

Senate Bill 64

Omnibus Crime/Corrections/Recidivism Bill

To improve public safety, slow the growth of Alaska's prison population, and save money.

Goose Creek Correctional Center

Completed in 2011

\$250 million

+

\$50 million a year to operate

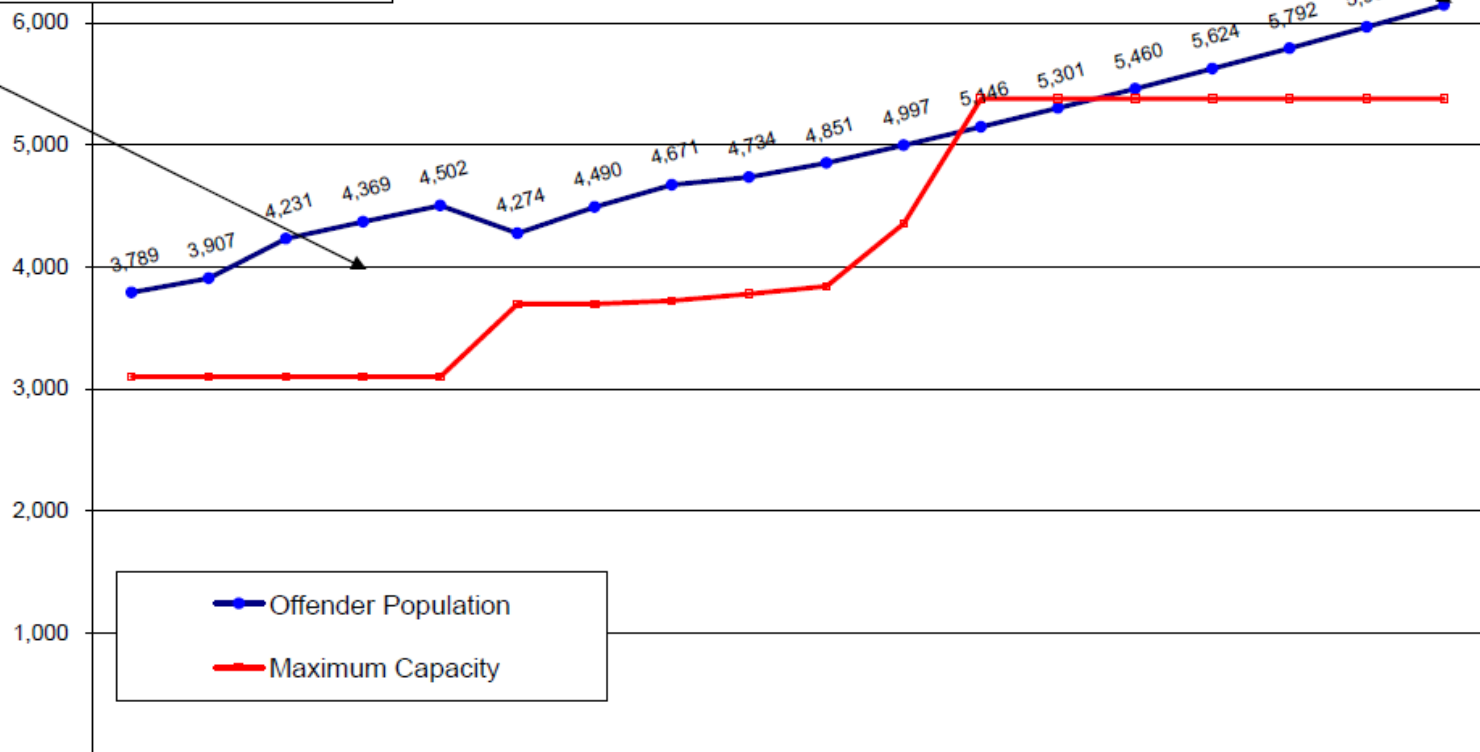
Cost per Day per Inmate = \$159

\$58k per year

Alaska Institutional Inmate Population FY03-FY20

Excess institutional inmate population was contracted to out-of-state prisons until Goose Creek Correctional Center became fully operational in FY14.

Institutional inmate population is projected to exceed capacity by 769 beds in FY20.



| | FY03 | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 | FY18 | FY19 | FY20 |
|---|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Offender Population | 3,789 | 3,907 | 4,231 | 4,369 | 4,502 | 4,274 | 4,490 | 4,671 | 4,734 | 4,851 | 4,997 | 5,146 | 5,301 | 5,460 | 5,624 | 5,792 | 5,966 | 6,145 |
| Maximum Capacity | 3,098 | 3,098 | 3,098 | 3,098 | 3,098 | 3,696 | 3,696 | 3,722 | 3,778 | 3,840 | 4,353 | 5,376 | 5,376 | 5,376 | 5,376 | 5,376 | 5,376 | 5,376 |
| Over (Under) Capacity | (691) | (809) | (1,133) | (1,271) | (1,404) | (578) | (794) | (949) | (956) | (1,011) | (644) | 230 | 75 | (84) | (248) | (416) | (590) | (769) |
| GF Budget FnlBud Column (in millions) | \$166.9 | \$165.5 | \$170.2 | \$187.5 | \$210.4 | \$218.4 | \$227.5 | \$247.5 | \$256.3 | \$271.6 | \$305.6 | \$313.6 | \$336.5 | \$361.0 | \$387.2 | \$415.4 | \$445.6 | \$478.1 |

* FY14 enacted budget (does not include management plan adjustments)
 **FY15-FY20 budget projections based on DOC annual average GF growth rate of 7.3%

Based on the approximate 3% population growth rate experienced between FY03-FY12, the institutional inmate population is expected to reach 6,145 by FY20. 3

Sentencing and Corrections Reforms in Justice Reinvestment States

| | Policy Reform | 2013 | | | | 2012 | | | | | 2011 | | | | | 2010 | | | 2009 | | 2008 | | | | | 2007 | | | Total | | | | | |
|---|---|------|----|----|----|------|----|----|----|----|------|----|----|----|----|------|----|----|------|----|------|----|----|----|----|------|----|----|-------|----|----|----|---|---|
| | | OR | SD | WV | KS | MO | DE | GA | PA | HI | OK | AR | KY | AL | LA | NC | OH | SC | NH | MI | IL | WI | AZ | PA | CT | RI | VT | KS | | NV | TX | | | |
| Sentencing/Pretrial | Reclassify/redefine drug offenses | ✓ | ✓ | | | | ✓ | | | | ✓ | ✓ | | | ✓ | ✓ | | | | | | | | | | | | | | | | | | 7 |
| | Reclassify/redefine property offenses | ✓ | ✓ | | | | ✓ | | | | ✓ | | | | | ✓ | ✓ | | | | | | | | | | | | | | | | 6 | |
| | Establish/expand presumptive probation for certain offenses | ✓ | ✓ | | | | | | ✓ | | | ✓ | | | | ✓ | | | | | | | | | | | | | ✓ | | | | 6 | |
| | Revise sentencing enhancements | | | | | | ✓ | | | | | ✓ | | | ✓ | | ✓ | | | | | | | | | | | | | | | | 4 | |
| | Revise mandatory minimums | ✓ | | | | | ✓ | | ✓ | | | | | ✓ | | | ✓ | | | | | | | | | | | | | | | | 5 | |
| | Reduce crack-powder cocaine disparity | | | | | | | | | | | | | | | ✓ | | ✓ | | | | | | | | | | | | | | | 2 | |
| | Revise sentencing guidelines/establish sentencing commission | | | | | | | | | | | | | | | ✓ | | | | | ✓ | | | | ✓ | | | | | | | | 3 | |
| | Improve pretrial release systems | | | ✓ | | | ✓ | | ✓ | | | ✓ | | | | | ✓ | | | | | | | | | | | | | | | | 4 | |
| | Establish presentence assessment | | | ✓ | | | ✓ | ✓ | | ✓ | | ✓ | | | | | ✓ | | | | | | | | | | ✓ | | | | | | 6 | |
| | Revise drug-free school zone | | | | | | | | | | | ✓ | | | | | | ✓ | | | | | | | | | | | | | | | 2 | |
| | Authorize risk-reduction sentencing | | | | | | | | | | | | | | | ✓ | ✓ | | | | | | | ✓ | | | | | | | | | 3 | |
| Release | Revise parole hearing/decision/eligibility standards | | | | ✓ | | | | ✓ | | ✓ | ✓ | | ✓ | | ✓ | ✓ | ✓ | | | | | | ✓ | ✓ | | | | | | | 10 | | |
| | Expand good/earned-time prison credits /re-entry leave | ✓ | | | ✓ | | ✓ | ✓ | | | | | | ✓ | ✓ | ✓ | ✓ | | | | | | | | ✓ | | ✓ | ✓ | | | | 11 | | |
| | Establish/expand geriatric or medical parole | | | | | | | | | | ✓ | | | ✓ | | | ✓ | | ✓ | | | | | | | | | | | | | 4 | | |
| Community Corrections | Establish earned discharge (probation/parole) | ✓ | ✓ | | ✓ | ✓ | ✓ | | | | ✓ | ✓ | | | | | ✓ | ✓ | | | | ✓ | | | | | | | | | | 10 | | |
| | Authorize performance incentive funding | ✓ | | | | | | ✓ | | | ✓ | ✓ | | | | ✓ | ✓ | | | ✓ | | | | | | | ✓ | | | | | 8 | | |
| | Authorize administrative jail sanctions | | | ✓ | ✓ | ✓ | | | | | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | | | | | | | | | | | | | | 9 | | |
| | Authorize graduated responses for violations | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | | ✓ | | | | | | | | | | | ✓ | ✓ | | | 13 | | |
| | Cap revocation time | | | | ✓ | ✓ | | ✓ | ✓ | ✓ | | | ✓ | | ✓ | | | | | | | | | | | | | | | | | 8 | | |
| | Establish/improve electronic monitoring | | | ✓ | | | ✓ | | | | ✓ | ✓ | | ✓ | | | | | | | | | | | | ✓ | | | | | | 6 | | |
| | Establish mandatory reentry supervision | | | ✓ | ✓ | | | | | ✓ | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | | | | | | | | | | | | 8 | | |
| | Require/improve risk-needs assessment | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | | ✓ | | | | | | | 15 | | |
| | Require evidence-based practices | | ✓ | | | | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | ✓ | | | | ✓ | ✓ | | | | ✓ | | | | | | | 11 | | |
| | Reform/pilot specialty courts (HOPE, drug courts, etc.) | ✓ | ✓ | ✓ | | | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | | | | | | | | | | | | | | | | 8 | | |
| | Reduce probation terms | | | | | | | | | ✓ | | | | | | | | | | | | | | | | | ✓ | | | | | 2 | | |
| Improve interventions such as sub abuse/mental health/CBT | | ✓ | ✓ | ✓ | | ✓ | | | | | | | | | ✓ | ✓ | | | ✓ | | ✓ | | ✓ | | ✓ | ✓ | ✓ | ✓ | | | 13 | | | |
| Sustainability | Require fiscal impact statements | ✓ | ✓ | | | | | | | | | ✓ | | | | | ✓ | | | ✓ | | | | | | | | | | | | 5 | | |
| | Establish leadership/board qualification requirements | | | | | | | | | | | | | ✓ | | | ✓ | | | | | | | | | | | | | | | 2 | | |
| | Require data collection/performance measurement | ✓ | ✓ | ✓ | ✓ | | | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | | ✓ | | ✓ | | | | | | | | | | 15 | | |
| | Establish measures to streamline/improve efficiency of system | | ✓ | ✓ | | | | ✓ | ✓ | | ✓ | ✓ | | ✓ | | ✓ | | | | ✓ | | | ✓ | ✓ | | | | | | | | 11 | | |
| | Improve restitution/victim notification systems | | ✓ | | | | | ✓ | ✓ | | | | | | | | ✓ | | | | | | | | | | | | | | | 4 | | |
| Establish oversight council | ✓ | ✓ | | | ✓ | | ✓ | | | | | | | | | | ✓ | | | | | | | | | | | | | | 5 | | | |

Notes: The Justice Reinvestment Initiative is supported by The Pew Charitable Trusts and the U.S. Department of Justice, Bureau of Justice Assistance. Intensive technical assistance to the states is provided by Pew, the Council of State Governments Justice Center, the Vera Institute of Justice, and other partners. Reforms include those enacted in legislation and by executive or court order. Reforms in GA were enacted in 2012 and 2013; LA reforms in 2011 and 2012; CT reforms in 2004 and 2008. Policy reforms in each state were developed by bipartisan, inter-branch working groups and based on analyses of the states' specific criminal justice challenges. The number of policy reforms in a state does not correspond with the impact on prison populations or costs. For more details about policies, impacts, and reinvestments, see individual state pages at www.pewstates.org/publicsafety.

