

HB

441

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 03 2006
SENATE FINANCE COMMITTEE

DATE: 4/12/06

FURTHER:

DATE TURNED
IN TO OFFICE: 3 May 2006

Finance Committee considered CS FOR HOUSE BILL NO. 441(FIN)

HB 441 THERAPEUTIC COURT FOR DUI

"An Act relating to operating or driving a motor vehicle, aircraft, or watercraft while under the influence; relating to court-ordered treatment programs for certain offenders and offenses; amending Rule 35, Alaska Rules of Criminal Procedure; and providing for an effective date."

and recommends:

- be replaced with 5 CS HB 441 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # 27

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Admin-PA	4/24/06			<input checked="" type="checkbox"/>	#1
Court	2/21/06			<input checked="" type="checkbox"/>	#2
LAW	2/23/06			<input checked="" type="checkbox"/>	#3
Admin-PDA	2/23/06			<input checked="" type="checkbox"/>	#4
Correat.	3/1/06			<input checked="" type="checkbox"/>	#5
DHSS	3/17/06			<input checked="" type="checkbox"/>	#6
BPS	2/24/06			<input checked="" type="checkbox"/>	#7

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Brendy</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>Gary Wilber</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>Lynne Green</i>	<input checked="" type="checkbox"/>			

FISCAL NOTE

REPORTED OUT
 MAY 03 2006
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 441
 (H) Publish Date: 2/27/06

Revision Date/Time (Note if correction): 2/23/06 5:20 p.m. Dept. Affected: Administration
 Title An act relating to operating or driving a motor RDU Legal and Advocacy Services
vehicle, aircraft, or watercraft while under the... Component Office of Public Advocacy
 Sponsor Rep. Rokeberg
 Requester (H) JUD Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation would authorize "therapeutic courts" for individuals charged with violations of AS 28.35.030 (Operating a vehicle, aircraft or water craft while under the influence...) and AS 28.35.032 (Refusal to submit to chemical test). Therapeutic courts provide an alternative to the normal criminal justice process emphasizing treatment and rehabilitation.

 This legislation would have no fiscal impact on the Office of Public Advocacy.

Prepared by: Joshua P. Fink, Director Phone (907) 269-350C
 Division: Office of Public Advocacy Date/Time 2/23/06 5:20 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/24/2006
 Agency: Administration

COMMITTEE COPY

FISCAL NOTE

REPORTED OUT
MAY 03 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 441
(H) Publish Date: 2/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title: Therapeutic Courts for DUI/Sentencing RDU: Alaska Court System
Component: Trial Courts
Sponsor: Representative Rokeberg
Requester: _____ Component No.: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The court system does not anticipate any fiscal impact from the passage of HB 441.

Prepared by: Doug Wooliver, Administrative Attorney
Division: Alaska Court System
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director
Agency: Alaska Court System

Phone: 463-4750
Date/Time: 2/21/06 at 2:45 pm
Date: 2/21/2006

COMMITTEE COPY

FISCAL NOTE

REPORTED OUT
MAY 03 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 441
(H) Publish Date: 2/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to operating or driving a motor RDU: CIVIL
vehicle, aircraft, or watercraft while under the influence..." Component: Criminal Justice Litigation
Sponsor: Representative Rokeberg
Requester: House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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						
(What is Specific Title - Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
This bill expands the conditions under which the court may grant limited driver's license privileges to someone whose license would otherwise be revoked under a misdemeanor conviction for operating a vehicle, aircraft or water while under the influence of an alcoholic beverage, inhalant, or controlled substance, or refusal to submit to a chemical test, if that person has successfully completed a court-ordered treatment program. The bill spells out the procedure the court shall follow in allowing the defendant to participate in a court-ordered treatment program, including imposing a sentence for a defendant who fails to complete the treatment program, and the bill sets forth certain conditions the court may impose before allowing such treatment. The bill spells out what kind of programs or treatments the court may consider. The bill removes conflicting mitigating sentencing language in AS 28.35.030 (b)(p) and AS 28.35.032(g)(r).

Prepared by: Kathryn Daughiltee, Director Phone: 465-3673
Division: Administrative Services Division Date/Time: 2/23/06 11:21 AM
Approved by: Kathryn Daughiltee for David Marquez, Attorney General Date: 2/23/2006
Agency: Department of Law

COMMITTEE COPY

FISCAL NOTE #3

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. HB 441

ANALYSIS CONTINUATION

The purpose of this bill is to codify what has already been set forth in law in 2001 in HB 172 and funded with accompanying fiscal notes. As a result, passage of this bill will not have a fiscal impact on the Department of Law.

FISCAL NOTE

REPORTED OUT
 MAY 03 2006
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 441(FIN)
 (H) Publish Date: 3/17/06

Revision Date/Time (Note if correction): 2/23/06 5:30 p.m. Dept. Affected: Administration
 Title An act relating to operating or driving a motor vehicle, aircraft, or watercraft while under the... RDJ Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Rep. Rokeberg
 Requester H(Jud) Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation would authorize "therapeutic courts" for individuals charged with violations of AS 28.35.030 (Operating a vehicle, aircraft or water craft while under the influence...) and AS 28.35.032 (Refusal to submit to chemical test). Therapeutic courts provide an alternative to the normal criminal justice process emphasizing treatment and rehabilitation.

 This legislation is not expected to have a fiscal impact on the Public Defender Agency.

