

SB

56

<TARGET><BILL>SB 56</BILL><SUBJECT>SB
56</SUBJECT><COMM>HFIN28</COMM></TARGET>



Dan Sullivan,
Mayor

ANCHORAGE POLICE DEPARTMENT

4501 Elmore Road • Anchorage, Alaska 99507-1599
Telephone (907) 786-8500



Service since 1921

April 14, 2014

Representative Bill Stoltze, Chairman
House Finance Committee
State Capitol Building, Room 515
Juneau, AK 99801-1182

Representative Stoltze:

On behalf of the Anchorage Police Department (APD), I would like to thank you and the bill sponsor, Senator Fred Dyson, for the opportunity to comment on SB 56. As you know, this bill strives to separate hardcore career criminals and drug dealers (who deserve to be in jail) from low-end drug users who are criminals only by virtue of their substance addiction (who deserved to be treated and cured).

When the original bill was introduced, the Anchorage Police Department had serious concerns with the proposed language. APD believed the felony threshold possession amounts were too generous. They included dealer level amounts, meaning that serious criminals would capitalize from this bill along with its intended beneficiaries.

In recent discussions with the bill sponsor, we have come up with some language and suggested amendments that APD can work with and support. It is our hope that you will consider the following suggestions and incorporate them into a revised version of the bill:

- With regard to misdemeanor cases involving Schedule I or IIA drugs, "two strikes" within seven years is now "one strike" within seven years, and we count convictions, not charges.
- The felony threshold for meth possession is reduced from 3 grams to 2/10 of a gram.
- The felony threshold for heroine possession is reduced from 500 mg to 100 mg.
- The felony threshold for possession of LSD is reduced from 300mg to 50mg, if found in liquid form, or 3 dosage units (preparations) if found in solid form (blotter paper, sugar cubes, gelatin).
- The felony threshold for cocaine possession is reduced from 3 grams to .5 grams.
- The felony threshold for illegal pill possession is reduced from 15 pills to four pills.

Thank you for your time and consideration. I truly appreciate you and your committee working with law enforcement to find acceptable solutions.

Sincerely,

Mark T. Mew
Chief of Police

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056CS(JUD)-LAW-CRIM-04-13-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: (H) Judiciary

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

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

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	***	***	***	***	***	***	***
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	***	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	***	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

HCS CSSB 56(JUD) excepts Schedule IA date rape drugs (those listed in AS 11.71.140(e)) from the changes that reduce the penalty for first and second offense possession of Schedule IA and IIA substances to a class A misdemeanor. The new version increases the look-back provision for the third offense class C felony from five years to seven years. The new version also requires a person convicted of the misdemeanor possession of controlled substances to be evaluated and referred to rehabilitative treatment if indicated.

Prepared By: Loretta Withington, Division Operations Manager
Division: Administrative Services Division
Approved By: Michael C. Geraghty, Attorney General
Department of Law

Phone: (907)465-5427
Date: 04/05/2013 12:00 AM
Date: 04/05/13

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 56

Analysis

Under current law it is a class C felony to possess any amount of a Schedule IA controlled substance (for example opium or morphine) or a Schedule IIA controlled substance (for example cocaine or LSD). CSSB 56 would make possession of these controlled substances a class C felony (1) if the defendant, in the five years preceding the offense, had been convicted two or more times of misconduct involving a controlled substance in the first, second, third, fourth, or fifth degrees, or a law or ordinance in another jurisdiction with similar elements; (2) possesses 15 or more tablets, ampules, or syrettes containing a schedule IA or IIA controlled substance; or (3) or possesses three or more grams of a preparation containing a schedule IA or IIA controlled substance, unless it is heroin, in which case it would be a class C felony to possess 500 milligrams or more, or unless it is LSD, in which case it would be a class C felony to possess 300 milligrams or more.

CSSB 56 would make possession of lesser amounts of substances described in (2) and (3) above, a class A misdemeanor under AS 11.71.050.

The fiscal note is indeterminate. Generally, reducing an offense from a felony to a misdemeanor creates a savings in the criminal justice system. Felony trials generally take more of a prosecutor's time than do misdemeanor trials. However, sometimes there are unforeseen consequences. For example, with the increased complexity in the law, this bill will probably require more time in screening and evaluating cases. Further, it is likely that a case involving possession with intent to distribute a controlled substance, which would be charged as a class B felony, would go to trial on that charge rather than be resolved as a class A misdemeanor for simple possession. These are factors, along with others, that we cannot predict at this time.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056CS(JUD)-DOA-PDA-4-05-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

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

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services	***	***	***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	***	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	***	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Submitting as an indeterminate fiscal note due to potential cost savings to the State.

Prepared By:	Quinlan Steiner	Phone:	(907)334-4414
Division	Public Defender Agency	Date:	04/05/2013 02:00 PM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	04/05/13
	Department of Administration		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. SB056

Analysis

SB 56 reduces certain cases involving the possession of small quantities of a controlled substance to a misdemeanor rather than a felony, depending on the offender's criminal history.

There could be a reduction in the cost of processing cases that would be prosecuted as a misdemeanor rather than a felony under this bill. It is difficult to predict the precise fiscal impact due to other factors that impact the Agency's overall budget. The Public Defender Agency, therefore, submits an indeterminate fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056CS(JUD)-DOA-OPA-4-05-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

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

(Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services	***	***	***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	***	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	***	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Resubmitted as an indeterminate fiscal note due to potential cost savings to the State.

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division	Office of Public Advocacy	Date:	04/05/2013 02:00 PM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	04/05/13
	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB056

Analysis

If enacted as filed, SB 56 would likely result in drug offenders charged with simple possession facing misdemeanor rather than felony charges, depending on the offender's criminal history and the amounts involved. District court matters are less time consuming and require less experienced, less expensive attorneys than superior court matters. It is foreseeable that the Office of Public Advocacy (OPA) could save on litigation costs as a result. OPA submits an indeterminate fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB56-DOC-OC-04-05-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Rules

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

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

(Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services	***	***	***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	***	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	***	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By: Kevin Worley, Director
Division: Department of Corrections - Administrative Services
Approved By: Leslie Houston, Deputy Commissioner
Department of Corrections

Phone: (907)465-4641
Date: 04/05/2013 10:00 AM
Date: 04/05/13

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB 56

Analysis

Passage of this legislation reduces the offense level for possession of small amounts of certain controlled substances from a class C felony to a class A misdemeanor. At this time, data is not available for the department to calculate the number of offenders who would be sentenced as misdemeanors under this legislation.

The impact on daily operations will be minimal as the department has an economy of scale (fixed costs) making it difficult to assess if and how the potential reduced mandays from a class C felony to a class A misdemeanor will impact DOC. The department will continue to monitor the potential impacts of this legislation.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HCSCS(JUD)-DHSS-ASAP-4-9-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Judiciary Committee

Department: Department of Health and Social Services
Appropriation: Behavioral Health
Allocation: Alcohol Safety Action Program (ASAP)
OMB Component Number: 305

Expenditures/Revenues

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

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	***	***	***	***	***	***	***
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	***	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	***	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? no
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Melissa Stone, Director	Phone: (907)269-3410
Division	Behavioral Health	Date: 04/09/2013 12:00 PM
Approved By:	Sarah Woods, Deputy Director	Date: 04/09/13
	Finance & Management Services	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HCS CSSB056(JUD)

Analysis

Under this bill first-time possession of small quantities of Schedule IA (e.g., heroin, oxycodon) and IIA (e.g., methamphetamine, cocaine) substances would be reclassified from a Class C felony to a Class I misdemeanor. Defendants convicted of misconduct involving a controlled substance in the fifth degree will be ordered to satisfy the screening, evaluation, referral, and program requirements of an alcohol safety action or drug abuse evaluation program.

Passage of this bill will increase the number of Alcohol Safety Action Program cases and the number of individuals seeking substance use disorder services. The bill would have an indeterminate fiscal impact as there is no data to indicate (1) how many individuals will be convicted of misconduct involving a controlled substance in the fifth degree; (2) how many will comply with the court ordered Alcohol Safety Action Program or substance use disorder screening and evaluation; and (3) how many individuals will be required to participate in substance use disorder treatment.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 56(JUD)
Fiscal Note Number: 3
(S) Publish Date: 3/11/13

Identifier: SB056-DPS-DET-03-01-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: Judiciary

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

Expenditures/Revenues

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

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Lieutenant Rodney Dial	Phone:	(907)254-1284
Division	Alaska State Troopers	Date:	03/01/2013 03:45 PM
Approved By:	Joseph A. Masters, Commissioner	Date:	03/01/13
	Department of Public Safety		

FISCAL NOTE ANALYSIS #3

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. CSSB 56(JUD)

Analysis

This bill would reclassify certain offenses related to possession of schedule IA and IIA controlled substances.

Passage of this bill would not change the investigative process regarding these offenses and will have no fiscal impact on the Division of Alaska State Troopers. Therefore, a zero fiscal note is being submitted.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 56(JUD)
Fiscal Note Number: 4
(S) Publish Date: 3/11/13

Identifier: SB056-DPS-LAB-03-01-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: Judiciary

Department: Department of Public Safety
Appropriation: Statewide Support
Allocation: Laboratory Services
OMB Component Number: 527

Expenditures/Revenues

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

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Orin Dym, Forensic Laboratory Manager
Division: Office of the Commissioner
Approved By: Joseph A. Masters, Commissioner
Department of Public Safety

Phone: (907)254-1284
Date: 03/01/2013 03:45 PM
Date: 03/01/13

FISCAL NOTE ANALYSIS #4

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 56(JUD)

Analysis

This bill would adjust the penalties related to certain offenses involving possession of schedule IA and IIA controlled substances.

The sections of the bill relating to possession of specific quantities of a controlled substance will affect the analysis practices within the Scientific Crime Detection Laboratory (SCDL). The minimum thresholds established by this bill will require testing of enough of the substance to meet the threshold.

For example, whereas the SCDL currently may need to positively identify only one tablet to determine whether it was a prohibited substance under the law, analysis of at least 15 tablets (if present) may now need to be analyzed to meet the threshold and burden of proof.

Though there will be some impact to the workload, it is expected that the SCDL can manage it within its current staffing. Therefore, a zero fiscal note is being submitted.

FISCAL NOTE

STATE OF ALASKA
2013 LEGISLATIVE SESSION

Bill Version CSSB 56(JUD)
 Fiscal Note Number 7
 (S) Publish Date 3/11/13

Identifier (file name) SB056-ACS-TRC-2-26-13 Dept. Affected Alaska Court System
 Title Relating to Crimes Inv. Controlled Substances Appropriation Trial Courts
 Allocation _____
 Sponsor Senator Dyson
 Requester _____ OMB Component Number 768

Expenditures/Revenues (Thousands of Dollars)

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

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates					
			FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated **SUPPLEMENTAL (FY13) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY14) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? no
 If yes, by what date are the regulations to be adopted, amended, or repealed? _____ Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Nancy Meade, General Counsel
 Division Alaska Court System
 Approved by Nancy Meade for Christine Johnson, Administrative Director
Alaska Court System

Phone 907-463-4736
 Date/Time 2/26/13 12:00 PM
 Date 2/26/2013

FISCAL NOTE ANALYSIS #7

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 56(JUD)

Analysis

Senate Bill B 56 would reclassify certain drug possession crimes. Currently, possession of *any* amount of a schedule IA controlled substance is Misconduct Involving a Controlled Substance in the Fourth Degree, a class C felony under AS 11.71.040(a). Section 1 of the bill would classify as a Class C felony (1) possession of any amount of schedule IA or IIA controlled substances a class C felony, only *if* the defendant has two or more prior convictions within the last five years, (2) possession of more than a specified amount of more pure forms of schedule IA or IIA controlled substances, and (3) possession of a specified amount of preparations or mixtures of certain schedule IA and schedule IIA controlled substances.

Section 2 of the bill would classify the possession of the lesser amounts of schedule IA or IIA controlled substances (those that Section 1 would remove from AS 11.71.040(a)) as Misconduct Involving a Controlled Substance in the Fifth Degree, a Class A misdemeanor, under AS 11.71.050(a).

This change would have the effect of moving certain drug possession cases from felonies to misdemeanors; for the court system, that means handling those cases in the district court (with jurisdiction over misdemeanors) rather than superior court (with jurisdiction over felonies). Generally, misdemeanor criminal cases are less expensive for the court system to process than felonies: misdemeanor charges do not need to be considered by a grand jury, misdemeanors often settle earlier in the life of the case than felonies, and district court judges are paid less and have a higher caseload than superior court judges (because the cases are generally less complicated). Because of these general principles, the court system is likely to save some money and deal with these misdemeanor drug possession cases more efficiently under SB 56.

The court's statistics, however, are kept according to the statutory reference(s) on the charging documents filed by law enforcement. For different reasons, drug possession cases may be filed by the Department of Law as a violation of the general statute (AS 11.71.040), or by subsection (AS 11.71.040(a)), or by subparagraph (AS 11.71.040(a)(3)). The court enters the charge on the incoming charging document into the court's case management system, but we are not then able to accurately count the number of cases that involve a charge under AS 11.71.040(a)(3)(A). The court can say that 977 cases were filed with a MICS 4 charge in FY 12; the number was 878 in FY11 and 848 in FY12. But, these numbers include all cases with any charge under AS 11.71.040, which has numerous sections and subsections that concern a variety of criminal drug behaviors.

In addition, SB 56 would reclassify only a portion of the charges under that section as misdemeanors (depending on the amount of the controlled substance possessed and the defendant's prior convictions), and our statistics do not show which cases or the number of cases that would be in this category.

The court predicts increased efficiency from moving some cases from superior court to district court, but cannot predict the number of cases or actual fiscal impact. The court therefore submits a zero fiscal note.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Law

CRIMINAL DIVISION
Criminal Division Central Office

P.O. Box 110300
Juneau, Alaska 99811-0300
Main: 907.465.3600
Fax: 907.465.4043

April 11, 2014

Hon. Representative Bill Stoltze
Alaska House of Representatives
State Capitol, Room 515
Juneau, Alaska 99801

Dear Representative Stoltze:

Chuck Kopp, from Senator Dyson's office, provided me an article from the Alaska Dispatch identifying the person, John P. Rogers, as the individual Senator Dyson was speaking about during his April 10, 2014 appearance before the House Finance Committee. (The article is attached to this letter.) Mr. Rogers told the Alaska Dispatch that, "It [a charge of possession of a controlled substance] devastated my life." The article relates that Mr. Rogers said the police searched his vehicle after a "fender bender" and found an empty prescription drug bottle which, after analysis, came back positive for an opiate. He described doing two years in jail for the offense. We have obtained the police reports for the case to determine the amount of the drugs and the accuracy of other factual assertions made by Mr. Rogers. I can start by saying that according to CourtView and our database, Mr. Rogers was convicted of possession of a controlled substance under AS 11.71.040 and received a sentence of 2 years of jail with the 2 years suspended, that is, no jail time.

It is correct that he had a prescription pill bottle with a label for hydrocodone, which did not contain the prescription pills. It did contain "a leafy substance in the bottle." (This quoted language comes from the criminal complaint attached to this letter.) The amount of the leafy substance was small, less than a gram, according to the laboratory report. (Report attached.) The substance was found to be heroin. Mr. Rogers' blood was also tested and showed the presence of morphine. (Report attached.)

This was not Mr. Rogers' first encounter with the law. A check of CourtView and our records shows nine convictions. This includes the felony drug conviction. This was his third felony conviction in Alaska and you will note he received no jail time to serve for this third felony. Department of Law records show that in the last nine years, we have opened 15 files for this defendant. One of these cases was an appeal and three files were consolidated into one case, 3AN-10-2246. This leaves eleven criminal cases. (I am attaching our summary sheet itemizing these matters to this letter.) The following cases

were submitted to us by law enforcement for criminal prosecution in the same order as in our summary.

Criminal Trespass in the Second Degree	AS 11.46.330
Possession of a Controlled Substance in the Fourth Degree	AS 11.71.040
Robbery in the Second Degree	AS 11.41.510
Criminal Mischief in the Fourth Degree	AS 11.46.484
Possession of a Controlled Substance in the Fourth Degree	AS 11.71.040
Distribution of a Controlled Substance in the Third Degree	AS 11.71.030
Possession of a Controlled Substance in the Fourth Degree	AS 11.71.040
Misconduct Involving a Weapon (Felon in Possession)	AS 11.61.200
Violating Conditions of Release	AS 11.56.757
Theft in the Second Degree	AS 11.46.130
Felony Criminal Mischief	AS 11.46.482

These are the primary charges the police submitted for prosecution. Mr. Rogers was not convicted of these offenses, but rather, they were the starting point. The DA office reviewed and screened these referrals and Mr. Rogers was convicted of the offenses described below.

Here are his convictions, in order of the date of conviction.

8/18/05	Driving on a Revoked License - his license was presumably revoked because of convictions from another state;
7/20/06	Felony Vehicle Theft;
12/28/07	Resisting or Interfering with an Arrest;
5/10/10	Felony Misconduct Involving Weapons;
8-14-11	Violating Conditions of Felony Release;
12/8/11	DUI;
12/20/12	Disorderly Conduct;
12/20/12	Violating Condition of Release;
5/24/13	Violating Conditions of Release;
5/24/13	Misconduct Involving a Controlled Substance - this is the offense referred to in the Alaska Dispatch article.

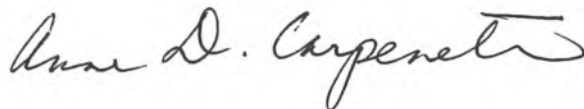
From the police reports regarding the case and Mr. Rogers' discussion with the Alaska Dispatch reporter, I notice that Mr. Rogers told the police officer that he had some problems in Texas. I checked with Texas and the following is a list of Texas cases that involved Mr. Rogers. These are arrests, not convictions. I do not have immediate access to Texas court records to determine which, if any, arrests resulted in a conviction.

