is

The bill changes the method for calc Alaska Corrections Offender Manage these programming changes and cor Therefore, the department will need final scope of work and bids from ve department on ACOMS in the past.	ement System (ACOMS). The mplete testing in a timely fa d to contract with a firm for	e department does not hav shion to meet the effective the programming. Absent a	e the in-house capacity to make date of this legislation. a confirmed knowledge of the

STATE OF ALASKA 2019 LEGISLATIVE SESSION				Bill Version Fiscal Note Number () Publish Date		CSHB49(FIN)			
Identifier (file name) HB49CS(FIN)-DOC-HARS-05-04-19				Dept. Affected		Corrections			
Title Crimes; Sentence			ing; Mental Illnes			Appropriation		nd Rehabiliation	
Sponsor		Dules by Degues	st of the Governor			Allocation	Pi	nysical Health C	are
Reque		(H)FIN	st of the Governor			OMB Compone	ent Number	2952	
Evna					/Th.				
		not include inflation	unloss othonwies	noted below	(Inc	ousands of Do	ilars)		
Note. 7	Amounts do	not include illiation	FY2020 Appropriation Requested	Included in Governor's FY2020 Request		Out-Y	ear Cost Est	imates	
OPER	ATING EXP	ENDITURES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
	nal Services				***	***	***	***	***
Travel						40	VEEN.		
Service	es nodities					100	No.	8	
	I Outlay					ASSEST			
	s, Benefits					37		ALL	
	llaneous		2,746.6		A	7 6			
	TOTAL O	PERATING	2,746.6	0.0	***	***	***	***	***
FUND	SOURCE				(Th	ousands of Dol	lars)		
1002	Federal Re	eceipts							
1003	GF Match		0.740.0			No.			
1004 1005	GF	DOE)	2,746.6	All All	Part Control of the C	AND			
1005	GF/Prgm ( I/A Rcpts (				William Control	ASSESSED			
1037	GF/MH (U			- 6	A	Signing.			
1001	Tor min (o	0. /	2,746.6	0.0	***	***	***	***	***
					100 AST				
POSIT					Village Control				
Full-tin			Aller	76556A	VASCA.				
Tempo			AND	ACT .	1000				7.1
			4000	ANN AMOUNT	107				
	IGE IN REVI		FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
1004	Gen Fund	,	V0385_A0	9					
1002	Fed Rcpts	SE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
10	TAL CHANG	DE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Estim	ated CAPIT	LEMENTAL (FY201 AL (FY2020) costs ate or modify a fun- pital/New Fund- disc	d or account?		No ) in analysis sec	_ (separate ca	pplemental app pital appropriati	ropriation requii	ed)
Does to	the bill direct by what date	GULATIONS t, or will the bill resu e are the regulation	s to be adopted, a	amended, or re	epealed?			_ ails in analysis s	ection.
Updat	ed to reflect	ote differs from pro changes in the CS. s FY2020 request.	evious version/c This fiscal note o	omments (if it	nitial version, pestimated fiscal	blease note as impact in FY20	such) 20 if this bill is e	enacted into law	. Based on the
Prepar	red by	Ferr West, Deput					46	465-3311 5/4/2019 12:40	) p.m.
				rantar for Carre	actions		-	-	
Appro	ved by		Sylvan Robb, Admin. Services Director for Corrections  Office of Management and Budger						

(Revised 11/19/18 OMB/LFD)

Page 1 of 2

STATE	OF ALASKA	
2019 LE	GISLATIVE	SESSION

BILL NO. CSHB49(FIN)

Λ	m	2	h	10	is
~	E I	a	EΨ	3	13

Health care costs include contractual medical, dental and mental health services as well as medical commodities such as pharmaceuticals and medical supplies. The average cost is \$36.86 per inmate per day. This cost exists for all inmate who exceed the current system capacity. In year one there are 204 inmates above current capacity for a cost of \$2,746.6.				
A				
1 (a) (b) (c) (c) (d) (d) (d) (d) (d) (d) (d) (d) (d) (d				

STATE OF ALASKA 2019 LEGISLATIVE SESSION					Bill Version Fiscal Note Number () Publish Date		CSHB49(FIN)		
				Dept. Affected Appropriation		Corrections ulation Manager			
Spons	or	Rules by Request of the Governor				Allocation	Instit	ution Director's	Office
Reque		(H)FIN	lest of the Governor			OMB Compone	ent Number	1381	
Expe	nditures/R	evenues			(Tho	usands of Dol	lars)		
			on unless otherwise	noted below.	(1110				
			FY2020 Appropriation Requested	Included in Governor's FY2020 Request		Out-Y	ear Cost Est	imates	
		PENDITURES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
	nal Services			,	***	***	***	***	***
Travel Service									
	odities								
Capita	Outlay								
Grants	s, Benefits								
Miscel	laneous	DEDATING	15,580.0		***		-	***	***
		PERATING	15,580.0	0.0				1	1
	SOURCE	againta			(Thr	busands of Doll	ars		
1002	Federal Re	eceipis							
1004	GF		15,580.0						
1005	GF/Prgm	(DGF)			-				
1007	I/A Rcpts	(Other)					E E		
1037	GF/MH (U	GF)				***	***	***	***
			15,580.0	0.0					
POSIT	TIONS								
Full-tir	ne		1						
Part-ti	me			1					
Tempo	orary		1						
CHAN	GE IN REV	ENUES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
1004	Gen Fund								
1002	Fed Rcpts								0.0
то	TAL CHANG	SE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Estim	ated SUPP	LEMENTAL (FY2	019) operating cos	ts		(separate su	oplemental app	ropriation require	ed)
Eetim	ated CADIT	'AL (FY2020) cos	te V			(senarate car	oital appropriati	on required)	
Does	the bill crea	ate or modify a fu		fund source(s)	No in analysis sec			,	
Does	the bill direc		sult in, regulation chons to be adopted, a			P	No Discuss deta	- iks in analysis s	ection.
Updat	ed to reflect	ote differs from changes in the C s FY2020 reques	previous version/c S. This fiscal note o t.	omments (if in	itial version, p stimated fiscal	lease note as s impact in FY20	such) 20 if this bill is	enacted into law	. Beach on the
Prep a	red by	Teri West, De						465-3311 5/4/2019 12:30	p.m.
		-		anter for Corre	those			5/4/2019	
Appro	oved by cy		Admin. Services Dir agement and Budge		uoris		Date	J-1/2010	

