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# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 1, 2002

FURTHER REFERRALS: Finance

Date of Committee Action: 5.3.02

The JUDICIARY Committee considered:

SB 339

SENATE BILL NO. 339

INCREASE CRIMINAL FINES

"An Act increasing fines for certain criminal offenses."

Recommends it be replaced with CS \_\_\_\_\_ ( ) [ ] Same Title [ ] New Title  
*For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR*

[ ] attach amendments

[ ] add new referral to \_\_\_\_\_ Committee

[ ] Letter of Intent \_\_\_\_\_ Committee

List of Abbrev. for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LAA  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM	2		✓	
LAW	1		✓	

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	Berkwitz				
<i>[Signature]</i>	Meyer	✓			
<i>[Signature]</i>	Coybett				
<i>[Signature]</i>	Rokeber				
Chair: <i>[Signature]</i>	ROKEBER	✓			
Chair: <i>[Signature]</i>					



Official Business

# Alaska State Senate

## Senate Finance Committee

### SPONSOR STATEMENT

Mail Stop 3:00  
State Capitol  
Juneau, Alaska 99801-1182

### Senate Bill 339

#### "An Act for increasing fines for certain criminal offenses."

Senate Bill 339 increases maximum criminal fines that may be imposed on an individual or organization for certain criminal offenses. Alaska has not increased the maximum criminal fine amounts on individuals since the revision of the Alaska Criminal Code in 1978. Inflation since 1978 has been 215 percent. Alaska has not increased the maximum criminal fine amount on organizations since 1990. Inflation since 1990 has been 46 percent.

In existing law, the maximum allowable criminal fine to an individual who is convicted of an unclassified felony under AS 12.55.035(a) is \$75,000. Senate Bill 339 would increase this maximum criminal fine to \$500,000.

The existing maximum allowable criminal fine imposed on an individual for a Class A, B or C Felony is \$50,000. Senate Bill 339 separates and imposes a maximum allowable criminal fine for each class individually: a Class A felony maximum fine is increased to \$250,000; a Class B felony maximum fine is \$100,000 and a Class C felony maximum fine is left at \$50,000. For a Class A misdemeanor, the maximum fine is increased to \$10,000 and the maximum fine for a Class B misdemeanor is increased to \$2,000. A violation maximum fine is increased to \$500.

#### Maximum Criminal Fines Imposed on an Individual

	<u>Existing</u>	<u>Proposed</u>
Unclassified Felony	\$ 75,000.00	\$500,000.00
Class A Felony	50,000.00	250,000.00
Class B Felony	50,000.00	100,000.00
Class C Felony	50,000.00	50,000.00
Class A Misdemeanor	5,000.00	10,000.00
Class B Misdemeanor	1,000.00	2,000.00
Violation	\$ 300.00	\$ 500.00

The current maximum allowable fine imposed on an organization convicted of a felony or a misdemeanor resulting in death (AS 12.55.035(b)) is the greater of \$500,000 or twice the pecuniary gain of a defendant or pecuniary loss to the victim as a result of that offense. Senate Bill 339 increases the maximum fine under AS 12.55.035(b) that may be imposed to the greater of \$1,000,000 or three times the pecuniary gain or loss.

This legislation applies only to offenses committed on or after its effective date. The fine amounts are not mandatory; they are the maximum amounts allowed to be imposed. Judges retain their discretion to set the fines based on the conditions surrounding individual offenses.

The sponsor recognizes that most criminals will not be able to pay the higher of these increased fines. But, those that can pay should be subject to meaningful fines. Increasing the maximum allowable fines that may be imposed for committing criminal offenses will hopefully help to deter crime. Additionally, these higher fines will help reimburse the state for the costs of the criminal justice system.

DD/mjw

Attachments



Official Business


# Alaska State Senate

## Senate Finance Committee

### MEMORANDUM

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

To: Representative Norm Rokeberg, Chair  
House Judiciary Committee

Fr: Senator Dave Donley, Co-Chair   
Senate Finance Committee

Re: Senate Bill 339, "An Act for increasing fines for certain criminal offenses"

Date: April 22, 2002

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On behalf of the Senate Finance Committee, I request your support for Senate Bill 339, which would increase the maximum criminal fine that may be imposed on an individual or organization for certain criminal offenses.