12/29/1997 Failure to Identify a Fugitive From Justice
3/25/1999 Resisting Arrest, Search or Transport
1/23/2000 Unauthorized Use of a Motor Vehicle, a felony, and Evading Arrest
8/13/2003 Possession of a Controlled Substance Less than One Gram and
Possession of Marijuana Less than 20 Ounces
9/12/2003 Driving While License Suspended

I have a copy of the police reports for the case that was discussed on April 10, 2014, which I have not provided. They contain names and other personal information about witnesses. I can show them to you if you wish. I think it best that the information not become part of the public record. It is available for review. However, I believe that the information I have been able to send you will help you evaluate whether the prosecution of heroin in the pill bottle was appropriate.

Sincerely,

MICHAEL C. GERAGHTY
ATTORNEY GENERAL



By: Anne Carpeneti
Assistant Attorney General

Attachments

cc: Hon. Senator Fred Dyson

Alaska Dispatch

News and voices from the Last Frontier

Published on *Alaska Dispatch* (<http://www.alaskadispatch.com>)

[Home](#) > Former Alaska crime lab analyst's thefts could taint other cases

[Jerzy Shedlock](#) ^[1]

March 7, 2014

Main Image:

[Stephen Palmer](#) ^[2]

Stephen Palmer made his first court appearance Friday at the Anchorage Correctional Complex courtroom. A grand jury has handed up charges to Alaska Superior Court against the 53-year-old, accusing him of stealing drug evidence and drugs used for testing at the Scientific Crime Detection Laboratory in Anchorage while he worked there.

The former lab analyst, who worked at crime lab for nearly two decades, did not speak during the brief district court arraignment. He stood far behind the podium the jail's inmates step up to when addressing a judge -- partially out of view of media cameras.

Palmer faces six felonies, including a scheme to defraud, second-degree misconduct involving a controlled substance and four counts of tampering with physical evidence. He also faces four "official misconduct" misdemeanor charges.

Since a grand jury returned an indictment earlier Friday, there was no action for the district court judge to take. John Skidmore, chief of the state's Department of Law, said Palmer is charged with a class A felony, so there's "an appropriate no-bail hold." Private attorney Gregory Parvin is representing Palmer. A Superior Court arraignment is set for Friday.

Potential collateral damage

Sitting in the courtroom was John Rogers, who in 2013 pleaded guilty to a fourth-degree controlled substance charge and violating conditions of release for a felony conviction. He said he was arrested two years earlier for the drug charge after a fender bender. Police searched his vehicle and found an empty prescription drug bottle, he said.

The state tested the residue in the bottle, and it came back positive for an opiate derivative, Rogers said.

His defense attorney requested an independent review of the residue, he said, and the test came back negative. But the state allegedly wouldn't back down from its test results. Now he's concerned about the validity of the test after hearing about Palmer's alleged crimes. He spent about two years in jail before entering into the plea deal.

"It devastated my life," Rogers said. "The time, money and resources it took to get out of jail." He said he knows he's not an angel -- he hasn't made the most of his life -- but the possibility that he could have avoided jail, or the possibility of having the charge tossed, is why he'll "following the case closely."

Tainted cases?

The charges against Palmer accuse the former forensic lab analyst of adding adulterants to reference standards in an attempt to cover up the theft of drugs, some of which were opiates. Reference standards are pure substances used in laboratories to establish a base of measurement for evaluating similar substances.

There's also the matter of missing drug evidence, which raises the possibility of tainted cases and may prompt requests for full discovery in a plethora of drug cases.

Skidmore said he is not concerned about the standards. Despite the added adulterants, he said, as long as they contain some of the controlled substance being tested, they're still valid measurements.

"There's no concern about those other than the fact that someone was doing something with them that they shouldn't have been," Skidmore said. "That's obviously a concern but it didn't invalidate -- from a scientific standpoint -- any of the testing."

The larger dilemma, he said, is the missing drug evidence. Skidmore said if evidence of any sort goes missing as the result of conduct by someone who works with or in law enforcement, such a development is favorable to the defense due to presumption of innocence. Typically, a jury is told that the missing evidence would've been favorable to the party fighting criminal accusations.

For example, in drug and DUI cases, the defense has the right to conduct independent tests of seized evidence.

"The defense ought to have an opportunity to test something the state says is a controlled substance themselves, and if the evidence goes missing they're unable to do that," Skidmore said. "That's a problem."

The larger potential problem created by Palmer's case is rather than just some missing evidence, all of it went missing. Skidmore said he's doesn't know if that issue exists yet.

'May have altered the evidence'

Public defenders statewide could have a field day with charges against the formerly state employed lab analyst who's an alleged drug addict. The crime lab revelations may prolong any drug cases handed up while Palmer was working for the lab -- especially those involving his drugs of choice.

Alaska public defender Quinlan Steiner said the circumstances surrounding Palmer's case troubles him -- particularly the former analyst's "deception."

"(Palmer's alleged actions) may have altered the evidence of cases. We just don't know," Steiner said. "We have to take in all of the discoveries and take in what cases that could include." The reexamination of evidence could include past cases, he said.

He said he and other public defenders will request full discovery from the Palmer case in an attempt to find out if it affects current cases as well.

However, Skidmore said that although defense attorneys will likely raise the issue in court, he's unconcerned with current drug cases.

"It's not about cases that are in the system right now, because by and large I would say in 99.9 percent of the cases, Palmer wouldn't have had anything to do with them," Skidmore said.

Skidmore said the Department of Law is compiling a list of the cases Palmer handled. He did not provide a total but said the number was significant.

Supreme Court bans drug tests on state workers

Despite Palmer's and other crime lab employees' regular contact with controlled substances, none are required to take a drug test when hired.

The same goes for all state employees, with the exception of some maritime highway employees and commercial driver's license holders. A 2001 Alaska Supreme Court opinion says state employees cannot be drug tested unless there is valid reason to believe they're abusing substances.

Anchorage police employees and firefighters appealed a Supreme Court decision affirming the Municipality of Anchorage policy, adopted in 1994, of random drug testing for "employees in safety-sensitive positions." They argued the policy was unconstitutional, and the Appeals Courts agreed.

The court decided "that the Municipality's random drug testing provision violates the Alaska Constitution's prohibition against unreasonable search and seizures."

Said Skidmore: "We're now squarely dealing with that ruling."

The charges against Palmer detail years of alleged drug abuse, including daily use of meth and heroin. The abuse occurred when he was employed as a crime lab analyst.

Palmer testimony

During his time as a crime lab analyst, Palmer gave witness testimony during a drug-related case as well as a drunk driving and manslaughter case.

In the drug case, Palmer testified about pills possessed by defendant Neely C. Humpherville, who was charged with miscellaneous drug charges and breaking his probation conditions. Humpherville had pills that "were not pharmaceutical tablets. They were illicitly produced tablets." (Palmer) stated that he had seen such Bart Simpson-shaped pills before and that they were 'generally the kind of rave pills that you would see, also known as Ecstasy,'" according to court documents.

Ecstasy contains MDMA, Palmer testified, but the tablets he'd tested for the state did not include it. Instead, the seized drugs contained ingredients not controlled by the state, the documents say. Still, the drug offers a high similar to MDMA, and based partly on that testimony, a grand jury indicted Humpherville, who was found guilty of a single third-degree miscellaneous

charge. The state dismissed the remaining charges, according to online court records.

Palmer allegedly admitted to using MDMA in a letter his son provided to an Alaska State Trooper investigator.

In a different case involving Palmer, a Kotzebue jury in 2011 convicted Patrick Tickett of manslaughter, first-degree assault and drunk driving after he slammed his snowmachine into a doctor on an icy lake outside the Western Alaska community.

According to court records, Palmer calculated what Tickett's blood-alcohol content "might have been" before the defendant's blood was drawn several hours after the fatal crash.

Source URL: <http://www.alaskadispatch.com/article/20140307/former-alaska-crime-lab-analysts-thefts-could-taint-other-cases>

Links:

[1] <http://www.alaskadispatch.com/authors/690181>

[2] <http://www.alaskadispatch.com/image/stephen-palmer>

DISTRICT COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT OF ANCHORAGE

JACOB 11-50532

STATE OF ALASKA

vs.
John Rogers
6701 E 6TH #9
DOB: 1/25/1973
APSIN ID: 7249931

PLAINTIFF,

OL: 7164396

DEFENDANT(S)

ATN: 113439042
POLICE CASE #: 11-50532
CASE NO: 3ANS -11-13186 CR

COMPLAINT

CERTIFICATION: I certify that:

X This document and its attachments do not contain information (1) the name of a victim of a sexual offense listed in AS12.61.140 or (2) a residence or business address or telephone number of a victim or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

This document or an attachment contains confidential information that may be placed in a court file under an exception listed in AS12.61.130. (b). This document and its attachments do not contain the name of a victim listed in AS12.61.140.

Domestic Violence: Y N

Officer Ernest DSN 1309 , signing this complaint under penalty of perjury or personally appearing before the undersigned District Judge and being duly sworn, states that on or about the 30 day of October , 20 11 , at or near Dimond & Arlene , Anchorage, Alaska, Third Judicial District, the defendant, did unlawfully commit the following offense(s):

Misconduct Involving a Controlled Substance in the Fourth Degree.: 1 count(s): AS 11.71.040.

I, Earl Ernest, being first duly sworn upon oath, depose and state:

A. This Investigation: APD Case # 11-50532

At approximately 1704 hrs 10/30/2011 John Rogers lost control of his 1995 Dodge, AK plate EKE272 e/b Dimond at Arlene, striking two vehicles stopped at the traffic light e/b Dimond. I contacted Rogers whom is on adult probation. I then contacted P.O. Hoyer whom requested I search Rogers' vehicle for evidence a drugs. I noted Rogers exhibited signs of drug impairment. I conducted SFST's and subsequently arrested Rogers for OUI. Dispatch advised Rogers is a scofflaw, owing \$1,190. Officer Grigg searched Roger's vehicle and located a prescription bottle for Hydrcodone for Rogers, dated 10/19/2011. Officer Grigg noted it had a leafy substance in the bottom. I transported Rogers to the Anchorage Jail for OUI Processing. Rogers provided a breath sample with indicated .000 grams of alcohol per 210 liters of breath. I transported Rogers to the Magistrate's office, 303 K st and requested a search warrant for his blood. Magistrate Comfort issued the search warrant. I transported Rogers to the Anchorage Jail where I seized his blood, which I placed into APD Evidence Section. On 11/23/2011 Forensic Scientist III, John Giacaloone emailed me the results of the brown substance located in Rogers' prescription bottle - it was Heroin.

B. Defendant's Criminal History
3/2011 VCR
5/2010 MICS 3 Felon in Possesion

ATN: 113439042 Case No: ANM
Police Case #: 11-50532

page 1

2576



State of Alaska

Department of Public Safety

SCIENTIFIC CRIME DETECTION LABORATORY REPORT

Sean Parnell, Governor

Joseph A. Masters, Commissioner

11-50532

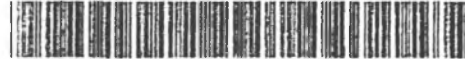
November 23, 2011

Requesting Agency: Anchorage Police Department

Laboratory Number: 11-05829

Agency File Number: 11-50532

Report To: Earl Ernest



Requested Service: Controlled Substance Analysis

Items Analyzed

Item

875987 Brown Substance

Results, Conclusions and Opinions

875987 Heroin, <0.1 gram.

Weights and identifications refer to analyzed items.

Analysis requires the consumption of some of the submitted sample. Reported weights, tablet and capsule counts are pre-consumption quantities.

Forensic Scientist III: John Giacalone

Report Technically Reviewed by Jack Hurd

5500 East Tudor Road

Anchorage, AK 99507

Voice (907) 269-5740

Fax (907) 338-8614

Accredited by ASCLD-LAB Certificate #157

WASHINGTON STATE TOXICOLOGY LABORATORY
FORENSIC LABORATORY SERVICES BUREAU
WASHINGTON STATE PATROL
2203 AIRPORT WAY S, SUITE 360
SEATTLE WA 98134-2027
PHONE (206) 262-8100 FAX (206) 262-8145

11-50532

DUI Toxicology Report

ST 1109778

agency case #: 11-50532 11-05829
stn:
agency: State of Alaska Crime Lab
Attn: Toxicology Section
5500 E Tudor Rd
Anchorage AK 99507-1221

date received: 11-18-2011
date completed: 11-29-2011

Last name	First name	Middle initial
Rogers	John	

sample blood - peri
container vg
labeled y

BLOOD ETHANOL

BLOOD ANALYSES

morphine 0.025 mg/L

URINE TEST RESULTS

not performed


Ass Louis certifies under penalty of perjury that I performed the test on the blood or other matrices listed above. The document on which this certificate appears is a true and complete copy of my official report and the test was administered according to WAC 465-140 (1) and (2). Each document is a report of the results of tests completed by the undersigned where qualifications and work site are listed below their name in compliance with WAC 465-14.030. The person from whom the sample was received is:


COMMENTS

Roth, Nikki

Fed Ex

Note: "nd" indicates drug not detected, "pos" indicates positive.


Ass Louis, Analyst
BS Biochemistry 1988
Blood Analyst Permit since 2003


Reviewer

Rogers, John P.	01/25/1973	A-09952	Closed	PA07-01010	Defendant		WALSHMI	Appea
Rogers, John P.	01/25/1973	3AN-07-7190 CI	Closed	SP07-03759	Defendant		D25-KAMM M	Gener:
Rogers, John P.	01/25/1973	3PA-S05-2016	Closed	PA05-02557-A	Defendant	CON:AS11.46.360(a)(1)		Crimin
Rogers, John Paul	01/25/1973	3AN-08-5373	Closed	AN08-03796	Defendant	ACC:AS11.71.040(a)(3)(A)	MICHALM	Crimin
Rogers, John Paul	01/25/1973	3AN-08-2623	Closed	AN07-09372	Defendant	ACC:AS11.41.510(a)(1)	OLSONGU	Crimin
Rogers, John Paul	01/25/1973	3AN-08-10766	Closed	AN08-07173	Defendant	ACC:AS11.46.484(a)(1)	WALKERJ	Crimin
Rogers, John Paul	01/25/1973	3AN-11-13186	Closed	AN11-10079	Defendant	CON:AS11.71.040(a)(3)(A)	STRYSACAM	Crimin
Rogers, John Paul	01/25/1973	3AN-10-3068	Closed	AN10-03158	Defendant	ACC:AS11.71.030(a)(1)	RUNNELSK	Crimin
Rogers, John Paul	01/25/1973	3AN-10-2725	Closed	AN10-01900	Defendant	ACC:AS11.71.040(a)(3)(A)	RUNNELSK	Crimin
Rogers, John Paul	01/25/1973	3AN-10-2246	Closed	AN10-01579	Defendant	CON:AS11.61.200(a)(1)	RUNNELSK	Crimin
Rogers, John Paul	01/25/1973	3AN-10-2246	Closed	AN10-04945	Defendant		CORBISIR	Probat
Rogers, John Paul	01/25/1973	3AN-10-2246	Closed	AN10-07018	Defendant			
Rogers, John Paul	01/25/1973							

There is no doubt that substance abuse is a significant contributor to crime in Alaska. Yet even given this statement, we acknowledge that possession of small quantities of certain schedule IA or IIA substances for a first-time offender is more proportional to misdemeanor rather than felony behavior. The expectation is that a misdemeanor penalty for a first offense can serve as a wakeup call and potentially deter offenders from future drug offenses or other crimes. Whether this same philosophy should apply to a second-time offender is a matter we ask the legislature to take under further consideration.

Subsequently, we also encourage additional deliberation on the quantities identified as “non-distributive” or “small amounts” as proposed in Senate Bill 56. The Alaska State Troopers’ Statewide Drug Enforcement Unit (SDEU) reports that an average per use of heroin is approximately 0.1 grams (100 milligrams) and an average per use of methamphetamine is 0.75 – 1.0 grams. In essence, just less than 500 milligrams of heroin would equate to about five uses and just less than 3 grams of methamphetamine would be about three to four uses. Though these could be considered user-level quantities, we urge closer scrutiny of these levels to avoid a potential unintended consequence of empowering street-level distributors.

Another issue relates to the 300 milligram threshold established for LSD. The SDEU reports they rarely encounter LSD in a measurable form. It is usually found in dosage units, with some of the liquid having been absorbed into a more solid form such as blotter paper, sugar cubes, or gelatin. The actual potency levels of each dosage unit can range from 30 to 100 micrograms (1/1,000,000 of a gram). Therefore, the threshold amount currently proposed equals approximately 300 doses.

There will also be impacts to the Scientific Crime Detection Laboratory (crime lab) within DPS. The minimum thresholds established by this bill will require testing of enough of the substance to meet the threshold.

For example, whereas now the crime lab may need to positively identify only one tablet to determine whether it was a prohibited substance, analysis of at least 15 tablets (if present) may now need to be analyzed to meet the threshold and burden of proof. This will impact the workload, but the crime lab will attempt to manage it within its current staffing.

In closing, we must be careful and thoughtful to ensure a balanced approach to protect the public from dangerous offenders while holding offenders accountable at the appropriate levels, whether it's a felony or misdemeanor. This is a worthy effort that DPS will continue to work with the legislature on.

Thank you.

APOA

ALASKA PEACE OFFICERS ASSOCIATION

Making a Difference in the Last Frontier



April 2, 2014

The Honorable Fred Dyson
Alaska State Senate
State Capitol Rm 121
120 4th Street, Mail Stop: 3100
Juneau AK 99801-1182

Dear Senator Dyson:

I am writing on behalf of the Alaska Peace Officers Association (APOA), regarding Senate Bill 56, "An Act relating to certain crimes involving controlled substances; and providing for an effective date".

The APOA Legislative Committee recently reviewed this proposed legislation and continues to oppose this bill as it fails to take into consideration any other felonies committed by a person charged under this offense and whether or not the person may have a history of violent behavior. The changes put forth by SB 56 simply don't take into consideration the variety of criminal activities which are driven by addiction and the cost of funding that addiction.

Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist you in your work for our state.

Sincerely,

Brad Johnson
State President

PO Box 240106
Anchorage, AK 99524

(907)277-0515
(907)272-5355 fax

email: apoa@gci.net
www.apoaonline.org

SB 56 - Reclassifying Small Quantity Drug Possession

Pursuing Restorative Justice and
Proportionality in our Drug Laws

A Balance of Justice and Proportionality in the Law

“The punishment of an offender should fit the crime”

Misc. Involving Controlled Substance 4th Degree (MICS 4) AS 11.71.040(a)(3)(a) C Felony

A person possesses any amount of a schedule IA or IIA drug.

- Example: Possession of one grain of a pain killer like hydrocodone without a prescription. The law currently has no dosage matrix to discriminate between trafficking, peddling, and simple possession. It is no defense that the amount of drug was not a useable quantity, only that the substance be positively identified in a narcotics test.

Assault 3rd Degree - AS 11.41.220(a)(1)(a) C Felony

A person causes fear of imminent serious physical injury by means of a dangerous instrument.

- Example: A person points a firearm at the head of another person and threatens to kill them.

Proportionality Cont'd

Stalking 1st Degree

AS 11.41.260

C Felony

- Example: A person engages in a “course of conduct” with a victim (i.e. following them, entering their property, contacting by phone, delivering items to victim) and places victim in fear of death or physical injury and the person possesses a deadly weapon.

Sexual Assault 3rd Degree AS 11.41.425(a)(1)(2) C Felony

- Example: A person engages in sexual contact with a person who he knows is mentally incapable, incapacitated or otherwise unaware and unable to consent to the sex act. Or, a prison guard engaging in sexual penetration with a prisoner.

Indecent Exposure 1st Degree AS 11.41.458(a) C Felony

- Example: A person knowingly exposes his genitals to a child while masturbating.

Proportionality Cont'd

Vehicle Theft 1st Degree AS 11.46.360 C Felony

- Example: A person, having no right to do so, steals a car, truck, motorcycle, motorhome, airplane, or boat of another person. Or, a person steals a police car.

**Endangering the Welfare of a Vulnerable Adult 1st Degree
AS 11.51.200 C Felony**

- Example: A person fails, without lawful excuse, to provide support for a vulnerable adult and the vulnerable adult is in the person's care by authority of law and the vulnerable adult suffers serious physical injury.

Promoting Contraband 1st Degree AS 11.56.375(a) C Felony

- A person illegally brings a firearm or drugs into a prison.

Proportionality Cont'd

Possession of Child Pornography AS 11.61.127 C Felony

- A person knowingly possesses child pornography.

Unlawful Furnishing of Explosives AS 11.61.250(a) C Felony

- A person gives explosives to another knowing that the person intends to use them to commit a crime.

Sex Trafficking 3rd Degree AS 11.66.130(a) C Felony

- A person, with intent to promote prostitution, manages, supervises, controls or owns a place of prostitution.

Cruelty to Animals AS 11.61.140(a) C Felony

- A person intentionally inflicts severe physical pain or prolonged suffering on an animal. Or, a person knowingly kills an animal with intent to intimidate or threaten another person.

Class A Misdemeanor Offense

Penalty - Up to 1 year in prison, \$10,000 fine

A serious charge and penalty

Assault in the Fourth Degree

AS 11.41.230

A person “recklessly causes physical injury to another person” or “with criminal negligence... causes physical injury to another person by means of a dangerous instrument.” This can **include domestic violence**, as defined in AS 18.66.990.

Driving Under the Influence (DUI/DWI)

AS 28.35.030

A first and second Driving Under the Influence (DUI) charge

Resisting or Interfering with Arrest

AS 11.56.700(a)

A person knowing a peace officer is making an arrest, and with intent to prevent the arrest, resists the arrest of himself or interferes with the arrest of another by force.

Official Misconduct

AS 11.56.850(a)

A public servant knowingly, and with intent to obtain a benefit or to injure or deprive another of a benefit, performs an unauthorized exercise of his official function; or refrains from performing a duty of his office.

SB 56 - Distinguishing between traffickers, peddlers and addicts

- SB 56 creates an “Escalating Punishment” system, similar to the State’s approach to DUI’s, Theft, Criminally Negligent Burning and Assault. Key features:
 - Reclassification of small quantity possession to a Class A misdemeanor
 - “3-strikes” Rule. Gives person a chance for meaningful reform, if they screw up twice, and fail to participate in their own rehabilitation, the next offense results in a felony charge.
 - Strict quantity limits; over the limit = implied distribution = felony.
 - No restrictions placed on law enforcement or prosecutors to pursue drug manufacturers and dealers, regardless of quantity (i.e., evidence of manufacturing or selling drugs = felony).
- This should lead to reductions in:
 - Prison incarceration costs
 - Legal and adjudication costs
 - Low-risk offenders being placed on felony probation
 - Re-entry barriers for simple possession offenders getting out of prison
 - Reduction in indirect costs, such as public assistance for med., housing & food
- Significant cost savings while maintaining public safety.

Alaska's Prison Population Growth

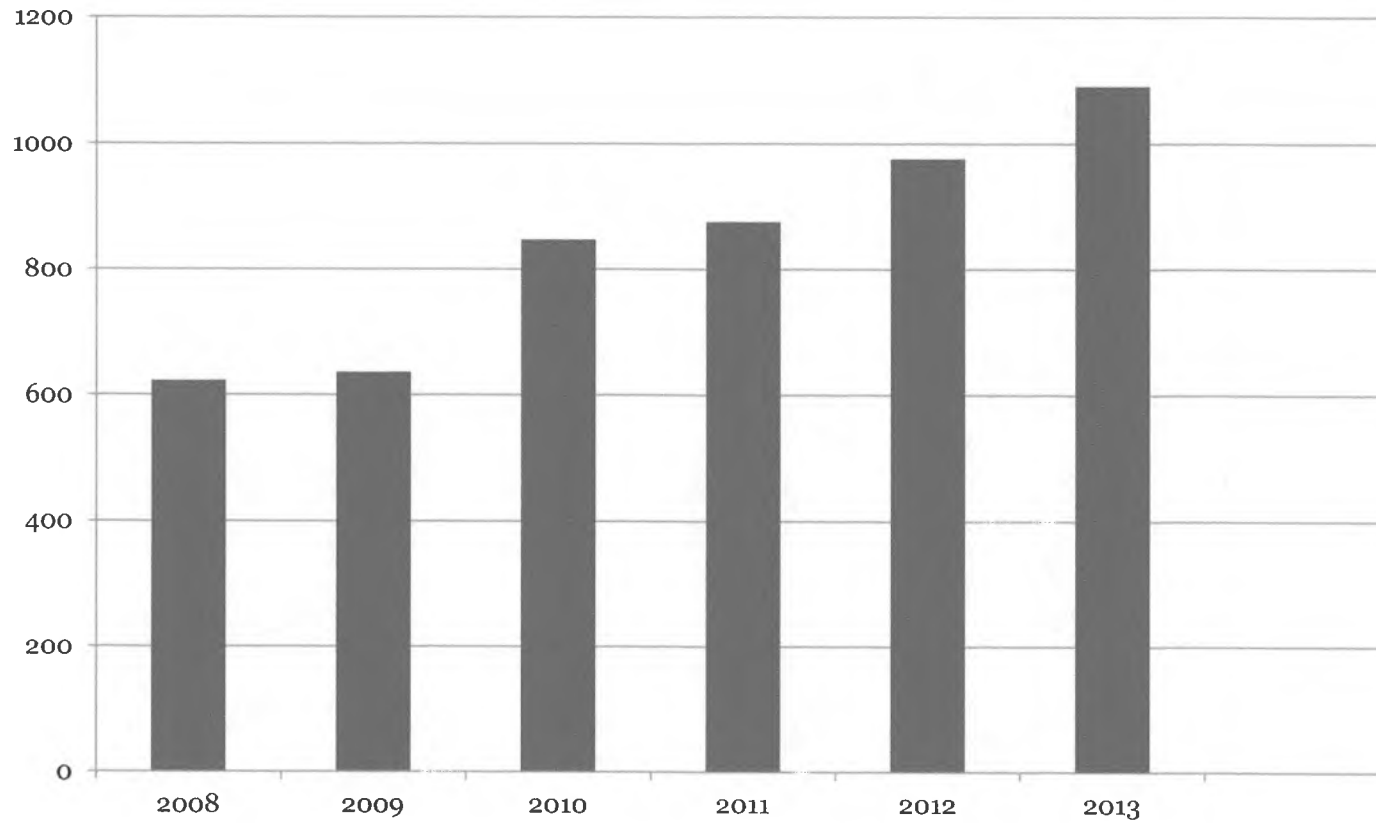


From 2003 to 2012, the annual average inmate population grew slightly less than 3% per year. Projections are based on a 3% growth rate. Based on this rate, inmate population is estimated to reach 6,145 by 2020. **(Note: Stated differently, the DOC population grew by approximately 28% in the decade preceding 2012. According to US Census Data, the total population of Alaska grew by just 13.3% from 2000 to 2010, a similar period.)**

Drivers of Alaska's Prison Population Growth

1. Increased admission for Felony Theft in the Second Degree—theft of property valued over \$500—and increased sentence lengths associated with these offenses.
 2. A 63% rise in prison admission for drug offenders, particularly felony offenders convicted of possession offenses.
>>Addressed by SB 56
 3. Increase in Petitions to Revoke Probation (PTRP's) and probation violations.
>>Connected to number of offenders on felony probation; greatly impacted by SB 56.
- Source: DOC Memo, *Factors Driving Alaska's Prison Population Growth*, at 1 (August 24, 2012).

Alaska Court Cases Filed w/ MICS 4 Charge

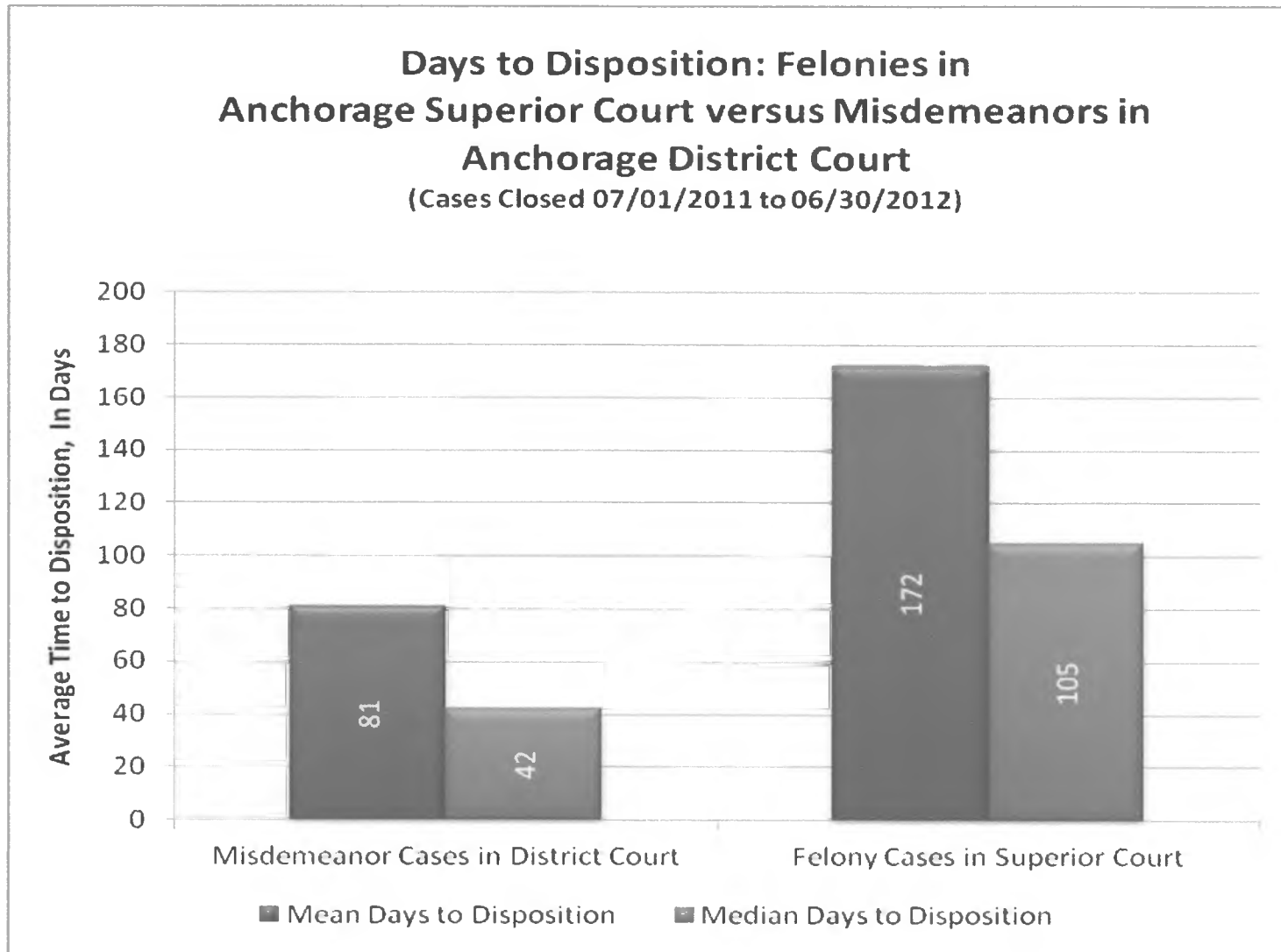


- **Misconduct Involving a Controlled Substance Fourth Degree - Class C Felony**

Collateral Consequences from Small-Quantity Drug Possession Felonies

- *“Our legal system has created barriers to work, education, business opportunities, volunteerism, and housing – the very things that are necessary to prevent recidivism.”* – Senator John Coghill
- Alaska ranks number one in the nation for state-created legislative and regulatory barriers to successful reentry for individuals with a criminal record, according to the national Legal Action Center (LAC). –Deborah Periman, Alaska Justice Forum 30 (3-4), UAA Justice Center
- Offenders who complete their sentences seldom, if ever, stop paying for their crimes
- Barriers to reentry into society after prison effect 1 of 31 Alaskans.
 - Medicare/Medicaid facilities → federal law
 - Anchorage School District → district policy
 - North Slope → Private HR decision
- Difficulty to find housing
- Restrictions on ability to adopt, or receive placement of foster children
- Inability to qualify for public assistance benefits on release from prison
- Ineligible to become a Village Public Safety Officer
- SB 56 allows Alaskans to avoid many of these consequences, if they are not repeat offenders.

Reduced Legal and Adjudication Costs



SB 56 - A Fiscally Conservative Policy

- Legislative Research Service identified approximately \$14M in annual cost savings, the majority of which came from DOC
- Office of Public Advocacy Fiscal Note – *There will likely be a decrease for OPA in the cost of providing contract attorney defense services. Estimate \$250,000.00 savings in FY 2013. Savings of \$1,100/case @ 255 cases. Indeterminate note.*
- Public Defender Agency Fiscal Note – *Will reduce the cost of processing individual cases...will reduce the overall cost growth rate of the Agency's budget. Zero fiscal note.*
- Dept of Corrections Fiscal Note – *In 2012, there were 427 MICS 4 convictions which carried an average length of stay of 188.1 days...the department could see a potential reduction in mandays of 54,186.3 days. Indeterminate fiscal note. If only half these convictions were impacted by this bill, it would save over \$4M each year.*

A Fiscally Conservative Policy Cont'd

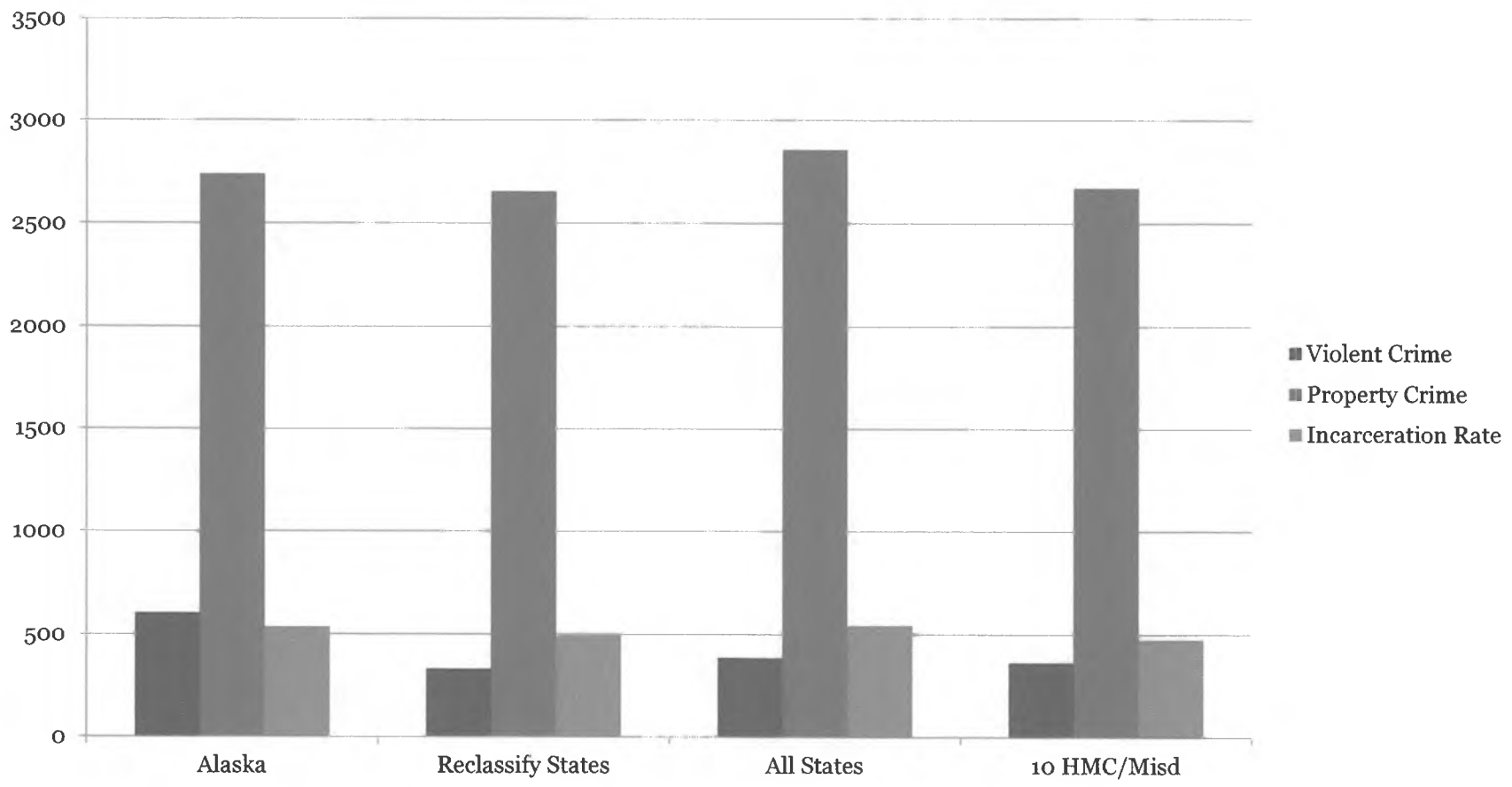
- Department of Law Fiscal Note – *The fiscal note is indeterminate. Generally, reducing an offense from a felony to a misdemeanor creates a savings in the criminal justice system.*
- DPS, Alaska State Troopers Fiscal Note – *Passage of this bill would not change the investigative process regarding these offenses and will have no fiscal impact on the Division of Alaska State Troopers...a zero fiscal note is being submitted.*
- DPS, Laboratory Services Fiscal Note – *A zero fiscal note.*