Goals

- 1) Improve Public Safety
- 2) Reduce Recidivism
- 3) Reduce Cost

DOC Mission Statement

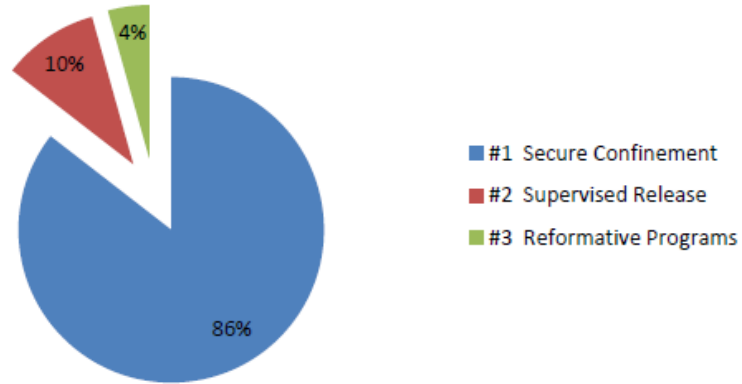
The Alaska Department of Corrections provides **secure confinement**, **reformatory programs**, and a process of supervised **community reintegration** to enhance the safety of our communities.

Department of Corrections - Key Performance Indicators

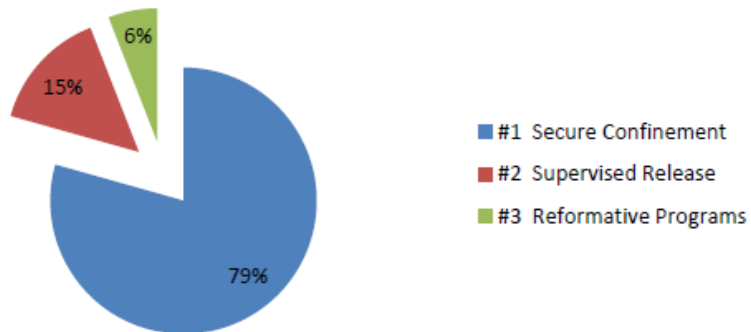
| | FT Positions | Total Funds |
|-------------------------|--------------|-----------------------|
| #1 Secure Confinement | 1591 | 265,134,400.00 |
| #2 Supervised Release | 189 | 49,126,200 |
| #3 Reformatory Programs | 81 | 19,806,200 |
| Total: | 1861 | 334,066,800.00 |

Source: Office of Budget and Management, 2013

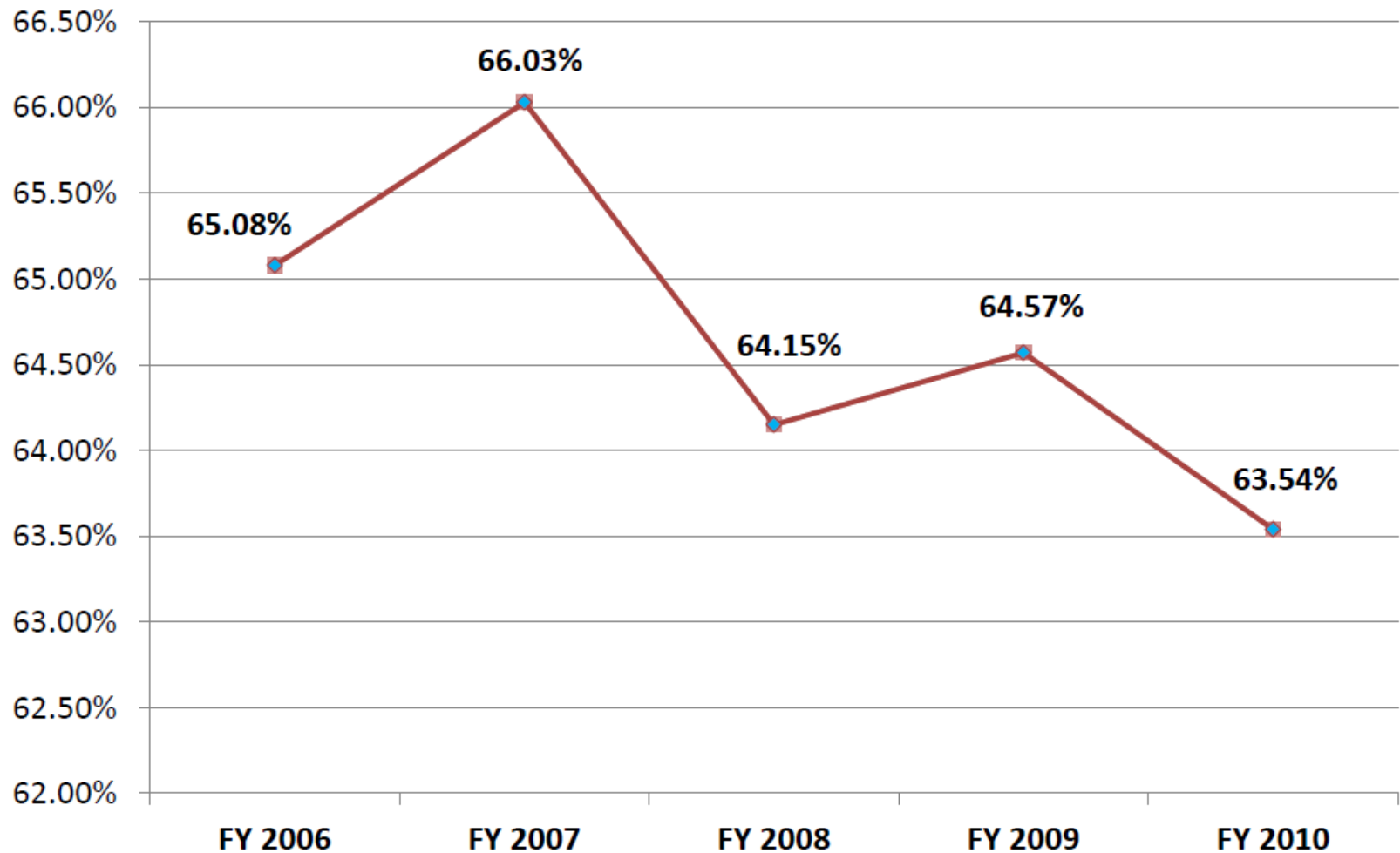
Positions by Performance Indicator



Funding by Performance Indicator



1.5% drop in Recidivism



Bill Components

- 24/7 Sobriety
- Alaska Criminal Justice Commission
- Probation Reform (P.A.C.E.)
- More Risk-Needs Assessments
- Recidivism Reduction Fund
- Limited Licenses
- Stricter penalties for attempted abduction
- Adjusting the Felony Theft Threshold
- Incentivizing Residential Treatment
- PTSD Mitigating Factor
- Confidentiality of Criminal Records



Sections 2-4

CUSTODIAL INTERFERENCE

Custodial Interference

- In some cases, when an attempted child abduction occurs, it does not quite reach the level required to charge “attempted kidnapping”
- Currently, if a non-relative represents themselves as the custodian of a child with the intent to abduct that child, the person can only be charged with criminal mischief.
- Sections 2-4 establish it as a crime of custodial interference in the 2nd degree – a more severe crime than the only currently available option, which is criminal mischief.



Sections 5-20

FELONY THEFT THRESHOLD

Five hundred dollars in 1978 is equal to \$1800 today.

\$500

\$1800

36 years

of inflation

1978

2014

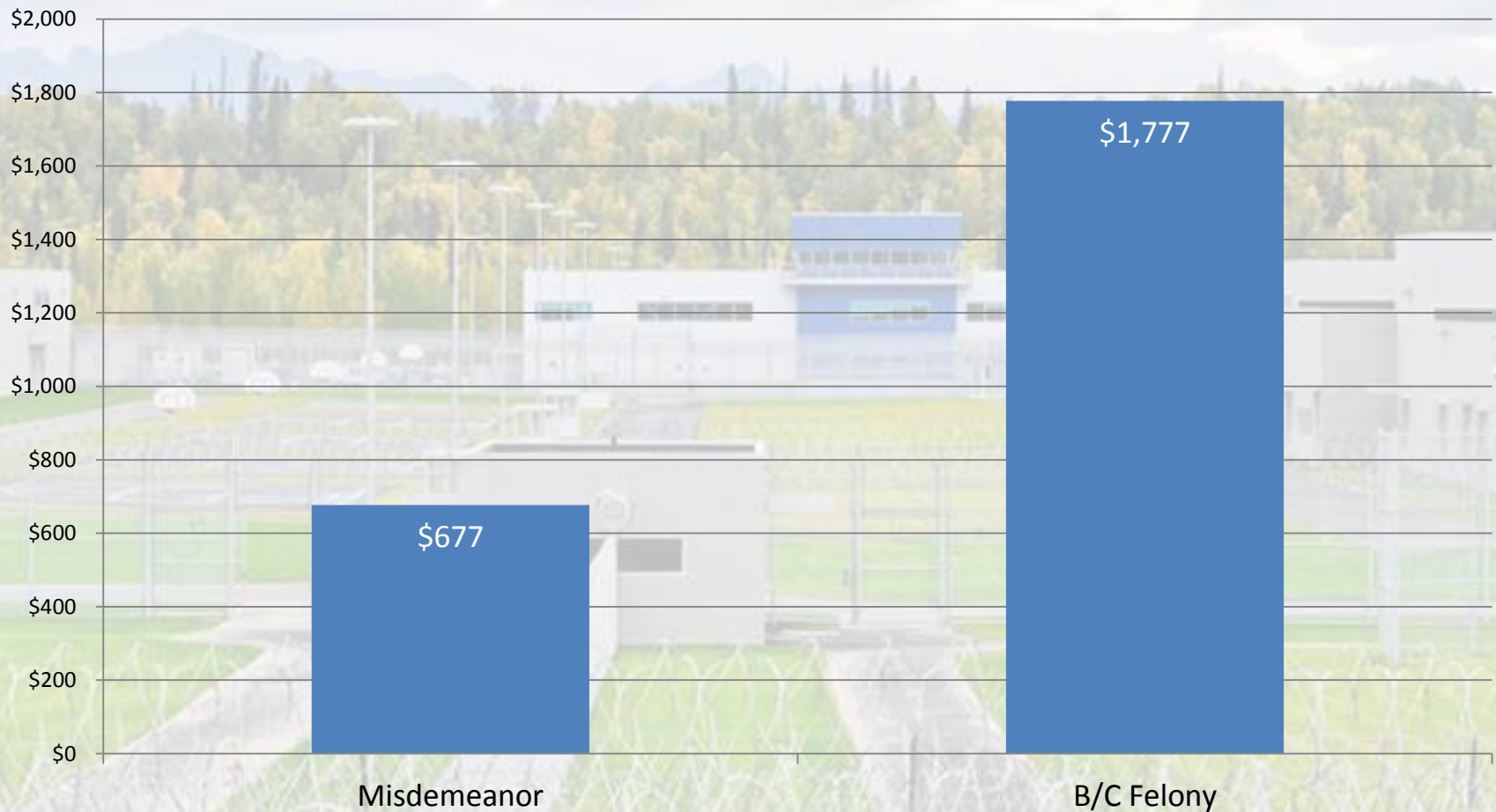
Raises the Threshold for all property crimes:

- Theft 2nd degree
- Theft 3rd degree
- Theft 4th degree
- Concealment of merchandise
- Removal of identification marks
- Unlawful possession
- Issuing a bad check
- Fraudulent use of an access device
- Vehicle theft in 1st degree
- Criminal mischief 3rd degree
- Criminal mischief 4th degree
- Criminal mischief 5th degree
- Criminal simulation
- Misapplication of property
- Defrauding creditors