The maximum criminal fine amounts for an individual have not been increased since the revision of the Alaska Criminal Code in 1978, twenty-four years ago. Inflation has been 215 percent since 1978. 1990 is the last time there was a maximum fine increase on organizations. Inflation since 1990 has been 46 percent.

**These fine increases are not mandatory.** They are the maximum allowed and Judges retain their discretion to set the fines based on the conditions of the individual offenses. Most criminals will not be able to pay the higher of these increased fines, but those that can pay should be subject to meaningful fines.

Hopefully, increasing the maximum allowable fines that may be imposed will help deter crime. Additionally, these higher fines will help partially reimburse the state for the costs of the criminal justice system.

Attached, for your information, is the sponsor statement. If you have any questions, please contact Marilyn Wilson of my staff at 6541.

Thank you for your time and consideration.

DD/mjw

Attachment

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-367 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 7, 2002

**SUBJECT:** Sectional Summary of Work Order No. 22-LS1268\A

**TO:** Senator Dave Donley  
Attn: Marilyn

**FROM:** Gerald P. Luckhaupt *GPL*  
Legal Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

**Section 1.** Increases the maximum fine amounts for individual defendants that are convicted of offenses subject to AS 12.55.035(a).

**Section 2.** Increases the maximum fine amounts for a defendant that is an organization and is convicted of offenses subject to AS 12.55.035(b).

**Section 3.** Makes a technical change to conform to changes made in section 1 of the bill.

**Section 4.** Makes a technical change to conform to changes made in section 1 of the bill.

**Section 5.** Makes a technical change to conform to changes made in section 1 of the bill.

**Section 6.** Provides an applicability section.

GPL:pjc  
02-021.pjc

**Table 1: Maximum Fines for Criminal Offenses Committed by Individuals in Selected States**

State	Felonies				Misdemeanors			Other Violations	Statute Reference
	Unclassified <sup>(a)</sup>	Class A	Class B	Class C	Class A	Class B	Class C		
Alaska	75,000	50,000	50,000	50,000	5,000	1,000	N/A	300	AS 12.55.035
Arizona	150,000	150,000	150,000	150,000	2,500	750	500	300	ARS 13-801 & 802
Connecticut	20,000	20,000	15,000	10,000 <sup>(b)</sup>	2,000	1,000	500	500	CGS 53a-41--43
Illinois	N/A	25,000	25,000	25,000	2,500	1,500	1,500	1,000	730 ILCS 5/5-9
Kansas	500,000	300,000	100,000	N/A	2,500	1,000	500	500	KSA 21-4503a
North Dakota	N/A	10,000	10,000	5,000	2,000	1,000	N/A	500	NDCC 12.1-32-01
Oregon	N/A	300,000	200,000	100,000	5,000	2,000	1,000	N/A	ORS 161.625 & 635
South Dakota	See note (c) below				1,000	500	N/A	N/A	SDCL 22-6-1 & 2
Texas	10,000	10,000	10,000	N/A	N/A	N/A	N/A	N/A	VTCA Pen. Code 12.32--34
Utah	10,000	10,000	10,000	5,000	2,500	1,000	750	750	UCA 76-3-301
Washington	N/A	50,000	20,000	10,000	5,000	1,000	1,000	N/A	RCW 9A.20.020
<b>Average</b>	<b>127,500</b>	<b>92,500</b>	<b>59,000</b>	<b>44,375</b>	<b>3,000</b>	<b>1,045</b>	<b>821</b>	<b>550</b>	

**Notes:**

The designation N/A means one of the following: (1) there is no penalty for the offense; (2) we were unable to locate a penalty for the offense; or (3) numerous penalties exist for the level of offense listed, and they are specified by each offense individually.

(a) Several states have a separate classification for the most heinous of crimes, including those such as murder, sexual assault, kidnapping, etc. In some states such crimes only carry prison sentences (usually lifelong or indefinite in term) and a fine is not imposed.

(b) Connecticut law also has a Class D felony, which carries a maximum fine of \$5,000.