## STATE OF ALASKA 2019 LEGISLATIVE SESSION

**BILL NO. CSHB49(FIN)** 

### **Analysis**

A substantial portion of this legislation reverses changes in sentencing made by SB 91. The Department of Corrections use data from two time periods to project the impact of the legislation on prison population, CY2014 and CY2018. These data were selected because they provide the most current number of offenders (CY2018) and the most accurate length of stay data available (CY2014). CY2014 was used as the baseline data for SB 91.

The department calculated the increase in inmates per day as follows:

CY2014 length of stay — CY2018 length of stay = projected increase in length of stay

Increased length of stay x CY2018 offenders = increase in days of incarceration

Increased days of incarceration/365 = projected increase in number of inmates per day, per year.

Misconduct Involving a Controlled Substance (MICS) offenses are not calculated in this manner based on Department of Law's projections that reclassifying these offenses will result in an increase in prosecutions and convictions.

The bill removes 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 marriage. Over the last 10 years, the department had an average of 12 inmates each year under the sex offenses added to this section. The department cannot determine how often marriage was used as a defense in the past, but the department projects a small increase in the in number of inmates as a result of this change. In the first year the department projects 1.2 additional inmates.

The bill adds identification documents to fraudulent use of an access device. In CY2018 there were 14 inmates serving time for this crime. This may increase the prison population, but the change cannot be determined by the department.

This bill makes tampering with electronic monitoring (EW) equipment a crime. EM tampering is Escape 3 which has an average stay of 36.5 days. In CY2018 there were 110 instances of EM tampering. The department projects an additional 11.0 inmates per day for year 1.

This bill makes felons violating conditions of release (felon VCOR) a class A misdemeanor and modifies class A misdemeanor sentencing to "Not more than one year." Felon VCOR has a projected increased length of stay of 38.3 days; in CY2018 there were 883 offenders in this category. The department projects an additional 92.7 inmates per day for year 1.

This bill broadens language regarding terroristic threatening. In CY2018 there was one inmate incarcerated for this offense. With the broadening of the statute there may be an increase in the prison population, but the department projects it will be able to absorb that increase.

This bill reverts misconduct involving a controlled substance offenses to be consistent with what they were in 2015. The department projects an increase in the number of inmates as a result of this change based on conviction counts and length of stay in CY2014. For felony A, felony B and felony C as well as misdemeanor B, the department projects an increase in inmates. The department projects an additional 118.9 inmates per day for year 1.

This bill extends the period of time before a person must be taken before a judge or magistrate from 24 to 48 hours. The department does not have data that explicitly documents when a defendant has an appearance before a judge or magistrate. However, doubling the length of time allowed before this hearing is required to occur is likely to result in increasing the daily average inmate count and thus a modest increased cost for incarceration that the department is unable to project.

### STATE OF ALASKA 2019 LEGISLATIVE SESSION

BILL NO. CSHB49(FIN)

#### **Analysis**

This bill changes the pretrial release and retention procedures. CY2018 saw a number of changes in time spent incarcerated: 1) Depending on the offense type, in CY2018 defendants spent between 1 and 47 fewer days incarcerated than they would have in CY2016 prior to SB91 and the creation of the Pretrial Enforcement Division (PED). 2) In CY2018 more defendants were released pretrial than in CY2016. And 3) In CY2018 defendants assigned to pretrial supervision were incarcerated an average of 5.91 fewer days than non-PED unsentenced defendants. The department projects that with this bill defendants will still be assigned to pretrial supervision, but not at the rate attained in CY2018. The department projects this bill will result in 4,350 pretrial defendants being incarcerated an average of 2.74 days longer which will result in an increase in both the number of incarcerated inmates and the duration of the pretrial incarceration. The department projects this will increase the daily offender population by 32.7 offenders in year 1.

This bill removes the caps on the length of time an offender may serve for a technical violation. The department assumes the number of technical violations and the length of stay for those violations will return to CY2016 levels (pre-SB91). These changes will add 640 violators and they will serve an additional 53.3 days. The department also projects this change will add 12.8 days to 2,446 violators. This will increase the daily population by 89.5 the first year.

This bill eliminates credit granted against a sentence of imprisonment for time spent on electronic monitoring (EM) for some offenses. The department assumes that all credit previous granted will now be served in a facility. In CY2018 2,050 individuals spent at least one day on EM. The department projects 363 defendants who had received credit for EM will spend an average of 36.6 days incarcerated. The department projects this will result in an increase in the daily average prison population of 35.5. inmates in year 1.