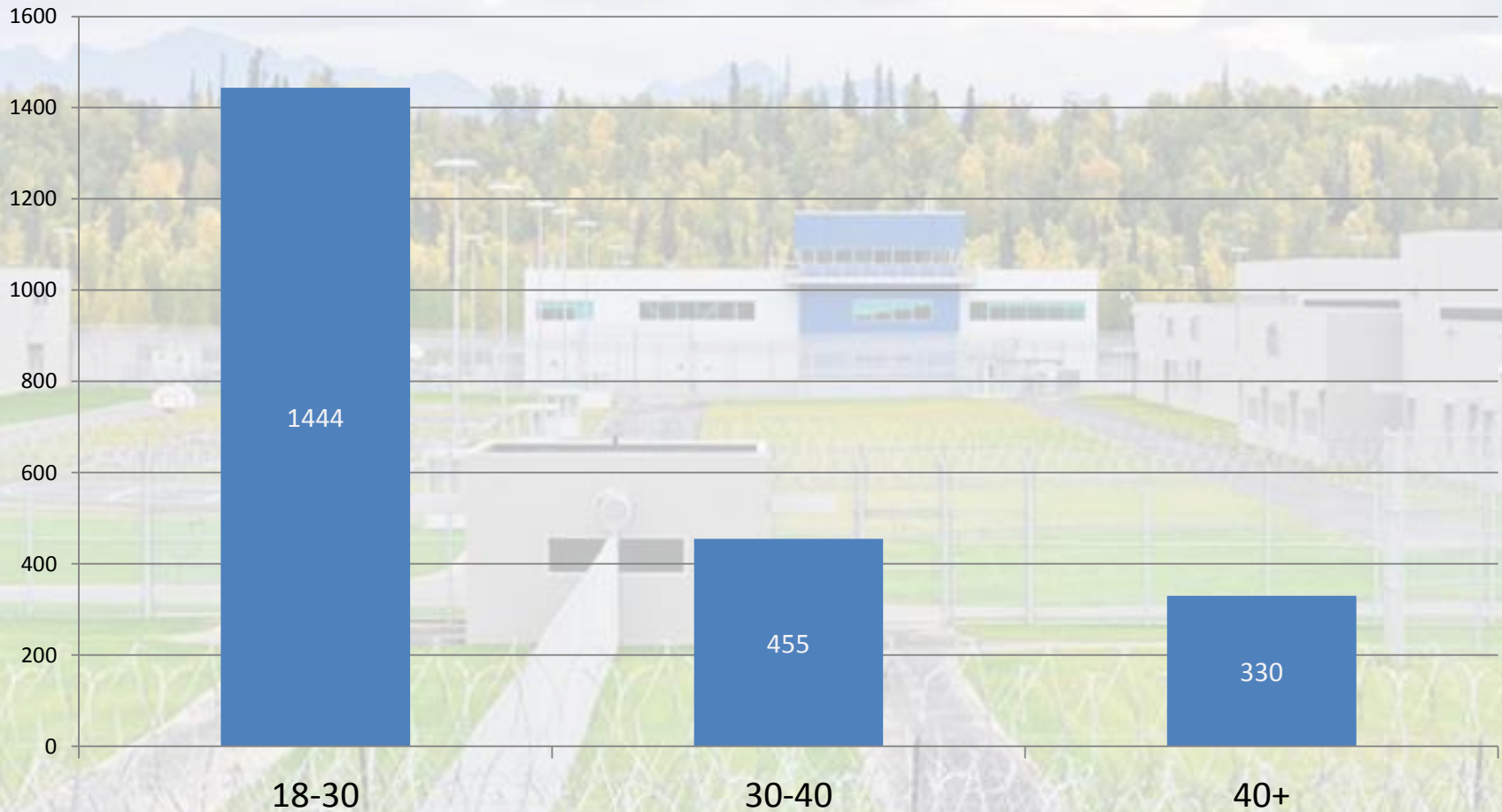
Nationally

- Alaska is among the last states to adjust for inflation.
- **34 states** have a higher threshold (average = \$1,234)

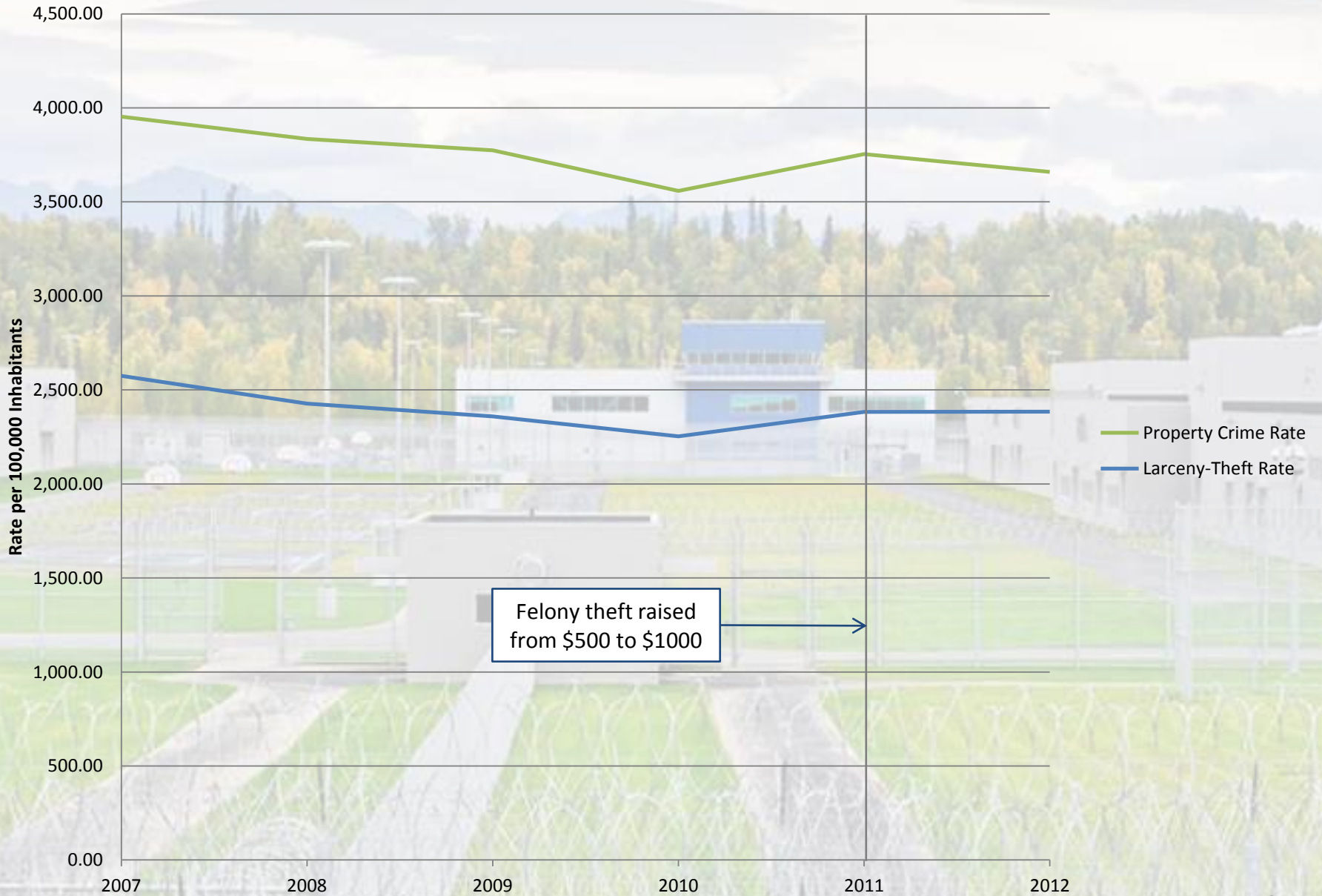
Public Defender Agency (PDA) Cost Per Criminal Case