Prepared by: Quinlan Steiner, Director Phone (907) 334-4414
 Division Public Defender Agency Date/Time 2/23/06 5:30 p.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/24/2006
 Agency Administration

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSHB 441(FIN)
(H) Publish Date: 3/17/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title "An act relating to operating or diving a motor vehicle, aircraft, or watercraft while under the influence; . . ." RDU Administration and Support
Component Office of the Commissioner
Sponsor Representative Rokeberg
Requester House Finance Component No. 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The legislation codifies substance abuse treatment programs/therapeutic court projects that were set forth in law in 2001 in HB172. The legislation also specifies the types of programs or treatments the court may consider and removes conflicting mitigating sentencing language in AS 28.35.030(b)(p) and AS 28.25.032(g)(r). The bill spells out the procedures the court shall follow to allow the defendant to participate in a court-ordered treatment program, and sets forth certain conditions the court may impose before allowing such treatment. As the legislation primarily codifies what already is occurring, passage of the legislation will not have a fiscal impact on the Department of Corrections.

Prepared by: Sharon Griffin, Director
Division: Administrative Services
Approved by: Portia C.K. Parker, Deputy Commissioner
Agency: Department of Corrections

Phone: (907) 465-3339
Date/Time: 3/1/06 3:06 PM
Date: 3/1/2006

FISCAL NOTE

REPORTED OUT
MAY 03 2006
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSHB 441(FIN)
 (H) Publish Date: 3/17/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):
 Title: RELATING TO DUI; COURT ORDERED TREATMENT

RDU: Behavioral Health
 Component: Behavioral Health Grants

Sponsor: ROKEBERG
 Requester: HOUSE (JUD)

Component No.: 2669

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

The intent of this legislation is to address the concerns /barriers experienced in implementing HB 172 enacted in 2001, as Chapter 64 SLA 01 Therapeutic Courts for Offenders. This legislation addresses the Therapeutic Court process and the Rules of Criminal Procedure.

In the current version of this bill, the division has determined that passage of this legislation will result in zero fiscal impact. However, if the intent of this legislation is to make the therapeutic court a sentencing option available to all potentially qualifying defendants statewide (whether there is an established therapeutic court or not -there are currently six established courts) then, the cost will be substantial, and indeterminate at this time.

Prepared by: Cristy Willer, Director Phone 269-3410
 Division: Behavioral Health Date/Time 02/23/2006
 Approved by: Karleen Jackson, Commissioner Date 03/17/2006
 Agency: Department of Health and Social Services

COMMITTEE COPY

FISCAL NOTE

REPORTED OUT
MAY 03 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 7
 Bill Version: CSHB 441(FIN)
 (H) Publish Date: 3/17/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: "An Act relating to operating or driving a motor RDU Alaska State Troopers
vehicle, aircraft, or watercraft..." Component: AST Detachments
 Sponsor: Representative Rokeberg
 Requester: House Judiciary Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1057 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

POSITIONS	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 Passage of this proposed legislation will have no fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant James Helges Phone 907-269-4532
 Division: Alaska State Troopers Date/Time 2/24/06 11:55 AM
 Approved by: Commissioner William Tandeske Date 2/24/2006
 Agency: Department of Public Safety

COMMITTEE COPY

Adopted

SENATE FINANCE

COMMITTEE #1

Amendment #

To Bill Number: HB 441

Sponsor: Green

Date: 5/1/06 Logged by: Reble

TECHNICAL AMENDMENT

OFFERED IN THE SENATE
TO: SCS CSHB 441(JUD)

BY SENATOR GREEN

Page 1, Line 11:

Following "program" insert: as defined in AS 28.35.028(h)

SENATE CS FOR CS FOR HOUSE BILL NO. 441(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, McGuire, Kelly, Gardner, LeDoux, Crawford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal sentencing; relating to operating or driving a motor
2 vehicle, aircraft, or watercraft while under the influence; relating to court-ordered
3 treatment programs for certain offenders and offenses; amending Rule 35, Alaska Rules
4 of Criminal Procedure; and providing for an effective date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * Section 1. AS 12.55.155(d)(17) is amended to read:

7 (17) except in the case of an offense defined by AS 11.41 or
8 AS 11.46.400, the [OR A] defendant [WHO] has [PREVIOUSLY] been convicted of
9 a class B or C felony, and [THE DEFENDANT], at the time of sentencing, [IS
10 ACTIVELY PARTICIPATING IN OR] has successfully completed a court-ordered
11 [STATE-APPROVED] treatment program as defined in AS 28.35.028(h) that [IS
12 RELEVANT TO THE OFFENSE AND THAT] was begun after the offense was
13 committed;

Amend #1

14 * Sec. 2. AS 28.15.201(d) is amended to read:

1 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain
 2 a license under AS 28.15.181(c), or the department when revoking a driver's license,
 3 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant
 4 limited license privileges if

5 (1) the revocation was for a misdemeanor conviction under
 6 AS 28.35.030(a) and not for a violation of AS 28.35.032;

7 (2) the person has

8 (A) not been previously convicted and the limited license is not
 9 granted during the first 30 days of the period of revocation;

10 (B) been previously convicted, the limited license is not
 11 granted during the first 90 days of the period of revocation, and

12 (i) the person has successfully completed a court-
 13 ordered treatment program under AS 28.35.028 or former
 14 AS 28.35.030(p); or

15 (ii) the court or department requires the person to use an
 16 ignition interlock device during the period of the limited license:

17 (3) the court or the department determines that

18 (A) the person's ability to earn a livelihood would be severely
 19 impaired without a limited license; or

20 (B) the person has successfully completed a court-ordered
 21 treatment program described under AS 28.35.028 or former AS 28.35.030(p)
 22 and the person's ability to earn a livelihood, attend school, or provide for
 23 family health would be severely impaired without a limited license;

24 (4) the court or the department determines that a limitation under (a) of
 25 this section can be placed on the license that will enable the person to earn a livelihood
 26 without excessive danger to the public;

27 (5) the court or the department determines that the person is enrolled in
 28 and is in compliance with or has successfully completed the alcoholism screening,
 29 evaluation, referral, and program requirements of the Department of Health and Social
 30 Services under AS 28.35.030(h); and

31 (6) the person has not been previously convicted under

1 AS 28.15.291(a)(2), AS 28.35.030, or 28.35.032 while driving or operating a vehicle,
2 aircraft, or watercraft under a limited license issued under this section.

