

# Fiscal Note

State of Alaska  
2017 Legislative Session

Bill Version:	HCS CSSB 54(JUD)
Fiscal Note Number:	10
(H) Publish Date:	10/30/2017

Identifier: SB054HCS(JUD)-DOC-IDO-10-30-17  
 Title: CRIME AND SENTENCING  
 Sponsor: COGHILL  
 Requester: (H) Finance

Department: Department of Corrections  
 Appropriation: Population Management  
 Allocation: Institution Director's Office  
 OMB Component Number: 1381

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<b>OPERATING EXPENDITURES</b>	<b>FY 2018</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	***	<b>0.0</b>	***	***	***	***	***

**Fund Source (Operating Only)**

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

**Positions**

Full-time							
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 (FY2017) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2018) 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 If yes, by what date are the regulations to be adopted, amended or repealed?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 fiscal note is updated to reflect changes identified in Senate Bill 54 version T.

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Division:	Administrative Services - Department of Corrections	Date:	10/30/2017 10:00 AM
Approved By:	Dean Williams, Commissioner	Date:	10/30/17
Agency:	Department of Corrections		

## FISCAL NOTE ANALYSIS

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## Analysis

This legislation amends several changes to violation of condition of release, sentencing, probation, parole and pretrial statutes passed under Chapter 36, SLA '16 (SB91). These changes will impact the length of imprisonment of those individuals placed under the department's custody and adjusts the anticipated inmate population reductions projected with SB91.

Based on CY2015 offender data and future sentencing assumptions the Department of Corrections (DOC) inmate population could increase by approximately 108 persons per day up to 285 persons per day; however, there is not sufficient data at this time to determine the actual impacts to the prison population. It is anticipated that this legislation could increase the institutional expenditures by \$1,635,535.80 (108 persons) up to \$4,315,997.25 (285 persons) annually based on a daily marginal rate of \$41.49. Expenditures would range from personal services of existing positions, inmate travel, security and safety services as well as commodity expenditures associated with inmate housing i.e. food, clothing, bedding, medical and security supplies, etc.

The following is a breakdown of the cost stated above by section:

AS 11.46.130 amends theft in the third degree to include persons convicted and sentenced on two or more separate occasions of theft or concealment within the past five years when the value is less than \$250. It is anticipated that this section will increase the institutional expenditures by \$0.00 (no persons) up to \$318,020.85 (21 persons) annually based on a daily marginal rate of \$41.49. This assumption is based upon previous offender projections and preliminary DOC offender data; however, there is not sufficient data at this time to determine the full impact to the prison population of this legislation. DOC will continue to monitor the financial impacts of this legislation if passed.

AS 11.71.140(c) adds U-47700 to Alaska's list of schedule IA substances and will also allow law enforcement to stop those who are distributing the substance. Violation of this section of statute is misconduct involving a controlled substance and could increase the number of offenders placed under the department's custody. The DOC projects an increase to the inmate population from approximately \$0.00 (no time served) to \$41.49 per day (based on a daily marginal rate) for each offender incarcerated under this legislation; however, there is not sufficient data at this time to determine the full impact to the prison population of this legislation. DOC will continue to monitor the financial impacts of this legislation if passed.

AS 12.30.006(b) is amended increasing the number of hours that a person can be detained from 24 to 48 hour if the release of a person charged with a class C felony, or unclassified class A or class B felony would pose a danger to the victim, other persons, or community. The DOC projects an increase to the inmate population from zero persons per day up to 4 persons per day at an annual cost of \$0.00 (no persons) up to \$60,575.40 (four persons) annually based on a daily marginal rate of \$41.49/bed. This is based on 1,548 felony bookings during FY2017 where the stay was 24 hours or less and assuming similar counts in the future; however, there is not sufficient data at this time to determine the full impact to the prison population of this legislation. DOC will continue to monitor the financial impacts of this legislation if passed.

AS 12.30.011(I) adds a new subsection requirement if the Supreme Court establishes a schedule of bail amounts or condition of release for misdemeanor offenses. The schedule established must include a condition that a correctional facility conduct a chemical breathalyzer testing of the persons who have been arrested and who are intoxicated; it also allows the department to detain the person until the test results indicate that the person's breath has less than 0.08 grams of alcohol for each 210 liters of breath or release to a person who is willing and able to provide care to the defendant. At this time there is not sufficient data to determine the full impact to the prison population of this legislation. DOC will continue to monitor the financial impacts of this legislation if passed.

