

Pre-SB 91	SB 91	SB 54	HB 312	Governor's Bill
Sentencing (SB 32)				
Possession of any amount of schedule IA and most IIA drugs and varying amounts of some schedule IIIA, IVA, VA, VIA drugs was a <u>class C felony</u>. Possession of smaller amounts of schedule IIIA, IVA, VA, VIA (more than an ounce) drugs was a <u>class A misdemeanor</u>. Possession of less than six grams or less of “spice” was a <u>class B misdemeanor</u>.	Reduced possession of all classifications of drugs, except GHB, to a class A misdemeanor punishable by a suspended sentence on the first two convictions.		Reenacts drug laws in effect prior to SB 91. Possession of any amount of schedule IA and most IIA drugs and varying amounts of some schedule IIIA, IVA, VA, VIA drugs will be a <u>class C felony</u>. Possession of smaller amounts of schedule IIIA, IVA, VA, VIA (more than an ounce) drugs will be a <u>class A misdemeanor</u>. Possession of less than six grams or less of “spice” will be a <u>class B misdemeanor</u>. <i>SB 32 sec. 32-36</i>	
Distribution of any amount of schedule IA drugs (heroin) or IIA (meth), or possession of chemicals used to make meth was a <u>class A felony</u>. Distribution of any amount of schedule IIA and IIIA drugs and the distribution of any amount of schedule IVA or VA, or VIA drugs to certain minors was a <u>class B felony</u>.	Repealed the class A felony crime of distributing any amount of a schedule IA controlled substance. Established a weight threshold for distribution crimes. Also repealed enhanced sentencing structure for making meth around children.		Return distribution of drugs to class B and A felonies from the current C and B and remove quantity as an element. Reenact statutes combatting methamphetamine manufacture and distribution, including enhanced sentencing structure for making meth around children. <i>SB 32 sec. 29-31 and sec. 38-39</i>	
0-365 day sentencing range for A misdemeanors. 0-90 day sentencing range for all class B misdemeanors. 0-10 days sentencing range for Disorderly Conduct.	Created a 0-30 day presumptive sentencing range for most class A misdemeanors. Established aggravators for misdemeanors. 0-10 days sentencing range for class B misdemeanors. 0-24 hour sentencing range for Disorderly Conduct.	Established 5-year look back period for misdemeanor aggravators.	Remove 30-day presumptive sentence for A misdemeanors and return discretion to judges to impose 0-365 days. Sentences for B misdemeanors returned to pre- SB 91 status (0-90 days). 0-10 days sentencing range for Disorderly Conduct. <i>SB 32 sec. 28, 42-43</i>	

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Most felony offenses were subject to the following presumptive range: A felony: 5-8, 10-14, 15-20(max) B felony: 1-3, 4-7, 6-10(max) C felony: 0-2, 2-4, 3-5(max)	Reduced the presumptive sentencing ranges for all felony offenses except sex offenses, Murder 1 and Murder 2. Mandated probationary (no jail) sentence for first-time class C felony conviction.	Returned sentencing range for first class C felonies to 0-2 years. (Same as 1 st B felony.) Restored enhanced sentencing range for conduct directed at a first responder.	Return felony sentences to what they were prior to SB 91: A felony: 5-8, 10-14, 15-20(max). B felony: 1-3, 4-7, 6-10(max). C felony: 0-2, 2-4, 3-5(max). Murder 1 and 2 sentencing increases enacted in SB 91 will remain. SB 32 sec. 38-40	
Felony sex offense: 25 years maximum. Any other offense: 10 years maximum.	Reduced the maximum allowable probation lengths for all offenses except non-sex unclassified offenses.		Return probation lengths to what they were before SB 91: Felony sex offense: 25 years maximum. Any other offense: 10 years maximum. SB 32 sec. 37	
A class C felony if the underlying offense was a felony. A class A misdemeanor if underlying offense was a misdemeanor.	Made FTA a violation unless the person does not contact the court within 30 days of missing a hearing or has an intent to avoid prosecution.		Remove the 30 day “grace” period for FTA to ensure better enforcement for defendants appearing in court for the hearings, including trial. FTA would be a class C felony if the underlying offense was a felony; a class A misdemeanor if the underlying offense was a misdemeanor. SB 32 sec. 21-22	
A class A misdemeanor if underlying offense was a felony. A class B misdemeanor if underlying offense was a misdemeanor.	Reduced VCOR to a violation punishable by a fine of up to \$1,000.	Established 5-day maximum sentence.	Return VCOR to what it was prior to SB 91: A class A misdemeanor if underlying offense was a felony. A class B misdemeanor if underlying offense was a misdemeanor. SB 32 sec. 23	
DOC commissioner had discretion to determine where the person serves their time.	Required a person to serve their sentence for a first DUI on electronic monitoring (EM) or on house arrest.		Eliminate electronic monitoring as <u>mandatory</u> for 1 st DUI. Return placement discretion to commissioner of the Dept. of Corrections. SB 32 sec. 45-46	
Removing an EM device post sentencing is a B felony if sentenced for a felony and an A misdemeanor if sentenced for a misdemeanor. Removing an EM device pretrial is the crime of violating conditions of release.			Make removing an EM device a crime if under the jurisdiction of Division of Juvenile Justice for a felony. Make removing an EM device a crime if serving a sentence for a misdemeanor or if on EM pretrial a class C felony. SB 32 sec. 19-20	
Required but no sanction for refusal.			Make refusal to submit a DNA sample upon arrest a class A misdemeanor. SB 32 sec. 24-26	

