

28th Alaska State Legislature

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Senate Judiciary Committee

SECTIONAL ANALYSIS

Senate Bill 64

Omnibus Crime/Corrections/Recidivism Bill

Version L

Section 1:

This section clarifies that a person commits the crime of custodial interference in the first degree if that person is a relative of the child and removes that child from the state and keeps the child from its legal custodian, despite not having a legal right to do so.

Section 2:

This section makes it a crime of custodial interference in the second degree if a non-relative of a child knowingly and unlawfully represents themselves as having a legal right to take or keep a child. This section establishes a class A misdemeanor for an attempted child abduction, rather than the lesser crime of criminal mischief.

Section 3:

This section clarifies that an affirmative defense of necessity does not apply to a prosecution for custodial interference if the period for which the person held the child exceeded 24 hours if that was the amount of time necessary to report that the child has been neglected, abused, or is in physical danger.

Section 4:

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 5:

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 6:

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 7:

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 8:

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 9:

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

Section 10:

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

Section 11:

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 12:

Clarifies that, if the property crime felony threshold is adjusted, the new threshold does not retroactively apply to prior offenses.

Section 13:

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

Section 14:

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 15:

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 16:

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 17:

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 18:

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 19:

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 20:

This section establishes a 24/7 Sobriety program that would be available to defendants out on bail who have been charged with alcohol-related or substance abuse-related offenses that are unclassified felonies, class A felonies, sexual felonies, or crimes involving domestic violence. The program requires twice-a-day alcohol monitoring and establishes a means to provide notification of a violation to the probation officer, prosecutor's office, or local law enforcement agency within 24 hours.

Section 21:

This section establishes a 24/7 Sobriety program that would be available to defendants out on bail who have been charged with DUI or refusal. The program requires twice-a-day alcohol monitoring and establishes a means to provide notification of a violation to the probation officer, prosecutor's office, or local law enforcement agency within 24 hours.

Section 22:

This section establishes a 24/7 Sobriety program that would be available to defendants out on bail who have been charged with crimes involving controlled substances or imitation controlled substances. The program requires twice-a-day alcohol monitoring and establishes a means to provide notification of a violation to the probation officer, prosecutor's office, or local law enforcement agency within 24 hours.

Section 23:

An incarcerated person shall receive credit against a sentence of imprisonment for each day spent in a residential treatment facility, provided the person is confined at all times to the grounds of the facility, other than for employment, vocational training, community volunteer, or purposes directly related to the person's treatment, so long as the periods they are permitted to leave the facility are expressly limited as to both time and purpose by the treatment program.

Section 24:

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

Section 25:

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

Section 26:

The commissioner shall establish the P.A.C.E. program for felons with conditions of probation that include not consuming drugs or alcohol and who have been identified as being at moderate to high risk by a risk-needs assessment. The program shall include random drug and alcohol testing and requires a probation officer to file a petition to revoke probation by the next business day if the probationer fails to appear for an appointment or tests positive for drugs or alcohol. Subsection (g) also contains the program requirements for 24/7 Sobriety.

Section 27:

This section directs the parole board to establish the P.A.C.E. program for parolees with conditions of parole that include not consuming drugs or alcohol and who have been identified as being at moderate to high risk by a risk-needs assessment. The program shall include random drug and alcohol testing and requires a parole officer to file a parole violation report by the next business day if the parolee fails to appear for an appointment or tests positive for drugs or alcohol.

Section 28:

The parole board may require, as a condition of special medical or mandatory parole, a parolee must submit to the P.A.C.E. program.

Section 29:

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. The commissioner shall also provide assessment or screening of offenders with fetal alcohol syndrome or another brain-based disorder.

Section 30:

The Alaska Criminal Justice Commission is established in the Office of the Governor. The commission consists of 10 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) the public defender*
- (9) one member of the senate appointed by the president of the senate*
- (10) one member 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 31:

This section establishes a sunset of June 30, 2018 for the Alaska Criminal Justice Commission.

Section 32:

This section establishes the Recidivism Reduction Grant Fund within the Department of Health and Social Services. The commissioner shall work in cooperation with the Department of Corrections to make grants from the fund to programs that have, as a primary focus, rehabilitation and reduction of recidivism through transitional re-entry for persons recently released from correctional facilities. To qualify for a grant under this section, a program shall include case management, sober living, treatment, employment, and a cap on residential placements of 1 year. The commissioner shall prepare an annual report for the legislature by January 15 of each year.

Section 33:

Staffing for the Alaska Criminal Justice Commission expires when the commission expires (June 30, 2018).

Section 34:

APPLICABILITY

Section 35:

TRANSITIONAL PROVISIONS

Section 36:

This section clarifies that the Department of Corrections may begin adopting regulations to implement P.A.C.E. and 24/7 Sobriety immediately upon passage of this bill.

Section 37:

This section establishes a delayed effective date for Section 29.

Section 38:

This section clarifies that the Department of Health and Social Services and Department of Corrections may begin adopting regulations to implement P.A.C.E. and 24/7 Sobriety immediately upon passage of this bill.

Section 39:

This section establishes an effective date of July 1, 2014 for the remaining sections of the bill.