3 * Sec. 3. AS 28.35 is amended by adding a new section to article 2 to read:

4 **Sec. 28.35.028. Court-ordered treatment for persons charged with a**
5 **violation of AS 28.35.030 or 28.35.032.** (a) Notwithstanding another provision of
6 law, with the consent of the state and the defendant, the court may elect to proceed in a
7 criminal case under AS 28.35.030 or 28.35.032, including the case of a defendant
8 charged with violating the terms of probation, under the procedure provided in this
9 section and order the defendant to complete a court-ordered treatment program. The
10 state may not consent to a referral under this subsection unless the state has consulted
11 with the victim and explained the process and consequences of the referral to the
12 victim. A court may not elect to proceed under this section if the defendant has
13 previously participated in a court-ordered treatment program under this section two or
14 more times.

15 (b) Once the court elects to proceed under this section, the defendant shall
16 enter a no contest or guilty plea to the offense or shall admit to a probation violation,
17 as appropriate. The state and the defendant may enter into a plea agreement to
18 determine the offense or offenses to which the defendant is required to plead. If the
19 court accepts the agreement, the court shall enforce the terms of the agreement. The
20 court shall enter a judgment of conviction for the offense or offenses for which the
21 defendant has pleaded or an order finding that the defendant has violated probation, as
22 appropriate. A judgment of conviction or an order finding a probation violation must
23 set a schedule for payment of restitution owed by the defendant. In a judgment of
24 conviction and on probation conditions that the court considers appropriate, the court
25 may withhold pronouncement of a period of imprisonment or a fine to provide an
26 incentive for the defendant to complete recommended treatment successfully.
27 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any
28 mandatory minimum or other sentencing provision applicable to the offense.
29 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any
30 other provision of law, the court, at any time after the period when a reduction of
31 sentence is normally available, may consider and reduce the defendant's sentence

1 based on the defendant's compliance with the treatment plan; when reducing a
2 sentence, the court (1) may not reduce the sentence below the mandatory minimum
3 sentence for the offense unless the court finds that the defendant has successfully
4 complied with and completed the treatment plan and that treatment plan approximated
5 the severity of the minimum period of imprisonment, and (2) may consider the
6 defendant's compliance with the treatment plan as a mitigating factor allowing a
7 reduction of a sentence under AS 12.55.155(a). A court entering an order finding the
8 defendant has violated probation may withhold pronouncement of disposition to
9 provide an incentive for the defendant to complete the recommended treatment
10 successfully.

11 (c) If the defendant does not successfully complete the treatment plan imposed
12 by the court under this section, the defendant's no contest or guilty plea or admission
13 to a probation violation to the court shall stand, and the sentence previously imposed
14 shall be executed or, if sentence has not yet been imposed, sentence shall be imposed
15 by the court.

16 (d) Notwithstanding any other provision of law to the contrary, the judge, the
17 state, the defendant, and the agencies involved in the defendant's treatment plan are
18 entitled to information and reports bearing on the defendant's assessment, treatment,
19 and progress. The victim is entitled to periodic reports on the defendant's progress and
20 participation.

21 (e) In addition to other conditions authorized under AS 12.30 or AS 12.55, a
22 court may impose the following conditions of bail or probation:

23 (1) require the defendant to submit to electronic monitoring;

24 (2) require the defendant to submit to house arrest.

25 (f) A court shall refer a defendant who is ordered to participate in a treatment
26 program under this section to an alcohol safety action program developed and
27 implemented or designated under AS 47.37.040(21) for screening, referral, and
28 monitoring.

29 (g) In addition to other conditions authorized under AS 12.30, a court may
30 require the defendant to take a drug or combination of drugs intended to prevent
31 substance abuse.

1 (h) In this section,

2 (1) "court-ordered treatment program" or "treatment plan" means a
3 treatment program for a person who consumes alcohol or drugs and that

4 (A) requires participation for at least 18 consecutive months;

5 (B) includes planning and treatment for alcohol or drug
6 addiction;

7 (C) includes emphasis on personal responsibility;

8 (D) provides in-court recognition of progress and sanctions for
9 relapses;

10 (E) requires payment of restitution to victims and completion
11 of community work service;

12 (F) includes physician approved treatment of physical addiction
13 and treatment of the psychological causes of addiction;

14 (G) includes a monitoring program and physical placement or
15 housing; and

16 (H) requires adherence to conditions of probation;

17 (2) "sentence" or "sentencing" includes a suspended imposition of
18 sentence as authorized under AS 12.55.085.

19 * **Sec. 4.** AS 28.35.030(b) is amended to read:

20 (b) Except as provided under (n) of this section, driving while under the
21 influence of an alcoholic beverage, inhalant, or controlled substance is a class A
22 misdemeanor. Upon [EXCEPT AS PROVIDED UNDER (p) OF THIS SECTION,
23 UPON] conviction,

24 (1) the court shall impose a minimum sentence of imprisonment of

25 (A) not less than 72 consecutive hours and a fine of not less
26 than \$1,500 if the person has not been previously convicted;

27 (B) not less than 20 days and a fine of not less than \$3,000 if
28 the person has been previously convicted once;

29 (C) not less than 60 days and a fine of not less than \$4,000 if
30 the person has been previously convicted twice and is not subject to
31 punishment under (n) of this section;

1 (D) not less than 120 days and a fine of not less than \$5,000 if
 2 the person has been previously convicted three times and is not subject to
 3 punishment under (n) of this section;