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AS 12.55.025 is amended to eliminate Administrative Parole. The potential financial impacts to the Department would be \$41.49 per day (based on a daily marginal rate) for each offender that remains incarcerated; however, there is not sufficient data at this time to determine the full impact to the prison population of this legislation. DOC will continue to monitor the financial impacts of this legislation if passed.

AS 12.55.125(c) is amended to increase sentencing ranges for first time select class A felony charges to five to nine years; or knowingly direct this conduct at a uniform officer, seven to 11 years. The department is unable to calculate the total cost due to the inability to distinguish class A felony offenses against a uniformed officer. It is anticipated that this section would increase the institutional expenditures by \$0.00 (no persons) up to \$41.49 per day (based on a daily marginal rate) for each offender incarcerated under this legislation; however, there is not sufficient data at this time to determine the full impact to the prison population of this legislation. DOC will continue to monitor the financial impacts of this legislation if passed.

AS 12.55.125(e) (l) amends first time felony C convictions allowing for imprisonment of zero to 365 days. Using the Department of Law's future assumptions on sentencing time for different categories of class C felonies (alcohol, drugs, person, property, public order/administration, transportation, weapons), the DOC projects an increase to the inmate population from approximately 108 persons per day up to 163 persons per day at an annual cost of \$1,635,535.80 up to \$2,468,447.55 annually based on a daily marginal rate of \$41.49/bed. This assumption is based on the number of persons convicted of a first time C felony during 2015 and adjusting for the Department of Law's anticipated future sentencing ranges to identify the anticipated daily increase to the offender population that will be incarcerated under this section. DOC will track and monitor for future fiscal impacts if passed.

AS 12.55.135(a) amends class A misdemeanor sentencing for those with one prior conviction similar in nature to the offense for which the defendant is being sentenced to not more than 60 days from the current 30 days. It is projected that this section will increase the institutional expenditures by \$0.00 (no persons) up to \$1,105,501.05 (73 persons) annually based on a daily marginal rate of \$41.49. This assumption is based on the number of offenders incarcerated during CY2015 where a misdemeanor A was the only offense and excluding those offenders who were incarcerated for a person offense. It is assumed that a person would not receive the maximum sentence but could receive additional suspended time up to the maximum sentence length. Based on departmental data a portion could receive approximately zero (suspended time) to one third of the allowable sentence length resulting in an anticipated daily increase of 0 to 73 offenders that could be incarcerated under this section. DOC will track and monitor for future fiscal impacts if passed.

AS 12.55.135(b) amends violation of conditions of release as a B misdemeanor and allows sentences of not more than five days for violations of AS 11.56.757. It is projected that this section will increase the institutional expenditures by \$0.00 (no persons) to \$136,294.65 (nine persons) annually based on a daily marginal rate of \$41.49. This assumption is based upon previous offender projections and preliminary DOC offender data. DOC will track and monitor for future fiscal impacts if passed.

AS 12.55.135(l) amends sentencing for a person convicted of theft in the fourth degree and adds a sentence of not more than 10 days of active imprisonment and a term of probation of not more than six months if the person has previously been convicted two or more times of an offense; or a sentence of active imprisonment and a term of probation of more than six months if the person has been previously convicted once. It is anticipated that this section will increase the institutional expenditures by \$0.00 (no persons) up to \$121,150.80 (eight persons) annually based on a daily marginal rate of \$41.49. This assumption is based upon previous offender projections and preliminary DOC offender data. DOC will track and monitor for future fiscal impacts if passed.

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**Analysis**

AS 12.55.135(m) amends sentencing by increasing from 24 hours to no more than five days for a person convicted of disorderly conduct by the court. It is anticipated that this section will increase the institutional expenditures by \$0.00 (no persons) up to \$106,006.95 (seven persons) annually based on a daily marginal rate of \$41.49. This assumption is based upon previous offender projections and preliminary DOC offender data; however, there is not sufficient data at this time to determine the full impact to the prison population of this legislation. DOC will continue to monitor the financial impacts of this legislation if passed.

AS 12.55.145(a)(5) adds a new section establishing a period of look back when considering prior convictions in imposing sentencing under AS 12.55.135(a). The department is unable to quantify the impacts of this section at this time. For example, not all misdemeanor convictions result in incarceration. The department only has data on individuals who are or were incarcerated. DOC will track and monitor for future fiscal impacts if passed.