

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	HCS CSSSSB 91(FIN)
Fiscal Note Number:	41
(H) Publish Date:	5/2/2016

Identifier: SSSB91HCSCS(FIN)-LAW-CRIM-04-29-16  
 Title: OMNIBUS CRIM LAW & PROCEDURE;  
 CORRECTIONS  
 Sponsor: COGHILL  
 Requester: House 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)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>	<b>FY 2017</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</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>

## Fund Source (Operating Only)

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>

## Positions

Full-time							
Part-time							
Temporary							

## Change in Revenues

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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(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 If yes, by what date are the regulations to be adopted, amended or repealed?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:

This version differs from the previous version as this fiscal note reflects the changes made in House Finance.

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 Agency: Department of Law

Phone: (907)465-3674  
 Date: 04/29/2016 03:30 PM  
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REPORTED OUT OF  
HFC 04/29/2016

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

BILL NO. SB 91

## Analysis

This legislation makes significant changes to the current criminal code and incorporates policy recommendations from the Alaska Criminal Justice Commission.

### **Reduction in Sentence Length**

The legislation reduces felony sentences and establishes a maximum imprisonment of 30 days for most misdemeanor cases. This maximum 30-day sentence can be exceeded if a jury finds that the conduct was among the most serious for that type of offense, if the defendant is convicted for an offense and has been convicted of similar offenses in the past, or if the conviction is for assault in the fourth degree, sexual assault in the fourth degree, sexual abuse of a minor in the fourth degree, indecent exposure before a person under the age of 16, or harassment in the first degree (offensive contact).

The Department of Law anticipates an increase in the number of trials as well as an increase in the amount of work required for misdemeanors due to these changes. The increased work results from being required to prove aggravators for misdemeanors. This will involve litigating, first in the trial courts and then in the appellate courts, how these new aggravators will be applied and interpreted. It is unclear how many cases will fall into the categories requiring additional time, therefore the department is unable to quantify the impact of these sections at this time. The Department of Law will attempt to absorb these costs.

### **Bail Reform**

The legislation makes significant changes to the bail process. Under the legislation, a judge is required to order a person released on their personal recognizance for most offenses unless they find on the record that there is clear and convincing evidence that less restrictive conditions will not reasonably ensure that the person will appear in court or protect the safety of the victims and the community.

Under current law a judge may not consider the person's inability to pay the bail when setting or amending bail. This legislation reverses that limitation and specifically requires a judge to consider whether a person has ability to post the bail amount.

Another new requirement is a risk assessment by a pretrial services officer. That assessment along with recommendations on conditions of release must be presented to the judge, prosecutor, and defense attorney before each person is arraigned. How those assessments are conducted, interpreted and applied may result in new litigation.

Because inability to pay would be an allowable basis for requesting a bail review hearing, bail review hearings will be available to a larger group of people and may result in an increase in hearings. It is unclear exactly how many more hearings or how much new litigation will result from these sections. Therefore, the department is unable to quantify the impact of these sections at this time. The Department of Law will attempt to absorb these costs.

## FISCAL NOTE ANALYSIS

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### Analysis Continued

#### **Capping Time Imposed for Technical Violations of Probation**

The legislation caps the amount of time a person can serve for first, second, and third technical violations of probation.

The Department of Law does not anticipate a fiscal impact from these sections at this time.

#### **Drug Offenses**

This legislation reduces the penalties for certain conduct related to controlled substances. It makes it a class B felony to manufacture or deliver one gram or more of a schedule IA controlled substance (heroin) or 2.5 grams or more of a schedule IIA (methamphetamine), or IIIA (zolazepam) controlled substance. It also makes it a class C felony to manufacture or deliver less than one gram of a schedule IA (heroin) or 2.5 grams of a schedule IIA (methamphetamine), or IIIA (zolazepam) controlled substance. The legislation also reduces the penalty for possessing any of these substances to a class A misdemeanor.

The Department of Law does not anticipate a fiscal impact from these sections at this time.

#### **Suspended Entry of Judgment**

The legislation establishes a new judicial procedure in which a person is found guilty or pleads guilty to a crime and the judgment is not immediately entered. The person would be put on probation for a certain period of time. If the person successfully completes probation the judgment would not be entered and there would never be a formal entry of guilt for the person.

The Department of Law does not anticipate a fiscal impact from this section at this time.

#### **Abolishing Civil in Rem Forfeiture**

The legislation abolishes common law civil in rem forfeiture if it is used instead of a criminal proceeding.

The Department of Law does not anticipate a fiscal impact from this section at this time.

#### **Limited Licenses**

The legislation also allows a court to grant limited license privileges for felony DUI offenders. In order to be eligible for a limited license, the person must have completed a therapeutic court program or, if a therapeutic court program is not available in their area, another rehabilitative treatment program. If the person completes a program other than a therapeutic court program, the person must prove that the program was appropriate for their substance abuse condition and that they maintained sobriety for a period of at least 18 months.

Because this section establishes a new method for obtaining a limited license and increases the number of people who could be eligible for a limited license, the Department of Law anticipates an increase in hearings and litigation. The department would be required to attend more hearings because the person seeking a limited license under this section would be required to prove they completed a rehabilitative program that is appropriate for their alcohol or substance abuse condition and meets the other requirements in this section. The person would also have to prove that they had maintained sobriety. It is unclear exactly how many more hearings or how much new litigation will result from these sections. Therefore, the department is unable to quantify the impact of these sections at this time.

The Department of Law will attempt to absorb these costs.