

Fiscal Note

State of Alaska
2019 Legislative Session

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| Bill Version: | HB 49 |
| Fiscal Note Number: | 6 |
| (H) Publish Date: | 2/20/2019 |

Identifier: 0029-LAW-CRIM-1-20-19
Title: CRIMES; SENTENCING;MENT.
ILLNESS;EVIDENCE
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: Governor

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

| | FY2020 Appropriation Requested | Included in Governor's FY2020 Request | Out-Year Cost Estimates | | | | |
|------------------------|--------------------------------------|--|-------------------------|----------------|----------------|----------------|----------------|
| OPERATING EXPENDITURES | FY 2020 | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2024 | FY 2025 |
| Personal Services | 949.9 | | 949.9 | 949.9 | 949.9 | 949.9 | 949.9 |
| Travel | 7.3 | | 7.3 | 7.3 | 7.3 | 7.3 | 7.3 |
| Services | 149.3 | | 149.3 | 149.3 | 149.3 | 149.3 | 149.3 |
| Commodities | 11.1 | | 11.1 | 11.1 | 11.1 | 11.1 | 11.1 |
| Capital Outlay | 3.5 | | 3.5 | 3.5 | 3.5 | 3.5 | 3.5 |
| Grants & Benefits | | | | | | | |
| Miscellaneous | | | | | | | |
| Total Operating | 1,121.1 | 0.0 | 1,121.1 | 1,121.1 | 1,121.1 | 1,121.1 | 1,121.1 |

Fund Source (Operating Only)

| | | | | | | | |
|---------------------|----------------|------------|----------------|----------------|----------------|----------------|----------------|
| 1004 Gen Fund (UGF) | 1,121.1 | | 1,121.1 | 1,121.1 | 1,121.1 | 1,121.1 | 1,121.1 |
| Total | 1,121.1 | 0.0 | 1,121.1 | 1,121.1 | 1,121.1 | 1,121.1 | 1,121.1 |

Positions

| | | | | | | | |
|-----------|-----|--|-----|-----|-----|-----|-----|
| Full-time | 9.0 | | 9.0 | 9.0 | 9.0 | 9.0 | 9.0 |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

Change in Revenues

| | | | | | | | |
|--------------|------------|------------|------------|------------|------------|------------|------------|
| None | | | | | | | |
| Total | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimated SUPPLEMENTAL (FY2019) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2020) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? No
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

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Agency: Office of Management and Budget

Phone: (907)465-3674
Date: 01/20/2019 01:00 PM
Date: 01/20/19

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2019 LEGISLATIVE SESSION

Analysis

This bill reverts a number of criminal laws and sentences back to what they were in 2015.

Misdemeanor sentences are returned to their 2015 ranges (0-1 year for a class A misdemeanor and 0-90 days for a class B misdemeanor). Additionally, all felony sentences are returned to their 2015 ranges this means the sentencing ranges for nearly all felonies is increased by approximately 2 years. 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 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 returns all possessory drug offenses to the class C felony level.

Additionally, this bill enacts several new criminal offenses. First, it enacts a generalized threat statute. This statute will criminalize making a threat with reckless disregard that the threat may place another person or persons in fear of physical injury, that it may cause the evacuation of a building, or a serious public inconvenience. The bill also enacts the crime of refusal to submit a DNA upon arrest a class A misdemeanor. 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 rap sheet 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 rap sheet 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.

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 with existing resources 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 potentially additional prosecutors and associated support staff in subsequent years.