

# 28<sup>th</sup> Alaska State Legislature

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## Senate Judiciary Committee

### **SECTIONAL ANALYSIS**

#### **Senate Bill 64**

#### *Omnibus Crime/Corrections Bill*

#### **Section 1:**

*This section will increase the minimum amount of property or services for the crime of theft in the second degree. Theft in the second degree is a class C felony and carries a maximum sentence of up to five years in prison and a fine of up to \$50,000.*

#### **Section 2.**

*This section will increase the minimum amount of property or services for the crime of theft in the third degree. Theft in the third degree is a class A misdemeanor and carries a term of imprisonment of not more than one year and a fine of up to \$10,000.*

#### **Section 3.**

*This section will increase the minimum amount of property or services for the crime of theft in the fourth degree. Theft in the fourth degree is a class B misdemeanor and is punishable by imprisonment of not more than 90 days and a fine of not more than \$2,000.*

#### **Section 4.**

*This section will increase the minimum amount of merchandise for the crime of concealment of merchandise for a class C felony, and class A and B misdemeanors.*

#### **Section 5.**

*This section will increase the minimum amount of property that identification marks are removed from for a class C felony and class A and B misdemeanors.*

#### **Section 6.**

*This section will increase the minimum amount of unlawful possession of property for a class C felony and class A and B misdemeanors.*

**Section 7.**

*This section will increase the minimum amount of a bad check for a class C felony and class A and B misdemeanors.*

**Section 8.**

*This section will increase the minimum amount of the fraudulent use of an access device for a class C felony and class A misdemeanor.*

**Section 9.**

*This section will increase the minimum amount of property damage and expenses as a result of the loss of use of a vehicle.*

**Section 10.**

*This section will increase the minimum amount of property damage for the crime of criminal mischief in the third degree. Criminal mischief in the third degree is a class C felony.*

**Section 11.**

*This section will increase the minimum amount of property damage for the crime of criminal mischief in the fourth degree. Criminal mischief in the fourth degree is a class A misdemeanor.*

**Section 12.**

*This section will increase the minimum amount of property damage for the crime of criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a class B misdemeanor.*

**Section 13.**

*This section will increase the minimum amount of property damage for the crime of criminal simulation for a class C felony and class A and B misdemeanors.*

**Section 14.**

*This section will increase the amount of the value of the property for the crime of misapplication of the value of property for a class C felony and class A misdemeanor.*

**Section 15.**

*This section will increase the minimum amount for the crime of defrauding creditors under certain conditions for a class A misdemeanor, and class C felony.*

**Section 16:**

*This section establishes the 24/7 Sobriety program as a condition of release before trial, which includes twice a day alcohol monitoring and establishes a means to provide notification to the probation officer, prosecutor's office, or local law enforcement agency of a violation within 24 hours.*

**Section 17:**

*This section establishes the 24/7 Sobriety program as a condition of release before trial for certain alcohol-related offenses, which includes twice a day alcohol monitoring and establishes a means to provide notification to the probation officer, prosecutor's office, or local law enforcement agency of a violation within 24 hours.*

**Section 18:**

*This section establishes the 24/7 Sobriety program as a condition of release before trial for offenses related to controlled substance abuse, which includes twice a day alcohol monitoring and establishes a means to provide notification to the probation officer, prosecutor's office, or local law enforcement agency of a violation within 24 hours.*

**Section 19:**

*An incarcerated person shall receive credit against a sentence of imprisonment for time spent in a residential treatment facility, but is restricted to the grounds of the facility unless permitted to leave for rehabilitative purposes that are limited to time and purpose.*

**Section 20:**

*This section establishes the 24/7 Sobriety program as a condition of probation for certain alcohol-related offenses, which includes twice a day alcohol monitoring and establishes a means to provide notification to the probation officer, prosecutor's office, or local law enforcement agency of a violation within 24 hours.*

**Section 21:**

*The judicial council shall provide staff and administrative support to the Alaska Criminal Justice Commission.*

**Section 22:**

*Any bill that creates a new criminal offense or affects an existing criminal justice practice shall receive a fiscal analysis describing the projected 10-year effect on court, prosecution, public defense, and corrections resources.*

**Section 23:**

*The court may terminate a license revocation for DUI or refusal if the person has successfully completed a court-ordered treatment program, has not been charged or convicted of a DUI or refusal since completing the program, and has been granted a limited license and successfully driven under that limited license without having those privileges revoked.*

**Section 24:**

*The court may grant limited license privileges if the revocation is for DUI or refusal, and the person is participating in a court-ordered treatment program, provides proof of insurance, is using an ignition interlock device, enrolls in alcohol screening, abstains from alcohol, signs an affidavit testifying to such, and participates in the cost of testing. The court shall immediately revoke the limited license if the person is charged with or convicted of a DUI or refusal or tests positive during a test for the use of alcohol or drugs.*