This bill increases the incarceration days for a second offense of driving with license suspended, cancelled, or revoked to 10 days. Over the last five years, there have been an average of 264 inmates for a second offense of driving with license suspended, cancelled, or revoked; this includes equivalent municipal offenses. The average length of stay was 2.45 days. Increasing the length of stay to 10 days for all offenders increases the average daily population by 5.5 inmates in year 1.

This bill increases the presumptive sentence ranges for A felonies.

1st time felony A has a projected increased length of stay of 245 days; in CY2018 there were 48 offenders in this category. The department projects no change in the daily average for year 1.

2nd time felony A has a projected increased length of stay of 245 days; in CY2018 there were 9 offenders in this category. The department projects no change in the daily average for year 1.

There are not enough 3<sup>rd</sup> time felony A offenders to make confident computations.

This bill increases the presumptive sentence ranges for B felonies:

1st time felony B has a projected increased length of stay of 245 days; in CY2018 there were 151 offenders in this category. The department projects no change in the daily average for year 1.

2nd time felony B has a projected increased length of stay of 245 days; in CY2018 there were 32 offenders in this category. The department projects no change in the daily average for year 1.

#### STATE OF ALASKA 2019 LEGISLATIVE SESSION

BILL NO. CSHB49(FIN)

#### **Analysis**

3rd time felony B has a projected increased length of stay of 245 days; in CY2018 there were 5 offenders in this category. The department projects no change in the daily average for year 1.

This bill increases the presumptive sentence ranges for class A misdemeanors. Class A misdemeanors have a projected increased length of stay of 9.7 days; in CY2018 there were 5,083 offenders in this category. The department projects an additional 134.6 inmates per day for year 1.

This bill increases the presumptive sentence ranges for class B misdemeanors. Class B misdemeanors have a projected increased length of stay of 3.3 days; in CY2018 there were 606 offenders in this category. The department projects an additional 2.7 inmates per day for year 1.

This bill reduces the number of inmates eligible for discretionary parole. Offenders convicted of a class A felony or class B felony, a third time class C felony, and certain sex offenses will no longer be eligible for discretionary parole. The department projects that this will impact 30 inmates each year, adding an average of 1,000 days of incarceration for each inmate. In year one the department projects there will be 30 additional inmates.

This bill establishes contemporaneous two-way video conference as a possible appearance mode for some hearings types of hearings when available. The department currently has video conferencing equipment in all of its facilities.

In total, the department projects that this bill increases the department's number of inmates by 554 the first year. This exceeds the department's current capacity. The current general capacity of the department's institutions is 4,664 inmates. The department averaged 4,314 inmates during CY2018 thus leaving the system with additional capacity for 350 additional inmates.

The department projects the need for additional capacity for 204 inmates in year 1. If the department's projections are correct, it will need to reopen the Palmer Correctional Center (PCC) to accommodate the increased population. PCC has a general capacity of 503 inmates. The 50.0 million costs associated with re-opening PCC are one-time expenses for preparation of the facility and replacement of equipment.

Because the system has capacity for 350 additional inmates, costs for those inmates are calculated at the marginal cost of \$44.98 per day for a cost of \$5,746.2 the first year. Costs for inmates that exceed the current capacity of the system are calculated at the full cost of care of \$168.74 per inmate per day. In the first year the cost for the 204 inmates that exceed existing capacity is \$12,580.4. Thus total increased costs for 554 additional inmates in year one is \$18,326.6.

Health care commodities and services costs were subtracted from that total because are reflected in the OMB component number 2952. Health care costs for those inmates above existing capacity are projected at \$2,746.6 in year one.

The projected costs in the Institution Director's Office in year one are: \$18,326.6 (new inmates) - \$2,746.6 (health care) = \$15,580.0.

STATE OF ALASKA 2019 LEGISLATIVE SESSION					Bill Version Fiscal Note Nu () Publish Date		CSHB49(FIN)		
Title Crimes; Sentencing; Mental Illness; Evidence					Dept. Affected Appropriation		Corrections oulation Manage	ement	
Spons			est of the Governor			Allocation		Parole Board	
Reque	ester	(H)FIN				OMB Compon		695	-
	nditures/R				(Th	ousands of Do	llars)		
Note:	Amounts do	not include inflation	FY2020 Appropriation Requested	noted below. Included in Governor's FY2020 Request		Out-Y	ear Cost Est	imates	
OPER	ATING EXP	ENDITURES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Travel Servic	es		0.0		***	***	***	***	***
Capita Grants	nodities al Outlay s, Benefits								
Misce	llaneous	DEDATING			***	***	***	***	***
=		PERATING	0.0	0.0	78,81603	A 500			***
1002	SOURCE Federal Re	ceinte			(1	housands of Dol	lars)		
1003 1004 1005 1007 1037	GF Match GF GF/Prgm ( I/A Rcpts ( GF/MH (U	DGF) Other)					à		
	10		0.0	0.0	***	***	***	***	***
POSITE Full-tire Part-tie	me								
		-NUICO	I FY2020 I	EV2020	FY2021	FY2022	FY2023	FY2024	FY2025
1004 1002	Gen Fund Fed Rcpts	(UGF)	FY2020	FY2020	F12021	F12022	F12023	F12024	F12023
		E IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Estim Does (Supp	the bill createmental/Cap	AL (FY2020) coste or modify a functional function of the cost of t	ind or account? iscuss reasons and	fund source(s		(separate ca (stion)	pplemental appi pital appropriati No		red)
lf yes, <b>Why t</b> Updat	by what date	e are the regulation to the differs from p	sult in, regulation chons to be adopted, a previous version/c. S. This fiscal note o	imended, or re omments (if i	epealed?	please note as	Discuss deta	ills in analysis s	
Prepa Divisio	red by	Teri West, Dep					-	465-3311	3 a.m.
Appro Agend	eved by		Admin Services Dire		ections		_ Date	5/4/2019	
(Revised	11/19/18 OMB/LF	D)						Page	e 1 of 2