Public Safety Impacts

- 13 States have reclassified some Schedule I and IIA drugs from felony to misdemeanor possession based on a dosage matrix include Wyoming, Wisconsin, Iowa, Kentucky, Tennessee, Mississippi, South Carolina, West Virginia, Pennsylvania, Delaware, Vermont, Massachusetts and Maine.
- Alaska's adult incarceration rate is 537 per 100,000 – *BJS Prisoners in 2012 Report*
- Average adult incarceration rate of these 13 states is 490 per 100,000.
- Five (5) of these states have a higher adult incarceration rate per 100,000 (665 avg) - Delaware, Kentucky, Mississippi, South Carolina & Tennessee.
- Eight (8) states have a lower adult incarceration rate per 100,000 (381 avg) – Iowa, Maine, Massachusetts, Pennsylvania, Vermont, West Virginia, Wisconsin, and Wyoming.

Public Safety: 2012 Statistical Comparison

Bureau of Justice Statics - Prisoners in 2012, FBI - Crime in the U.S. 2012



Kleiman, Mark (2012, Apr 22)
Rethinking the War on Drugs, *Wall Street Journal*

- The U.S. has reached a dead end in trying to fight drug use by treating every offender as a serious criminal. Blanket drug legalization has some superficial charm—it fits nicely into a sound-bite or tweet—but it can't stand up to serious analysis. The real prospects for reform involve policies rather than slogans. It remains to be seen whether our political process—and the media circus that often shapes it—can tolerate the necessary complexity.
- "For every complex problem," H.L. Mencken wrote, "there is an answer that is clear, simple and wrong."

Probable Outcomes of SB 56

- Balance of justice and proportionality in our laws
- Large reduction in barriers to reentry for offenders, improvement in employability
- More persons successfully restored to a healthy lifestyle
- Minimal impact on public safety
- Significant fiscal savings
- The proposed bill language is more conservative than that of Wyoming, a state that is not a bastion of liberalism, and has had good results.



Support

Alaska Native Justice Center

Alaska Mental Health Board

Advisory Board on Alcoholism and Drug Abuse

Central Peninsula Hospital

CPH Behavioral Health Associates

Walt Monegan, APD Chief, Retired

Carmen Gutierrez, Recent DoC Deputy
Commissioner

Niesje Steinkruger, Superior Court Judge, Retired



Thank you!

- Questions?

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 56(JUD)
Fiscal Note Number: 1
(S) Publish Date: 3/11/13

Identifier: SB056-DOA-OPA-3-01-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: Senate Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

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

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division:	Office of Public Advocacy	Date:	03/01/2013 08:00 PM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	03/01/2013
	Department of Administration		

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 56(JUD)

Analysis

If enacted as filed, SB56 would likely result in drug offenders charged with simple possession facing misdemeanor rather than felony charges, depending on the offender's criminal history and the amounts involved. There would likely be a substantial reduction in the transactional, fiscal costs associated with charging, trying and incarcerating such offenders, because it is less expensive to bring a misdemeanor case than it is to bring a felony case. The Office of Public Advocacy (OPA) could therefore expect to see a reduction in the cost of providing constitutionally required defense services to such offenders and subsequently submits a zero fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 56(JUD)
Fiscal Note Number: 2
(S) Publish Date: 3/11/13

Identifier: SB056-DOA-PDA-3-01-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: Senate Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

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

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By: <u>Quinlan Steiner</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>03/01/2013 09:12 AM</u>
Approved By: <u>Curtis Thayer, Deputy Commissioner</u>	Date: <u>03/01/13</u>
<u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #2

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. CSSB 56(JUD)

Analysis

SB56 reduces to a misdemeanor certain first and second simple drug possession cases. Reducing the number of cases previously charged as a felony will reduce the cost of processing individual cases.

This will reduce the overall growth rate of the Agency's budget. Due to increasing caseloads in the most complex case types, however, the anticipated cost savings is not expected to result in a reduction of the Agency's budget. The Agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 56(JUD)
Fiscal Note Number: 5
(S) Publish Date: 3/11/13

Identifier: SB56-DOC-OC-03-01-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: Senate Judiciary

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

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

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By: <u>Kevin Worley, Director</u>	Phone: <u>(907)465-4641</u>
Division: <u>Department of Corrections - Administrative Services</u>	Date: <u>03/01/2013 08:00 PM</u>
Approved By: <u>Leslie Houston, Deputy Commissioner</u>	Date: <u>03/01/13</u>
<u>Department of Corrections</u>	

FISCAL NOTE ANALYSIS #5

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 56(JUD)

Analysis

Passage of this legislation would reduce the offense level for possession of small amounts of certain controlled substances from a class C felony to a class A misdemeanor. At this time, data is not available for the Department to calculate the number of offenders who would be sentenced as misdemeanors under this legislation. The Department will continue to monitor the potential impacts of this legislation.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 56(JUD)
Fiscal Note Number: 8
(S) Publish Date: 3/27/13

Identifier: SB056CS(JUD)-LAW-CRIM-03-12-13
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: (S) FINANCE

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

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

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services	***	***	***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	***	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	***	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This fiscal note reflects the most recent committee substitute as amended.

Prepared By:	Loretta Withington, Division Operations Manager	Phone:	(907)465-5427
Division	Administrative Services Division	Date:	03/12/2013 12:00 AM
Approved By:	Michael C. Geraghty, Attorney General	Date:	03/12/13
	Department of Law		

FISCAL NOTE ANALYSIS #8

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 56(JUD)

Analysis

Under current law it is a class C felony to possess any amount of a Schedule IA controlled substance (for example opium or morphine) or a Schedule IIA controlled substance (for example cocaine or LSD). CSSB 56 would make possession of these controlled substances a class C felony (1) if the defendant, in the five years preceding the offense, had been convicted two or more times of misconduct involving a controlled substance in the first, second, third, fourth, or fifth degrees, or a law or ordinance in another jurisdiction with similar elements; (2) possesses 15 or more tablets, ampules, or syrettes containing a schedule IA or IIA controlled substance; or (3) or possesses three or more grams of a preparation containing a schedule IA or IIA controlled substance, unless it is heroin, in which case it would be a class C felony to possess 500 milligrams or more, or unless it is LSD, in which case it would be a class C felony to possess 300 milligrams or more.

CSSB 56 would make possession of lesser amounts of substances described in (2) and (3) above, a class A misdemeanor under AS 11.71.150.

The fiscal note is indeterminate. Generally, reducing an offense from a felony to a misdemeanor creates a savings in the criminal justice system. Felony trials generally take more of a prosecutor's time than do misdemeanor trials. However, sometimes there are unforeseen consequences. For example, with the increased complexity in the law, this bill will probably require more time in screening and evaluating cases. Further, it is likely that a case involving possession with intent to distribute a controlled substance, which would be charged as a class B felony, would go to trial on that charge rather than be resolved as a class A misdemeanor for simple possession. These are factors, along with others, that we cannot predict at this time.

FISCAL NOTE

STATE OF ALASKA
2014 LEGISLATIVE SESSION

Bill Version CSSB056(JUD)
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) SB056-ACS-TRC-01-21-14 Dept. Affected Alaska Court System
Title Reclassifying Certain Drug Offenses Appropriation Trial Courts
Allocation _____
Sponsor Senator Dyson
Requester _____ OMB Component Number 768

Expenditures/Revenues (Thousands of Dollars)

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

	FY15 Appropriation Requested	Included in Governor's FY15 Request	Out-Year Cost Estimates				
			FY16	FY17	FY18	FY19	FY20
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1007	I/A Rcpts (Other)						
1156	Rcpt Svcs (DGF)						
		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY14) operating costs _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY15) costs _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended, or repealed? _____ Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated for 2nd session; unchanged from FY2014 version

Prepared by Nancy Meade, General Counsel
Division Alaska Court System
Approved by Nancy Meade for Christine Johnson, Administrative Director
Division Alaska Court System

Phone 907-264-8264
Date/Time 10/1/13 12:00 PM
Date 10/1/2013

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB056(JUD)

Analysis

The CS for Senate Bill 56(JUD) would reclassify certain drug possession crimes. Currently, possession of *any* amount of a schedule IA controlled substance is Misconduct Involving a Controlled Substance in the Fourth Degree, a class C felony under AS 11.71.040(a). Section 1 of the bill would classify as a Class C felony (1) possession of any amount of schedule IA or IIA controlled substances a class C felony, *only if* the defendant has two or more prior convictions within the last five years, (2) possession of more than a specified amount of more pure forms of schedule 1A or IIA controlled substances, and (3) possession of a specified amount of preparations or mixtures of certain schedule IA and schedule IIA controlled substances.

Section 2 of the bill would classify the possession of the lesser amounts of schedule IA or IIA controlled substances (those that Section 1 would remove from AS 11.71.040(a)) as Misconduct Involving a Controlled Substance in the Fifth Degree, a Class A misdemeanor, under AS 11.71.050(a).

This change would have the effect of moving certain drug possession cases from felonies to misdemeanors; for the court system, that means handling those cases in the district court (with jurisdiction over misdemeanors) rather than superior court (with jurisdiction over felonies). Generally, misdemeanor criminal cases are less expensive for the court system to process than felonies: misdemeanor charges do not need to be considered by a grand jury, misdemeanors often settle earlier in the life of the case than felonies, and district court judges are paid less and have a higher caseload than superior court judges (because the cases are generally less complicated). Because of these general principles, the court system is likely to save some money and deal with these misdemeanor drug possession cases more efficiently under SB 56.

The court's statistics, however, are kept according to the statutory reference(s) on the charging documents filed by law enforcement. For different reasons, drug possession cases may be filed by the Department of Law as a violation of the general statute (AS 11.71.040), or by subsection (AS 11.71.040(a)), or by subparagraph (AS 11.71.040(a)(3)). The court enters the charge on the incoming charging document into the court's case management system, but we are not then able to accurately count the number of cases that involve a charge under AS 11.71.040(a)(3)(A). The court can say that 977 cases were filed with a MICS 4 charge in FY 12; the number was 878 in FY11 and 848 in FY12. But, these numbers include all cases with any charge under AS 11.71.040, which has numerous sections and subsections that concern a variety of criminal drug behaviors.

In addition, CSSB 56(JUD) would reclassify only a portion of the charges under that section as misdemeanors (depending on the amount of the controlled substance possessed and the defendant's prior convictions), and our statistics do not show which cases or the number of cases that would be in this category.

The court predicts increased efficiency from moving some cases from superior court to district court, but cannot predict the number of cases or actual fiscal impact. The court therefore submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HCSCS(JUD)-DOA-OPA-01-21-14
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Finance

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

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

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	***	0.0	***	***	***	***	***
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2014) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No.
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for 2nd session to accurately reflect FY2015 and out year costs.
--

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division:	Office of Public Advocacy	Date:	10/11/2013 03:55 PM
Approved By:	Curtis Thayer, Commissioner	Date:	01/10/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HCS CSSB 56(JUD)

Analysis

SB56, if enacted, may result in a decrease in the average cost per case in providing contract attorney defense services. It is not possible to predict whether the proposed law would result in a decrease in the absolute number of cases filed by the Department of Law. The reason why is that while the number of Class C felony drug cases may fall, there will likely be an equivalent number of misdemeanor drug cases filed instead.

In FY2013, the Office of Public Advocacy (OPA) handled approximately 225 discrete Class C felony drug cases, where the Class C drug offense was the primary or most serious felony offense charged. (It is vital to understand that in the larger set of all felony cases assigned, a Class C drug felony may have been charged but that it also would only have been one lesser felony charge within a set of several or multiple, more serious, felony offenses alleged.) In that set of FY2013 discrete Class C drug felony cases, OPA contract attorneys billed an average cost per case of \$1,500.00. In FY2013 misdemeanor cases, OPA contract attorneys billed an average cost per case of \$400.00. Had the law proposed by Senate Bill 56 been in effect in FY2013, then, all else being equal, the 225 discrete Class C drug felonies would likely have been charged as misdemeanors by the Department of Law and OPA would have saved an average of \$1,100.00 per case in contract attorney defense costs. It costs less per case to defend a misdemeanor versus a felony. OPA estimates that if SB56 is enacted into law that there will be a decrease in the filing of discrete Class C felony drug cases. There will likely be an equivalent corresponding increase in the filing of misdemeanor drug cases. There will likely be a corresponding decrease for OPA in the cost of providing contract attorney defense services.

Therefore, OPA submits an indeterminate fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HCSCS(JUD)-DOA-PDA-01-21-14
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Finance

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

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

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
---------------------------	--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for 2nd session to accurately reflect FY2015 and out year costs.
--

Prepared By:	Quinlan Steiner, Director	Phone:	(907)334-4414
Division:	Public Defender Agency	Date:	09/27/2013 12:00 AM
Approved By:	Curtis Thayer, Commissioner	Date:	01/10/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HCS CSSB 56 (JUD)

Analysis

SB56 amends the statutory scheme governing controlled substances by reducing simple possession of small quantities of certain substances from a felony to a misdemeanor. Small quantity possession remains a felony offense if the defendant has been convicted of a drug offense two or more times in the preceding seven years. SB56 does not amend the scheme related to distributing or manufacturing controlled substances.

Reducing to a misdemeanor a crime that was previously charged as a felony will reduce the cost of processing individual cases. This will reduce the overall cost growth rate of the Agency's budget, but is not expected to result in a reduction in the Agency's budget. The Agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HCSCS(JUD)-DOC-OC-01-21-14
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Finance

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

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

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for 2nd session to accurately reflect FY2015 and out year costs.
--

Prepared By: April Wilkerson, Director
Division: Administrative Services - Department of Corrections
Approved By: Leslie Houston, Deputy Commissioner
Agency: Department of Corrections

Phone: (907)465-3460
Date: 01/03/2014 09:45 AM
Date: 01/03/14

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HCSCSSB 56(JUD)

Analysis

Passage of this legislation would reduce the offense level for possession of small amounts of certain controlled substances from a class C felony to a class A misdemeanor. At this time, data is not available for the Department to accurately calculate the number of offenders who would be sentenced as misdemeanants under this legislation. In 2012, there were 427 MICS-4 convictions which carried an average length of stay of 188.1 days. In the unlikely event that all of these convictions became MICS-5 convictions under this legislation, the Department could see a potential reduction in mandays of 54,186.3 days. However, the impact on day-to-day operations will be minimal as cost reductions would be contained to areas other than personal service costs. Fixed costs (personal service costs, utilities, and basic operations) would not be impacted. The Department will continue to monitor the potential fiscal impacts of this legislation.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HCSCS-DHSS-ASAP-1-21-14
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: House Finance Committee

Department: Department of Health and Social Services
Appropriation: Behavioral Health
Allocation: Alcohol Safety Action Program (ASAP)
OMB Component Number: 305

Expenditures/Revenues

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

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services	52.1		52.1	52.1	52.1	52.1	52.1
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits	35.5		35.5	35.5	35.5	35.5	35.5
Miscellaneous							
Total Operating	87.6	0.0	87.6	87.6	87.6	87.6	87.6

Fund Source (Operating Only)

1004 Gen Fund	87.6		87.6	87.6	87.6	87.6	87.6
Total	87.6	0.0	87.6	87.6	87.6	87.6	87.6

Positions

Full-time							
Part-time	1.0		1.0	1.0	1.0	1.0	1.0
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Fiscal impact based on new information from Department of Corrections concerning the number of inmates currently incarcerated for felony misconduct involving a controlled substance in the fourth degree. Also updated for 2nd session to accurately reflect FY2015 and out year costs.