4 (E) not less than 240 days and a fine of not less than \$6,000 if
 5 the person has been previously convicted four times and is not subject to
 6 punishment under (n) of this section;

7 (F) not less than 360 days and a fine of not less than \$7,000 if
 8 the person has been previously convicted more than four times and is not
 9 subject to punishment under (n) of this section;

10 (2) the court may not

11 (A) suspend execution of sentence or grant probation except on
 12 condition that the person

13 (i) serve the minimum imprisonment under (1) of this
 14 subsection; and

15 (ii) pay the minimum fine required under (1) of this
 16 subsection;

17 (B) suspend imposition of sentence;

18 (3) the court shall revoke the person's driver's license, privilege to
 19 drive, or privilege to obtain a licence under AS 28.15.181, and may order that the
 20 motor vehicle, aircraft, or watercraft that was used in commission of the offense be
 21 forfeited under AS 28.35.036; and

22 (4) the court may order that the person, while incarcerated or as a
 23 condition of probation or parole, take a drug or combination of drugs intended to
 24 prevent the consumption of an alcoholic beverage; a condition of probation or parole
 25 imposed under this paragraph is in addition to any other condition authorized under
 26 another provision of law.

27 * Sec. 5. AS 28.35.032(g) is amended to read:

28 (g) Upon [EXCEPT AS PROVIDED UNDER (r) OF THIS SECTION,
 29 UPON] conviction under this section.

30 (1) the court shall impose a minimum sentence of imprisonment of

31 (A) not less than 72 consecutive hours and a fine of not less

1 than \$1,500 if the person has not been previously convicted;

2 (B) not less than 20 days and a fine of not less than \$3,000 if
3 the person has been previously convicted once;

4 (C) not less than 60 days and a fine of not less than \$4,000 if
5 the person has been previously convicted twice and is not subject to
6 punishment under (p) of this section;

7 (D) not less than 120 days and a fine of not less than \$5,000 if
8 the person has been previously convicted three times and is not subject to
9 punishment under (p) of this section;

10 (E) not less than 240 days and a fine of not less than \$6,000 if
11 the person has been previously convicted four times and is not subject to
12 punishment under (p) of this section;

13 (F) not less than 360 days and a fine of not less than \$7,000 if
14 the person has been previously convicted more than four times and is not
15 subject to punishment under (p) of this section;

16 (2) the court may not

17 (A) suspend execution of the sentence required by (1) of this
18 subsection or grant probation, except on condition that the person

19 (i) serve the minimum imprisonment under (1) of this
20 subsection; and

21 (ii) pay the minimum fine required under (1) of this
22 subsection; or

23 (B) suspend imposition of sentence;

24 (3) the court shall revoke the person's driver's license, privilege to
25 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
26 motor vehicle, aircraft, or watercraft that was used in commission of the offense be
27 forfeited under AS 28.35.036;

28 (4) the court may order that the person, while incarcerated or as a
29 condition of probation or parole, take a drug or combination of drugs intended to
30 prevent the consumption of an alcoholic beverage; a condition of probation or parole
31 imposed under this paragraph is in addition to any other condition authorized under

1 another provision of law; and

2 (5) the sentence imposed by the court under this subsection shall run
3 consecutively with any other sentence of imprisonment imposed on the person.

4 * Sec. 6. AS 47.37.040 is amended to read:

5 **Sec. 47.37.040. Duties of department.** The department shall

6 (1) develop, encourage, and foster statewide, regional, and local plans
7 and programs for the prevention of alcoholism and drug abuse and treatment of
8 alcoholics, intoxicated persons, drug abusers, and inhalant abusers in cooperation with
9 public and private agencies, organizations, and individuals, and provide technical
10 assistance and consultation services for these purposes;

11 (2) coordinate the efforts and enlist the assistance of all public and
12 private agencies, organizations, and individuals interested in prevention of alcoholism,
13 drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, drug
14 abusers, and inhalant abusers;

15 (3) cooperate with the Department of Corrections in establishing and
16 conducting programs to provide treatment for alcoholics, intoxicated persons, drug
17 abusers, and inhalant abusers in or on parole from penal institutions;

18 (4) cooperate with the Department of Education and Early
19 Development, school boards, schools, police departments, courts, and other public and
20 private agencies, organizations, and individuals in establishing programs for the
21 prevention of alcoholism, drug abuse, and inhalant abuse, and treatment of alcoholics,
22 intoxicated persons, drug abusers, and inhalant abusers, and preparing curriculum
23 materials for use at all levels of school education;

24 (5) prepare, publish, evaluate, and disseminate educational material
25 dealing with the nature and effects of alcohol and drugs, and the misuse of hazardous
26 volatile substances;

27 (6) develop and implement, as an integral part of treatment programs,
28 an educational program for use in the treatment of alcoholics, intoxicated persons,
29 drug abusers, and inhalant abusers that includes the dissemination of information
30 concerning the nature and effects of alcohol, drugs, and hazardous volatile substances;

31 (7) organize and foster training programs for all persons engaged in

1 treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and
2 estabiish standards for training paraprofessional alcoholism, drug abuse, and inhalant
3 abuse workers;

4 (8) sponsor and encourage research into the causes and nature of
5 alcoholism, drug abuse, and inhalant abuse, and the treatment of alcoholics,
6 intoxicated persons, drug abusers, and inhalant abusers, and serve as a clearinghouse
7 for information relating to alcoholism, drug abuse, and inhalant abuse;

8 (9) specify uniform methods for keeping statistical information by
9 public and private agencies, organizations, and individuals, and collect and make
10 available relevant statistical information, including number of persons treated,
11 frequency of admission and readmission, and frequency and duration of treatment;

12 (10) conduct program planning activities approved by the Advisory
13 Board on Alcoholism and Drug Abuse;