STATE OF ALASKA	
2019 LEGISLATIVE	SESSION

BILL NO. CSHB49(FIN)
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A	n	a	h	15	is

This bill will reduce the number of inmate for murder in the first and second degree process will require the inmate to comple Compliance Credits will be limited to spe	e from one-third to one-half o ete an application in order to	of their prison sentence. be considered for discre	The discretionary hearing tionary parole. Earned
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Personal Services	STATE OF ALASKA 2019 LEGISLATIVE SESSION					Bill Version Fiscal Note Nu () Publish Date		CSHB49(FIN)		
Title Cirries; Sentencing; Mental Illness; Evidence Appropriation Population Management (H)FIN OMB Carponer National Project Probability Management (H)FIN OMB Component Number 2826  Expenditures/Revenues (Thousands of Dollars)  Note: Amounts do not include inflation unless otherwise noted below.  FY2020 TROUBER IN TROUBER IN PY2020 PY20	Identifie	r (file nam	e) HB49CS(FIN)-D	OC-PP-05-04-10			Dent Affected		Corrections	
Reluestor (HyFIN OMB Component Number 2828    Common	Fitle Crimes; Sentencing; Mental Illness; Evidence A				Appropriation	Po	pulation Manage	ement		
Requester (th)FIN	Sponsor Rules by Request of the Governor						_Allocation	Statev	vide Probation ar	nd Parole
Note: Amounts do not include inflation unless otherwise noted below.    FY2020				or or the Covernor			OMB Compon	ent Number	2826	
Sole: Amounts do not include inflation unless otherwise noted below.   FY2020	Expend	ditures/R	evenues			(Th	ousands of Do	llare)		
FY2020 Requested Requested Requested Requested Requested Request PY2020 Requested Request PY2020 Requested Request PY2020 Requested Request PY2020 Request PY2021 Request PY2021 Request PY2022 Request PY2023 Request PY2021 Request PY2021 Request PY2021 Request PY2021 Request PY2021 Request PY2022 Request PY2023 Request PY2024 Request PY2023 Request R				unless otherwise	noted below.	(,,,	iousarius or De	mars)		
Personal Services   546.0   ***   **				FY2020 Appropriation	Included in Governor's FY2020		Out-Y	ear Cost Es	timates	
Tavel   Services   Ser				FY2020	FY2020					FY2025
Commodities Capital Outley Frants, Benefits Capital Outley TOTAL OPERATING S46.0 0.0 Federal Receipts 003 GF Match 005 GF/Prgm (DGF) 007 I/A Repts (Other) 008 GF/Prgm (DGF) 009 GF/Prgm (DGF) 000 GG/Prgm (DGF) 000 GG/Prgm (DGF) 000 GG/Prgm (DGF) 001 GF/Prgm (DGF) 002 GF/Prgm (DGF) 003 GF/Prgm (DGF) 005 GF/Prgm (DGF) 006 GG/Prgm (DGF) 007 I/A Repts (Other) 007 I/A Repts (Other) 008 GF/Prgm (DGF) 009 G		al Services		546.0		***	***	***	***	***
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GGF   S46.0							No.			
IAR Rcpts (Other)   GF/MH (UGF)   S46.0   0.0   STATE   S46.0   0.0   STATE   SACOLATED REGULATIONS	1			546.0	A	Blan.	Yella			
State   Stat							7200			
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POSITIONS Full-time 5	1037	GI /WIT (O	GI)	546.0	0.0	***	***	***	***	***
Full-time   5						VERY ARRAY				
Part-time Femporary  CHANGE IN REVENUES FY2020 FY2020 FY2021 FY2022 FY2023 FY2024 FY2020 FY20				A10		1997				
CHANGE IN REVENUES FY2020 FY2020 FY2021 FY2022 FY2023 FY2024 FY2020 FY2020 FY2021 FY2022 FY2023 FY2024 FY2020 FY2020 Fed Ropts (Fed) Fed Ropts				5	WINE	VIIII VIII				
CHANGE IN REVENUES FY2020 FY2020 FY2021 FY2022 FY2023 FY2024 FY2				A01001	1815 Y	45.50		_		
Gen Fund (UGF) DO2   Fed Ropts (Fed) TOTAL CHANGE IN REVENUES DO3   0.0   0.0   0.0   0.0   0.0   0.0    Estimated SUPPLEMENTAL (FY2019) operating costs				4995	All more	100				
TOTAL CHANGE IN REVENUES  0.0  0.0  0.0  0.0  0.0  0.0  0.0  0				FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
TOTAL CHANGE IN REVENUES 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.				V64056, 408	7					
Copyright   Copy				0.0	0.0	0.0	0.0	0.0	0.0	0.
Does the bill direct, or will the bill result in, regulation changes adopted by your agency?  Tyes, by what date are the regulations to be adopted, amended, or repealed?  Discuss details in analysis section.  Why this fiscal note differs from previous version/comments (if initial version, please note as such)  Updated to reflect changes in CS and impact of changes to eligibility for earned compliance credit. Based on the 2.13.19 Governor's FY2020 equest.  Terpared by  Teri West, Deputy Director  Administrative Services  Date/Time 5/4/2019 12:45 p.m.  Repproved by  Sylvan Robb, Admin Services Director for Corrections  Date 5/4/2019	stimate	ed CAPIT	AL (FY2020) costs	d or account?			(separate ca			red)
Division Administrative Services Director for Corrections Date/Time 5/4/2019 12:45 p.m.  Spyroved by Sylvan Robb, Admin Services Director for Corrections Date 5/4/2019	Does the f yes, by Why this Updated	e bill direc y what dat is fiscal not d to reflect	t, or will the bill resulte are the regulation ote differs from pro	s to be adopted, a	mended, or re omments (if in	pealed? nitial version,	please note as	Discuss det	•	
pproved by Sylvan Robb, Admin Services Director for Corrections Date 5/4/2019		-			16					5 p.m.
					ector for Corre	ctions		_		•
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### STATE OF ALASKA 2019 LEGISLATIVE SESSION