Prepared By:	Barbara Henjum, Acting Director	Phone:	(907)269-3410
Division:	Behavioral Health	Date:	01/07/2014 12:00 PM
Approved By:	Sarah Woods, Deputy Director	Date:	01/07/14
Agency:	Finance & Management Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HCS CSSB056(JUD)

Analysis

Under this bill defendants convicted of misconduct involving a controlled substance in the fifth degree would be ordered to satisfy the screening, evaluation, referral, and treatment requirements of an Alcohol Safety Action Program (ASAP) or a departmental approved treatment agency if no ASAP is available in their area. Currently, these defendants are incarcerated once they are convicted, and only some may have the opportunity for substance abuse treatment while serving their sentence. The Department of Corrections indicates that there are between 167 and 296 inmates currently incarcerated for felony misconduct involving a controlled substance in the fourth degree who could be referred to an Alcohol Safety Action Program (ASAP) under this bill. In FY2013 all of the ASAP offices monitored 8,045 new clients. This change in the law would require these defendants to participate in an ASAP program. If 296 additional defendants were to be ordered to the ASAP offices around the state, it would increase the workload by approximately 3.68%. There are currently twelve ASAP grantee programs throughout the state receiving a total of \$964.9 in general funds for current operations. A 3.68% increase is equivalent to an additional \$35.5 to accommodate the workload by the grantee programs. The Anchorage ASAP misdemeanor program has an annual budget of \$1,414.5. With an increased caseload of 3.68%, the additional costs to the Anchorage office would be \$52.1. Total fiscal impact is \$87.6.

Assumption: Services would be provided by ASAP grantees in the outlying areas (outside of Anchorage).

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HCSCS(JUD)-LAW-CRIM-01-21-14
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: (H) FINANCE

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

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

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2014) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

HCS CSSB 56(JUD) excepts Schedule IA date rape drugs (those listed in AS 11.71.140(e)) from the changes that reduce the penalty for first and second offense possession of Schedule IA and IIA substances to a class A misdemeanor. The new version increases the look-back provision for the third offense class C felony from five years to seven years. The new version also requires a person convicted of the misdemeanor possession of controlled substances to be evaluated and referred to rehabilitative treatment if indicated. Updated for second session.

Prepared By:	Loretta Withington, Division Operations Manager	Phone:	(907)465-5427
Division:	Administrative Services Division	Date:	01/20/2014 12:00 AM
Approved By:	Michael C. Geraghty, Attorney General	Date:	01/20/14
Agency:	Department of Law		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HCS CSSB 56 (JUD)

Analysis

Under current law it is a class C felony to possess any amount of a Schedule IA controlled substance (for example opium or morphine) or a Schedule IIA controlled substance (for example cocaine or LSD). HCS CSSB 56 (JUD) would make possession of these controlled substances a class C felony (1) if the defendant, in the five years preceding the offense, had been convicted two or more times of misconduct involving a controlled substance in the first, second, third, fourth, or fifth degrees, or a law or ordinance in another jurisdiction with similar elements; (2) possesses 15 or more tablets, ampules, or syrettes containing a schedule IA or IIA controlled substance; or (3) or possesses three or more grams of a preparation containing a schedule IA or IIA controlled substance, unless it is heroin, in which case it would be a class C felony to possess 500 milligrams or more, or unless it is LSD, in which case it would be a class C felony to possess 300 milligrams or more.

HCS CSSB 56 (JUD) would make possession of lesser amounts of substances described in (2) and (3) above, a class A misdemeanor under AS 11.71.050.

The fiscal note is indeterminate. Generally, reducing an offense from a felony to a misdemeanor creates a savings in the criminal justice system. Felony trials generally take more of a prosecutor's time than do misdemeanor trials. However, sometimes there are unforeseen consequences. For example, with the increased complexity in the law, this bill will probably require more time in screening and evaluating cases. Further, it is likely that a case involving possession with intent to distribute a controlled substance, which would be charged as a class B felony, would go to trial on that charge rather than be resolved as a class A misdemeanor for simple possession. These are factors, along with others, that we cannot predict at this time.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HSCCS(JUD)-DPS-DET-01-21-14
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: (H) Finance

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

Expenditures/Revenues

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

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for 2nd session to accurately reflect FY2015 and out year costs.
--

Prepared By:	Lieutenant Rodney Dial	Phone:	(907)254-1284
Division:	Alaska State Troopers	Date:	09/30/2013 11:00 AM
Approved By:	Keith L. Mallard, Acting Commissioner	Date:	12/20/13
Agency:	Office of the Commissioner		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB 56 HCS CS(JUD)

Analysis

This bill adjusts (reclassifies) the penalties related to certain offenses involving possession of schedule IA and schedule IIA controlled substances; making possession of any amount of a schedule IA or IIA controlled substance a class C felony under AS 11.71.040 (misconduct involving a controlled substance in the fourth degree) only if the person has two or more convictions under AS 11.71.010 - 11.71.050 (misconduct involving a controlled substance in the first - fifth degrees) or a similar law in another jurisdiction within the preceding seven years, and making possession of "small quantity" amounts of most schedule IA and all schedule IIA controlled substances a class A misdemeanor under AS 11.71.050 (misconduct involving a controlled substance in the fifth degree).

The bill specifically excludes schedule IA controlled substances under AS 11.71.140(e) commonly referred to as "date rape" drugs, meaning that possession of any amount of these substances remains a class C felony regardless of whether it is a first offense.

Passage of this bill would not change the investigative process regarding these offenses and will have no fiscal impact on the Division of Alaska State Troopers. Therefore, a zero fiscal note is being submitted.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: SB 56
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB056HSCCS(JUD)-DPS-LAB-01-21-14
Title: RECLASSIFYING CERTAIN DRUG OFFENSES
Sponsor: DYSON
Requester: (H) Finance

Department: Department of Public Safety
Appropriation: Statewide Support
Allocation: Laboratory Services
OMB Component Number: 527

Expenditures/Revenues

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

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for 2nd session to accurately reflect FY2015 and out year costs.
--

Prepared By:	Orin Dym, Forensic Laboratory Manager	Phone:	(907)269-5743
Division:	Office of the Commissioner	Date:	09/30/2013 11:00 AM
Approved By:	Keith L. Mallard, Acting Commissioner	Date:	12/20/13
Agency:	Office of the Commissioner		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SB 56 HCS CS(JUD)

Analysis

This bill adjusts (reclassifies) the penalties related to certain offenses involving possession of schedule IA and schedule IIA controlled substances; making possession of any amount of a schedule IA or IIA controlled substance a class C felony under AS 11.71.040 (misconduct involving a controlled substance in the fourth degree) only if the person has two or more convictions under AS 11.71.010 - 11.71.050 (misconduct involving a controlled substance in the first - fifth degrees) or a similar law in another jurisdiction within the preceding seven years, and making possession of "small quantity" amounts of most schedule IA and all schedule IIA controlled substances a class A misdemeanor under AS 11.71.050 (misconduct involving a controlled substance in the fifth degree).

The bill specifically excludes schedule IA controlled substances under AS 11.71.140(e) commonly referred to as "date rape" drugs, meaning that possession of any amount of these substances remains a class C felony regardless of whether it is a first offense.

The sections of the bill relating to specific quantities of a controlled substance will affect the analysis practices within the Scientific Crime Detection Laboratory (SCDL). The minimum thresholds established by this bill will require testing of enough of the substance to meet the threshold.

For example, whereas the SCDL currently may need to positively identify only one tablet to determine whether it was a prohibited substance under the law, analysis of at least 15 tablets (if present) may now need to be analyzed to meet the threshold and burden of proof.

Though there will be some impact to the workload, it is expected that the SCDL can manage it within its current staffing. Therefore, a zero fiscal note is being submitted.

Table 5

Crime in the United States
 by State, 2012

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
ALABAMA	Metropolitan Statistical Area	3,650,288										
		Area actually reporting	98.9%	16,842	283	981	4,517	11,061	133,153	37,131	88,221	7,801
		Estimated total	100.0%	17,034	285	990	4,562	11,197	134,817	37,524	89,402	7,891
	Cities outside metropolitan areas	530,240										
		Area actually reporting	94.1%	2,813	28	177	364	2,244	22,441	5,530	15,765	1,146
		Estimated total	100.0%	2,972	30	186	380	2,376	23,541	5,817	16,518	1,206
	Nonmetropolitan counties	641,495										
		Area actually reporting	99.2%	1,674	27	119	77	1,451	10,438	4,108	5,559	771
		Estimated total	100.0%	1,687	27	120	78	1,462	10,520	4,140	5,603	777
	State Total		4,822,023	21,693	342	1,296	5,020	15,035	168,878	47,481	111,523	9,874
	Rate per 100,000 inhabitants		449.9	7.1	26.9	104.1	311.8	3,502.2	984.7	2,312.8	204.8	
ALASKA	Metropolitan Statistical Area	348,132										
		Area actually reporting	100.0%	2,726	18	336	535	1,837	12,893	1,384	10,518	991
	Cities outside metropolitan areas	127,551										
		Area actually reporting	96.5%	699	4	103	56	536	3,645	422	2,979	244
		Estimated total	100.0%	724	4	107	58	555	3,777	437	3,087	253
	Nonmetropolitan counties	255,766										
		Area actually reporting	100.0%	962	8	140	37	777	3,367	1,129	1,960	278
State Total		731,449	4,412	30	583	630	3,169	20,037	2,950	15,565	1,522	
	Rate per 100,000 inhabitants		603.2	4.1	79.7	86.1	433.2	2,739.4	403.3	2,128.0	208.1	
ARIZONA	Metropolitan Statistical Area	6,202,680										
		Area actually reporting	99.8%	25,286	324	1,733	7,251	15,978	219,952	49,185	153,015	17,752
		Estimated total	100.0%	25,312	324	1,735	7,257	15,996	220,275	49,249	153,254	17,772
	Cities outside metropolitan areas	125,367										
		Area actually reporting	78.9%	1,909	25	417	88	1,379	7,424	2,259	4,199	966
		Estimated total	100.0%	2,418	32	528	111	1,747	9,405	2,862	5,319	1,224
	Nonmetropolitan counties	225,208										
		Area actually reporting	100.0%	378	2	14	18	344	2,250	823	1,265	162
	State Total		6,553,255	28,108	358	2,277	7,386	18,087	231,930	52,934	159,838	19,158
		Rate per 100,000 inhabitants		428.9	5.5	34.7	112.7	276.0	3,539.2	807.8	2,439.1	292.3

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
ARKANSAS	Metropolitan Statistical Area	1,782,720										
		Area actually reporting	92.5%	9,710	118	801	1,894	6,897	71,252	19,357	48,012	3,883
		Estimated total	100.0%	10,163	122	853	1,913	7,275	73,787	20,322	49,371	4,094
	Cities outside metropolitan areas	510,920										
		Area actually reporting	98.7%	2,273	33	231	342	1,667	21,509	7,274	13,549	686
		Estimated total	100.0%	2,303	33	234	347	1,689	21,796	7,371	13,730	695
	Nonmetropolitan counties	655,491										
		Area actually reporting	89.0%	1,217	16	142	53	1,006	10,995	3,734	6,429	832
		Estimated total	100.0%	1,369	18	160	60	1,131	12,358	4,197	7,226	935
		State Total	2,949,131	13,835	173	1,247	2,320	10,095	107,941	31,890	70,327	5,724
	Rate per 100,000 inhabitants		469.1	5.9	42.3	78.7	342.3	3,660.1	1,081.3	2,384.7	194.1	
CALIFORNIA	Metropolitan Statistical Area	37,191,572										
		Area actually reporting	99.9%	157,689	1,852	7,562	56,074	92,201	1,028,710	239,283	622,803	166,624
		Estimated total	100.0%	157,749	1,852	7,565	56,094	92,238	1,029,164	239,392	623,083	166,689
	Cities outside metropolitan areas	277,160										
		Area actually reporting	100.0%	1,573	9	118	268	1,178	10,573	2,727	7,078	768
	Nonmetropolitan counties	572,698										
		Area actually reporting	100.0%	1,622	23	154	159	1,286	9,728	3,648	4,929	1,151
		State Total	38,041,430	160,944	1,884	7,837	56,521	94,702	1,049,465	245,767	635,090	168,608
		Rate per 100,000 inhabitants		423.1	5.0	20.6	148.6	248.9	2,758.7	646.1	1,669.5	443.2
		Area actually reporting	99.2%	14,734	145	1,936	3,297	9,356	126,058	23,715	90,810	11,533
	Estimated total	100.0%	14,813	145	1,948	3,309	9,411	127,022	23,859	91,563	11,600	
Cities outside metropolitan areas	329,576											
	Area actually reporting	91.4%	723	7	104	72	540	8,366	1,278	6,801	287	
	Estimated total	100.0%	792	8	114	79	591	9,152	1,398	7,440	314	
Nonmetropolitan counties	365,714											
	Area actually reporting	88.7%	370	8	45	6	311	2,745	798	1,789	158	
	Estimated total	100.0%	418	9	51	7	351	3,096	900	2,018	178	
	State Total	5,187,582	16,023	162	2,113	3,395	10,353	139,270	26,157	101,021	12,092	
	Rate per 100,000 inhabitants		308.9	3.1	40.7	65.4	199.6	2,684.7	504.2	1,947.4	233.1	
CONNECTICUT	Metropolitan Statistical Area	2,933,569										
		Area actually reporting	100.0%	9,680	108	828	3,609	5,135	69,896	13,021	50,840	6,035
	Cities outside metropolitan areas	118,014										
		Area actually reporting	100.0%	124	2	37	19	66	2,326	378	1,848	100
	Nonmetropolitan counties	538,764										
		Area actually reporting	100.0%	356	36	54	59	207	4,612	1,312	2,986	314
		State Total	3,590,347	10,160	146	919	3,687	5,408	76,834	14,711	55,674	6,449
		Rate per 100,000 inhabitants		283.0	4.1	25.6	102.7	150.6	2,140.0	409.7	1,550.7	179.6

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny- theft	Motor vehicle theft
DELAWARE	Metropolitan Statistical Area	917,092									
	Area actually reporting	100.0%	5,020	57	243	1,492	3,228	30,639	7,371	21,832	1,436
	Cities outside metropolitan areas	None									
	Nonmetropolitan counties	None									
	State Total	917,092	5,020	57	243	1,492	3,228	30,639	7,371	21,832	1,436
	Rate per 100,000 inhabitants		547.4	6.2	26.5	162.7	352.0	3,340.9	803.7	2,380.6	156.6
DISTRICT OF COLUMBIA¹	Metropolitan Statistical Area	632,323									
	Area actually reporting	100.0%	7,864	88	236	4,036	3,504	30,736	3,519	23,556	3,661
	Cities outside metropolitan areas	None									
	Nonmetropolitan counties	None									
	Total	632,323	7,864	88	236	4,036	3,504	30,736	3,519	23,556	3,661
	Rate per 100,000 inhabitants		1,243.7	13.9	37.3	638.3	554.1	4,860.8	556.5	3,725.3	579.0
FLORIDA	Metropolitan Statistical Area	18,601,449									
	Area actually reporting	99.9%	90,584	986	5,012	23,480	61,106	613,039	146,949	429,515	36,575
	Estimated total	100.0%	90,694	986	5,017	23,513	61,178	613,951	147,151	430,173	36,627
	Cities outside metropolitan areas	146,081									
	Area actually reporting	98.5%	1,066	7	60	189	810	6,429	1,710	4,514	205
	Estimated total	100.0%	1,082	7	61	192	822	6,526	1,736	4,582	208
	Nonmetropolitan counties	570,038									
	Area actually reporting	100.0%	2,311	16	182	184	1,929	12,511	4,676	7,340	495
	State Total	19,317,568	94,087	1,009	5,260	23,889	63,929	632,988	153,563	442,095	37,330
		Rate per 100,000 inhabitants		487.1	5.2	27.2	123.7	330.9	3,276.7	794.9	2,288.6
GEORGIA	Metropolitan Statistical Area	8,122,687									
	Area actually reporting	99.5%	31,515	492	1,712	11,396	17,915	281,144	71,871	182,887	26,386
	Estimated total	100.0%	31,675	492	1,721	11,453	18,009	282,825	72,230	184,075	26,520
	Cities outside metropolitan areas	663,946									
	Area actually reporting	92.6%	3,180	37	215	750	2,178	29,697	7,137	21,745	815
	Estimated total	100.0%	3,434	40	232	810	2,352	32,074	7,708	23,486	880
	Nonmetropolitan counties	1,133,312									
	Area actually reporting	96.2%	2,388	47	165	192	1,984	22,544	6,592	14,859	1,093
	Estimated total	100.0%	2,482	49	171	200	2,062	23,430	6,851	15,443	1,136
	State Total	9,919,945	37,591	581	2,124	12,463	22,423	338,329	86,789	223,004	28,536
	Rate per 100,000 inhabitants		378.9	5.9	21.4	125.6	226.0	3,410.6	874.9	2,248.0	287.7