14 (11) review all state health, welfare, and treatment plans to be
15 submitted for federal funding, and advise the commissioner on provisions to be
16 included relating to alcoholics, intoxicated persons, drug abusers, and inhalant
17 abusers;

18 (12) assist in the development of, and cooperate with, alcohol, drug
19 abuse, and inhalant abuse education and treatment programs for employees of state
20 and local governments and businesses and industries in the state;

21 (13) use the support and assistance of interested persons in the
22 community, particularly recovered alcoholics, drug abusers, and inhalant abusers, to
23 encourage alcoholics, drug abusers, and inhalant abusers to voluntarily undergo
24 treatment;

25 (14) cooperate with the Department of Public Safety and the
26 Department of Transportation and Public Facilities in establishing and conducting
27 programs designed to deal with the problem of persons operating motor vehicles while
28 under the influence of an alcoholic beverage, inhalant, or controlled substance, and
29 develop and approve alcohol information courses required to be taken by drivers under
30 AS 28.15 or made available to drivers to reduce points assessed for violation of traffic
31 laws;

1 (15) encourage hospitals and other appropriate health facilities to
2 admit without discrimination alcoholics, intoxicated persons, drug abusers, and
3 inhalant abusers and to provide them with adequate and appropriate treatment;

4 (16) encourage all health insurance programs to include alcoholism
5 and drug abuse as a covered illness;

6 (17) prepare an annual report covering the activities of the department
7 and notify the legislature that the report is available;

8 (18) develop and implement a training program on alcoholism and
9 drug abuse for employees of state and municipal governments, and private institutions;

10 (19) develop curriculum materials on drug and alcohol abuse and the
11 misuse of hazardous volatile substances for use in grades kindergarten through 12, as
12 well as a course of instruction for teachers to be charged with presenting the
13 curriculum;

14 (20) develop and implement or designate, in cooperation with other
15 state or local agencies, a juvenile alcohol safety action program that provides alcohol
16 and substance abuse screening, referral, and monitoring of persons under 18 years of
17 age who have been referred to it by

18 (A) a court in connection with a charge or conviction of a
19 violation or misdemeanor related to the use of alcohol or a controlled
20 substance;

21 (B) the agency responsible for the administration of motor
22 vehicle laws in connection with a license action related to the use of alcohol or
23 a controlled substance; or

24 (C) department staff after a delinquency adjudication that is
25 related to the use of alcohol or a controlled substance;

26 (21) develop and implement, or designate, in cooperation with other
27 state or local agencies, an alcohol safety action program that provides alcohol and
28 substance abuse screening, referral, and monitoring services to persons who have been
29 referred by a court in connection with a charge or conviction of a misdemeanor
30 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
31 substance, referred by a court under AS 28.35.028, or referred by an agency of the

1 state with the responsibility for administering motor vehicle laws in connection with a
2 driver's license action involving the use of alcohol or a controlled substance.

3 * Sec. 7. AS 28.35.030(p) and 28.35.032(r) are repealed.

4 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 INDIRECT COURT RULE AMENDMENT. AS 28.35.028(b), added by sec. 2 of this
7 Act, has the effect of amending Rule 35, Alaska Rules of Criminal Procedure, by allowing a
8 court to consider and reduce a criminal sentence outside of the time periods currently
9 provided by that rule.

10 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TRANSITION. Notwithstanding sec. 6 of this Act, defendants participating in a court-
13 ordered treatment program under AS 28.35.030(p) or 28.35.032(r) or the therapeutic court
14 pilot program created by ch. 64, SLA 2001, as amended by ch. 109, SLA 2004, on the
15 effective date of this Act, shall continue in their respective programs under the terms of that
16 program until the individual program is completed.

17 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

CORRECTED / CLARIFIED
FAX COVER SHEET

DATE: 3 May 2006 TIME: 10:40 am
9:25 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please (FIN)
SCS CS HB 441 (JWD) 24-LS1295\X
Plus 1 amendment - attached

Thanks
Mindy

* Please issue a Finance SCS
sorry for the goof!

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

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Representative Norman Rokeberg

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SPONSOR STATEMENT FOR SCS CSIB 441(JUD)

By: Representative Norman Rokeberg

Title: An Act relating to criminal sentencing; relating to operating or driving a motor vehicle, aircraft, or watercraft while under the influence; relating to court-ordered treatment programs for certain offenders and offenses; amending Rule 35, Alaska Rules of Criminal Procedures; and providing for an effective date.

The Alaska Legislature has repeatedly stated its belief in the effectiveness of therapeutic courts. Therapeutic courts save money and reduce recidivism by changing the long-term addictive behavior of offenders. The Anchorage Wellness Court tracked graduates of its therapeutic court over a three-year period after graduation. Only 25 percent of the graduates had any repeat crime. This is in stark contrast to the 75 percent of DUI defendants who re-offend after serving their time in jail.

Over the last several years, the legislature has made tremendous efforts to provide these courts with the statutory tools, financial assistance and institutional support to make these courts successful. To further the accomplishments of therapeutic courts, the 22nd Legislature created a pilot DUI program in Anchorage and Bethel. This pilot program is set to expire on June 30th, 2006.

As therapeutic courts are being formed around the state, from Ketchikan to Fairbanks, it is important these courts have uniformity in their operation. HB 441 takes all of the tools created over the last several years and establishes one uniform therapeutic court statutory structure to be applied throughout the state.

This legislation streamlines and makes more workable provisions for a therapeutic court. HB 441 is vital to creating permanent successful therapeutic courts for the people of Alaska.