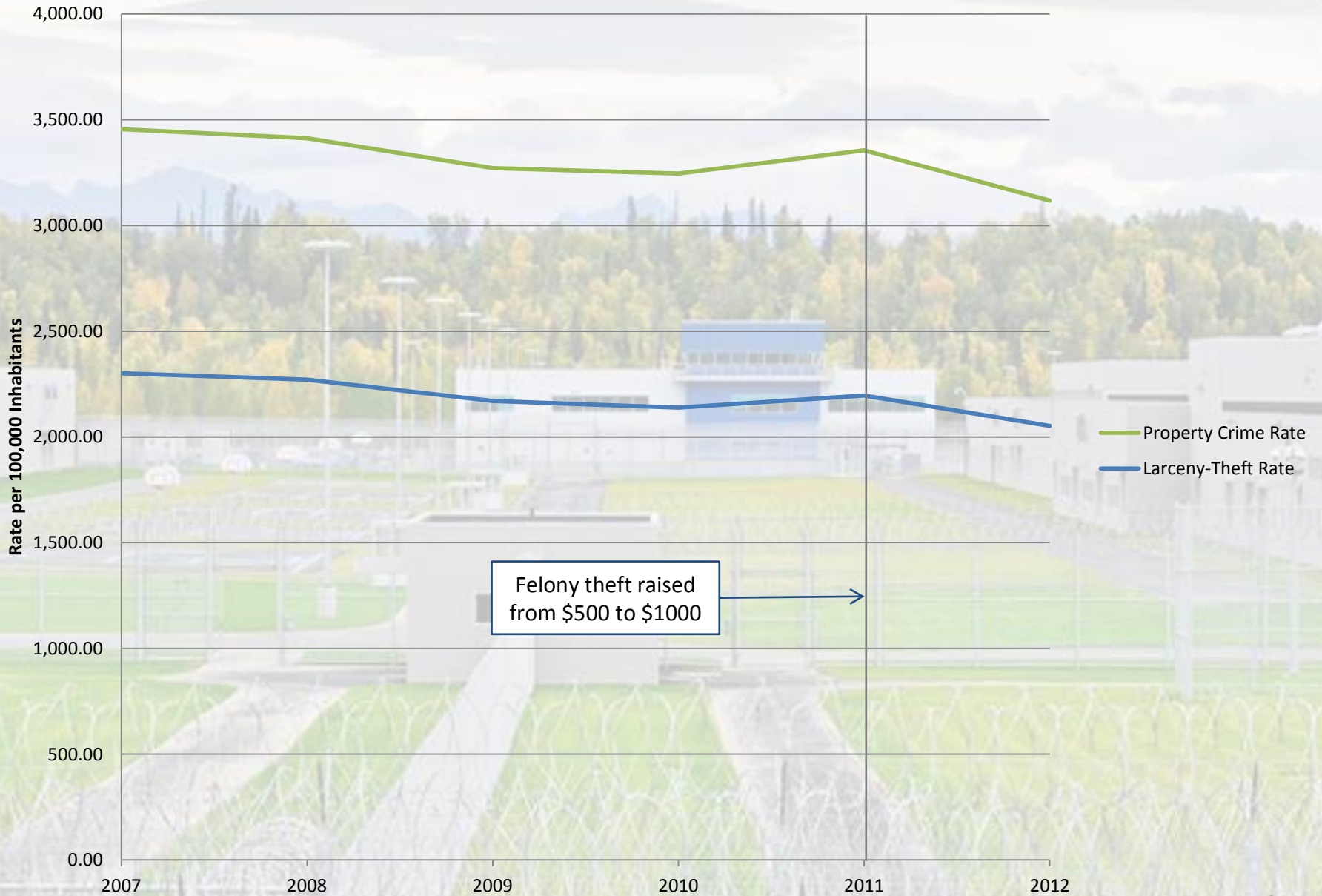
Number of Felony Property Crimes by Age



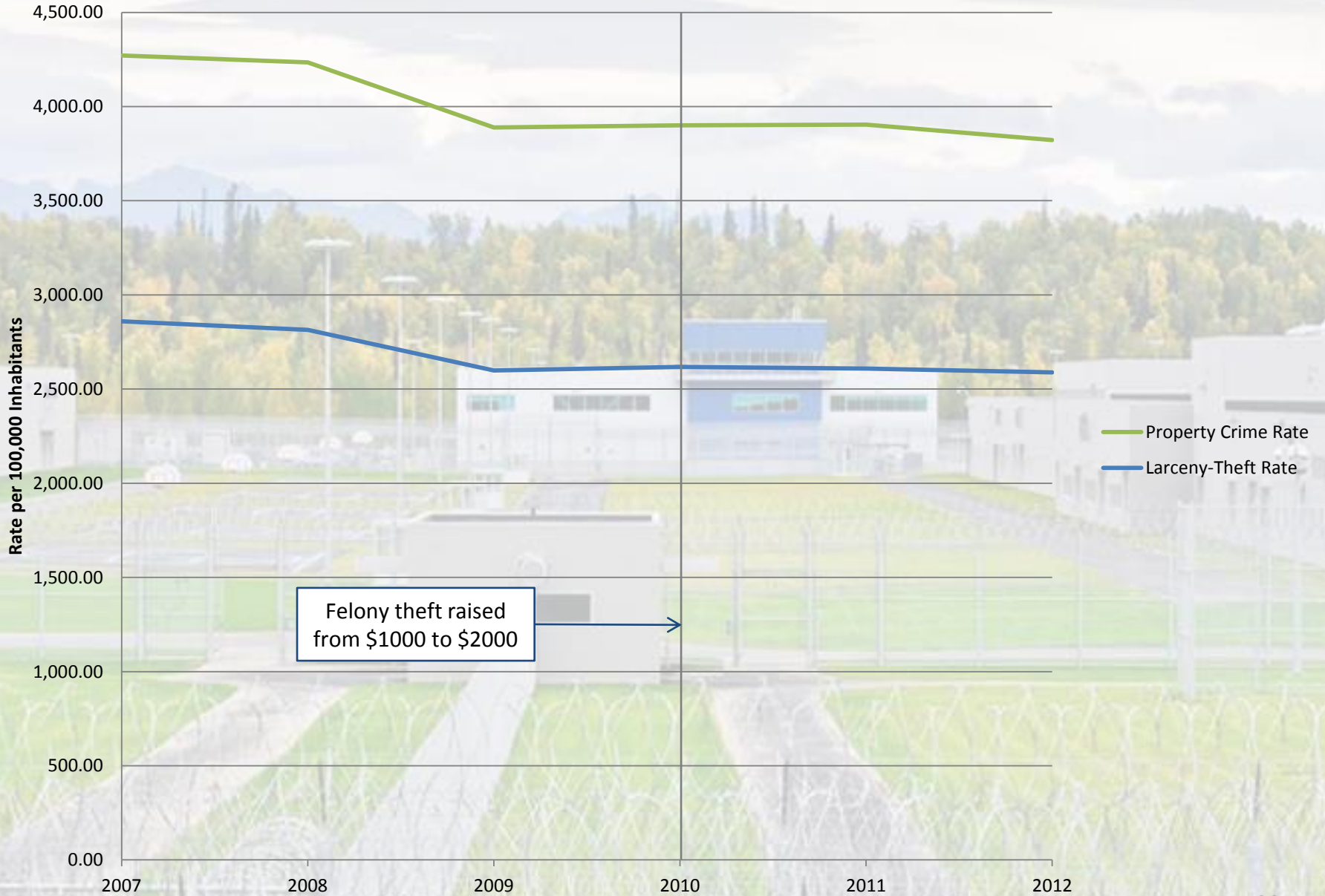
Property Crime in Arkansas



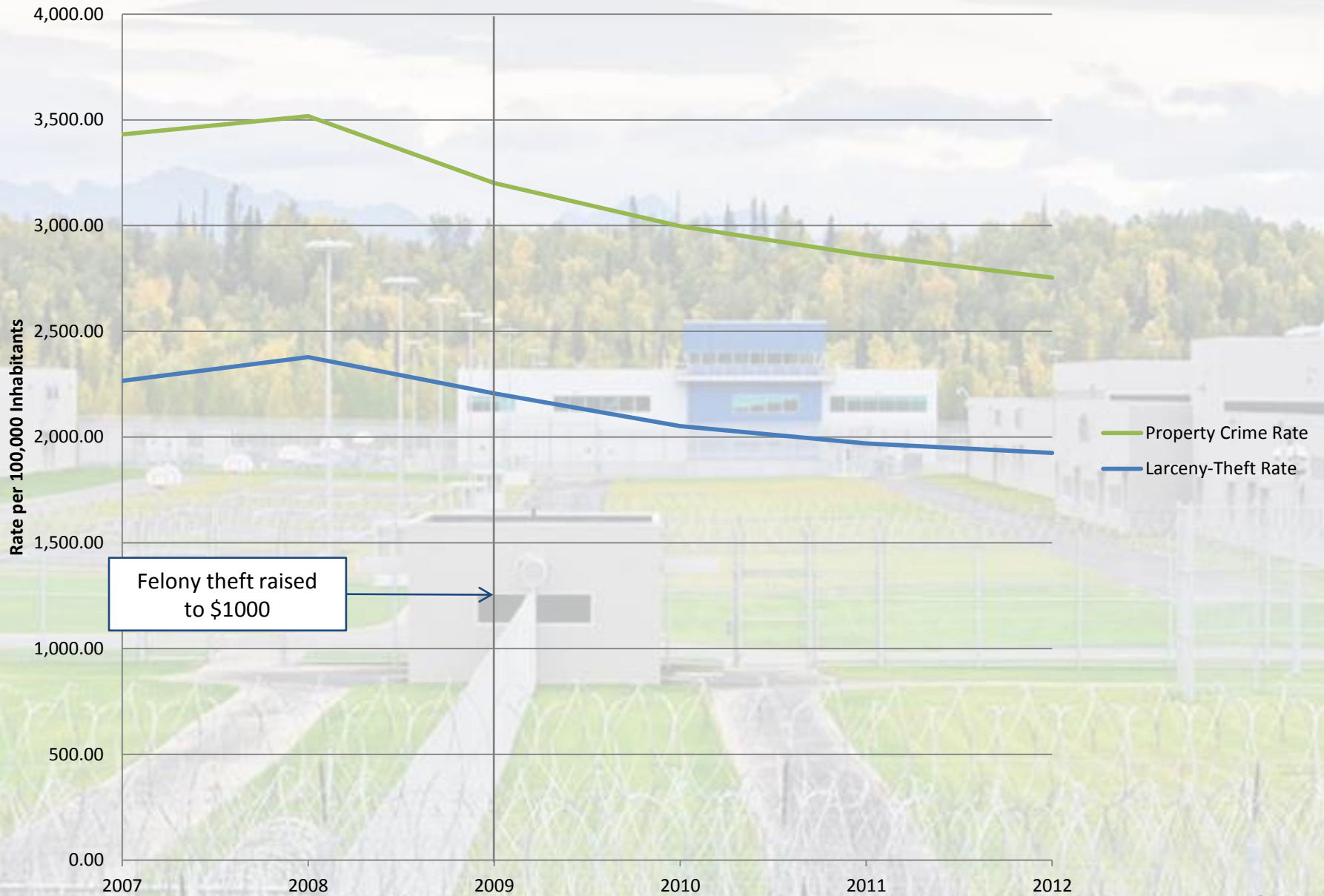
Property Crime in Ohio



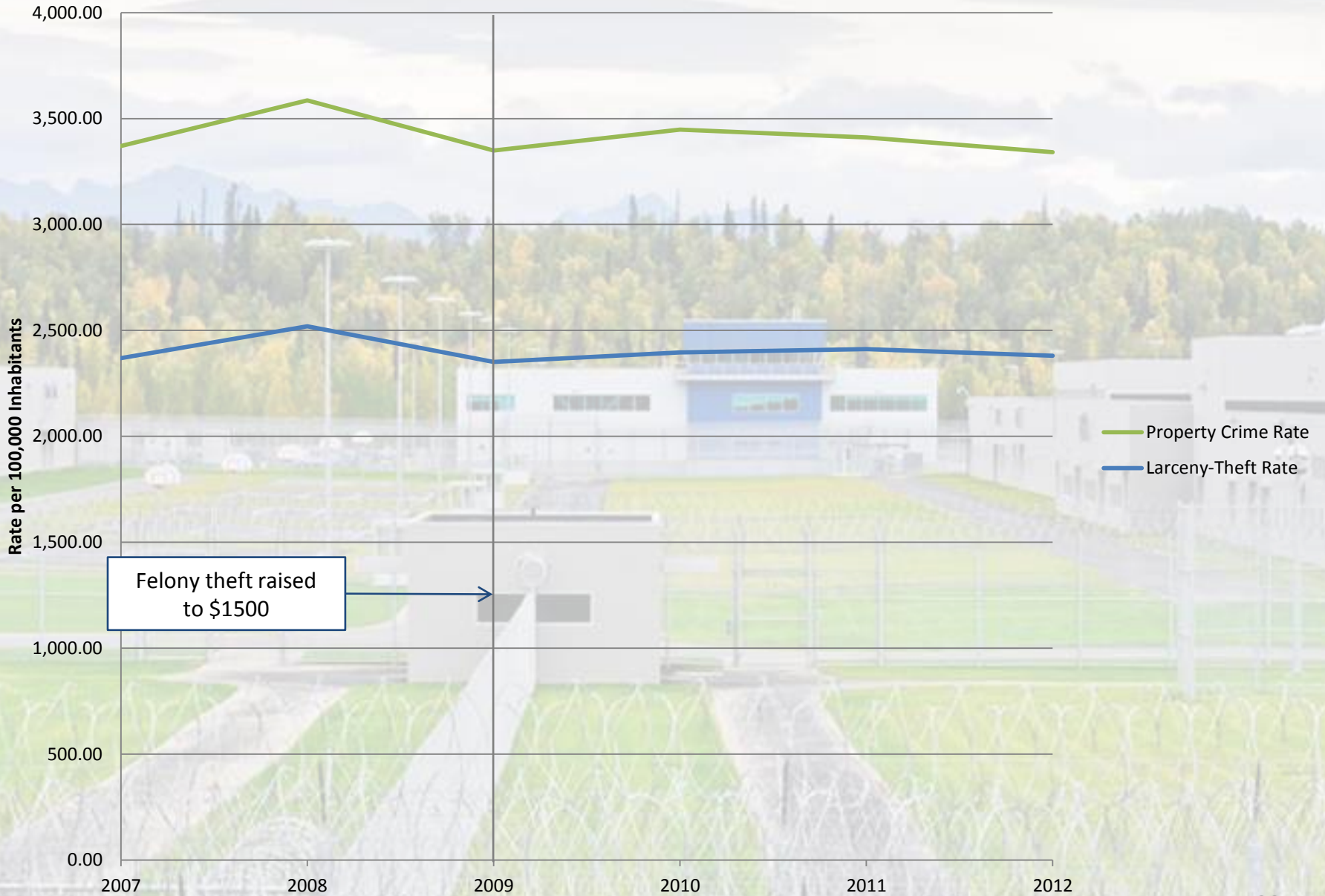
Property Crime in South Carolina



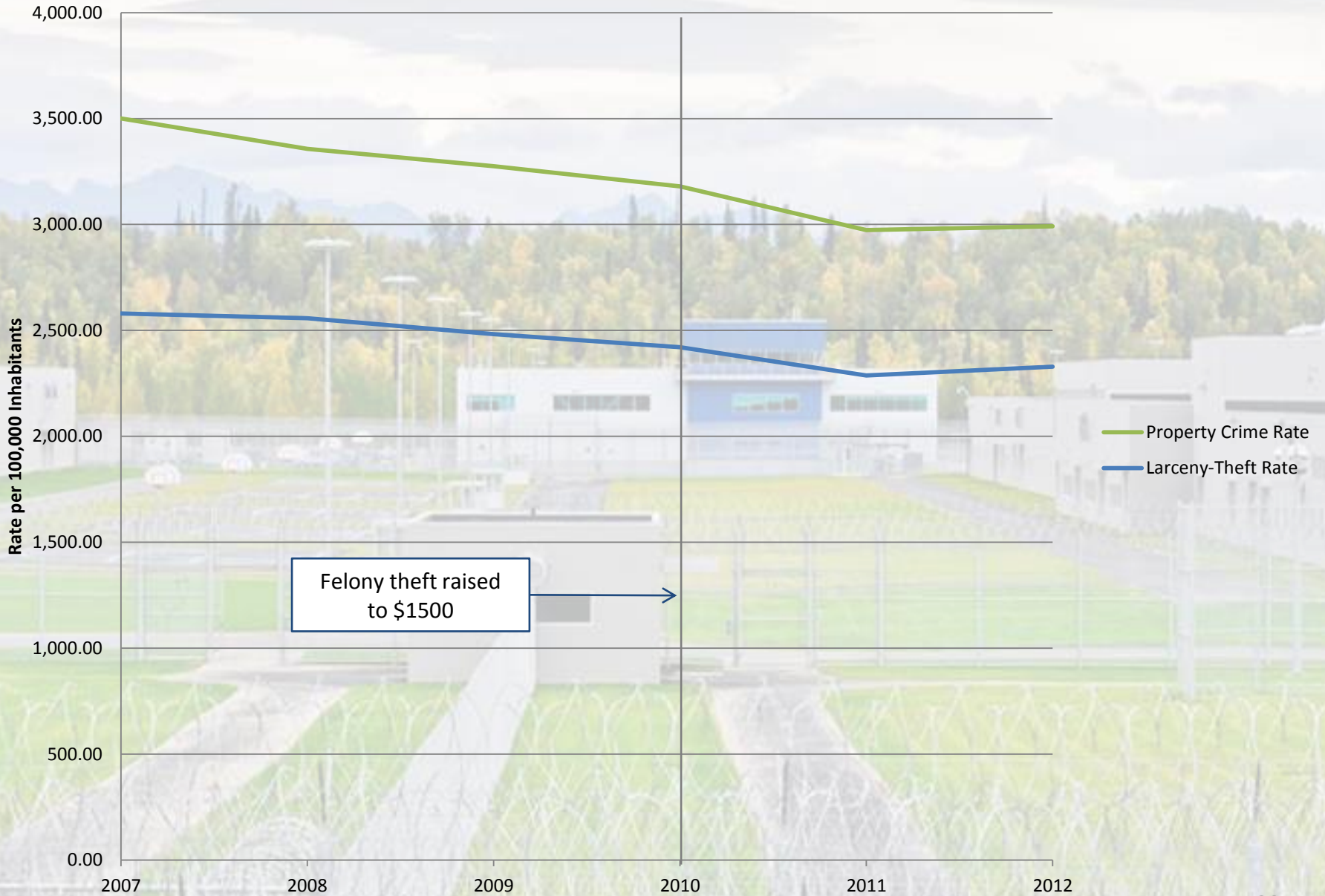
Property Crime in Maryland




Property Crime in Delaware



Property Crime in Utah





Sections 21-23 & 25 & 40

24/7 SOBRIETY

Applicability

24/7 Sobriety can be court-ordered in the following situations where alcohol is a factor:

- Unclassified Felonies
 - Class A Felonies
 - Sexual Felonies
 - Misd./Felony Domestic Violence
 - DUI/Refusal
 - Misconduct Involving a Controlled Substances
-
1. Release Before Trial
 2. Post conviction
 - Probation
 - Parole

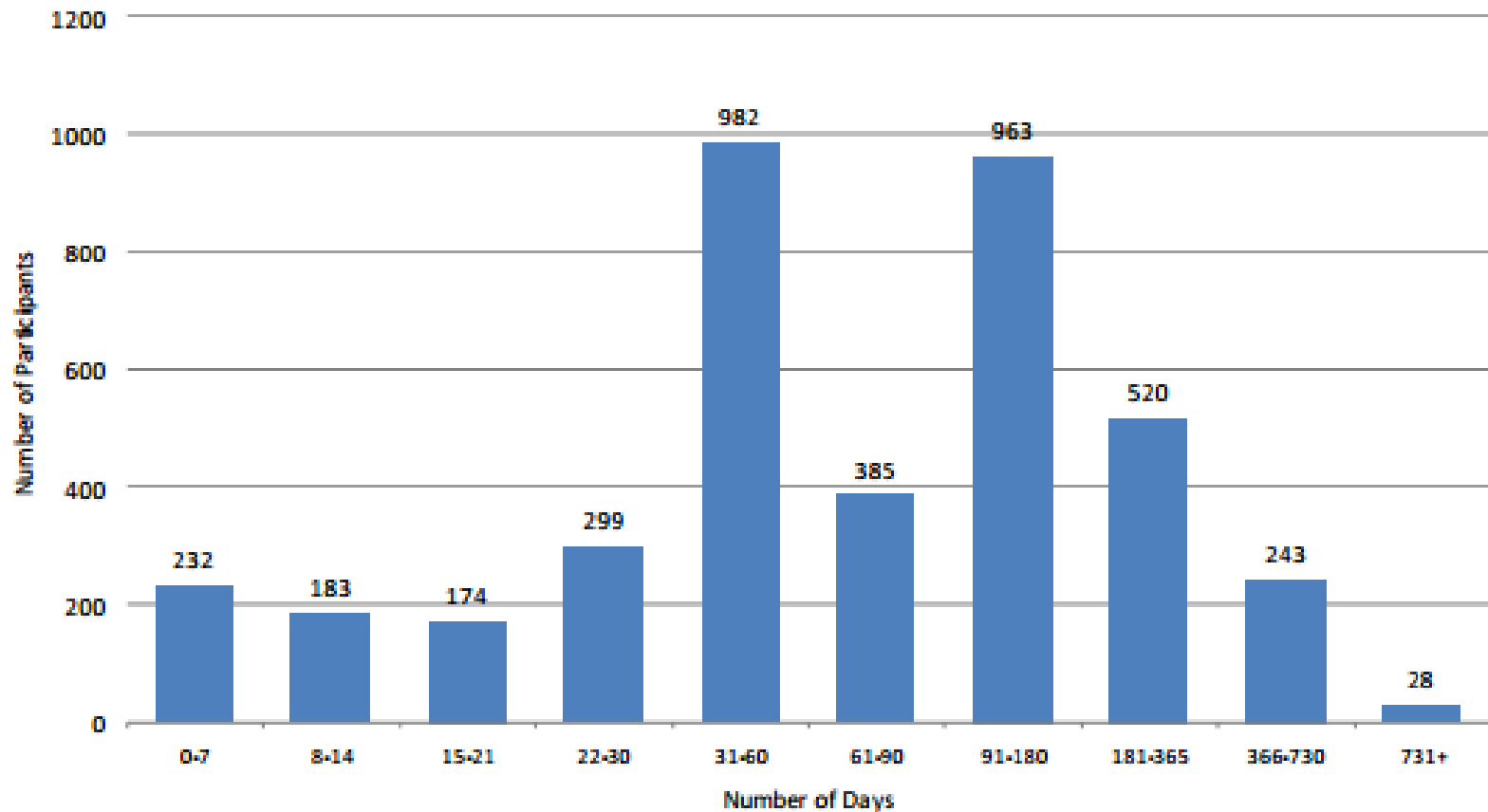
Main Tenets

- 2x day breathalyzer
 - EM or in-person
- Funded by testing fees (paid by offender)

Testing Methods



Figure 7: Number of Days from First Test Date to Last Test Date (n = 4,009)



Number of Failed Tests

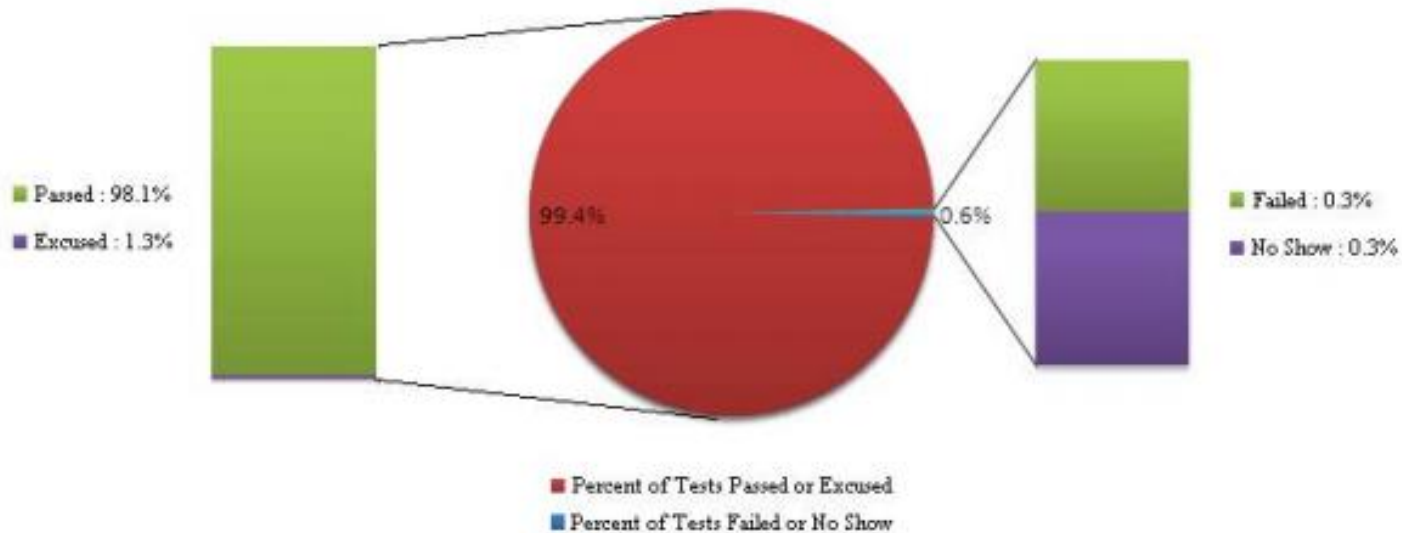
⇒ 55% never fail a test

⇒ 16.7% fail only once

⇒ 12.5% fail only twice

⇒ 16.9% fail three or more times

Figure 8: Summary of 24/7 Database Recording of Test Results (n = 4,009 participants and 817,926 test records)

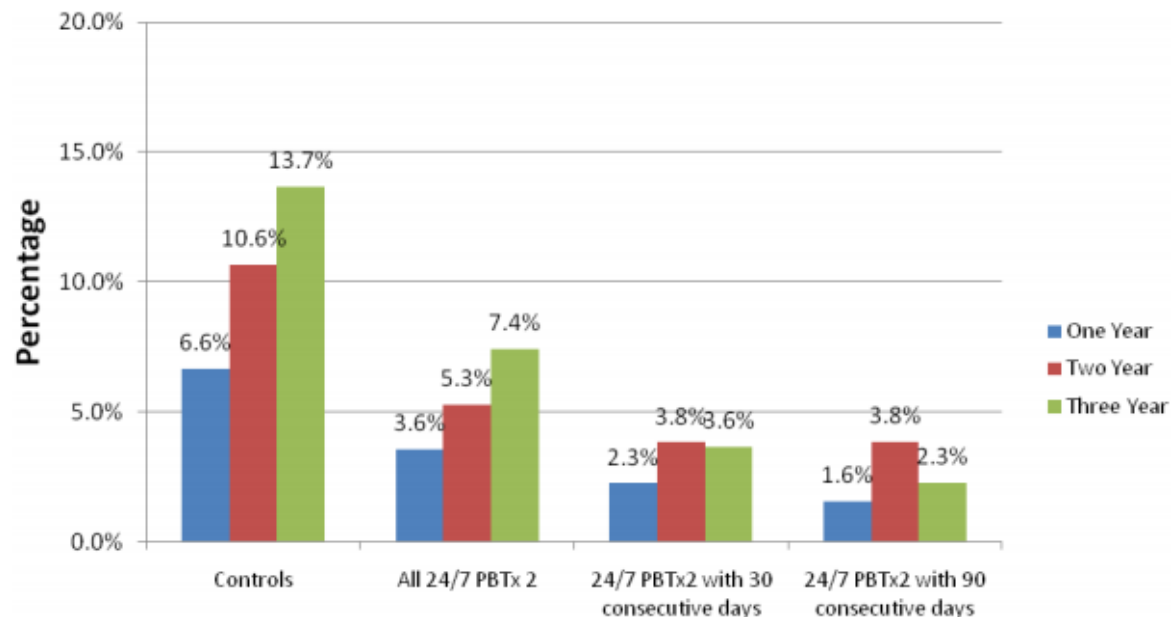


Effects on Recidivism

For instance, 24/7 Sobriety Program participants with at least 30 consecutive days of testing when compared to controls documented the following differences in future DUI arrest rates after three years of the arrest that resulted in placement in the program:

- DUI 2nd – 74% reduction in recidivism (13.7% to 3.6%)
- DUI 3rd. – 44% reduction in recidivism (15.3% to 8.6%)
- DUI 4th – 31% reduction in recidivism (15.5% to 10.7%)

Figure 11: 24/7 Participants Compared to Controls – DUI 2nd to next DUI Offense





Section 24

CREDIT FOR TIME SERVED IN A TREATMENT FACILITY

Nygren Credit

Clarifies and improves the language so that people can get credit for time served in treatment programs.

Less cumbersome than existing language (“work required by the treatment program and approved in advance by the court”).



Section 26

PTSD MITIGATING FACTOR

Mitigating Factor for PTSD in Sentencing

- Establishes a mitigating factor to allow a judge to take combat-related PTSD & TBI into consideration in sentencing.
- FASD was made a mitigator in 2012.



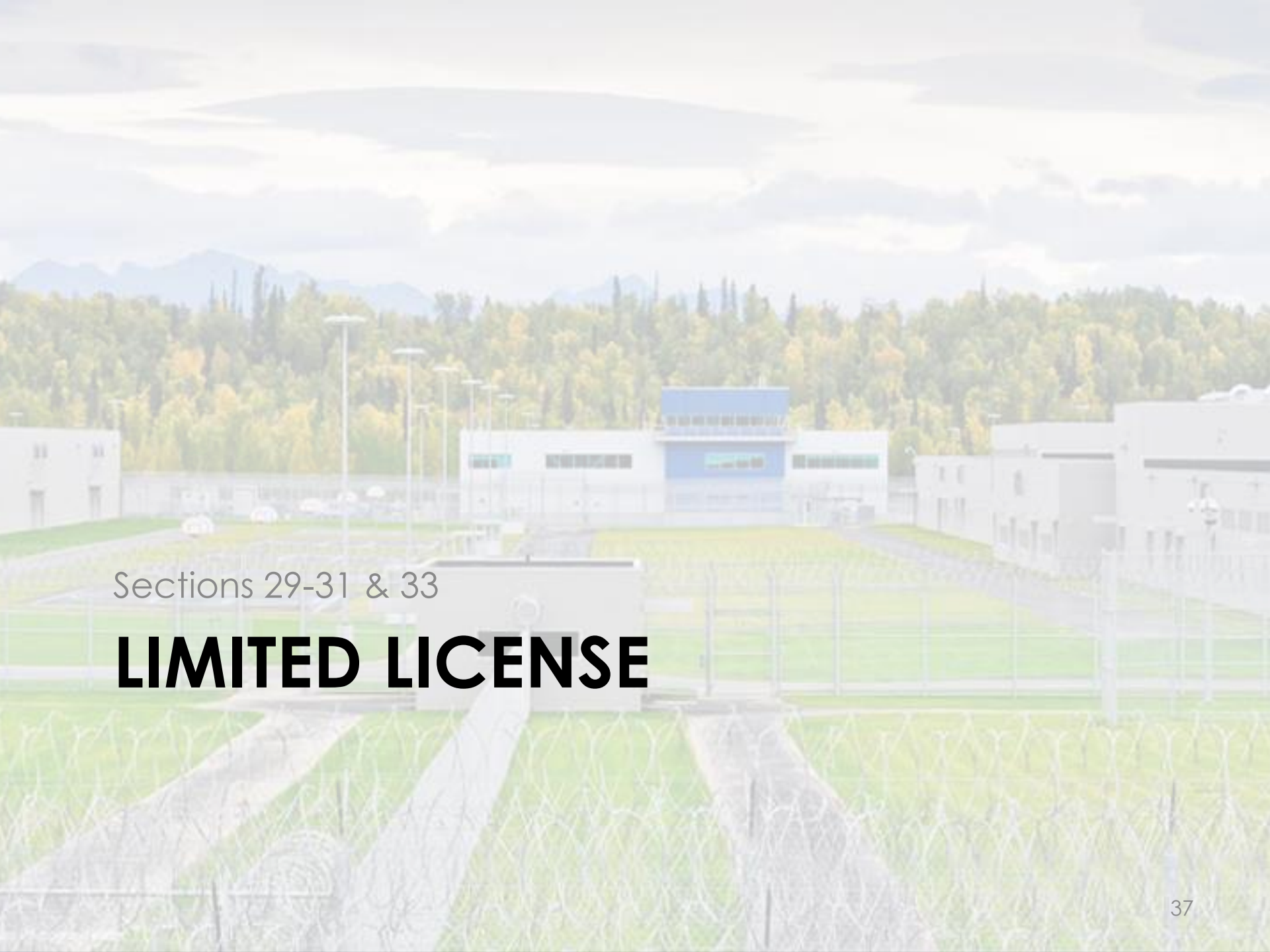
Section 28

CONFIDENTIALITY OF CRIMINAL RECORDS



Makes criminal records confidential if:

- 120 days have passed since:
 - The person was acquitted of all charges
 - All charges were dismissed
 - Or a combination of both
- Formally Senate Bill 108



Sections 29-31 & 33

LIMITED LICENSE

Section 30

A court may grant a limited license for felony DUI if:

- The person is participating in a court-ordered treatment program
- Provides proof of insurance
- Has an ignition interlock installed on their vehicle
- Enrolled in the ASAP program.
- Participating in 24/7 Sobriety
- Has not been granted a limited license before

Section 30 (cont.)

The court may revoke a limited license if the person:

- Is convicted of DUI or refusal
- Is not in compliance with a court-ordered treatment program

Sections 29 & 33

The court can terminate a revocation and DMV shall restore the driver's license if:

The person completes treatment and drives successfully on the limited license for three years without being convicted of DUI or refusal.



Section 32

ELECTRONIC MONITORING – FIRST-TIME DUI

| Year | First Time Anchorage Ordinance DWI Convictions Resulting in Being Placed on Anchorage Electronic Monitoring | Median Length of Stay |
|------|--|-----------------------|
| 2011 | 612 | 5 |
| 2012 | 497 | 5 |
| 2013 | 368 | 5 |

Data Notes:

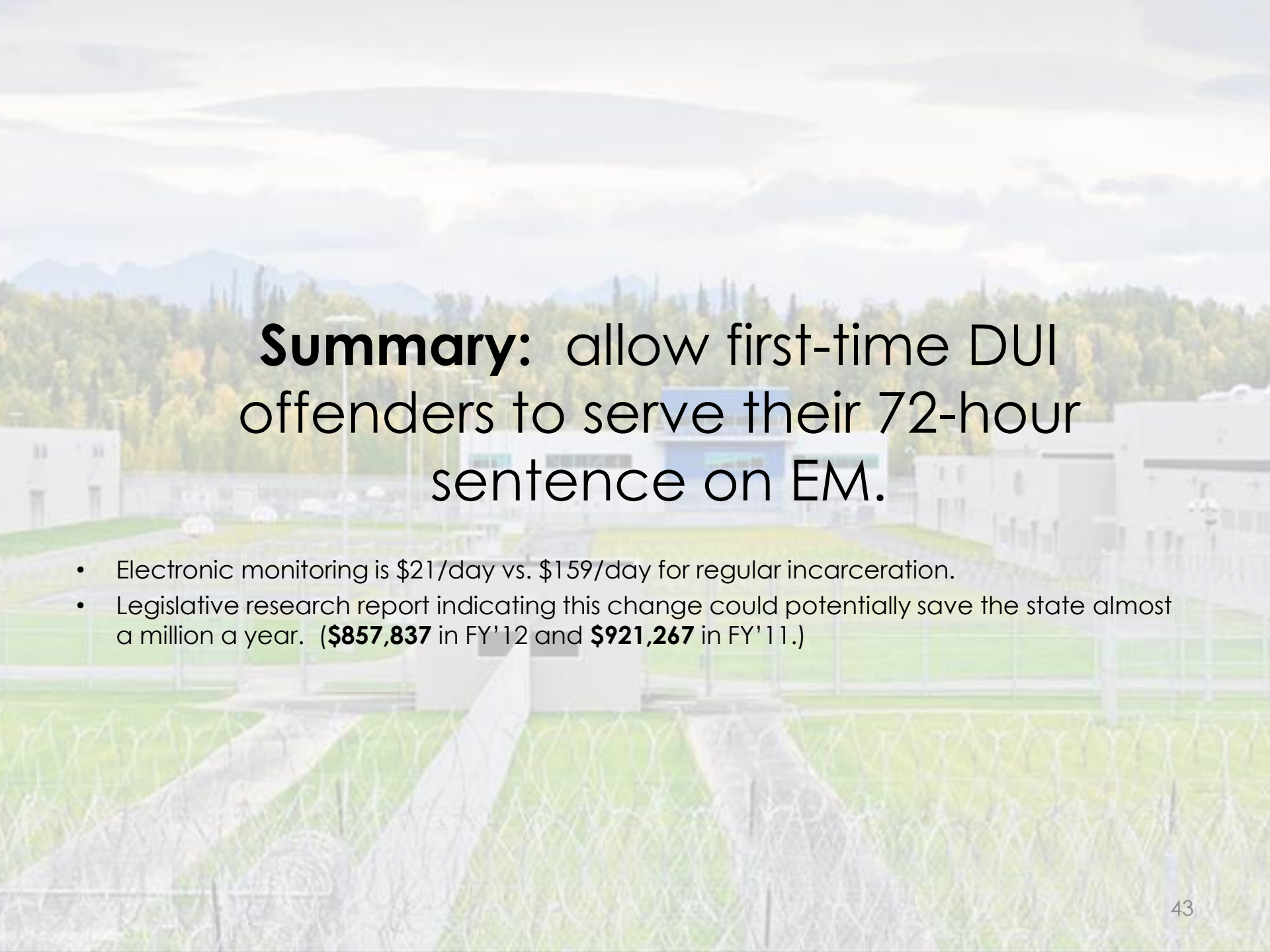
If an offender has a prior DWI conviction but was never incarcerated, DOC would have no record of the DWI conviction

Convicted of first DUI (statewide):

2012 = 3,565

2011 = 3,946

2010 = 4,134



Summary: allow first-time DUI offenders to serve their 72-hour sentence on EM.

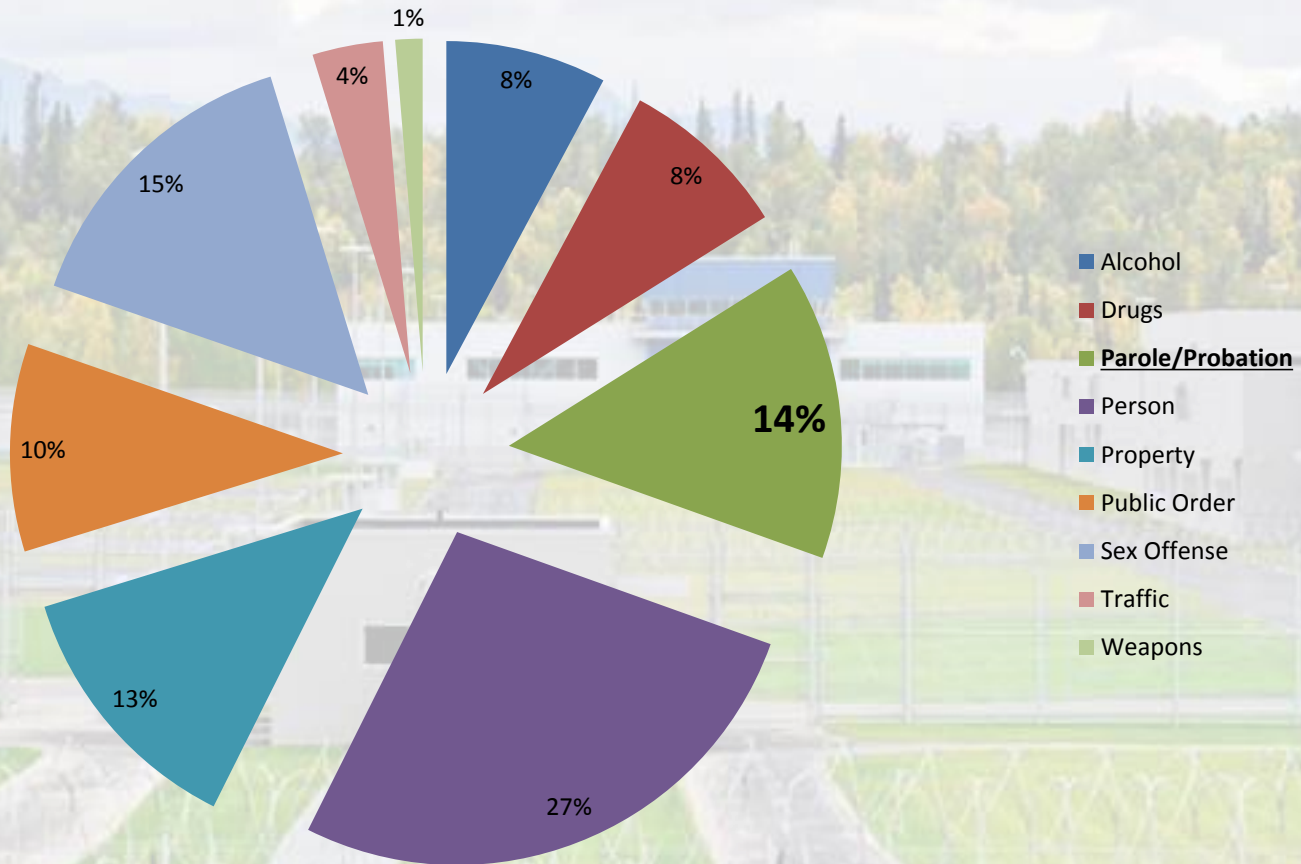
- Electronic monitoring is \$21/day vs. \$159/day for regular incarceration.
- Legislative research report indicating this change could potentially save the state almost a million a year. (**\$857,837** in FY'12 and **\$921,267** in FY'11.)