BILL NO. CSHB49(FIN)

### **Analysis**

The bill allows the court to change the period of probation, but removes the ability to terminate probation. It removes the ability for a probation officer to recommend that probation be terminated. The department does not have data that would enable a projection of the fiscal impact of this change, but it seems likely that with fewer terminations allowed, offenders will spend longer on probation. The cost of probation is \$9.57 per day per probationer.

In different sections, the bill reduces the earned compliance credits (ECC) for probation and parole to one-third the prior amount leading to an increase in the probation and parole caseloads. Because statute limits officers' caseloads to 75 cases, the department will require additional officers to accommodate the increased caseload. It will necessitate a new Adult Probation Officer II in Anchorage, Juneau, Ketchikan, Kodiak, and Kotzebue. These five new positions cost \$546.0.

The bill stipulates that a probationer or parolee found in violation of the conditions of probation or parole forfeits any credits earned thus extending the period of their probation or parole at a cost of \$9.57 per day. The department does not have data that allow it to project the number of individuals impacted by this change and thus the fiscal impact.

The bill repeals mandatory early termination of probation and returns discretion to the judge. This is likely to result in some probationers spending additional time on probation at a cost of \$9.57 per day. The department is unable to project how many probationers are likely to be impacted by this change or the change in the average length of probation.

## STATE OF ALASKA 2019 LEGISLATIVE SESSION



Bill Version

HB 49	

			Visited in	2 2 2 20	900	() Publish Date	-		
	(file name) I	HB049CS(FIN)-	JUD-ACS-05-04-	19		Dept. Affected_		Judiciary	
Title <u>Crimes; Senten</u>			ing; Mental Illne	ss; Evidence		Appropriation	Alas	ka Court Syste Trial Courts	m
Sponsor		Rules by Reques	st of the Governo	or		Allocation		Trial Courts	
Requeste	er <u>T</u>	House Finance				OMB Compone	nt Number _	768	
Expendi	itures/Reve	enues			(Thou	usands of Dolla	ars)		
			unless otherwis	e noted below.	(,,,,,				
			FY2020	Governor's					
			Appropriation Requested	FY2020 Request		Out-Ye	ar Cost Estir	nates	
OPERATI	ING EXPEN	DITURES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personal	Services		1,040.5		1,040.5	1,040.5	1,040.5	1,040.5	1,040.5
Travel Services			77.0 9.0		77.0 9.0	77.0 9.0	77.0 9.0	77.0 9.0	77.0 9.0
Commodi	ities		10.0		10.0	10.0	10.0	10.0	10.0
Capital O			0.0		0.0	0.0	0.0	0.0	0.0
Grants, B			0.0		0.0	0.0	0.0	0.0	0.0
Miscellan		ATINO	4 400 5		4 400 5	4 400 5	4 400 5	4 400 5	4 400 5
	OTAL OPER	RATING	1,136.5	0.0	1,136.5	1,136.5	1,136.5	1,136.5	1,136.5
1002 Fe	ederal Recei	nte			(Tho	usands of Dolla	rs)		
	F Match	pts							
1004 G			1,136.5	0.0	1,136.5	1,136.5	1,136.5	1,136.5	1,136.5
	F/Prgm (DG								
	A Rcpts (Oth								
1037 G	F/MH (UGF)		1,136.5	0.0	1,136.5	1,136.5	1,136.5	1,136.5	1,136.5
			1,100.0	0.0	1,100.0	1,100.0	1,100.0	1,100.0	1,100.0
POSITIO	NS								
Full-time			9		9	9	9	9	9
Part-time Temporar									
	IN REVENU		FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
	Sen Fund (UG ed Ropts (Fe								
		N REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Does the (Supplem ASSOCIA Does the If yes, by Why this	e bill create on ental/Capital ATED REGU bill direct, or what date and siscal note	(FY2020) costs or modify a fun //New Fund- disc LATIONS will the bill resure the regulation differs from pro		d fund source(s) changes adopted amended, or repondents (if in	by your agenc pealed?	(separate cap			
Prepared Division Approved		Alaska Court Sy	General Counsel stem	son, Administrati	ive Director		Date/Time	(907) 463-4736 5/4/19 12:00 Pl 5/4/2019	
Agency Alaska Court Sy									

### STATE OF ALASKA 2019 LEGISLATIVE SESSION

BILL NO.	HB 49	
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#### **Analysis**

The House Finance Committee Substitute for House Bill 49 changes many categories of criminal offenses and procedures to return them to the way they were written before Senate Bill 91 passed in 2016. It removes the inflation adjuster for theft crimes, allows a new offense for aggregated thefts, reclassifies certain sexual offenses and most drug offenses, changes the length of sentences for misdemeanors and felonies, reclassifies some offenses as crimes (failure to appear), alters bail and pretrial provisions, and alters probation terms. The bill also enacts several new criminal offenses, including possession of motor vehicle theft tools, escape, and terroristic threatening.