I urge your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
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LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
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Representative Norman Rokeberg

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SECTIONAL ANALYSIS FOR SCS CS HB 441(JUD)

By: Representative Norman Rokeberg

Title: An Act relating to criminal sentencing; relating to operating or driving a motor vehicle, aircraft, or watercraft while under the influence; relating to court-ordered treatment programs for certain offenders and offenses; amending Rule 35, Alaska Rules of Criminal Procedures; and providing for an effective date.

- Section 1:** Clarifies the mitigator for defendants who participate in a court-ordered treatment program.
- Section 2:** Conforming amendment referencing the new therapeutic court statute.
- Section 3:** Creates a therapeutic court statutory structure, AS 28.35.028.

AS 28.35.028(a): Provides authority for a defendant to enter a court-ordered treatment program if charged under the DUI or refusal statutes. A defendant cannot participate in the program if they have already done so two or more times.

AS 28.35.028(b): Defendant shall enter a plea of no contest or guilty plea. The state and defendant may enter a plea agreement. The court shall enter a judgment of conviction for the offense(s) for which the defendant pleaded. There must be a schedule provided for payment of restitution. The court may withhold pronouncement of sentence or fine as an incentive to complete the recommended treatment. Court may reduce the sentence based on defendant's compliance with the treatment plan. Court cannot reduce below the mandatory minimum unless the defendant has successfully complied with and completed the treatment plan. Court may consider defendant's compliance with the treatment plan as a mitigating factor allowing a reduction of sentence.

AS 28.35.028(c): If defendant does not successfully complete the court-ordered treatment program, defendant's plea shall stand and the court shall impose sentence.

AS 28.35.028(d): Provides for information and reports on defendant's assessment, treatment and progress for those entities involved with the therapeutic court. Victim is entitled to periodic reports on defendant's progress and participation.

AS 28.35.028(e): Electronic monitoring and house arrest can be a condition of bail or probation.

AS 28.35.028(f): Court shall refer the defendant to Alcohol Safety Action Program (ASAP).

AS 28.35.028(g): Court may require defendant to take a drug or combination of drugs to prevent substance abuse.

AS 28.35.028(h): Defines court-ordered treatment program, treatment plan, sentence and sentencing.

Section 4: Conforming amendment.

Section 5: Conforming amendment.

Section 6: Conforming amendment to H&SS statutes for ASAP participation in therapeutic court.

Section 7: Repeals the following statutes:

AS 28.35.030(p): Existing court-ordered treatment provisions.

AS 28.35.032(r): Existing court-ordered treatment provisions.

Section 8: Indirect court rule amendment to Rule 35, Alaska Rules of Criminal Procedure, as the court will be allowed to consider and reduce a criminal sentence outside of the time periods provided by the rule.

Section 9: Transition section that allows those in existing therapeutic court programs to complete their existing programs.

Section 10: Immediate effective date.

ALASKA STATE LEGISLATURE

House of Representatives

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Representative Norman Rokeberg

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SECTIONAL ANALYSIS FOR SCS CSHB 441(JUD) with changes from the original bill By: Representative Norman Rokeberg

Title: An Act relating to criminal sentencing; relating to operating or driving a motor vehicle, aircraft, or watercraft while under the influence; relating to court-ordered treatment programs for certain offenders and offenses; amending Rule 35, Alaska Rules of Criminal Procedures; and providing for an effective date. (New title)

Changes from the original bill are indicated in **BOLD**.

- Section 1:** Clarifies the mitigator for defendants who participate in a court-ordered treatment program.
- Section 2:** Conforming amendment referencing the new therapeutic court statute.
- Section 3:** Creates a therapeutic court statutory structure, AS 28.35.028.

AS 28.35.028(a): Provides authority for a defendant to enter a court-ordered treatment program if charged under the DUI or refusal statutes. A defendant cannot participate in the program if they have already done so two or more times.

AS 28.35.028(b): Defendant shall enter a plea of no contest or guilty plea. The state and defendant may enter a plea agreement. The court shall enter a judgment of conviction for the offense(s) for which the defendant pleaded. There must be a schedule provided for payment of restitution. The court may withhold pronouncement of sentence or fine as an incentive to complete the recommended treatment. Court may reduce the sentence based on defendant's compliance with the treatment plan. Court cannot reduce below the mandatory minimum unless the defendant has successfully complied with and completed the treatment plan. Court may consider defendant's compliance with the treatment plan as a mitigating factor allowing a reduction of sentence.

AS 28.35.028(c): If defendant does not successfully complete the court-ordered treatment program, defendant's plea shall stand and the court shall impose sentence.

AS 28.35.028(d): Provides for information and reports on defendant's assessment, treatment and progress for those entities involved with the therapeutic court. Victim is entitled to periodic reports on defendant's progress and participation.

AS 28.35.028(e): Electronic monitoring and house arrest can be a condition of bail or probation. We deleted "if the commissioner of corrections agrees to this condition." This section is no longer needed, as Corrections is no longer doing the supervision.

AS 28.35.028(f): Court shall refer the defendant to Alcohol Safety Action Program (ASAP). Original subsection (f) was deleted.

AS 28.35.028(g): Court may require defendant to take a drug or combination of drugs to prevent substance abuse.

AS 28.35.028(h): Defines court-ordered treatment program, treatment plan, sentence and sentencing. Original subsection (h) was deleted.

Section 4: Conforming amendment.

Section 5: Conforming amendment.

Section 6: Conforming amendment to H&SS statutes for ASAP participation in therapeutic court.

Section 7: Repeals the following statutes:

AS 28.35.030(p): Existing court-ordered treatment provisions.

AS 28.35.032(r): Existing court-ordered treatment provisions.

AS 12.55.155(d)(17) was repealed in the original bill, but is now being amended by Section 1 of the bill.

Section 8: Indirect court rule amendment to Rule 35, Alaska Rules of Criminal Procedure, as the court will be allowed to consider and reduce a criminal sentence outside of the time periods provided by the rule.

