

HB

359

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/6/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered CS FOR HOUSE BILL NO. 359(FIN)

HB 359 PROBATION AND MINOR CONSUMING

"An Act relating to the term of probation for persons convicted of minor consuming or in possession or control of alcohol or repeat minor consuming or in possession or control of alcohol; and relating to termination of probation for certain persons convicted of minor consuming or in possession or control of alcohol or repeat minor consuming or in possession or control of alcohol."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

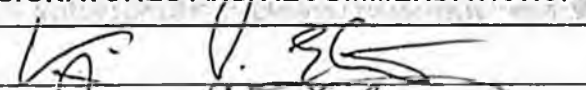
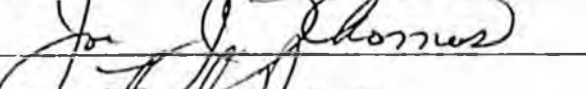
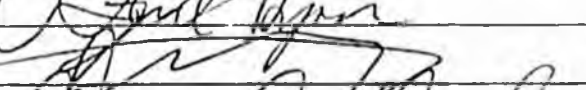
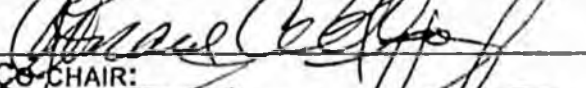
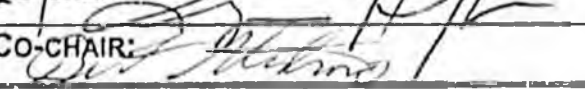

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
CRT	3/4/08	✓			2
HJC	2/21/08			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Ellen			✓	
	Thomas	✓			
	Huggins	✓			
	OLSON			✓	
CO-CHAIR: 	HOFFMAN			✓	
CO-CHAIR: 	STEARNS			✓	

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 359(JUD)
(H) Publish Date: 2/21/2008

Identifier (file name): HB359 Dept. Affected: None
Title: Probation & Minor Consuming RDU: _____
Component: _____
Sponsor: House Judiciary Committee
Requester: House Judiciary Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jane Pierson, Committee Aide
Division: House Judiciary Committee
Approved by: Representative Ramras
Chairman

Phone 907-465-4990
Date/Time 2/21/2008 at 8:50 AM
Date 2/21/2008

See

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 359(FIN)
(H) Publish Date: 3/17/08

Identifier (file name): _____ Dept. Affected: Alaska Court System
Title: Probation and Minor Consuming RDU: Trial Courts
Component: Trial Courts
Sponsor: House Judiciary Committee
Requester: House Judiciary Committee Component Number: 768

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	29.8	29.8	16.9	16.9	16.9	16.9	16.9
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	29.8	29.8	16.9	16.9	16.9	16.9	16.9

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	29.8	29.8	16.9	16.9	16.9	16.9	16.9
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	29.8	29.8	16.9	16.9	16.9	16.9	16.9

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary	2.0	2.0	2.0	2.0	2.0	2.0	2.0

ANALYSIS: (Attach a separate page if necessary)

CSHB 359 allows those on probation for minor consuming and repeat minor consuming convictions to petition the court to have their probation lifted.

Although there are currently 3,500 people on probation who would come under the terms of this bill, this note assumes that the majority of those coming to court will be aged 17 and older. There are approximately 2,500 probationers in this category. Once the current backlog of offenders is dealt with, our statistics show an average of 1,400 new offenders moving into this age category each year.

Continued on page 2.

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

Phone 907-463-4750
Date/Time 3/4/08 2:48 PM
Date 3/4/2008

ANALYSIS CONTINUATION

This note estimates that of the 2,500 probationers aged 17 and older who would fall under the terms of this bill in FY 09, and the 1,400 new probationers each year thereafter, 25% will petition the court to have their probation lifted. This means that CSHB 359(JUD) will result in 625 hearings in FY 09 and 350 hearings each year thereafter. This note further estimates that each hearing will last an average of 20 minutes.

This note reflects the additional judicial and clerical time necessary to handle these hearings.

ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras

Chairman

(907) 465-3004

Fax: (907) 465-2070

Representative_Jay_Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324
Fairbanks, AK 99701



Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Sponsor Statement HB 359

"An Act relating to termination of probation for certain persons convicted of minor consuming or in possession or control of alcohol or repeat minor consuming or in possession or control of alcohol."