Sections 34-36

PROBATIONER ACCOUNTABILITY AND CERTAIN ENFORCEMENT (PACE)

Counts of Offenses for Offenders in Institutions



2012 DOC Offender Profile

Figure 2. HOPE Probationers - Number of Positive Urinalyses in 12-months

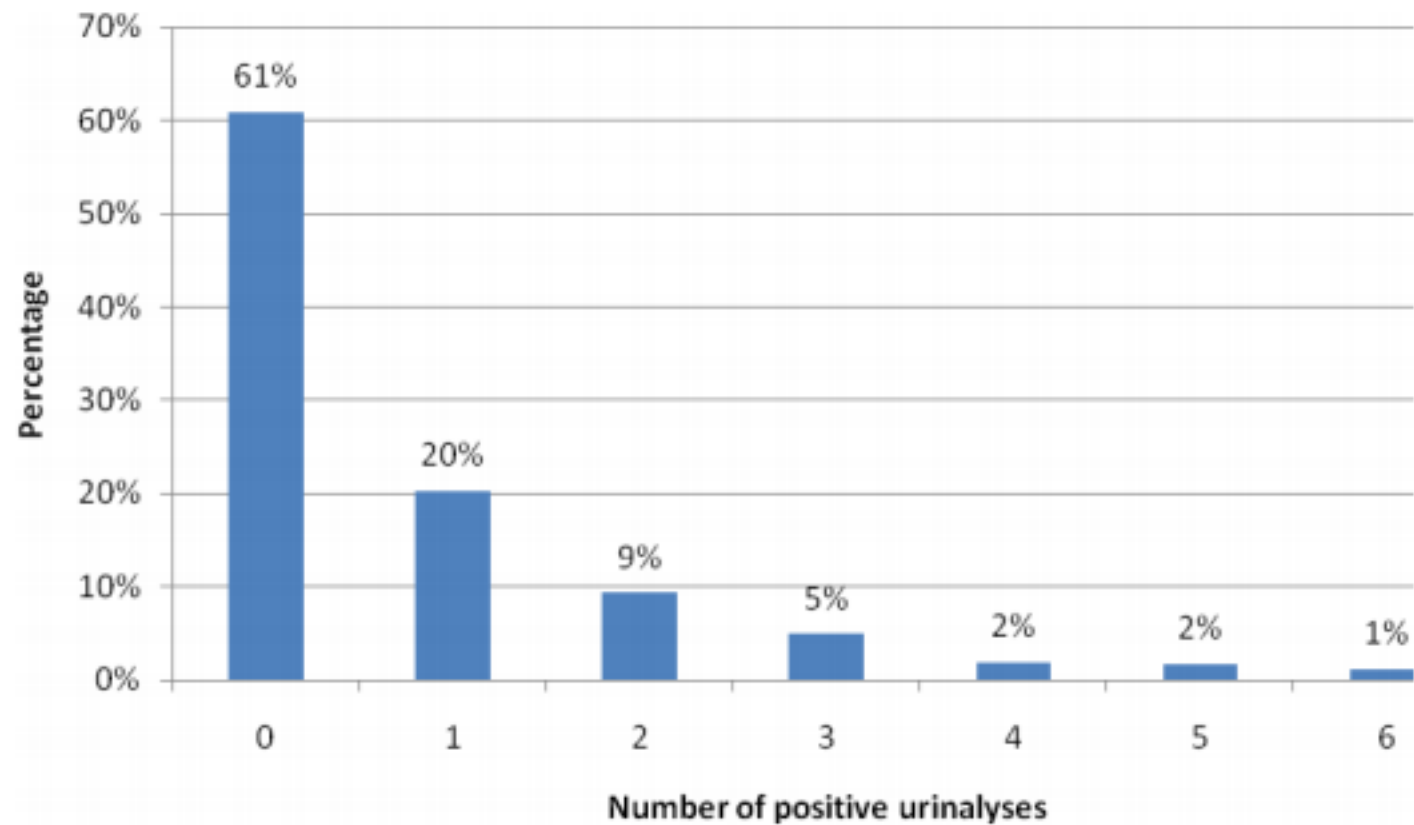


Figure 4. HOPE Probationers - Number of Missed Appointments in 12-months

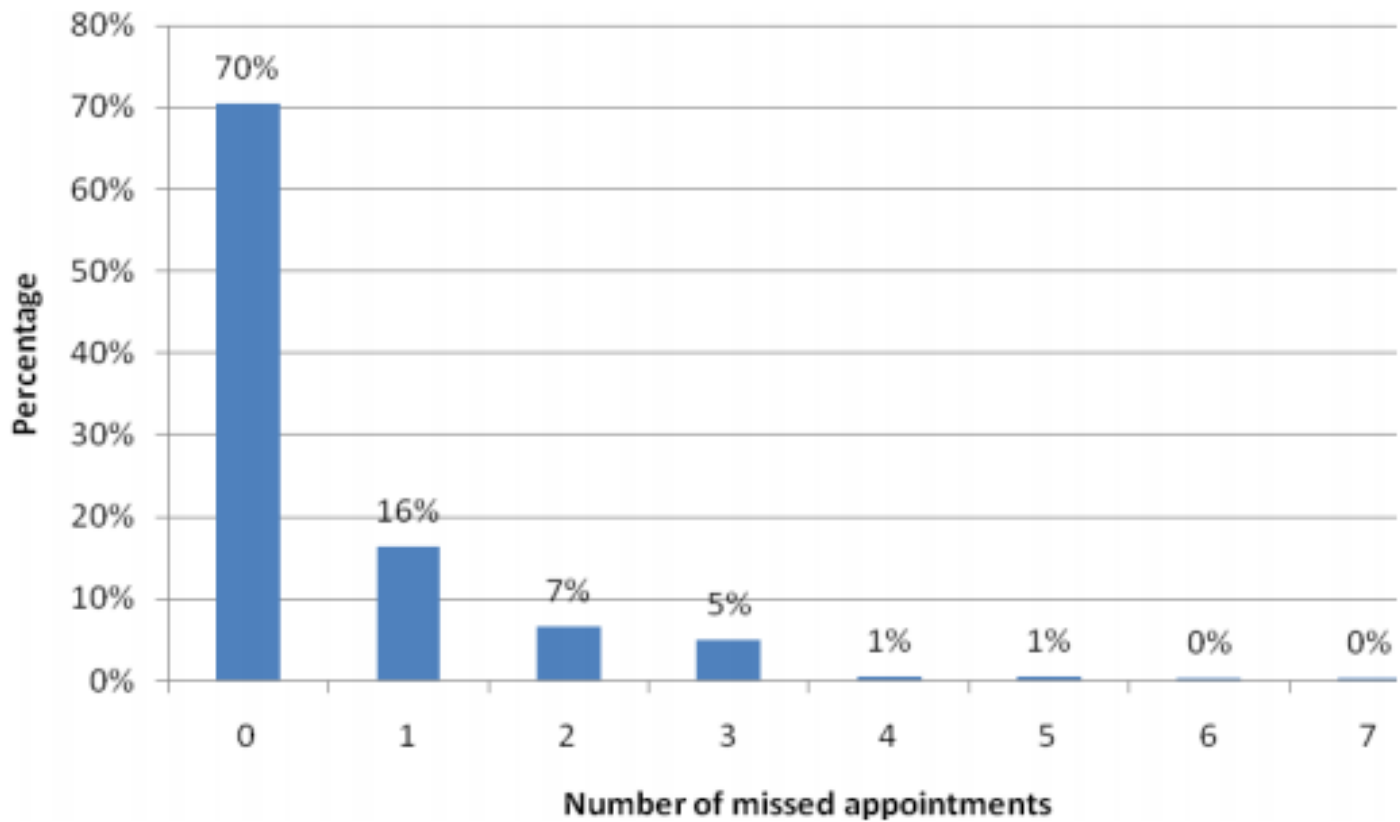


Figure 5. Probation revocation: HOPE versus Comparison Probationers

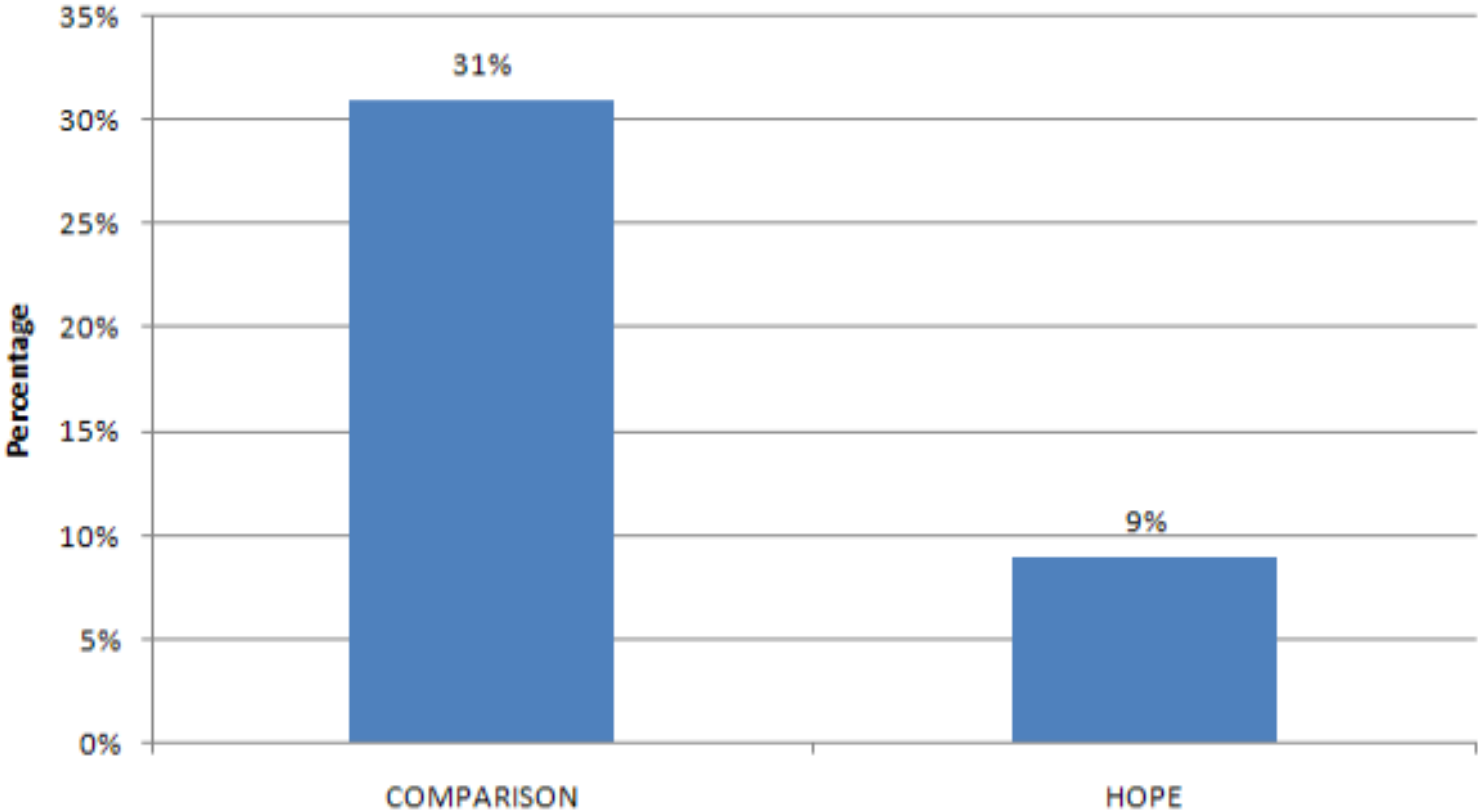
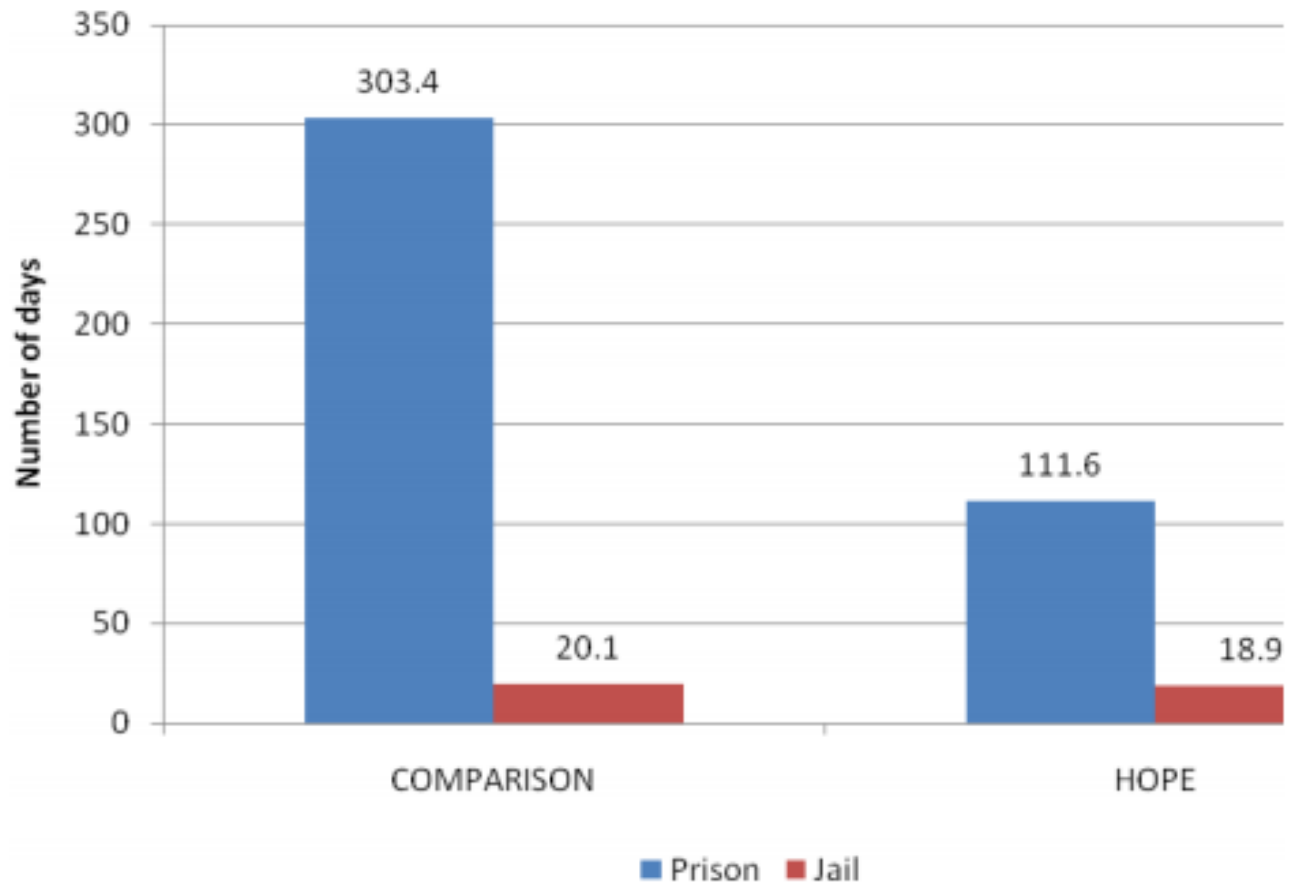


Figure 6. Incarceration: HOPE versus Comparison Probationers





Section 37

ASSESSMENTS

Central Eight Criminogenic Needs

Antisocial Attitudes

HX Antisocial Behavior /Low Self-control

Antisocial Peers

Criminal Personality Makeup

Disfunctional Family Relations

Substance Abuse

School/Work

Leisure/Recreation



The Department shall:

Establish a program to conduct risk-needs assessments on offenders sentenced to serve 30 days or more in prison.