Creating new criminal offenses and reclassifying drug crimes is expected to have the effect of increasing the number of cases that are filed with the court, and increased sentences may have the impact of increasing the number of cases that proceed to trial. The fiscal note from the Department of Law seeks six new prosecutors for the caseload increases that they anticipate. These changes would therefore have a fiscal impact on the court.

The court system intends to accommodate the increased filings by retaining the equivalent of two full-time pro tem judges to help expedite the criminal caseload, at a cost of \$194,000 (salary plus benefits) per judge. Those positions would travel to cover cases as needed statewide, and therefore the court system anticipates travel costs of \$18,000 for each of the pro tem judges. The positions would each require \$1,000 in supplies and \$1,500 in contractual services. The total expenditures for the **two full-time pro tem judges would be \$429,000**. In addition, the pro tem judges must travel with an in-court clerk; this note also includes **travel costs of \$36,000 for the two travelling in-court clerks**.

In addition, to accommodate the expected increase in criminal case filings that five new prosecutors would cause, the court system is seeking the funding equal to the cost of five clerical positions. The additional resources would permit the court to keep current with opening new files, entering data in Court View, and generally processing the additional caseload. The cost of the **five new clerical positions is \$447,500** (salary and benefits for three Range 14 clerks, plus two Range 16 clerks, plus \$2,000 in supplies/materials and \$3,000 in contractual services/computer licenses).

The provisions of CSHB 49 that change bail decisions, bail review hearings, third-party custodians, and the timing of arraignments to return them to pre-SB 91 laws may result in more bail hearings, but are not expected to have a fiscal impact on the court system. Similarly, the changes to probation terms and credits may lead to more petitions to revoke probation, but that is not likely to have any fiscal impact on the courts. The changes to parole eligibility and parole decisions have no impact on the court either operationally or fiscally.

Sections 1, 94, and 95 include legislative intent and proposed court rule changes concerning videoconference use for court hearings. With the increased focus on video-conferenced appearances for pretrial defendants, the court system is seeking two new positions: one trial court coordinator who would handle the many logistics and arrangements to expand the system statewide, and one technical IS (Information Services) person to set up and maintain equipment. The IS staff person would also need to travel statewide for troubleshooting and to provide ongoing technical assistance, and would incur certain limited costs for supplies and other contractual obligations. The cost would amount to the videoconference coordinator's salary and benefits (Range 18C, for a total of \$105,400), the IS technician's salary and benefits (Range 18C for a total of \$105,400), plus travel costs of (\$5,000), supplies (\$6,000), and contractual services (\$3,000).

Section 98 requires the court system to supply information about certain mental commitment cases to the Department of Public Safety. The court system would need to research cases back to Jan. 1, 2011. All the information required by this provision is available in an electronic format, and therefore this would be a task that the court system could do with no fiscal impact.

STATE OF ALASKA 2019 LEGISLATIVE SESSION  Identifier (file name) HB049CS(FIN)-LAW-CRIM-5-4-19				Bill Version Fiscal Note Nu () Publish Date		HB 49		
					Dept. Affected		Department of La	ıw
Title		Crimes; Sentencing; Ment. Illness; Evidence			Appropriation Allocation		Criminal Division	
Sponsor		y Request of the G	overnor					duon
Requester	House Finance	9			OMB Compone	ent Number	2202	
Expenditures	/Revenues do not include inflatio	an unlane ethanidae	noted below	(The	ousands of Do	lars)		
Note: Amounts	do not include inhatic							
		FY2020 Appropriation Requested	Governor's FY2020 Request		Out-Y	ear Cost Est	timates	
	XPENDITURES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personal Service Travel	ces	1,258.8 13.5		***	***	***	***	***
Services		196.6						
Commodities		14.6			-			
Capital Outlay Grants, Benefits	S	4.6			1			
Miscellaneous								
	OPERATING	1,488.1	0.0		***	***	***	***
FUND SOURCE				(Th	ousands of Dol	ars)		
1002 Federal 1003 GF Mat	Receipts			1				
1004 GF								
	m (DGF) ts (Other)	1,488.1		***	""	***	***	***
1037 GF/MH				-				
		1,488.1	0.0	*48	.44	***	***	***
POSITIONS				1				
Full-time		13		1	***	***	***	***
Part-time								
Temporary								
CHANGE IN RI		FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
	nd (UGF) pts (Fed)							
TOTAL CHA	NGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Estimated SIII	PPLEMENTAL (FY20	019) operating co	10		(separate su	polemental app	ropriation require	ed)
						pital appropriati		/
	PITAL (FY2020) cos reate or modify a fu			No	_ (Separate ca	рікаї арріорітац	on required)	
	Capital/New Fund- d		fund source(s,		tion)			
ASSOCIATED	REGULATIONS							
	rect, or will the bill res	sult in, regulation cl	nanges adopted	d by your agenc	y?	No		
	date are the regulation					Discuss deta	ails in analysis se	ection.
Mby this fiese	I note differs from p	rovious vorsion/s	ommonte (if i	nitial version r	losso noto as s	such)		
This fiscal note	differs from the prev	ious version due to	the necessary	accommodation	of the significa	nt changes pre	sent in the Hous	e Finance
committee's Co	mmittee Substitute.	The legislation was	amended to in	clude a number	of new sections	relating to sex	offenses, drug p	ossession, pre
trial and probat	ion.							
Prepared by	Valerie Rose	Budget Analyst					e 465-3674	
Division		Services Division				Date/Time	5/3/19 8:47 PM	
Approved by		ministrative Service				Date	5/4/2019	
Agency	Office of Mana	gement and Budge	et					