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es (SB 33)				
Bail determined at court's discretion, except there was a rebuttable presumption of dangerousness for the most serious offenses, <i>i.e.</i> , U, A, sex and DUI felonies. An offender entitled to have bail reviewed after 48 hours after the initial setting. The inability to post bail was not a basis to seek a bail review.	Required bail decisions to be determined by a person's risk level (from the risk assessment tool) and offense committed. Established <u>mandatory release</u> for certain offenders assessed as low-moderate risk. Allowed a person to have their bail setting reviewed simply because they are unable to pay it. Repealed the rebuttable presumption that certain offenders charged with the highest offenses are such a risk to the community that no amount of bail will secure their compliance with their conditions of release.	Repealed mandatory release for certain offenders.	Return presumption to pre-SB 91 law a) Remove inability to pay as a reason for the court to review a bail setting; b) Limit number of hearings; c) Reestablish the presumption of public safety focus for bail release; and d) Eliminate the use of the risk assessment tool (*The elimination of the risk assessment tool is a natural result of the repeal of the Pre-trial Enforcement Division (PED) as PED prepared risk assessment tool for court.*) <i>SB 33 sec. 3-5 and 7-9</i>	
Did not exist. Under certain circumstances, court could require a third-party custodian to monitor offender on bail	Established the Pre-trial Enforcement Division. Restricted the third-party custodian system to use only in places where PED was not available.	Clarified that PED can file complaints.	Dissolve PED unit, but give probation officers authority to supervise pre-trial and allow DOC to contract for EM by private companies. Also reinstate the third party custodian system to prior status and allows pre-trial release to private EM companies with DOC supervision. <i>SB 33 sec. 2-3, 6-9, 14-21, 25, and 27</i>	
Arraignment required to occur within <u>48</u> hours.	Required all defendants to be arraigned within <u>24</u> hours of arrest.		Return to requiring arraignments to occur within 48 hours of arrest. <i>SB 33 sec. 2 and 14</i>	
Pre-trial EM was <u>ineligible</u> for jail credit. Pre-trial treatment was eligible day-for-day credit against jail term if met <i>Nygren</i> conditions.	Capped the amount of jail credit that could be awarded for pre-trial EM at 360 days for the most serious offenses (robbery, assault, etc.). Loosen <i>Nygren</i> requirements to allow for more treatment to qualify for credit.		EM will once again be ineligible for jail credit. Credit for time spent in a treatment facility will be capped at six months. <i>SB 33 sec. 10-13, and 25</i>	
Limited use at court hearings.			Encourage the use of videoconferencing, where the technology exists, for all pretrial hearings for all in-custody defendants. <i>SB 33 sec. 1, and 22-23</i>	

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Pre-Trial Bail Issues (SB 33)					
Criminal Rule 45	Speedy trial rule requires permission from both the defendant <u>and</u> his counsel before a trial continuance can be granted.				Allow defendant's counsel to agree to trial continuances as this is a tactical decision and the defendant should not have veto power over this. The court will still be required to determine that there is good reason to delay the trial. <i>SB 33 sec. 24</i>