Joining the military is one of the best ways for young Alaskans to gain self-confidence, and learn respect and discipline; skills that will serve them well throughout their adult lives. Unfortunately, making the mistake of underage drinking can prevent a person from enlisting in the armed services, due to probation restrictions. Although being barred from military service seems to be the largest issue, some who are convicted of minor consuming also face issues when filling out college or job applications and even when crossing the border to participate in college sporting events.

Under current Alaska law the court is required to place a person convicted of minor consuming on probation for one year from the date of conviction, or until the person is 21 years of age, whichever is later. There is no authority under the minor consuming statute for termination or modification of probation. This is contrary to authority granted to the court under Title 12. Under AS 12.55.090(b), "the court may revoke or modify any condition of probation, or may change the period of probation".

HB 359 would grant the courts similar authority to change the period of probation given under Title 12. By doing so, the courts would have the discretion to remove a person who has been convicted of minor consuming from probation, if the person has met the conditions of probation set forth by the court.

HB 359 would also change the term lengths of probation for persons convicted of minor consuming and repeat minor consuming. The current probation term for both of these

offenses is one year or until the person is 21 years of age, whichever is later. HB 359 would change the probation term to up to one year for both violations.

There are often good, young Alaskans who make mistakes. HB359 would offer those youth the opportunities to learn from their mistakes and work toward becoming stronger, more disciplined, law-abiding individuals.

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State Capitol, Room 120
Juneau, Alaska 99801-1182

Changes in Finance CS of HB 359 Version "O"

Section 1: AS 04.16.050 (b) language was added to change the probation term for a person who has been convicted of minor consuming to up to one year. The current probation term in statute is one year or until the person is 21, whichever is later.

Section 2: AS 04.16.050 (c) language was added to change the probation term for a person who has been convicted of repeat minor consuming to up to one year. The current probation term in statute is one year or until the person is 21, whichever is later.

Section 3: AS 04.16.050 (d) language was added to reference the probation term length in section (d) where previously the term length was referenced in section (c). No change was made to the current probation term length for habitual minor consuming violations.

Section 4: AS 04.16.050 (e) language was added to reference probation terms set forth in sections (b)(2), (c), and (d).

Section 5: AS 04.16.050 (l)

Page 3, lines 24-26: petition language was removed and replaced with motions to the court. This keeps the language consistent with what is currently used by the courts.

Page 4, lines 10-12: language in version "K" which required the court to find that continuance of probation would interfere with the rehabilitation and growth of the person was removed.

Sec. 04.16.050. Possession, control, or consumption by persons under the age of 21.

(a) A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051 (b).

(b) A person who violates (a) of this section and who has not been previously convicted or received a suspended imposition of sentence under (1) of this subsection is guilty of minor consuming or in possession or control. Upon conviction in the district court, the court

(1) may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for one year or until the person is 21 years of age, whichever is later, if the person has not been convicted of a violation of this section previously; among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees; in this paragraph, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under this section; or

(2) shall impose a fine of at least \$200 but not more than \$600, shall require the person to attend alcohol information school if the school is available, and shall place the person on probation under (c) of this section; the court may suspend a portion of the fine imposed under this paragraph that exceeds \$200 if the person is required to pay for education or treatment required under (c) of this section.

(c) A person is guilty of repeat minor consuming or in possession or control if the person was placed on probation under (b) of this section or has been previously convicted, and the person violates (a) of this section. Upon conviction in the district court, the court shall

(1) impose a fine of \$1,000 and require at least 48 hours of community work;

(2) revoke the person's driver's license for three months;

(3) take possession of the person's driver's license; and

(4) suspend up to \$500 of the fine and place the person on probation under (c) of this section.

(d) A person is guilty of habitual minor consuming or in possession or control if the person was placed on probation under (c) of this section, or has been previously convicted twice, and the person violates (a) of this section. Habitual minor consuming or in possession or control is a class B misdemeanor. Upon conviction, the court may impose an appropriate period of imprisonment and fine and place the person on probation under (c) of this section and shall

- (1) impose at least 96 hours of community work;
- (2) revoke the person's driver's license for six months;
- (3) within five working days, notify the agency responsible for the administration of motor vehicle laws of the revocation; and
- (4) take possession of the person's driver's license.