(c) South Dakota law delineates 8 classes of felonies as follows: Class A & B - the highest class, to which a fine is not specified; and Classes 1 through 8 - which carry fines as follows: Class 1 - \$25,000; Class 2 - \$25,000; Class 3 - \$15,000; Class 4 - \$10,000; Class 5 - \$5,000; and Class 8 - \$2,000.

Source: Lexis search of applicable statutes for each of the states listed.

**Table 2: Maximum Fines for Criminal Offenses Committed by Enterprises in Selected States**

State	Felonies			Misdemeanors			Other Violations	Statute Reference
	Class A	Class B	Class C	Class A	Class B	Class C		
Alaska <sup>(a)</sup>	500,000 <sup>(b)</sup>	N/A	N/A	200,000	25,000	N/A	10,000	AS 12.55.035
Arizona	1,000,000	#####	#####	20,000	10,000	2,000	1,000	ARS 13-803
Connecticut	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Illinois	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Kansas	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
North Dakota	50,000	35,000	25,000	15,000	10,000	N/A	N/A	NDCC 12.1-32-01.01
Oregon <sup>(c)</sup>	50,000	50,000	50,000	5,000	2,500	1,000	N/A	ORS 161.655
South Dakota	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Texas <sup>(c) (d)</sup>	20,000	20,000	20,000	10,000	10,000	2,000	N/A	Pen. Code 12.51
Utah	20,000	20,000	20,000	10,000	5,000	1,000	1,000	UCA 76-3-302
Washington	10,000	10,000	10,000	1,000	500	500	N/A	RCW 10.01.100
<b>Average</b>	<b>235,714</b>	<b>189,167</b>	<b>187,500</b>	<b>37,286</b>	<b>9,000</b>	<b>1,300</b>	<b>4,000</b>	

**Notes:**

The designation N/A means one of the following: (1) there is no penalty for the offense; (2) we were unable to locate a penalty for the offense; or (3) numerous penalties exist for the level of offense listed, and they are specified by each offense individually.

(a) Alaska law also provides for fines of up to two times the pecuniary gain realized by the defendant as a result of the offense or two times the pecuniary damage or loss caused by the defendant to another, or to the property of another, as a result of the offense.

(b) Alaska law imposes fines on organizations convicted of criminal offenses based on whether the offense results in death. All offenses, whether they be felonies or misdemeanors, carry a maximum fine of \$500,000 if the offense results in death.

(c) In lieu of fines listed, laws in Oregon and Texas provide for fines of up to two times the pecuniary gain realized by the defendant as a result of the offense.

(d) Texas law provides that any offense resulting in serious bodily injury or death carries a maximum fine of \$50,000.

Source: Lexis search of applicable statutes for each of the states listed.

Distributed by  
Senator Donley

Prepared by: Legislative Research Agency

CURRENT LAW AMENDED BY SB-339

P.600

Sec. 12.55.035. Fines.

(a) Except as provided in AS 12.55.036 , upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law.

(b) Except as provided in AS 12.55.036 , upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than

(1) \$75,000 for murder in the first or second degree, attempted murder in the first degree, sexual assault in the first degree, sexual abuse of a minor in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$50,000 for a class A, B, or C felony;

(3) \$5,000 for a class A misdemeanor;

(4) \$1,000 for a class B misdemeanor;

(5) \$300 for a violation.

(c) Except as provided in AS 12.55.036 , upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of

(1) an amount that is

(A) \$500,000 for a felony offense or for a misdemeanor offense that results in death;

(B) \$200,000 for a class A misdemeanor offense that does not result in death;

(C) \$25,000 for a class B misdemeanor offense that does not result in death;

(D) \$10,000 for a violation;

(2) two times the pecuniary gain realized by the defendant as a result of the offense; or

(3) two times the pecuniary damage or loss caused by the defendant to another, or to the property of another, as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments.

(e) In imposing a fine under (c) of this section, in addition to any other relevant factors, the court shall consider

(1) measures taken by the organization to discipline an officer, director, employee, or agent of the organization;

(2) measures taken by the organization to prevent a recurrence of the offense;

(3) the organization's obligation to make restitution to a victim of the offense, and the extent to which imposition of a fine will impair the ability of the organization to make restitution; and

(4) the extent to which the organization will pass on to consumers the expense of the fine.

