

# Fiscal Note

State of Alaska  
2019 Legislative Session

Bill Version: SB 32  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB032CS(STA)-LAW-CRIM-04-22-19  
Title: CRIMES; SENTENCING;MENT.  
ILLNESS;EVIDENCE  
Sponsor: RLS BY REQUEST OF THE GOVERNOR  
Requester: Senate Finance

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	1,258.8		1,258.8	1,258.8	1,258.8	1,258.8	1,258.8
Travel	13.5		13.5	13.5	13.5	13.5	13.5
Services	196.6		196.6	196.6	196.6	196.6	196.6
Commodities	14.6		14.6	14.6	14.6	14.6	14.6
Capital Outlay	4.6		4.6	4.6	4.6	4.6	4.6
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>1,488.1</b>	<b>0.0</b>	<b>1,488.1</b>	<b>1,488.1</b>	<b>1,488.1</b>	<b>1,488.1</b>	<b>1,488.1</b>

## Fund Source (Operating Only)

1004 Gen Fund (UGF)	1,488.1		1,488.1	1,488.1	1,488.1	1,488.1	1,488.1
<b>Total</b>	<b>1,488.1</b>	<b>0.0</b>	<b>1,488.1</b>	<b>1,488.1</b>	<b>1,488.1</b>	<b>1,488.1</b>	<b>1,488.1</b>

## Positions

Full-time	13.0		13.0	13.0	13.0	13.0	13.0
Part-time							
Temporary							

## Change in Revenues

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**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If yes, by what date are the regulations to be adopted, amended or repealed?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:

This fiscal note differs from the previous version in order to address the Committee Substitute (CS) adopted by Senate State Affairs. The CS recriminalizes driving with a license that has canceled, suspended or revoked. The increase in workload associated with this change is addressed in the narrative and reflected in the adjusted fiscal impact to the department.

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Division:	Administrative Services Division	Date:	04/22/2019
Approved By:	Anna Kim, Administrative Services Director	Date:	04/22/19
Agency:	Office of Management and Budget		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2019 LEGISLATIVE SESSION

BILL NO. SB 32

### 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 which places a person in fear of serious physical injury with reckless disregard that the threat may cause the evacuation of a building, or a serious public inconvenience. The bill also makes driving with a license that is canceled, suspended, or revoked a class A misdemeanor in all cases. 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 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 the potential need for additional prosecutors and associated support staff in subsequent years.

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STATE OF ALASKA  
2019 LEGISLATIVE SESSION

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Additionally, the recriminalization of all cases of driving with license canceled suspended or revoked will require the Criminal Division to prosecute additional cases. Between 2014 and 2016 the offense of driving with a license that has been canceled suspended or revoked consisted of 17% of the division's misdemeanor caseload. The vast majority of those cases were handled out of the Palmer, Kenai, and Fairbanks district attorney's offices. The increase in work load will require an additional three law office assistants and one prosecutor.

This legislation will have a fiscal impact on the Department of Law. As outlined above, the department anticipates the need for a total addition of six prosecutors and seven support staff should this bill become law.