Emphasis on FASD

The commissioner shall:

Provide assessment or screening of offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based disorder.



Section 38-39

ALASKA CRIMINAL JUSTICE COMMISSION

Commission Structure

Previous CS (STA)

- (3) Senators
- (3) Representatives
- (1) Supreme Court Chief Justice
- (1) Superior Court Judge
- (1) District Court Judge
- (1) Member of Alaska Native Community
- (1) Attorney General
- (1) Commissioner of Corrections
- (1) Commissioner of Public Safety
- (1) Commissioner of Health and Social Svcs
- (1) Director of Public Defender Agency
- (1) Director of Office of Public Advocacy
- (1) Victims' Rights Advocate

17 members
No Sunset

Current CS

- (1) Senator
- (1) Representative
- (1) Supreme Court Chief Justice
- (1) Superior Court Judge
- (1) District Court Judge
- (1) Member of Alaska Native Community
- (1) Attorney General
- (1) Private Attorney
- (1) Chief of Municipal Law Enforcement
- (1) Public Defender
- (1) Victims' Rights Advocate

11 members
3-year Sunset

Commission

Powers & Duties

The commission shall evaluate the criminal justice system to provide for:

- 1) Protection of the Public
- 2) Community Condemnation of the Offender
- 3) Rights of Victims
- 4) Restitution from the Offender
- 5) The Principle of Reformation

Staffed by Alaska Judicial Council

No compensation

Meets at least quarterly

Annual report and recommendations submitted to the legislature no later than January 1 each year.

Section 12. Criminal Administration

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Criminal administration shall be based upon the following: the need for protecting the public, community condemnation of the offender, the rights of victims of crime, restitution from the offender, and the principle of reformation.

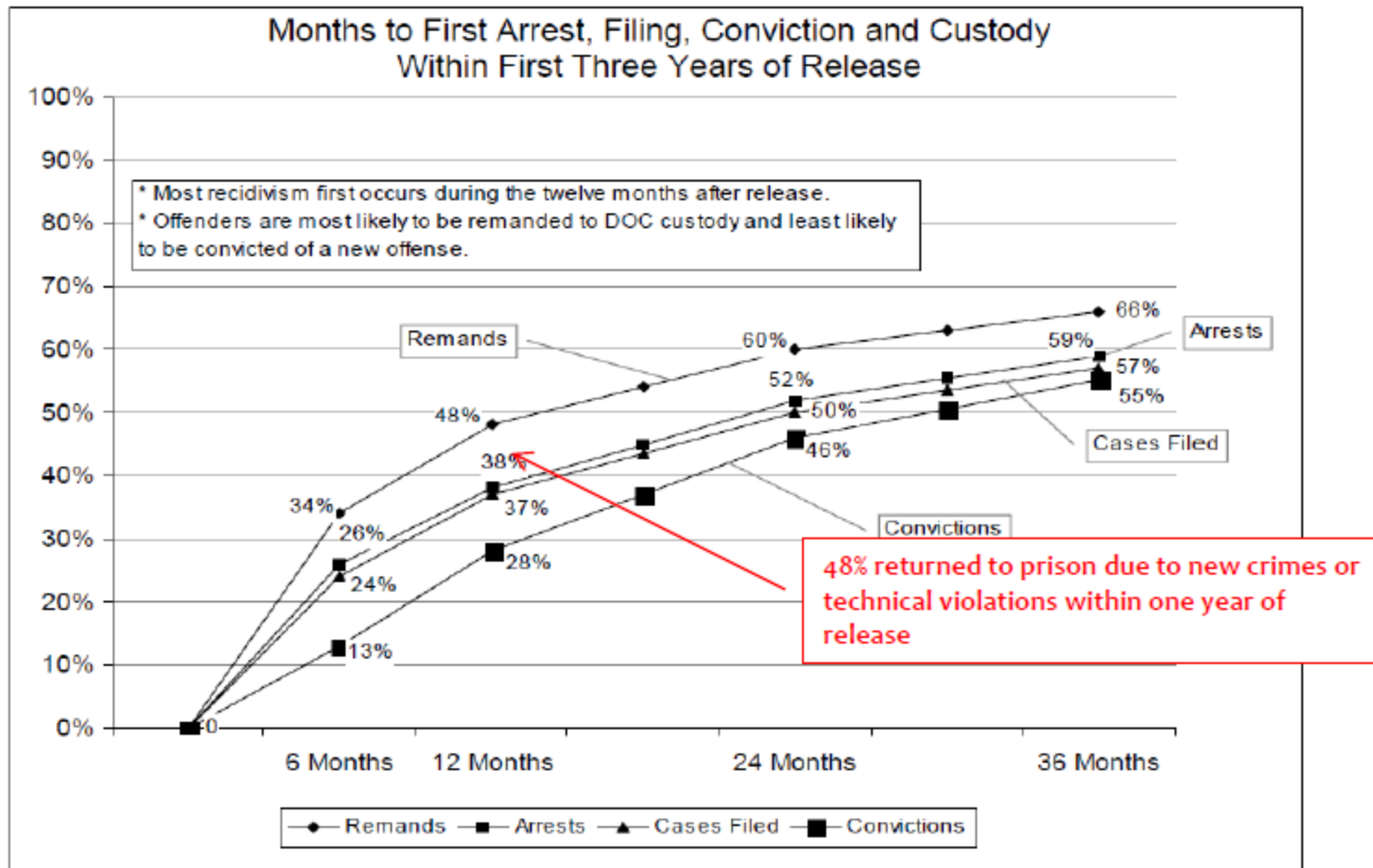


Section 40

RECIDIVISM REDUCTION FUND

ALASKA RECIDIVISM RATES

The Judicial Council established the release date for each offender in its sample, and then determined how many arrests, cases filed, convictions, and remands to custody the offender had at different times after that release date. This showed how soon after release the offender came into contact with the justice system.



4. FY10 Performance Measures (2years out):

| | Count | Returned | Recidivism Rate* |
|---------------------------------------|-------|----------|------------------|
| FY2010 Control Group | 2077 | 1203 | 57.92% |
| Participated in and Completed Program | 334 | 122 | 36.53% |

**Percent of offenders returning to incarceration within two years of discharge*

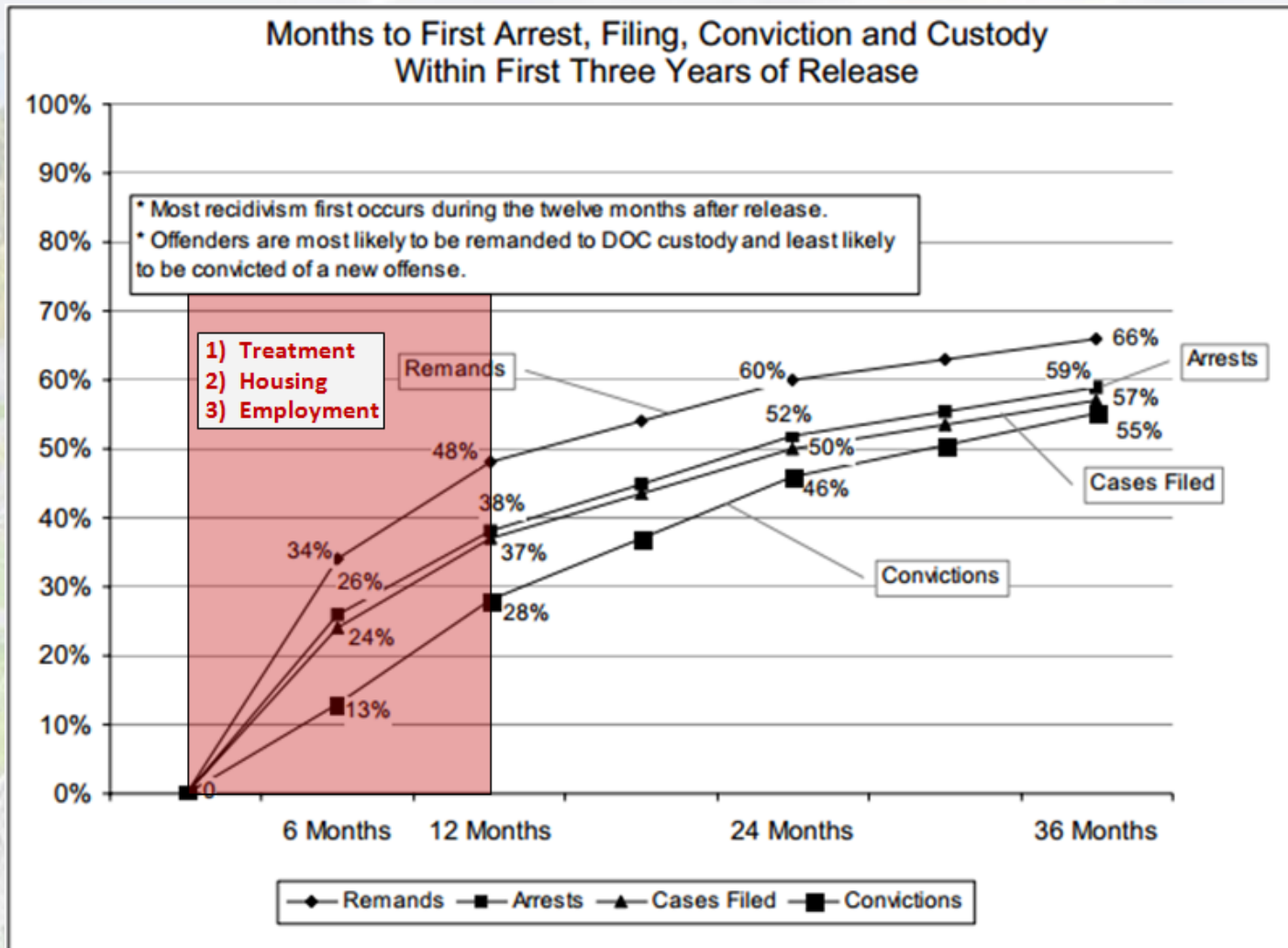
5. FY11 Performance Measures (1 year out):

| | Count | Returned | Recidivism Rate* |
|---------------------------------------|-------|----------|------------------|
| FY2011 Control Group | 1877 | 692 | 36.87% |
| Participated in and Completed Program | 421 | 38 | 9.09%** |

**Percent of offenders returning to incarceration within one year of discharge.*

***The majority of these individuals have been out of custody for one year or less. The recidivism rate will rise. Given these results, it appears the state is on the road to match or exceed the 9 to 12% national average for recidivism reduction.*

Most Recidivism Occurs During the Six Months After Release



Recidivism Reduction Fund

To promote rehabilitation through transitional re-entry programs for persons recently released from correctional facilities.

Program Requirements:

- 1) Case Management
- 2) Sober Living
- 3) Treatment for Substance Abuse
- 4) Require Employment, Vocational Ed, or Volunteer
- 5) Limit Residential Placements in the Program to a year.

The commissioner shall prepare an annual report on the fund.



Sections 42-49

APPLICABILITY, TRANSITIONAL PROVISIONS, & EFFECTIVE DATES

Sections 42-49

- **Section 42:** changes apply to offenses occurring on or after the effective date of this act.
- **Section 43:** tasks the commission to prepare a special report to the legislature about Alaska Statute Title 28.
- **Section 44:** the first meeting of the commission shall be held no later than Sep. 30 2014.
- **Sections 45:** the Department of Corrections and Department of Health and Social Services may begin working on regulations immediately upon passage of the bill.
- **Section 46:** establishes an effective date for section 28.
- **Section 47:** establishes a delayed effective date for Section 37 of the bill.
- **Section 48:** establishes an immediate effective date for section 45.
- **Section 49:** establishes an overall effective date for the bill of July 1, 2014.