(f) In imposing a fine, the court may not reduce the fine by the amount of a surcharge or otherwise consider the applicability of a surcharge to the offense.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 339  
 (S) Publish Date: 3/18/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act increasing fines for certain criminal offenses." BRU Civil Division  
 Sponsor Senate Finance Committee Component Collections and Support  
 Requester Senate Finance Committee Component No. 2210

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
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>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	*****	*****	*****	*****	*****	*****
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 SB 339 increases the maximum fine that a defendant who is not an organization may be sentenced to pay upon conviction of an unclassified felony; a class A, B, or C felony; a class A or a B misdemeanor, or a violation. The bill also increases the fines that may be levied against a defendant who is an organization upon conviction of certain crimes.  
  
 The Civil Division's Collection unit in the Collections and Support section is responsible for collecting criminal fines in default status. Defendants have the opportunity to pay criminal fines voluntarily to the court system. If they do not pay voluntarily, after 60 days the judgment for the criminal fine is transferred to the Department of Law for collection. The costs of collection of criminal fines is driven by the number of judgments, not their size. Court system data indicates that the rate of voluntary payments decreases as the size of the fine increases, so it is possible that more judgments will be transferred to the Department of Law for collection. To the extent increasing the size of criminal fines causes

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division Attorney General's Office Date/Time 3/15/02 12:58 PM  
 Approved by: Kathryn Daughetee for Bruce M. Botelho, Attorney General Date 3/15/2002  
 Agency Department of Law

## FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. SB 339 #1

### ANALYSIS CONTINUATION

more unpaid judgments to be transferred to Law, there could be a fiscal impact on the Collections unit, but we believe any impact would be minimal.

As for the potential impact on revenues that may result from increasing these criminal fines, we are unable to calculate a reliable estimate. There are simply too many variables:

The criminal fines in SB 339 are maximum fines for each type of offense. The fines may be set lower, and we have no way of estimating what the average fine would be for each level of offense. Even if we could determine an average fine, and multiplied it against an estimate of the number of convictions for each type of offense, it would be impossible to know how much revenue may actually be collected in any given year.

The department's primary means of collecting debts is through attachment of the Permanent Fund dividend, assuming the defendant is eligible for one. Under current law, felons and certain repeat misdemeanants are not eligible for a PFD if they are incarcerated at anytime during the qualifying year. Unless the defendant has significant assets, it is usually not cost effective to pursue collection of unpaid fines until they are eligible for the PFD.

If the defendant is eligible for a PFD, the amount that can be garnished from an annual dividend to pay criminal fines is limited by the size of the fine, the size of the dividend, and by what other debts are owed the state or a victim by the defendant. This latter factor is important because AS 43.23.065 prioritizes the order of debts for which a dividend may be seized. So, if the defendant also owes child support and/or restitution, the state cannot start collecting the criminal fine until those other obligations are fulfilled, as they hold a higher priority. This could take some years. Even if there are no other debts with a higher priority, if the fine is larger than the dividend amount, it again may take more than one dividend cycle to complete. It is impossible to predict how these factors would impact future revenues from criminal fines.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: SB 339  
 (S) Publish Date: 3/18/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title "An Act increasing fines..." BRU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Senate Finance  
 Requester (S) Finance Component No. 1631

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 See attached.

Prepared by: Barbara Brink, Director Phone (907) 334-4416  
 Division Public Defender Agency Date/Time 3/15/02 10:00 AM  
 Approved by: Jim Duncan, Commissioner Date 3/15/2002  
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. SB 339 #2

**ANALYSIS CONTINUATION**

This legislation would significantly increase the allowable fines in title 12 upon conviction of an offense. It proposes to raise the maximum fine for an unclassified felony from \$75,000 to \$500,000, with comparable increases for lesser offenses, including violations.

This legislation will likely have a fiscal impact on the Public Defender Agency, because with an increase in penalties come more violations of conditions of probation. If an offender doesn't or can't pay the fine, he will be in violation of his probation, and a petition to revoke will be filed. The Agency is appointed in many of these revocation cases, and this bill likely result in more cases handled by the Agency, charging a violation for failure to pay a hefty fine. However, it is not possible to predict with any certainty the number of new cases this bill will generate, therefore an indeterminate fiscal note is submitted.