**Section 25:**

*Once the court elects to proceed with this procedure, the defendant shall enter a plea of no "contest" or "guilty." The state and the defendant may enter into a plea agreement and the court shall enter a judgment of conviction. In a judgment of conviction, the court may withhold pronouncement of a period of imprisonment or a fine to provide an incentive for the defendant to complete recommended treatment successfully.*

**Section 26:**

*Imprisonment for first-time DUI offense shall be served by either electronic monitoring, a community residential center, or another appropriate place determined by the commissioner of corrections.*

**Section 27:**

*Upon request, the department shall review a driver's license revocation for felony DUI and shall restore the driver's license if the person has been granted limited license privileges and has successfully driven under that limited license without having those privileges revoked, the person has successfully completed a court-ordered treatment program, the person has not been convicted of a criminal offense since the license was revoked, and the person provides proof of insurance.*

**Section 28:**

*Upon request, the department shall review a driver's license revocation for felony refusal and shall restore the driver's license if the person has been granted limited license privileges and has successfully driven under that limited license without having those privileges revoked, the person has successfully completed a court-ordered treatment program, the person has not been convicted of a criminal offense since the license was revoked, and the person provides proof of insurance.*

**Section 29:**

*The commissioner shall establish a program with eligibility requirements for felons with conditions of probation that include not consuming alcohol and who have been identified as being at high risk for violating their conditions of probation. The program shall include random drug testing and requires the probation officer to file a petition to revoke probation if the probationer fails to appear for an appointment, tests positive for drugs or alcohol, or fails any other condition of probation.*

**Section 30:**

*The commissioner shall establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more and provide a report to the legislature by January 15 of the first year of each legislature.*

**Section 31:**

*The recidivism reduction fund is established to promote rehabilitation through transitional re-entry programs of persons recently released from correctional facilities. The commissioner may make grants from the fund for programs that have, as a primary focus, rehabilitation and reduction of recidivism through transitional re-entry for persons incarcerated for offenses and recently released from correctional facilities. To qualify for a grant under this section, a program shall include case management, sober living, residential treatment, employment, and a cap on residential placements of 150 days. The commissioner shall prepare an annual report for the legislature by January 15 of each year.*

**Section 32:**

*The Alaska Criminal Justice Commission is established in the Office of the Governor. The commission consists of 11 members as follows:*

- (1) the chief justice of the Alaska Supreme Court or another active or retired justice of the supreme court or court of appeals*
- (2) an active or retired superior court judge designated by the chief justice*
- (3) an active or retired district court judge designated by the chief justice*
- (4) a member of the Alaska Native community designated by the Alaska Native Justice Center*

- (5) *the attorney general or designee*
- (6) *a private attorney appointed by the governor*
- (7) *a chief of a municipal law enforcement agency appointed by the governor*
- (8) *two members of the senate appointed by the president of the senate*
- (9) *two members of the house of representatives appointed by the speaker of the house of representatives*

*The commission shall elect a chair and the Alaska Judicial Council shall provide staff and administrative support to the commission.*

*Members of the commission serve without compensation but are entitled to per diem and travel expenses authorized for boards and commissions.*

*A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission.*

*The commission shall meet at least quarterly and shall keep a record of its proceedings and make these records available for public inspection.*

#### **Sec. 44.19.645. Powers and duties of the commission.**

*The commission shall evaluate the effect of sentencing laws and practices on the criminal justice system. In formulating its recommendations, the commission shall consider:*

- (1) *statutes and court rules*
- (2) *sentencing practices*
- (3) *uniformity and proportionality in sentencing*
- (4) *alternatives to traditional incarceration*
- (5) *the use of parole and probation*
- (6) *the effectiveness and availability of rehabilitation programs*
- (7) *crime and incarceration rates*
- (8) *the relationship between sentencing priorities and correctional resources*
- (9) *the effectiveness of the state's current methodologies for the collection and of data*

*The commission may retain the services of consultants to assist the commission.  
The commission may compile information concerning sentencing practices.  
The commission may recommend legislative and administrative action.*

#### **Sec. 44.19.646. Methodology.**

*The commission shall solicit and consider information and views from a variety of constituencies and base recommendations on the following factors:*

- (A) *the seriousness of each offense in relation to other offenses*
- (B) *the effect of an offender's prior criminal history*
- (C) *The need to rehabilitate criminal offenders*

- (D) The need to confine offenders to prevent harm to the public*
- (E) The extent to which criminal offenses harm victims and endanger public safety*
- (F) The effect of sentencing in deterring an offender or other members of society from future criminal conduct*
- (G) The effect of sentencing as a community condemnation and as an affirmation of societal norms*
- (H) The elimination of unjustified disparity in sentences*
- (I) The resources available to agencies in the criminal justice system*
- (J) The effect of sentencing on reducing the rate of recidivism in the state*

*The commission shall submit to the governor and the legislature an annual report and recommendations by January 1 of each year.*

**Section 33:**

*The Alaska Criminal Justice Commission is repealed June 30, 2019.*

**Section 34:**

*APPLICABILITY*

**Section 35:**

*TRANSITIONAL PROVISIONS*

**Section 36:**

*Section 30 of this Act takes effect January 1, 2016.*