(e) The court shall place a person sentenced under (b), (c), or (d) of this section on probation for one year, or until the person is 21 years of age, whichever is later. The person may not refuse probation. The court may require the person to pay for and enroll in a juvenile alcohol safety action program, if one is available. The court shall impose the following conditions of probation:

- (1) the person shall pay for and successfully complete any education or treatment recommended;
- (2) the person may not consume inhalants or possess or consume controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);
- (3) the person shall timely complete any community work ordered, as provided in (f) of this section; and
- (4) other conditions the court considers appropriate.

(f) A person ordered to perform community work under this section shall perform the work within 120 days of the entry of judgment for a conviction. The court may expand the time period for up to 30 days upon a showing of good cause. The person shall submit verification of completion of community work to the clerk of court on a form provided by the court. If the verification is not provided within the time period required by this subsection, the court shall, within 30 days, schedule further proceedings in the case to determine whether a violation of probation has occurred.

(g) The treatment recommended by a juvenile alcohol safety action program for a person placed on probation under (c) of this section may include a period of inpatient treatment if the judgment specifies the maximum period of inpatient treatment authorized. A person who has been recommended for inpatient treatment may make a written request to the sentencing court for review of the referral. A person shall make a request for review within seven days after the recommendation and shall specifically set out the grounds upon which the request for review is based. The court may order a hearing on the request for review.

(h) The juvenile alcohol safety action program to which a person is referred under this section shall inform the court or a minor's juvenile probation officer if the person fails to submit to evaluation or fails to complete successfully any education or treatment recommended. If the court finds that the person has failed to perform community work as ordered, to submit to evaluation, or to complete successfully the education or treatment recommended, the court may impose the suspended fine, and may impose any period of suspended incarceration. If the person was convicted under (c) or (d) of this section, the court shall revoke the person's driver's license for an additional six months beyond the revocation imposed under (c) or (d) of this section. A court revoking a person's driver's license under this subsection shall notify the agency responsible for the administration of motor vehicle laws of the revocation within five working days.

(i) When considering the financial resources of a minor for purposes of determining eligibility for court-appointed counsel under this section, the court shall consider the resources of both the defendant and the defendant's parent or guardian, unless the court finds good cause to treat the defendant's or the defendant's parent's or guardian's resources as being unavailable to the defendant.

(j) A driver's license revocation under this section is consecutive to a revocation imposed under another provision of law, but is concurrent with a revocation under another provision of law based on a prior conviction, adjudication of delinquency, or informal adjustment under AS 47.12.060 .

(k) In this section,

(1) "driver's license" has the meaning given in AS 28.90.990 ;

(2) "juvenile alcohol safety action program" means

(A) a juvenile alcohol safety action program developed and implemented or approved by the Department of Health and Social Services under AS 47.37;

(B) any other alcohol education or treatment program approved by the Department of Health and Social Services under AS 47.37 if a program described in (A) of this paragraph is not available in the community in which the person resides; or

(C) a program or counseling approved by the court if a program or treatment described in (A) of this paragraph is not available in the community where the person resides;

(3) "previously convicted" means a conviction or an adjudication as a delinquent for a violation of AS 11.71, AS 28.35.030 , 28.35.032, 28.35.280 - 28.35.290, or a law or ordinance in another jurisdiction with substantially similar elements.



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
ALASKA ARMY NATIONAL GUARD ELEMENT, JOINT FORCES HEADQUARTERS
PO BOX 5800
FORT RICHARDSON AK 99505-0800

February 6, 2008

Office of the Commanding General

Rep. Jay Ramras
State Capitol, Room 118
Juneau, AK 99801-1182

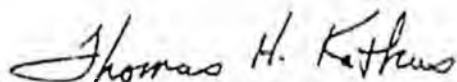
Dear Rep. Ramras:

The Alaska Army National Guard is in support of allowing youth, who have made a mistake by drinking alcohol underage, to receive the leniency from the court system to join the Army, or any United States military service branch.

If a teenager receives a minor-consuming-alcohol conviction they are not eligible for enlistment in the armed services, due to their probation restriction until the age of 21. I would like to see the court system remove this probation term, if and only if, the teen presents a letter from a United States military recruiter stating that this is the only factor keeping the teen from joining the military.

We have good kids in Alaska who sometimes make mistakes. Joining the military gives young people a sense of confidence and discipline that will demand a respect for the law as adults.

Sincerely,


Thomas H. Katkus
Brigadier General, AKARNG
Commanding