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft
HAWAII	Metropolitan Statistical Area	1,134,635									
	Area actually reporting	100.0%	2,675	25	204	939	1,507	34,679	6,039	25,607	3,033
	Cities outside metropolitan areas	None									
	Nonmetropolitan counties	257,678									
	Area actually reporting	100.0%	655	4	81	101	469	8,138	1,940	5,626	572
State Total		1,392,313	3,330	29	285	1,040	1,976	42,817	7,979	31,233	3,605
	Rate per 100,000 inhabitants		239.2	2.1	20.5	74.7	141.9	3,075.2	573.1	2,243.2	258.9
IDAHO	Metropolitan Statistical Area	1,046,821									
	Area actually reporting	99.9%	2,241	11	319	189	1,722	23,187	4,920	17,332	935
	Estimated total	100.0%	2,242	11	319	189	1,723	23,198	4,922	17,341	935
	Cities outside metropolitan areas	249,143									
	Area actually reporting	100.0%	679	6	94	47	532	5,316	1,191	3,905	220
	Nonmetropolitan counties	299,764									
	Area actually reporting	100.0%	397	12	66	7	312	3,137	1,073	1,855	209
State Total		1,595,728	3,318	29	479	243	2,567	31,651	7,186	23,101	1,364
	Rate per 100,000 inhabitants		207.9	1.8	30.0	15.2	160.9	1,983.5	450.3	1,447.7	85.5
ILLINOIS	Metropolitan Statistical Area	11,351,574									
	Area actually reporting	96.7%	49,174	718	3,047	19,031	26,378	296,052	62,951	208,470	24,631
	Estimated total	100.0%	49,982	726	3,139	19,245	26,872	303,879	64,538	214,378	24,963
	Cities outside metropolitan areas	833,251									
	Area actually reporting	87.8%	2,323	10	290	182	1,841	18,413	3,761	14,233	419
	Estimated total	100.0%	2,644	11	330	207	2,096	20,960	4,281	16,202	477
	Nonmetropolitan counties	690,430									
	Area actually reporting	94.3%	733	7	95	18	613	6,768	2,153	4,379	236
	Estimated total	100.0%	777	7	101	19	650	7,174	2,282	4,642	250
	State Total		12,875,255	53,403	744	3,570	19,471	29,618	332,013	71,101	235,222
	Rate per 100,000 inhabitants		414.8	5.8	27.7	151.2	230.0	2,578.7	552.2	1,826.9	199.5
INDIANA	Metropolitan Statistical Area	5,054,644									
	Area actually reporting	89.5%	19,898	267	1,322	6,228	12,081	158,421	38,510	108,199	11,712
	Estimated total	100.0%	20,537	275	1,396	6,323	12,543	167,343	40,612	114,459	12,272
	Cities outside metropolitan areas	524,374									
	Area actually reporting	86.2%	1,015	10	140	184	681	17,092	3,082	13,224	786
	Estimated total	100.0%	1,177	12	162	213	790	19,832	3,576	15,344	912
	Nonmetropolitan counties	958,316									
	Area actually reporting	78.6%	699	18	86	49	546	8,538	2,693	5,470	375
	Estimated total	100.0%	888	23	109	62	694	10,857	3,424	6,956	477
	State Total		6,537,334	22,602	310	1,667	6,598	14,027	198,032	47,612	136,759
	Rate per 100,000 inhabitants		345.7	4.7	25.5	100.9	214.6	3,029.2	728.3	2,092.0	209.0
IOWA	Metropolitan Statistical Area	1,773,013									
	Area actually reporting	98.4%	5,356	31	625	829	3,871	48,220	11,157	34,135	2,928
	Estimated total	100.0%	5,394	31	631	830	3,902	48,560	11,259	34,349	2,952
	Cities outside metropolitan areas	604,442									
	Area actually reporting	89.7%	1,799	11	167	110	1,511	14,660	3,600	10,434	626
	Estimated total	100.0%	2,005	12	186	123	1,684	16,339	4,012	11,629	698
	Nonmetropolitan counties	696,731									
	Area actually reporting	86.0%	613	2	46	8	557	4,249	1,570	2,358	321
	Estimated total	100.0%	713	2	54	9	648	4,940	1,825	2,742	373
	State Total		3,074,186	8,112	45	871	962	6,234	69,839	17,096	48,720
	Rate per 100,000 inhabitants		263.9	1.5	28.3	31.3	202.8	2,271.8	556.1	1,584.8	130.9

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny- theft	Motor vehicle theft	
KANSAS	Metropolitan Statistical Area	1,923,596										
		Area actually reporting	99.2%	7,207	67	689	1,297	5,154	63,939	12,207	46,230	5,502
		Estimated total	100.0%	7,239	67	693	1,301	5,178	64,300	12,269	46,505	5,526
	Cities outside metropolitan areas	620,655										
		Area actually reporting	96.1%	2,233	9	277	178	1,769	20,552	4,470	15,223	859
		Estimated total	100.0%	2,323	9	288	185	1,841	21,384	4,651	15,839	894
	Nonmetropolitan counties	341,654										
		Area actually reporting	97.6%	654	8	70	14	562	4,904	1,802	2,753	349
		Estimated total	100.0%	670	8	72	14	576	5,026	1,847	2,821	358
		State Total	2,885,905	10,232	84	1,053	1,500	7,595	90,710	18,767	65,165	6,778
	Rate per 100,000 inhabitants		354.6	2.9	36.5	52.0	263.2	3,143.2	650.3	2,258.0	234.9	
KENTUCKY	Metropolitan Statistical Area	2,530,495										
		Area actually reporting	99.6%	7,289	101	656	2,925	3,607	79,535	18,970	55,714	4,851
		Estimated total	100.0%	7,313	101	660	2,937	3,615	79,876	19,048	55,961	4,867
	Cities outside metropolitan areas	530,844										
		Area actually reporting	95.7%	936	17	146	363	410	16,643	3,617	12,404	622
		Estimated total	100.0%	979	18	153	379	429	17,398	3,781	12,967	650
	Nonmetropolitan counties	1,319,076										
		Area actually reporting	97.4%	1,422	74	447	213	688	14,173	6,582	6,470	1,121
		Estimated total	100.0%	1,460	76	459	219	706	14,552	6,758	6,643	1,151
		State Total	4,380,415	9,752	195	1,272	3,535	4,750	111,826	29,587	75,571	6,668
	Rate per 100,000 inhabitants		222.6	4.5	29.0	80.7	108.4	2,552.9	675.4	1,725.2	152.2	

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
LOUISIANA	Metropolitan Statistical Area	3,823,577										
		Area actually reporting	96.6%	18,739	450	908	4,972	12,409	136,314	35,438	93,929	6,947
		Estimated total	100.0%	19,200	456	934	5,059	12,751	140,631	36,395	97,127	7,109
	Cities outside metropolitan areas	279,709										
		Area actually reporting	77.4%	1,744	17	75	251	1,401	10,168	2,717	7,222	229
		Estimated total	100.0%	2,254	22	97	324	1,811	13,140	3,511	9,333	296
	Nonmetropolitan counties	498,607										
		Area actually reporting	88.5%	1,250	15	112	81	1,042	8,110	1,977	5,712	421
		Estimated total	100.0%	1,414	17	127	92	1,178	9,165	2,234	6,455	476
		State Total	4,601,893	22,868	495	1,158	5,475	15,740	162,936	42,140	112,915	7,881
	Rate per 100,000 inhabitants		496.9	10.8	25.2	119.0	342.0	3,540.6	915.7	2,453.7	171.3	
MAINE	Metropolitan Statistical Area	777,579										
		Area actually reporting	100.0%	982	15	200	324	443	20,607	4,179	15,819	609
	Cities outside metropolitan areas	272,036										
		Area actually reporting	100.0%	402	4	114	75	209	8,280	1,683	6,382	215
	Nonmetropolitan counties	279,577										
		Area actually reporting	100.0%	247	6	58	24	159	4,474	1,599	2,704	171
	State Total	1,329,192	1,631	25	372	423	811	33,361	7,461	24,905	995	
	Rate per 100,000 inhabitants		122.7	1.9	28.0	31.8	61.0	2,509.9	561.3	1,873.7	74.9	
MARYLAND	Metropolitan Statistical Area	5,729,173										
		Area actually reporting	100.0%	27,531	364	1,188	10,040	15,939	158,189	32,580	110,726	14,883
	Cities outside metropolitan areas	52,943										
		Area actually reporting	100.0%	321	2	31	74	214	1,934	438	1,442	54
	Nonmetropolitan counties	102,447										
		Area actually reporting	100.0%	203	3	16	27	157	1,908	714	1,106	88
	State Total	5,884,563	28,055	369	1,235	10,141	16,310	162,031	33,732	113,274	15,025	
	Rate per 100,000 inhabitants		476.8	6.3	21.0	172.3	277.2	2,753.5	573.2	1,924.9	255.3	
MASSACHUSETTS	Metropolitan Statistical Area	6,546,761										
		Area actually reporting	98.0%	26,233	120	1,590	6,432	18,091	138,322	33,264	96,045	9,013
		Estimated total	100.0%	26,648	120	1,620	6,516	18,392	140,839	33,874	97,803	9,162
	Cities outside metropolitan areas	91,869										
		Area actually reporting	87.2%	245	1	19	31	194	1,963	581	1,321	61
		Estimated total	100.0%	281	1	22	36	222	2,250	666	1,514	70
	Nonmetropolitan counties	7,514										
		Area actually reporting	100.0%	24	0	0	0	24	0	0	0	0
		State Total	6,646,144	26,953	121	1,642	6,552	18,638	143,089	34,540	99,317	9,232
		Rate per 100,000 inhabitants		405.5	1.8	24.7	98.6	280.4	2,153.0	519.7	1,494.4	138.9

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
MICHIGAN	Metropolitan Statistical Area	8,069,120										
		Area actually reporting	98.7%	40,674	659	3,365	10,225	26,425	212,949	57,129	132,041	23,779
		Estimated total	100.0%	40,963	660	3,398	10,292	26,613	215,518	57,671	133,871	23,976
	Cities outside metropolitan areas	609,654										
		Area actually reporting	87.0%	1,381	8	376	70	927	15,020	2,244	12,359	417
		Estimated total	100.0%	1,587	9	432	80	1,066	17,268	2,580	14,209	479
	Nonmetropolitan counties	1,204,586										
		Area actually reporting	89.8%	2,131	18	682	56	1,375	15,550	4,862	10,095	593
		Estimated total	100.0%	2,372	20	759	62	1,531	17,315	5,414	11,241	660
		State Total	9,883,360	44,922	689	4,589	10,434	29,210	250,101	65,665	159,321	25,115
	Rate per 100,000 inhabitants		454.5	7.0	46.4	105.6	295.5	2,530.5	664.4	1,612.0	254.1	
MINNESOTA ²	Metropolitan Statistical Area	4,129,414										
		Area actually reporting	100.0%		84		3,360	5,716	113,606	20,487	85,803	7,316
	Cities outside metropolitan areas	491,959										
		Area actually reporting	100.0%		5		95	996	15,178	2,300	12,291	587
	Nonmetropolitan counties	757,766										
		Area actually reporting	100.0%		10		20	495	9,368	2,591	6,222	555
		State Total	5,379,139	12,419	99	1,638	3,475	7,207	138,152	25,378	104,316	8,458
	Rate per 100,000 inhabitants		230.9	1.8	30.5	64.6	134.0	2,568.3	471.8	1,939.3	157.2	
MISSISSIPPI	Metropolitan Statistical Area	1,346,110										
		Area actually reporting	87.3%	3,582	105	398	1,374	1,705	39,268	11,667	25,114	2,487
		Estimated total	100.0%	3,803	111	429	1,421	1,842	42,480	12,719	27,092	2,669
	Cities outside metropolitan areas	589,064										
		Area actually reporting	77.5%	1,753	43	186	544	980	20,580	6,820	13,051	709
		Estimated total	100.0%	2,261	55	240	702	1,264	26,539	8,795	16,830	914
	Nonmetropolitan counties	1,049,752										
		Area actually reporting	54.1%	932	29	83	87	733	8,058	3,552	4,106	400
		Estimated total	100.0%	1,722	54	153	161	1,354	14,887	6,562	7,586	739
		State Total	2,984,926	7,786	220	822	2,284	4,460	83,906	28,076	51,508	4,322
	Rate per 100,000 inhabitants		260.8	7.4	27.5	76.5	149.4	2,811.0	940.6	1,725.6	144.8	

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
MISSOURI	Metropolitan Statistical Area	4,459,490										
		Area actually reporting	99.9%	22,444	366	1,236	5,480	15,362	158,787	32,998	111,426	14,363
		Estimated total	100.0%	22,415	336	1,236	5,480	15,363	158,804	33,001	111,439	14,364
	Cities outside metropolitan areas	663,032										
		Area actually reporting	99.8%	2,799	14	147	246	2,392	26,657	4,628	21,053	976
		Estimated total	100.0%	2,805	14	147	247	2,397	26,718	4,639	21,101	978
	Nonmetropolitan counties	899,466										
		Area actually reporting	100.0%	1,935	39	128	55	1,713	14,068	4,826	8,276	966
	State Total		6,021,988	27,155	389	1,511	5,782	19,473	199,590	42,466	140,816	16,308
		Rate per 100,000 inhabitants		450.9	6.5	25.1	96.0	323.4	3,314.4	705.2	2,338.4	270.8
MONTANA	Metropolitan Statistical Area	355,392										
		Area actually reporting	100.0%	971	3	100	133	735	12,486	1,851	9,838	797
	Cities outside metropolitan areas	203,868										
		Area actually reporting	97.5%	894	11	180	39	664	7,149	935	5,795	419
		Estimated total	100.0%	917	11	185	40	681	7,335	959	5,946	430
	Nonmetropolitan counties	445,881										
		Area actually reporting	98.8%	838	13	93	18	714	6,074	1,071	4,547	456
		Estimated total	100.0%	848	13	94	18	723	6,149	1,084	4,603	462
	State Total		1,005,141	2,736	27	379	191	2,139	25,970	3,894	20,387	1,689
		Rate per 100,000 inhabitants		272.2	2.7	37.7	19.0	212.8	2,583.7	387.4	2,028.3	168.0
NEBRASKA	Metropolitan Statistical Area	1,177,981										
		Area actually reporting	97.9%	4,028	46	494	1,077	2,411	38,248	6,483	28,160	3,605
		Estimated total	100.0%	4,044	46	498	1,078	2,422	38,569	6,551	28,391	3,627
	Cities outside metropolitan areas	343,307										
		Area actually reporting	88.9%	532	3	157	40	332	8,423	1,324	6,784	315
		Estimated total	100.0%	599	3	177	45	374	9,477	1,490	7,633	354
	Nonmetropolitan counties	334,237										
		Area actually reporting	81.4%	139	3	29	6	101	2,501	565	1,801	135
		Estimated total	100.0%	171	4	36	7	124	3,072	694	2,212	166
	State Total		1,855,525	4,814	53	711	1,130	2,920	51,118	8,735	38,236	4,147
	Rate per 100,000 inhabitants		259.4	2.9	38.3	60.9	157.4	2,754.9	470.8	2,060.7	223.5	
NEVADA	Metropolitan Statistical Area	2,487,122										
		Area actually reporting	100.0%	15,754	107	824	4,852	9,971	71,770	20,521	41,708	9,541
	Cities outside metropolitan areas	46,956										
		Area actually reporting	100.0%	305	12	39	19	235	1,815	469	1,187	159
	Nonmetropolitan counties	224,853										
		Area actually reporting	100.0%	704	5	68	47	584	3,925	1,130	2,477	318
	State Total		2,758,931	16,763	124	931	4,918	10,790	77,510	22,120	45,372	10,018
		Rate per 100,000 inhabitants		607.6	4.5	33.7	178.3	391.1	2,809.4	801.8	1,644.6	363.1
	NEW HAMPSHIRE	Metropolitan Statistical Area	823,334									
			Area actually reporting	94.6%	1,571	10	265	360	936	17,792	3,033	14,131
		Estimated total	100.0%	1,610	10	274	365	961	18,391	3,126	14,617	648
Cities outside metropolitan areas		444,509										
		Area actually reporting	87.6%	675	4	143	94	434	9,999	1,763	7,954	282
		Estimated total	100.0%	770	5	163	107	495	11,416	2,013	9,081	322
Nonmetropolitan counties		52,875										
		Area actually reporting	4.4%	20	0	2	0	18	102	36	62	4
		Estimated total	100.0%	101	0	12	0	89	886	305	528	53
State Total			1,320,718	2,481	15	449	472	1,545	30,693	5,444	24,226	1,023

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
NEW JERSEY		Rate per 100,000 inhabitants	187.9	1.1	34.0	35.7	117.0	2,324.0	412.2	1,834.3	77.5	
	Metropolitan Statistical Area	8,864,590										
		Area actually reporting	99.9%	25,707	388	1,034	11,377	12,908	181,293	42,296	122,529	16,468
		Estimated total	100.0%	25,727	388	1,035	11,385	12,919	181,481	42,338	122,662	16,481
	Cities outside metropolitan areas	None										
	Nonmetropolitan counties	None										
	State Total	8,864,590	25,727	388	1,035	11,385	12,919	181,481	42,338	122,662	16,481	
NEW MEXICO		Rate per 100,000 inhabitants	290.2	4.4	11.7	128.4	145.7	2,047.3	477.6	1,383.7	185.9	
	Metropolitan Statistical Area	1,388,294										
		Area actually reporting	99.3%	7,858	72	621	1,507	5,658	52,207	14,091	33,866	4,250
		Estimated total	100.0%	7,906	72	625	1,511	5,698	52,507	14,161	34,072	4,274
	Cities outside metropolitan areas	397,656										
		Area actually reporting	99.0%	2,941	36	265	282	2,358	17,422	4,810	11,835	777
		Estimated total	100.0%	2,970	36	268	285	2,381	17,589	4,856	11,949	784
	Nonmetropolitan counties	299,588										
		Area actually reporting	84.0%	659	7	54	43	555	4,197	1,988	1,869	340
		Estimated total	100.0%	784	8	64	51	661	4,998	2,367	2,226	405
State Total	2,085,538	11,660	116	957	1,847	8,740	75,094	21,384	48,247	5,463		
NEW YORK ³		Rate per 100,000 inhabitants	559.1	5.6	45.9	88.6	419.1	3,600.7	1,025.3	2,313.4	261.9	
	Metropolitan Statistical Area	18,146,686										
		Area actually reporting	99.2%	77,229	666	2,518	28,297	45,748	344,885	57,785	270,535	16,565
		Estimated total	100.0%	77,445	668	2,533	28,361	45,883	347,280	58,219	272,403	16,658
	Cities outside metropolitan areas	528,831										
		Area actually reporting	97.5%	1,194	4	144	215	831	15,505	2,910	12,298	297
		Estimated total	100.0%	1,224	4	148	220	852	15,894	2,983	12,607	304
	Nonmetropolitan counties	894,744										
		Area actually reporting	100.0%	941	12	167	74	688	12,966	3,351	9,229	386
	State Total	19,570,261	79,610	684	2,848	28,655	47,423	376,140	64,553	294,239	17,348	
	Rate per 100,000 inhabitants		406.8	3.5	14.6	146.4	242.3	1,922.0	329.9	1,503.5	88.6	