#### STATE OF ALASKA 2019 LEGISLATIVE SESSION

BILL	NO. HB	49
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#### **Analysis**

This bill makes a number of changes to the state's criminal code, as well as to the statutes affecting pretrial, probation, and parole.

#### **Classification and Sentencing**

This bill makes a number of changes to the state's sex offense statutes. The changes increase the classification of certain crimes and increase the sentences for certain conduct:

Sexual abuse of a minor in the third degree, which is currently sentenced as a regular class C felony (0-2 years, 5 years max), will be sentenced as a sexual felony with a presumptive sentencing range of 2-12 years (99 max) when there is a six-year age difference between the perpetrator and victim; indecent viewing or photography of a minor will be a registerable sex offense and punishable as a sexual felony; soliciting a minor to commit sexual acts will also be a sexual felony punishable by a presumptive range of 5-15 years (99 max; and the defense of marriage will no longer be allowed for all sexual assault crimes *except* those where there is consent and the conduct is illegal due to the nature of the relationship (probationer/probation officer, peace officer/person in custody; Division of Juvenile Justice officer/person 18 or 19 and under the jurisdiction of the Division of Juvenile Justice).

In addition, class A misdemeanor sentences are returned to 0-365 days. Class B misdemeanor sentences are increased from 0-10 days to 0-30 days. Additionally, class A and B felony sentencing ranges are increased by approximately 1 year. Probation lengths are also returned to their 2015 ranges. The maximum period of probation for a felony sex offense will be 25 years and for all other offenses the maximum period will be 10 years.

All drug trafficking offenses are reenacted to be consistent to what they were in 2015. This includes reenacting an A felony level offense for the distribution of heroin and repealing the amount based system in current law. Further, the enhanced sentences for manufacturing methamphetamine around children is reenacted. The bill also makes drug possession offenses a class A misdemeanor (0-365 days) for the first two offenses. On the third offense it is upgraded to a class C felony.

Further, this bill enacts several new criminal offenses. First, it enacts a generalized threat statute. This statute will criminalize making a threat which places a person in fear of serious physical injury with reckless disregard that the threat may cause the evacuation of a building, or a serious public inconvenience. The bill also makes driving with a license that is canceled, suspended, or revoked a class A misdemeanor in all cases. Finally, the bill enacts the crime of removal of an electronic monitoring device when the person is sentenced for a misdemeanor or while under pretrial detention.

The bill also allows a prosecutor to use a person's criminal history report (APSIN) at the grand jury phase of a case to prove the existence of prior convictions when prior convictions are an element of the offense charged (i.e. felon in possession, felony assault due to prior assault convictions).

The creation of new criminal offenses will likely require the Criminal Division to engage in additional litigation. However, the ability to use a criminal history report at grand jury should provide a cost efficiency as it often takes days to weeks to obtain a certified judgment. The reprioritization of drug offenses as felonies will likely increase law enforcement referrals. It is anticipated that felony drug prosecutions will return to their pre-2016 levels – between 2015 and 2017, felony drug prosecutions dropped approximately 70% (or approximately 740 cases). It is anticipated that prioritizing felony drugs offenses for prosecution, combined with the significant increase in drug prevalence in Alaska (see generally Department of Public Safety 2017 drug report showing a significant increase in heroin and methamphetamine seizures in the state), will cause felony drug prosecutions to return, or exceed, their pre-2016 levels.

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#### **Analysis**

Increased sentences and penalties will likely increase the number of trials, contested sentencing hearings, and appeals. The department anticipates an increase in the litigation at all stages of the criminal process. It is anticipated that additional prosecutor positions and associated support staff spread throughout the state would be needed to handle the increased litigation. Finally, in 2016, the department anticipated an increase in litigation with the passage of criminal justice reform. The department has monitored that litigation and is aware of the areas in which it occurred. This increase in litigation is likely to continue for a number of years regardless of the passage of this legislation. The department anticipates that the passage of this legislation will result in a similar increase in litigation, which cannot be handled with current staffing levels. Assuming the department sees an increase in litigation similar to what it saw with the passage of criminal justice reform, combined with the increased litigation from increased sentences and penalties, it is anticipated that the department will be able to handle the increased workload if additional attorney and support staff positions are added as discussed above.

It is anticipated that the additional workload generated by the increase in drug cases and litigation associated with the passage of this legislation will require an additional five prosecutors and four associated support staff in the first year of passage, with the potential need for additional prosecutors and associated support staff in subsequent years. Additionally, the recriminalization of all cases of driving with license canceled suspended or revoked will require the Criminal Division to prosecute additional cases. Between 2014 and 2016 the offense of driving with a license that has been canceled suspended or revoked consisted of 17% of the division's misdemeaner caseload. The vast majority of those cases were handled out of the Palmer, Kenai, and Fairbanks district attorney's offices. The increase in work load will require an additional three law office assistants and one prosecutor.