Section 9: Transition section that allows those in existing therapeutic court programs to complete their existing programs.

Section 10: Immediate effective date.

A brief history of therapeutic courts in Alaska
from Rep. Norman Rokeberg

2001:

- The House Judiciary Committee became familiar with therapeutic courts, specifically Judge Wanamaker's Anchorage Wellness Court, which he started in 1999. The Anchorage Wellness Court only handled misdemeanant DUI cases prosecuted by the Municipality of Anchorage.
- Speaker Porter introduced a therapeutic court bill, HB 172, which created a three-year, pilot felony DUI court in Anchorage & Bethel.
- Juneau Wellness Court begins.

2002:

- HB 4, sponsored by Rep. Rokeberg, was passed. HB 4 included therapeutic court provisions for misdemeanant DUI offenders.

2003 -2004:

- Therapeutic court funding expanded.
- Worked with the Administration to increase their involvement in the courts.
- Pilot felony DUI courts were extended until June 30, 2006 (HB 451).

2005:

- HB 4 (2002) provided \$100,000 for a Drunk Driver Pilot Program within the Department of Corrections. As this program was never implemented, this money was permanently given to the Department of Law and Department of Administration for a part-time district attorney and public defender to work on state misdemeanor DUI therapeutic cases.
- HB 132 was passed. The legislation expands the statutory therapeutic court provisions (from HB 4) to felony DUI defendants and allows the court to wave up to 75% of the fines.
- Unfortunately, HB 132 created a disparity between those felony DUI participants in the statutory therapeutic court vs. those felony participants in the pilot DUI courts regarding the disposition of their sentence and fines upon successful completion of the therapeutic court...thus creating an apparent equal protection problem.
- Multiple therapeutic courts begin around the state from Ketchikan to Fairbanks.

2006:

- As we have both statutory therapeutic courts and a pilot program in uncodified law conflicting with each other, we have introduced HB 441 to create one uniform statutory structure for therapeutic courts around the state. The court system has been very helpful in trying to find the best solution for the operation of these courts around the state. This structure will work for both misdemeanor and felony DUI defendants.

STATE OF ALASKA

Frank H. Murkowski, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

*Advisory Board on Alcoholism and Drug Abuse
Alaska Mental Health Board*

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March 7, 2006

Representative Norman Rokeberg
Alaska House of Representatives

Dear Representative Rokeberg:

The Governor's Advisory Board on Alcoholism and Drug Abuse (ABADA) strongly supports the concept of diversion into alcohol treatment for non-violent DUI offenders. The development and institutionalization of therapeutic courts is pivotal to this effort, and ABADA thanks you for introducing HB 441.

Treatment in lieu of incarceration for drug offenders has gained national attention and public support. In a 2002 survey sponsored by the Open Society Institute, "Changing Attitudes Towards the Criminal Justice System," 63% of Americans consider drug abuse a problem that should be addressed primarily through counseling and treatment rather than the criminal justice system.

Many states have passed legislation or voter initiatives that provide access to quality treatment in lieu of incarceration:

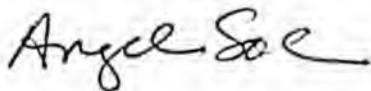
- In 1996, Arizonans voted in favor of Proposition 200, the Drug Medicalization, Prevention and Control Act, which sends first and second time non-violent drug offenders to treatment rather than incarceration. According to a report conducted by the Supreme Court of Arizona, Proposition 200 saved Arizona taxpayers \$6.7 million in 1999. In addition, 62% of probationers successfully completed the drug treatment ordered by the court.
- In November 2000, 61% of California voters passed Proposition 36, the Substance Abuse and Crime Prevention Act of 2000 (SACPA), an initiative aimed at rehabilitating rather than incarcerating non-violent drug possession offenders. Under SACPA, certain persons convicted of non-violent drug possession offenses are given an opportunity to receive community-based drug treatment in lieu of incarceration. In 2000, the independent Legislative Analyst's Office (LAO) predicted that by treating rather than incarcerating low level drug offenders, SACPA would save California taxpayers approximately \$1.5 billion over the next five years and prevent the need for a new prison slated for construction, avoiding an expenditure of approximately \$500 million. LAO estimated that SACPA would annually divert as many as 36,000 probationers and parolees from incarceration into community-based treatment.

- Maryland's new treatment law immediately diverts several thousand prisoners into drug treatment, saving the state's taxpayers millions of dollars a year in the process. It also provides \$3 million in additional funding for treatment and gives judges new discretion in sentencing.
- In November 2002, an overwhelming 78% of Washington D.C. voters passed the drug treatment initiative, Measure 62. Under Measure 62 the city will provide substance abuse treatment instead of conviction or imprisonment to non-violent defendants charged with illegal possession or use of drugs (except those drugs classified as Schedule I); provide a plan for rehabilitation to individuals accepted for substance abuse treatment; and provide for dismissal of legal proceedings for defendants upon successful completion of the treatment program.

Experience in other states and scholarly research indicates that drug treatment can decrease drug use and save money. Further, public opinion research reveals that the public supports a shift in resource allocation away from incarceration and toward treatment and prevention. Many states have been adjusting their policies to reflect this understanding.

Please let us know how ABADA can be of assistance in passing this bill through the legislature this year. And once again, thank you for your work on this crucial issue.

Sincerely,

A handwritten signature in cursive script that reads "Angela Salerno".