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
NORTH CAROLINA	Metropolitan Statistical Area	7,523,905										
		Area actually reporting	99.2%	26,943	329	1,513	7,833	17,268	252,494	72,337	167,235	12,922
		Estimated total	100.0%	27,088	329	1,522	7,868	17,369	254,349	72,825	168,531	12,993
	Cities outside metropolitan areas	642,467										
		Area actually reporting	91.8%	3,642	59	179	934	2,470	33,453	9,006	23,277	1,170
		Estimated total	100.0%	3,966	64	195	1,017	2,690	36,434	9,809	25,351	1,274
	Nonmetropolitan counties	1,585,701										
		Area actually reporting	97.7%	3,330	84	261	495	2,490	36,926	16,298	18,818	1,810
		Estimated total	100.0%	3,410	86	267	507	2,550	37,811	16,689	19,269	1,853
		State Total	9,752,073	34,464	479	1,984	9,392	22,609	328,594	99,323	213,151	16,120
	Rate per 100,000 inhabitants		353.4	4.9	20.3	96.3	231.8	3,369.5	1,018.5	2,185.7	165.3	
NORTH DAKOTA	Metropolitan Statistical Area	343,667										
		Area actually reporting	100.0%	1,063	6	164	105	788	8,129	1,388	6,244	497
	Cities outside metropolitan areas	161,463										
		Area actually reporting	94.1%	452	13	79	20	340	3,861	527	2,938	396
		Estimated total	100.0%	480	14	84	21	361	4,104	560	3,123	421
	Nonmetropolitan counties	194,498										
		Area actually reporting	99.4%	168	8	24	5	131	1,819	426	1,161	232
		Estimated total	100.0%	169	8	24	5	132	1,830	429	1,168	233
		State Total	699,628	1,712	28	272	131	1,281	14,063	2,377	10,535	1,151
		Rate per 100,000 inhabitants		244.7	4.0	38.9	18.7	183.1	2,010.1	339.8	1,505.8	164.5
OHIO	Metropolitan Statistical Area	9,153,765										
		Area actually reporting	93.4%	30,974	446	3,052	14,314	13,162	284,666	84,284	183,037	17,345
		Estimated total	100.0%	31,824	454	3,183	14,629	13,558	300,466	87,578	195,002	17,886
	Cities outside metropolitan areas	1,039,632										
		Area actually reporting	80.0%	1,302	12	233	368	689	30,130	6,707	22,769	654
		Estimated total	100.0%	1,627	15	291	460	861	37,668	8,385	28,465	818
	Nonmetropolitan counties	1,350,828										
		Area actually reporting	97.6%	1,116	25	180	142	769	21,225	7,278	13,158	789
		Estimated total	100.0%	1,144	26	184	146	788	21,749	7,458	13,483	808
		State Total	11,544,225	34,595	495	3,658	15,235	15,207	359,883	103,421	236,950	19,512
	Rate per 100,000 inhabitants		299.7	4.3	31.7	132.0	131.7	3,117.4	895.9	2,052.5	169.0	

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
OKLAHOMA	Metropolitan Statistical Area	2,465,038										
		Area actually reporting	100.0%	13,374	171	1,124	2,858	9,221	94,951	26,135	59,466	9,350
	Cities outside metropolitan areas	722,935										
		Area actually reporting	99.9%	3,541	25	348	334	2,834	26,958	6,760	18,703	1,495
		Estimated total	100.0%	3,544	25	348	334	2,837	26,989	6,768	18,724	1,497
	Nonmetropolitan counties	626,847										
		Area actually reporting	100.0%	984	20	116	39	809	7,803	2,828	4,258	717
	State Total	3,814,820	17,902	216	1,588	3,231	12,867	129,743	35,731	82,448	11,564	
	Rate per 100,000 inhabitants		469.3	5.7	41.6	84.7	337.3	3,401.0	936.6	2,161.3	303.1	
OREGON	Metropolitan Statistical Area	3,241,382										
		Area actually reporting	99.9%	8,356	73	965	2,216	5,102	106,863	17,850	79,987	9,026
		Estimated total	100.0%	8,363	73	966	2,218	5,106	106,966	17,866	80,066	9,034
	Cities outside metropolitan areas	306,270										
		Area actually reporting	89.2%	837	12	107	143	575	11,997	2,247	9,115	635
		Estimated total	100.0%	938	13	120	160	645	13,451	2,519	10,220	712
	Nonmetropolitan counties	351,701										
	Area actually reporting	98.4%	346	6	53	34	253	5,221	1,492	3,279	450	
	Estimated total	100.0%	352	6	54	35	257	5,306	1,516	3,333	457	
	State Total	3,899,353	9,653	92	1,140	2,413	6,008	125,723	21,901	93,619	10,203	
	Rate per 100,000 inhabitants		247.6	2.4	29.2	61.9	154.1	3,224.2	561.7	2,400.9	261.7	
PENNSYLVANIA	Metropolitan Statistical Area	11,253,278										
		Area actually reporting	99.4%	41,344	648	2,800	15,353	22,543	250,881	50,686	186,047	14,148
		Estimated total	100.0%	41,463	649	2,807	15,387	22,620	252,060	50,881	186,992	14,187
	Cities outside metropolitan areas	684,242										
		Area actually reporting	97.2%	1,835	7	127	171	1,530	12,595	2,200	10,096	299
		Estimated total	100.0%	1,888	7	131	176	1,574	12,956	2,263	10,385	308
	Nonmetropolitan counties	826,016										
	Area actually reporting	100.0%	1,152	29	389	110	624	11,480	3,715	7,232	533	
	State Total	12,763,536	44,503	685	3,327	15,673	24,818	276,496	56,859	204,609	15,028	
	Rate per 100,000 inhabitants		348.7	5.4	26.1	122.8	194.4	2,166.3	445.5	1,603.1	117.7	
PUERTO RICO	Metropolitan Statistical Area	3,509,567										
		Area actually reporting	100.0%	9,713	948	29	6,191	2,545	49,475	14,465	29,239	5,771
	Cities outside metropolitan areas	157,517										
		Area actually reporting	100.0%	328	30	3	107	188	2,204	822	1,306	76
	Total	3,667,084	10,041	978	32	6,298	2,733	51,679	15,287	30,545	5,847	
	Rate per 100,000 inhabitants		273.8	26.7	0.9	171.7	74.5	1,409.3	416.9	833.0	159.4	

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
RHODE ISLAND	Metropolitan Statistical Area	1,050,292										
	Area actually reporting	100.0%	2,628	32	281	713	1,602	26,928	5,947	18,419	2,562	
	Cities outside metropolitan areas	None										
	Nonmetropolitan counties	None										
	Area actually reporting	100.0%	23	2	7	0	14	89	2	21	66	
State Total		1,050,292	2,651	34	288	713	1,616	27,017	5,949	18,440	2,628	
	Rate per 100,000 inhabitants		252.4	3.2	27.4	67.9	153.9	2,572.3	566.4	1,755.7	250.2	
SOUTH CAROLINA	Metropolitan Statistical Area	3,956,484										
	Area actually reporting	99.8%	21,468	260	1,423	3,852	15,933	149,317	35,981	102,169	11,167	
	Estimated total	100.0%	21,497	260	1,425	3,857	15,955	149,576	36,027	102,369	11,180	
	Cities outside metropolitan areas	211,649										
	Area actually reporting	98.0%	2,193	20	92	379	1,702	12,872	3,389	8,985	498	
	Estimated total	100.0%	2,238	20	94	387	1,737	13,138	3,459	9,171	508	
	Nonmetropolitan counties	555,590										
	Area actually reporting	100.0%	2,662	44	160	245	2,213	17,836	5,600	10,723	1,513	
	State Total		4,723,723	26,397	324	1,679	4,489	19,905	180,550	45,086	122,263	13,201
		Rate per 100,000 inhabitants		558.8	6.9	35.5	95.0	421.4	3,822.2	954.5	2,588.3	279.5
SOUTH DAKOTA	Metropolitan Statistical Area	388,098										
	Area actually reporting	99.3%	1,248	6	300	125	817	10,297	1,901	7,776	620	
	Estimated total	100.0%	1,252	6	301	125	820	10,336	1,906	7,808	622	
	Cities outside metropolitan areas	219,788										
	Area actually reporting	77.7%	1,179	10	232	28	909	5,231	956	3,948	327	
	Estimated total	100.0%	1,238	11	244	29	954	5,492	1,004	4,145	343	
	Nonmetropolitan counties	225,468										
	Area actually reporting	77.7%	149	6	31	3	109	1,041	270	693	78	
	Estimated total	100.0%	192	8	40	4	140	1,340	348	892	100	
	State Total		833,354	2,682	25	585	158	1,914	17,168	3,258	12,845	1,065
Rate per 100,000 inhabitants			321.8	3.0	70.2	19.0	229.7	2,060.1	391.0	1,541.4	127.8	
TENNESSEE	Metropolitan Statistical Area	4,953,032										
	Area actually reporting	100.0%	35,306	327	1,701	7,678	25,600	175,516	44,094	120,691	10,731	
	Cities outside metropolitan areas	516,983										
	Area actually reporting	100.0%	3,261	17	185	360	2,699	23,311	5,195	17,271	845	
	Nonmetropolitan counties	986,228										
	Area actually reporting	100.0%	2,983	44	146	131	2,662	18,837	6,892	10,541	1,404	
State Total		6,456,243	41,550	388	2,032	8,169	30,961	217,664	56,181	148,503	12,980	
	Rate per 100,000 inhabitants		643.6	6.0	31.5	126.5	479.6	3,371.4	870.2	2,300.1	201.0	

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
TEXAS	Metropolitan Statistical Area	22,993,976										
		Area actually reporting	99.9%	97,603	1,016	6,791	29,625	60,171	805,325	184,006	559,621	61,698
		Estimated total	100.0%	97,633	1,016	6,794	29,632	60,191	805,678	184,076	559,884	61,718
	Cities outside metropolitan areas	1,427,466										
		Area actually reporting	99.0%	5,747	58	583	605	4,501	45,308	11,193	32,545	1,570
		Estimated total	100.0%	5,796	59	588	608	4,541	45,684	11,288	32,817	1,579
	Nonmetropolitan counties	1,637,761										
		Area actually reporting	98.3%	2,995	68	323	140	2,464	24,276	9,285	13,321	1,670
		Estimated total	100.0%	3,047	69	329	142	2,507	24,697	9,446	13,552	1,699
		State Total	26,059,203	106,476	1,144	7,711	30,382	67,239	876,059	204,810	606,253	64,996
	Rate per 100,000 inhabitants		408.6	4.4	29.6	116.6	258.0	3,361.8	785.9	2,326.4	249.4	
UTAH	Metropolitan Statistical Area	2,545,653										
		Area actually reporting	99.9%	5,226	36	833	1,071	3,286	78,305	11,682	60,984	5,639
		Estimated total	100.0%	5,231	36	834	1,072	3,289	78,406	11,697	61,064	5,645
	Cities outside metropolitan areas	135,463										
		Area actually reporting	92.2%	297	9	53	19	216	3,677	611	2,913	153
		Estimated total	100.0%	322	10	57	21	234	3,986	662	3,158	166
	Nonmetropolitan counties	174,171										
		Area actually reporting	95.6%	310	4	50	7	249	2,899	558	2,161	180
		Estimated total	100.0%	323	4	52	7	260	3,032	584	2,260	188
		State Total	2,855,287	5,876	50	943	1,100	3,783	85,424	12,943	66,482	5,999
	Rate per 100,000 inhabitants		205.8	1.8	33.0	38.5	132.5	2,991.8	453.3	2,328.4	210.1	
VERMONT	Metropolitan Statistical Area	212,393										
		Area actually reporting	100.0%	344	1	45	51	247	6,035	1,374	4,524	137
	Cities outside metropolitan areas	205,469										
		Area actually reporting	98.5%	359	3	50	47	259	5,337	1,125	4,065	147
		Estimated total	100.0%	365	3	51	48	263	5,417	1,142	4,126	149
	Nonmetropolitan counties	208,149										
		Area actually reporting	100.0%	184	4	25	13	142	3,564	1,449	1,966	149
		State Total	626,011	893	8	121	112	652	15,016	3,965	10,616	435
		Rate per 100,000 inhabitants		142.6	1.3	19.3	17.9	104.2	2,398.7	633.4	1,695.8	69.5

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft	
VIRGINIA	Metropolitan Statistical Area	7,105,199										
		Area actually reporting	100.0%	13,912	270	1,247	4,432	7,963	157,319	24,903	124,181	8,235
	Cities outside metropolitan areas	267,746										
		Area actually reporting	100.0%	614	14	76	145	379	8,592	1,478	6,852	262
	Nonmetropolitan counties	812,922										
		Area actually reporting	100.0%	1,038	30	129	129	750	11,074	3,130	7,365	579
	State Total	8,185,867		15,564	314	1,452	4,706	9,092	176,985	29,511	138,398	9,076
	Rate per 100,000 inhabitants		190.1	3.8	17.7	57.5	111.1	2,162.1	360.5	1,690.7	110.9	
WASHINGTON	Metropolitan Statistical Area	6,179,551										
		Area actually reporting	100.0%	18,830	180	1,927	5,543	11,180	231,017	54,547	151,575	24,895
	Cities outside metropolitan areas	296,203										
		Area actually reporting	97.7%	912	11	169	147	585	13,080	3,121	9,084	875
		Estimated total	100.0%	934	11	173	151	599	13,394	3,196	9,302	896
	Nonmetropolitan counties	421,258										
	Area actually reporting	100.0%	622	15	93	51	463	7,922	2,982	4,329	611	
	State Total	6,897,012		20,386	206	2,193	5,745	12,242	252,333	60,725	165,206	26,402
	Rate per 100,000 inhabitants		295.6	3.0	31.8	83.3	177.5	3,658.6	880.5	2,395.3	382.8	
WEST VIRGINIA	Metropolitan Statistical Area	1,135,886										
		Area actually reporting	93.4%	3,725	43	280	668	2,734	30,063	7,721	20,890	1,452
		Estimated total	100.0%	3,929	44	295	698	2,892	32,190	8,152	22,506	1,532
	Cities outside metropolitan areas	190,838										
		Area actually reporting	77.8%	582	6	32	61	483	3,543	732	2,717	94
		Estimated total	100.0%	748	8	41	78	621	4,554	941	3,492	121
Nonmetropolitan counties	528,689											
	Area actually reporting	90.7%	1,080	18	77	56	929	6,469	1,993	3,972	504	
	Estimated total	100.0%	1,192	20	85	62	1,025	7,134	2,198	4,380	556	
	State Total	1,855,413		5,869	72	421	838	4,538	43,878	11,291	30,378	2,209
	Rate per 100,000 inhabitants		316.3	3.9	22.7	45.2	244.6	2,364.9	608.5	1,637.3	119.1	
WISCONSIN	Metropolitan Statistical Area	4,213,426										
		Area actually reporting	98.8%	14,089	162	950	4,486	8,491	110,111	21,625	81,274	7,212
		Estimated total	100.0%	14,151	163	955	4,503	8,530	111,286	21,784	82,261	7,241
	Cities outside metropolitan areas	636,932										
		Area actually reporting	97.1%	1,038	5	127	83	823	18,047	2,495	15,133	419
		Estimated total	100.0%	1,068	5	131	85	847	18,581	2,569	15,581	431
Nonmetropolitan counties	876,040											
	Area actually reporting	97.3%	822	5	129	33	655	10,358	3,495	6,334	529	
	Estimated total	100.0%	845	5	133	34	673	10,646	3,592	6,510	544	
	State Total	5,726,398		16,064	173	1,219	4,622	10,050	140,513	27,945	104,352	8,216
	Rate per 100,000 inhabitants		280.5	3.0	21.3	80.7	175.5	2,453.8	488.0	1,822.3	143.5	
WYOMING	Metropolitan Statistical Area	171,501										
		Area actually reporting	100.0%	379	5	40	39	295	5,062	899	3,886	277
	Cities outside metropolitan areas	242,167										
		Area actually reporting	96.5%	567	8	93	12	454	6,422	830	5,375	217
		Estimated total	100.0%	586	8	96	12	470	6,652	860	5,567	225
	Nonmetropolitan counties	162,744										
	Area actually reporting	92.6%	182	1	17	9	155	1,397	339	982	76	
	Estimated total	100.0%	196	1	18	10	167	1,508	366	1,060	82	
	State Total	576,412		1,161	14	154	61	932	13,222	2,125	10,513	584
	Rate per 100,000 inhabitants		201.4	2.4	26.7	10.6	161.7	2,293.8	368.7	1,823.9	101.3	

State	Area	Population	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny- theft	Motor vehicle theft
-------	------	------------	------------------	--	------------------	---------	-----------------------	-------------------	----------	-------------------	---------------------------

¹ Includes offenses reported by the Zoological Police and the Metro Transit Police.

² The data collection methodology for the offense of forcible rape used by the Minnesota state Uniform Crime Reporting (UCR) Program (with the exception of Minneapolis and St. Paul, Minnesota) does not comply with national UCR Program guidelines. Consequently, its figures for forcible rape and violent crime (of which forcible rape is a part) are not published in this table.

³ Because of changes in the state/local agency's reporting practices, figures are not comparable to previous years' data.

NOTE: Although arson data are included in the trend and clearance tables, sufficient data are not available to estimate totals for this offense. Therefore, no arson data are published in this table.