This legislation will have a fiscal impact on the Department of Law. As outlined above, the department anticipates the need for a total addition of six prosecutors and seven support staff should this bill become law.

#### **Pre-trial**

The bill also returns the bail statutes to where they were in 2015. This includes eliminating the presumptions of release and the requirement that a clear and convincing evidentiary standard be met before a person can be held on monetary bail. It also eliminates the requirement that judges use a risk assessment conducted by the Department of Corrections when making release decisions. Instead, the bill allows a risk assessment to be considered as a factor along with all other information when determining bail and conditions of release.

The department anticipates no fiscal impact from these sections of the legislation at this time.

### **Probation and Parole**

The legislation also repeals the caps for technical violations of probation and the court will have the discretion to impose up to the remainder of the suspended sentence when a person violates. A similar provision will be reenacted for parole. The bill also eliminates the statutory timelines for a probation officer to recommend early termination of probation to the court. This returns discretion to the probation officer to make recommendations based on the probationer's performance on probation. The statutory timelines in the parole context are also repealed.

Parole eligibility is also returned to where it was before July 2016. This means non-sex class A felonies, B felonies where the person has one or more prior felony conviction, C felonies with two or more prior felony convictions, and B and C sex felonies will not be eligible for discretionary parole under most circumstances. The factors that the parole board is to consider when determining whether to release the person are also returned to where they were before July 2016.

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The bill eliminates the "clear and convincing" standard which must be found before denying discretionary parole. The bill also eliminates good time credit for time spent on electronic monitoring post-sentencing.

Finally, the bill will modify the earned compliance credit program to grant 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.

It is anticipated that the Department of Law will see an increase in litigation similar to what it saw with the original passage of criminal justice reform. However, the department does not anticipate a fiscal impact from these sections of the legislation.

This fiscal note only shows the estimated fiscal impact in FY2020 if this bill is enacted into law.



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				Dept. Affected _	,	Public Safety			
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			FY2020 Appropriation Requested	Included in Governor's FY2020 Request		Out-Ye	ear Cost Esti	mates	
		PENDITURES	FY2020	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
	al Services								
Travel Service:									
Commo	-								
Capital						A			
	Benefits								
Miscella	aneous					1/1			
	TOTAL C	PERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0
FUND S	SOURCE		7		(Th	ousands of Dolla	irs)		
	Federal R	•	-						
	GF Match								
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If yes, b	by what da	te are the regulation	s to be adopted, a	amended, or rep	bealed?	7/1/2020	Discuss detail	ls in analysis se	ction.
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#### STATE OF ALASKA 2019 LEGISLATIVE SESSION

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### **Analysis**

This bill makes several changes to current law relating to sex offenders and sex offender registration requirements. Specifically, the bill amends the definition of "sex offender or child kidnapper" under AS 12.63.100(6) to include a person who is required to register as a sex offender under the laws of another jurisdiction; and amends the definition of "sex offense" under AS 12.63.100(7) to include the offense of indecent viewing or production of a picture under AS 11.61.123 when punished as a class B or C felony, and offenses in which a person is required to register as a sex offender under the laws of another jurisdiction.

The bill also requires DPS to adopt regulations outlining the process for determining the duration of such offender's duty to register in Alaska, including taking into consideration the period of registration required in the other jurisdiction and providing for tolling or "pausing" of the registration period if out of compliance or incarcerated.

AS 18.65.087 authorizes the Department of Public Safety (DPS) to maintain a central registry of persons required to register as sex offenders and child kidnappers under AS 12.63.010. Within DPS, the Sex Offender/Child Kidnapper Registry office validates, verifies, and notifies sex offenders of the registration requirements. Currently, a person required to register as a sex offender in another jurisdiction is only required to register in Alaska if that person was convicted of an offense that is similar to a sex offense as defined in AS 12.63.100.

This bill also amends uncodified law to require the Alaska Court System to transmit to the Department of Public Safety (DPS) certain records related to involuntary commitments and adjudications of mental illness or mental incompetence that were issued on or after January 1, 2011, for inclusion in the National Instant Criminal Background Check System (NICS). Under current law, the Alaska Court System may only provide such records from October 2014 forward.

The NICS is a national system that checks available records in three databases to determine if prospective firearm buyers are disqualified from receiving firearms. A NICS check includes a check of the following three databases that are maintained by the FBI: Interstate Identification Index (III or "Triple I"), a database on criminal history record information; National Crime Information Center (NCIC) which includes information on persons subject to civil protection orders and arrest warrants; and NICS Index which includes the information contributed by federal and state agencies identifying persons prohibited from possessing firearms who are not included in the III or NCIC, such as persons with a prohibiting mental health history.

When information about involuntary commitments and adjudications of mental illness or mental incompetence is provided to the NICS, the FBI can deny firearm transfers to persons with disqualifying mental health histories both in the state where the record was created and in other states to which the person may have subsequently moved.

These records are maintained in a separate database to protect the confidentiality of the records and to ensure they are only available for the purposes outlined under AS 47.30.907.

Should this bill pass, DPS anticipates the increase in the number of additional persons who would be required to register as sex offenders in Alaska would be manageable in terms of requiring additional staff or resources, and any additional workload related to transmission of records from the court system can be absorbed with existing staff. Therefore, a zero fiscal note is being submitted.

DPS estimates the regulation process associated with sex offender registration requirements would take no longer than twelve months from the bill's effective date to complete. Therefore, a July 1, 2020, date has been identified as the date by which the regulations would be adopted by.