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ole (SB 34)				
Court had discretion to impose up to the remainder of the suspended time if an offender violated their conditions of probation and parole board had same discretion for parole violations. Probation or parole officers could attempt to use non-court sanctions gain compliance.	Established caps on the number of days a judge or the parole board can impose for a technical violation of probation or parole respectively. (Caps are 3, 5 and 10 days). Administrative sanctions placed into statute and their use was mandated.		Eliminate ranges enacted by SB 91 returning discretion to the court and the parole board to impose a sanction they deemed appropriate; up to the remainder of the suspended time for probation or parole violations. Non-court sanctions are removed from statute returning their use to probation officer discretion. <i>SB 34 sec. 1, 6, 14, 16-17 and 19</i> <i>DRAFT STA CS SB 34 sec. 1, 2, 6, 16, 17, 21</i>	
Did not exist.	Created an earned compliance credit system where probation and parole is reduced by 30 days for every 30 days without a violation.	Requires sex and DV offenders to complete treatment before being released from probation or parole due to ECC's.	Reduce credits to 1 day for every 3 days without a violation. Sex offenders will not be eligible for ECC. If a person commits a violation they lose all of their previously earned credits. <i>SB 34 sec. 4-5, 16-17</i> <i>DRAFT STA CS SB 34 sec. 4, 5, 18, 19</i>	
Probation officer (PO) had discretion to ask the court to terminate probation for probationers if probation officer thought early termination was warranted.	Requires PO to recommend early termination after 1 year on probation for most felony offenses.	Increased period to 18 months.	Return to a true recommendation of the probation or parole officer and eliminate timeframes in which a recommendation is required. <i>SB 34 sec. 3, 6, 12-13</i> <i>DRAFT STA CS SB 34 sec. 3, 6, 15</i>	
Parolees required to apply for parole	Parole hearing automatic no longer requiring an application.		Removes automatic hearing and requires an application be filed. <i>SB 34 sec. 7, 11</i> <i>DRAFT STA CS SB 34 sec. 8, 13, 14</i>	
The period of parole was tolled while a petition for a violation is pending.	The period of parole <i>only</i> tolls during the pendency of a violation that is for absconding. If the violation is in regards to any other conduct, there is no tolling.		The period of parole will once again toll while a petition is pending. <i>SB 34 sec. 15</i> <i>DRAFT STA CS SB 34 sec. 17</i>	

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ole (SB 34)				
Discretionary parole available to most offenders <i>except</i> : a) Non-sex class A felonies (Robbery 1, Assault 1, Arson 1); b) B felonies if the person had one or more prior felony convictions; c) C felonies if the person had two or more prior felony convictions; d) B and C sex felonies (Sexual Assault 2, Sexual Abuse of a Minor 2, Distribution of Child Pornography).	Increased the number of offenders who are eligible for discretionary parole.		Return to restricting what crimes are eligible for discretionary parole pre-SB 91. Crimes previously not eligible were: a) Non-sex class A felonies (Robbery 1, Assault 1, Arson 1); b) B felonies if the person had one or more prior felony convictions; c) C felonies if the person had two or more prior felony convictions; d) B and C sex felonies (Sexual Assault 2, Sexual Abuse of a Minor 2, Distribution of Child Pornography). <i>SB 34 sec. 8-10</i> <i>DRAFT STA CS SB 34 sec. 9, 10</i>	
Before releasing on discretionary parole the board required to consider whether: a) The prisoner will live and remain at liberty without violating any laws or conditions imposed by the board; b) The prisoner's rehabilitation and reintegration into society will be furthered by release on parole; c) The prisoner will not pose a threat of harm to public if released on parole; and d) The release of the prisoner on parole would not diminish the seriousness of the crime.	Created a presumption of release. Board must find by clear and convincing evidence that prisoner is a threat to the public before denying release.		Return discretion to the parole board to determine release based on pre-SB 91 law. AS 33.16.100(a) previously set forth the factors as: a) The prisoner will live and remain at liberty without violating any laws or conditions imposed by the board; b) The prisoner's rehabilitation and reintegration into society will be furthered by release on parole; c) The prisoner will not pose a threat of harm to public if released on parole; and d) The release of the prisoner on parole would not diminish the seriousness of the crime. <i>SB 34 sec. 9 and 20</i> <i>DRAFT STA CS SB 34 sec. 11, 12</i>	
Time spent on EM was ineligible for good time credit.	Established good time credit for time spent on EM.		Eliminate good time credit for time spent on EM. <i>SB 34 sec. 18</i> <i>DRAFT STA CS SB 34 sec. 20</i>	