Angela Salerno, Advocacy Coordinator
Governor's Advisory Board on Alcoholism and Substance Abuse

Alaska Judicial Council Evaluating Alaska's Therapeutic Courts

March 6, 2006

The Alaska Judicial Council has evaluated several of Alaska's therapeutic courts, and continues to work with the courts and legislature to report their effectiveness. The Council uses rigorous methods and measures to make accurate tests of the therapeutic court programs:

- Each of the Council's evaluations uses comparison groups of defendants who did not participate in the programs to see whether graduates and participants differ from other defendants.
- Each of the evaluations looks at people currently in the programs and those who left the programs (in addition to graduates and comparison groups) to see what the programs' effects are for those defendants.
- Each of the evaluations, for defendants in the four groups, also looks at the defendants' records two years before the program started (or comparison date) and two years after, to see whether the defendants' behavior changed when measured against their own histories.
- To the extent possible, the evaluations look at several measures of recidivism, because no single measure is entirely reliable by itself. The Council looks (as appropriate) at days of incarceration, arrests, convictions, and remands to DOC custody for each group of defendants.
- The Council also reviews measures of qualitative improvement in the defendants' lives and accountability, to the extent that these are available. Measures include improvements in employment, education, family relationships, reduction in domestic violence, payment of child support and other fiscal obligations, and improvements in the lives of the defendants' children.
- The Council has evaluated the Anchorage Felony Drug Court, the Anchorage Felony DUI Court, the Bethel Therapeutic Court, and the Anchorage Mental Health Court. Copies of the evaluations are available from the Judicial Council, or on the Council's website at www.ajc.state.ak.us.
- The Council is updating the evaluations of the felony therapeutic courts with a followup on the defendants' recidivism in the past year. It is also working with the UAA Justice Center and The Urban Institute on a long-term evaluation of the Anchorage Wellness Court. The evaluation will provide a thorough review of outcomes, cost and benefits, and transferability of the benefits of Wellness Court to other jurisdictions.
- The existing evaluations using the rigorous measures described above suggest that Alaska's therapeutic courts are achieving some measure of success in reducing recidivism. The Council will continue to update its information and report to the legislature on the effectiveness of therapeutic court programs.

Heather Nobrega

From: dfiscus@myway.com
It: Friday, February 24, 2006 10:21 PM
To: Rep. Norman Rokeberg
Subject: hb441

Email For: Representative Norman Rokeberg
From: dfiscus@myway.com
Name: Donald Fiscus
Street: 1830 E Parks Hwy STE-A-113, #301
City: Wasilla
Zip Code: 99654

Subject: hb441

I am proof that long term re-hab works. I have had many dui before treatment. I have had three years sobriety after and probably will continue. AA works. I support your bill.

Please Add My Email Address to your distribution list. Thank You.

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April 10, 2006

Representative Norman Rokeberg
Chairman, House Rules Committee
State Capitol
Juneau, Alaska 99801

Dear Representative Rokeberg:

On behalf of our Board of Directors I want to express strong support for HB 441.

As you recognized when Judge Wanamaker started the Wellness Court five years ago, combining the coercive power of the court with addiction treatment saves public costs overall and provides long-term public protection against repeat addicted offenders.

Partners for Progress would like to see therapeutic courts become a regular part of our judicial system throughout Alaska. HB 441, establishing a consistent statewide sentencing system, is a major step in the right direction.

Thank you for introducing and sponsoring this important and beneficial legislation.

Sincerely,

A handwritten signature in cursive script that reads "Janet".

Janet McCabe

Chair, Partners for Progress



Justice that Protects and Heals

ADVISORY COUNCIL

Honorary Chairman

George Sullivan
Former Mayor, Anchorage

Advisors

Carol Davila
Fairbanks Hospital

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Community Leader,
Secretary to Constitutional
Convention

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Jack Roderick
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Anchorage

Brian Rogers
UAA Board of Regents,
Fairbanks

Brenda Sadler
MADD, Fairbanks

Mike Williams
Sobriety Movement Leader,
Southwest Alaska

Esther Wannicke
Community Leader,
Former State Commissioner

April 7, 2006

Representative Norman Rokeberg
Chairman, House Rules Committee
State Capitol
Juneau, Alaska
99801

Dear Norm:

On behalf of the Partners for Progress Advisory Council, I want to express our appreciation for your support of Alaska's therapeutic courts, and for introducing and sponsoring HB 441. We look forward to passage of this bill during the current session.

Recently I had the opportunity to observe the Anchorage Wellness Court under Judges Bill Morse and Nancy Nolan. By combining the power of the court with addiction treatment and recovery support, therapeutic court participants are overcoming their addictions and becoming responsible members of our community. Therapeutic courts are the most effective method of addressing the repeat addicted offender that I have seen yet!

The Advisory Council would like to see the therapeutic courts become a regular part of our judicial system throughout Alaska. Passage of HB 441, establishing a consistent statewide sentencing system for therapeutic courts, will be a major step towards that goal.

Thank you for your leadership in initiating and supporting this highly beneficial change in the way our judicial system deals with the repeat addicted offender.

Respectfully,

George M. Sullivan
Honorary Chairman, Partners for Progress Advisory Council

SENATE COMMITTEE REPORT

DATE: 3/31/06

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/12/06

Judiciary Committee considered CS FOR HOUSE BILL NO. 441(FIN)

HB 441 THERAPEUTIC COURT FOR DUI

"An Act relating to operating or driving a motor vehicle, aircraft, or watercraft while under the influence; relating to court-ordered treatment programs for certain offenders and offenses; amending Rule 35, Alaska Rules of Criminal Procedure; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 441 (JUD)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input checked="" type="checkbox"/>	New Title w/ SCR # <u>27</u>

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADM	2/23/06			✓	1
CRT	2/21/06			✓	2
LAW	2/23/06			✓	3
ADM	2/23/06			✓	4
COR	3/1/06			✓	5
HSS	2/23/06			✓	6
DPS	2/24/06			✓	7

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

French
Gross
Huggins

Seelins

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
			X	
	X			
CHAIR:	✓			