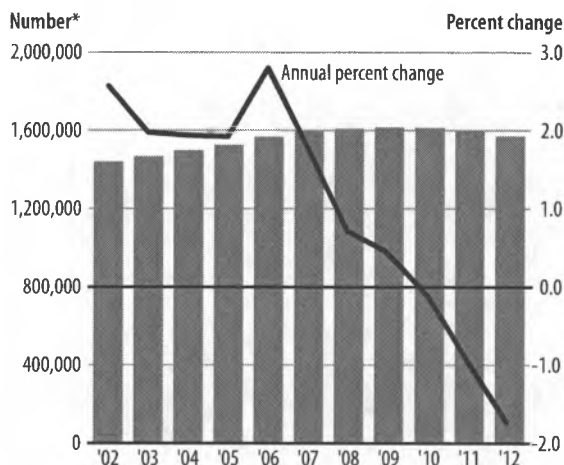
Prisoners in 2012 - Advance Counts

E. Ann Carson and Daniela Golinelli, *BJS Statisticians*

The U.S. prison population declined for the third consecutive year, falling to an estimated 1,571,013 prisoners at yearend 2012 (figure 1). This was down 27,770 prisoners (1.7%) from yearend 2011. California had the greatest population decline, with 15,035 fewer prisoners than in 2011 in part due to the state's Public Safety Realignment policy. In 2012, the overall state prison population decreased 2.1% (down 29,223 inmates), while the federal prison population grew 0.7% (up 1,453 prisoners). Overall imprisonment rates fell for both males and females, from 932 male prisoners per 100,000 U.S. male residents in 2011 to 910 in 2012, and from 65 female prisoners per 100,000 U.S. female residents in 2011 to 63 in 2012. In 2012, the number of female prisoners (108,866 inmates) fell to the lowest level since 2005—a 2.3% decrease from 2011. The total imprisonment rate in 2012 was 480 prisoners per 100,000 U.S. residents, or 626 per 100,000 U.S. adult residents.

The statistics in this report are based on the Bureau of Justice Statistics' (BJS) National Prisoner Statistics (NPS) Program, which collects annual data from all 50 states and the Federal Bureau of Prisons (BOP) on prisoner counts, characteristics, admissions, and releases, as well as prison capacity. The 2012 NPS collection is number 88 in a series that began in 1926.

FIGURE 1
Prisoners under state and federal jurisdiction at yearend, 2002–2012



Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.

*Total and state estimates in 2012 include imputed counts for jurisdictions that did not submit National Prisoner Statistics (NPS) data in time to be included in this report. See *Methodology* for discussion of imputation strategy.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2002–2012.

HIGHLIGHTS

- The U.S. prison population declined for the third consecutive year in 2012, from a high of 1,615,487 inmates in 2009 to 1,571,013 at yearend 2012.
- The U.S. imprisoned 27,770 fewer prisoners (down 1.7%) at yearend 2012 than at yearend 2011.
- The federal prison population increased by 1,453 prisoners in 2012 (up 0.7%), while the state prison population declined by 29,223 prisoners (down 2.1%).
- California accounted for 51% of the decrease in the total state prison population.
- Nine states had a decrease of over 1,000 prisoners in 2012: California, Texas, North Carolina, Colorado, Arkansas, New York, Florida, Virginia, and Maryland.
- Louisiana and the federal prison system had increases of more than 1,000 prisoners in 2012.
- The total imprisonment rate for prisoners sentenced to more than 1 year in state or federal prison decreased by 2.4%, from 492 per 100,000 U.S. residents in 2011 to 480 in 2012.
- The imprisonment rate for females decreased by 2.9% from 2011 to 2012, from 65 female prisoners per 100,000 U.S. female residents to 63 per 100,000.

This report is based on data submitted by 47 states and the Federal Bureau of Prisons (BOP). Data for the three states that had not yet submitted NPS data at the time of publication have been estimated (see *Methodology*). In late 2013, BJS will publish a more extensive report, *Prisoners in 2012*, which will include 2011 and 2012 updates from states that had not reported in time to be incorporated in this advance report, and information on prison admissions, releases, capacity, and the age distribution of sentenced inmates.

States drove the third consecutive decline in the U.S. prison population

After reaching a peak of 1,407,369 inmates in 2009, the state prison population declined during the next 3 years (table 1). The total state prison population decreased by 2.1% in 2012, following a 1.5% decrease in 2011. The federal prison population grew by 0.7% in 2012, continuing a trend that began in 1998.

In 2012, the prison population declined in 28 states, and 9 states reported decreases of more than 1,000 inmates (table 2). California observed the largest decline and accounted for more than half of the drop in the overall U.S. prison population, with about 10% (15,035) fewer inmates at yearend 2012 than in 2011. (See text box on California Public Safety Realignment on page 4.) Texas reported the second largest decline in prison population in 2012 (down 5,852), followed by North Carolina (down 2,304). Colorado, Arkansas, New York, Florida, Virginia, and Maryland also reported at least 1,000 fewer inmates during the same period.

Louisiana (up 1,538 prisoners or 3.9%) and the federal prison system (up 1,453 prisoners or 0.7%) reported an increase of at least 1,000 inmates. The prison population in Mississippi, Michigan, and Kentucky each increased by more than 500 inmates in 2012.

TABLE 1
Prisoners under the jurisdiction of state or federal correctional authorities, December 31, 2002–2012

Year	Total	Federal*	State	Male	Female
2002	1,440,144	163,528	1,276,616	1,342,513	97,631
2003	1,468,601	173,059	1,295,542	1,367,755	100,846
2004	1,497,100	180,328	1,316,772	1,392,278	104,822
2005	1,525,910	187,618	1,338,292	1,418,392	107,518
2006	1,568,674	193,046	1,375,628	1,456,366	112,308
2007	1,596,835	199,618	1,397,217	1,482,524	114,311
2008	1,608,282	201,280	1,407,002	1,493,670	114,612
2009	1,615,487	208,118	1,407,369	1,502,002	113,485
2010	1,613,803	209,771	1,404,032	1,500,936	112,867
2011	1,598,783	216,362	1,382,421	1,487,397	111,386
2012—advance ^a	1,571,013	217,815	1,353,198	1,462,147	108,866
Percent change					
Average annual, 2002–2011	1.1%	3.2%	0.8%	1.1%	1.4%
2011–2012	-1.7	0.7	-2.1	-1.7	-2.3

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.

*Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

^aTotal and state estimates include imputed counts for the three jurisdictions that did not submit National Prisoner Statistics (NPS) data in time to be included in this report. See *Methodology* for discussion of imputation strategy.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2002–2012.

TABLE 2**Prisoners under jurisdiction of state or federal correctional authorities, by jurisdiction and sex, December 31, 2011 and 2012**

Jurisdiction	2011			2012			Percent change, 2011-2012		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
U.S. total ^a	1,598,783	1,487,397	111,386	1,571,013	1,462,147	108,866	-1.7%	-1.7%	-2.3%
Federal ^b	216,362	202,462	13,900	217,815	203,766	14,049	0.7%	0.6%	1.1%
State ^a	1,382,421	1,284,935	97,486	1,353,198	1,258,381	94,817	-2.1%	-2.1%	-2.7%
Alabama	32,270	29,696	2,574	32,431	29,782	2,649	0.5	0.3	2.9
Alaska ^c	5,412	4,768	644	5,533	4,855	678	2.2	1.8	5.3
Arizona	40,020	36,470	3,550	40,013	36,382	3,631	0.0	-0.2	2.3
Arkansas	16,108	14,995	1,113	14,654	13,594	1,060	-9.0	-9.3	-4.8
California	149,569	141,382	8,187	134,534	128,436	6,098	-10.1	-9.2	-25.5
Colorado	21,978	19,957	2,021	20,462	18,739	1,723	-6.9	-6.1	-14.7
Connecticut ^c	18,324	17,090	1,234	17,530	16,312	1,218	-4.3	-4.6	-1.3
Delaware ^c	6,739	6,202	537	6,914	6,348	566	2.6	2.4	5.4
Florida	103,055	95,913	7,142	101,930	94,945	6,985	-1.1	-1.0	-2.2
Georgia	55,944	52,027	3,917	55,457	51,868	3,589	-0.9	-0.3	-8.4
Hawaii ^c	6,037	5,304	733	5,831	5,143	688	-3.4	-3.0	-6.1
Idaho	7,739	6,854	885	7,985	6,977	1,008	3.2	1.8	13.9
Illinois ^d	48,427	45,562	2,865	/	/	/	/	/	/
Indiana	28,906	26,406	2,500	28,831	26,265	2,566	-0.3	-0.5	2.6
Iowa	9,116	8,378	738	8,733	7,949	784	-4.2	-5.1	6.2
Kansas	9,327	8,647	680	9,682	8,952	730	3.8	3.5	7.4
Kentucky	21,545	19,091	2,454	22,110	19,425	2,685	2.6	1.7	9.4
Louisiana	39,710	37,326	2,384	41,248	38,859	2,389	3.9	4.1	0.2
Maine	2,145	1,981	164	2,108	1,944	164	-1.7	-1.9	0.0
Maryland	22,558	21,576	982	21,522	20,646	876	-4.6	-4.3	-10.8
Massachusetts	11,623	10,832	791	11,308	10,549	759	-2.7	-2.6	-4.0
Michigan	42,940	41,031	1,909	43,636	41,647	1,989	1.6	1.5	4.2
Minnesota	9,800	9,156	644	9,938	9,228	710	1.4	0.8	10.2
Mississippi	21,386	19,808	1,578	22,319	20,652	1,667	4.4	4.3	5.6
Missouri	30,833	28,258	2,575	31,247	28,544	2,703	1.3	1.0	5.0
Montana	3,678	3,274	404	3,609	3,210	399	-1.9	-2.0	-1.2
Nebraska	4,616	4,247	369	4,705	4,352	353	1.9	2.5	-4.3
Nevada ^d	12,778	11,811	967	/	/	/	/	/	/
New Hampshire	2,614	2,444	170	2,790	2,583	207	6.7	5.7	21.8
New Jersey	23,834	22,762	1,072	23,225	22,164	1,061	-2.6	-2.6	-1.0
New Mexico	6,998	6,366	632	6,640	6,010	630	-5.1	-5.6	-0.3
New York	55,436	53,124	2,312	54,210	51,963	2,247	-2.2	-2.2	-2.8
North Carolina	39,440	36,800	2,640	37,136	34,675	2,461	-5.8	-5.8	-6.8
North Dakota	1,423	1,276	147	1,512	1,341	171	6.3	5.1	16.3
Ohio	50,964	47,061	3,903	50,876	47,008	3,868	-0.2	-0.1	-0.9
Oklahoma ^e	25,977	23,558	2,419	25,225	22,728	2,497	-2.9	-3.5	3.2
Oregon	14,510	13,387	1,123	14,840	13,609	1,231	2.3	1.7	9.6
Pennsylvania	51,578	48,795	2,783	51,125	48,380	2,745	-0.9	-0.9	-1.4
Rhode Island ^c	3,337	3,158	179	3,229	3,043	186	-3.2	-3.6	3.9
South Carolina	22,914	21,528	1,386	22,388	21,051	1,337	-2.3	-2.2	-3.5
South Dakota	3,535	3,094	441	3,650	3,227	423	3.3	4.3	-4.1
Tennessee	28,479	26,070	2,409	28,411	26,048	2,363	-0.2	-0.1	-1.9
Texas	172,224	158,036	14,188	166,372	152,823	13,549	-3.4	-3.3	-4.5
Utah	6,879	6,266	613	6,962	6,323	639	1.2	0.9	4.2
Vermont ^c	2,053	1,905	148	2,034	1,907	127	-0.9	0.1	-14.2
Virginia	38,130	35,321	2,809	37,044	34,150	2,894	-2.8	-3.3	3.0
Washington ^d	17,847	16,452	1,395	/	/	/	/	/	/
West Virginia	6,826	6,074	752	7,070	6,265	805	3.6	3.1	7.0
Wisconsin	22,657	21,472	1,185	22,600	21,375	1,225	-0.3	-0.5	3.4
Wyoming	2,183	1,944	239	2,204	1,966	238	1.0	1.1	-0.4

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. As of December 31, 2001, sentenced felons from the District of Columbia are the responsibility of the Federal Bureau of Prisons.

/Not reported.

^aIncludes imputed counts for the three jurisdictions that did not submit National Prisoner Statistics (NPS) data in time to be included in this report. See *Methodology* for discussion of imputation strategy.

^bIncludes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

^cPrisons and jails form one integrated system. Data include total jail and prison populations.

^dState did not submit National Prisoner Statistics (NPS) Program data in time for inclusion in this report.

^eData reported for 2011 include sentenced inmates not yet in custody, or out to court, and escapees temporarily in custody of local jails. The 2012 data do not include these groups of inmates.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2011-2012.

California prison populations continued to decline during the second year of Public Safety Realignment

In 2012, California continued to reduce the number of inmates housed in state prisons, as mandated by laws enacted on October 1, 2011, to alleviate overcrowding. While some decrease was observed during the last 3 months of 2011, 2012 marked the first full year of implementation of the California Public Safety Realignment (PSR) program. (See *Prisoners in 2011*, NCJ 239808, BJS Web, December 2012.) By December 31, 2011, the state's prison population decreased by 15,188 sentenced inmates from the 2010 yearend total (table 3). California imprisoned 14,814 fewer sentenced inmates at yearend 2012 than in 2011, a decline of 9.9%. The female population decreased by 25% over the same period, from 8,053 sentenced female inmates in 2011 to 6,031 in 2012. The total imprisonment rate for sentenced prisoners in California decreased from 393 prisoners per 100,000 residents of California in 2011 to 351 in 2012.

TABLE 3
Sentenced prisoners under the jurisdiction of California state correctional authorities, by sex, December 31, 2002–2012

Year	Total	Male	Female
2002	159,984	150,374	9,610
2003	162,678	152,385	10,293
2004	164,933	154,051	10,882
2005	168,982	157,704	11,278
2006	173,942	162,361	11,581
2007	172,856	161,551	11,305
2008	172,583	161,220	11,363
2009	170,131	159,396	10,735
2010	164,213	154,450	9,763
2011	149,025	140,972	8,053
2012	134,211	128,180	6,031
Percent change			
Average annual, 2002–2010	0.3%	0.3%	0.2%
2010–2011	-9.2	-8.7	-17.5
2011–2012	-9.9	-9.1	-25.1

Note: Counts are based on prisoners with a sentence of more than 1 year.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2002–2012.

Continued on next page

California prison populations continued to decline during the second year of Public Safety Realignment (continued)

PSR was written to divert new admissions of “nonviolent, nonserious, and nonsex”¹ offenders to local jail facilities after October 1, 2011, while still admitting individuals convicted of violent, sex, or serious offenses to prison. While the California prison system had a decrease in the absolute number of prisoners between 2010 and 2012, the redistribution of inmates by offense type shows the effect of the PSR policy. Of all males sentenced to at least 1 year in California prison, 70% were serving time for violent offenses

¹Offenses as specified in the Public Safety Realignment Act.

on December 31, 2012—11% more than in 2010 (table 4). About 62% of the female population was imprisoned for violent crimes in 2012, up 41% from 2010.

The proportion of offenders serving sentences for drug or property crimes in the California prison population decreased in 2012, particularly among women. A total of 26,570 fewer inmates served time for “nonviolent, nonserious, and nonsex offenses” in 2012 than in 2010, while the number of violent offenders decreased by 2,709 over the same period.

TABLE 4
Most serious offense committed by sentenced inmates in California state prisons, by sex and offense type, December 31, 2010 and 2012

Offense	2010			2012		
	Total	Male	Female	Total	Male	Female
Total ^a	162,164	152,405	9,759	132,885	126,893	5,992
Violent	58.8%	60.0%	40.9%	69.8%	70.1%	62.4%
Murder ^b	17.4	17.6	14.7	22.4	22.3	24.6
Manslaughter	0.6	0.6	1.3	0.7	0.7	2.0
Rape	2.0	2.1	0.1	2.2	2.3	0.2
Other sexual assault	7.2	7.6	0.8	8.1	8.5	1.2
Robbery	13.6	13.8	9.9	16.2	16.3	14.5
Aggravated or simple assault	14.3	14.6	9.6	15.9	16.0	13.4
Other violent	3.7	3.7	4.3	4.3	4.2	6.6
Property	18.9%	17.9%	33.3%	14.5%	14.2%	22.3%
Burglary	8.4	8.2	11.2	8.1	8.0	10.9
Larceny-theft	3.8	3.4	9.9	2.1	2.0	4.8
Motor vehicle theft	3.3	3.3	3.3	2.1	2.1	1.7
Fraud	1.4	1.1	6.3	0.7	0.6	3.0
Other property	1.9	1.9	2.6	1.4	1.4	2.0
Drug^c	15.0%	14.6%	21.1%	9.1%	9.0%	10.9%
Public order^d	7.2%	7.4%	4.3%	6.5%	6.6%	4.1%
Other/unspecified^e	0.2%	0.2%	0.4%	0.1%	0.1%	0.2%

Note: Counts are based on prisoners with a sentence of more than 1 year.

^aAnalysis based on National Corrections Reporting Program administrative data, which may vary slightly from National Prisoner Statistics Program data due to differences in data collection.

^bIncludes nonnegligent manslaughter.

^cIncludes trafficking, possession, and other drug offenses.

^dIncludes weapons, drunk driving, and court offenses; commercialized vice, morals, and decency offenses; and liquor law violations and other public-order offenses.

^eIncludes juvenile offenses and other unspecified offense categories.

Sources: Bureau of Justice Statistics, National Prisoner Statistics Program and National Corrections Reporting Program, 2010 and 2012.

The growth in federal prisons was driven by unsentenced inmates

The number of prisoners sentenced to more than 1 year in federal or state prison, representing 96% of the overall prison population, decreased by 1.7% in 2012 (table 5). The number of sentenced federal prisoners declined slightly (down 0.2%) in 2012, while the total federal population increased. The increase was driven primarily by population increases among inmates without sentences or with sentences of 1 year or less (1,929, not shown in table). The number of sentenced state prisoners also declined, with 25,987 (down 1.9%) fewer sentenced inmates in 2012 than in 2011. California accounted for 57% of this

decline. Overall, the number of sentenced male inmates in state or federal prison declined by 1.7% (down 24,109) from 2011 to 2012, and the number of sentenced female inmates decreased by 2.3% (down 2,354) during the same period.

Among the reporting jurisdictions, 25 out of the 47 states and the federal prison system showed declines in their sentenced prison population (table 6). Five states had decreases of more than 10% in their sentenced female prison population, while five others showed increases among females of more than 10% from 2011 to 2012. However, the majority of these states had a small overall prison population.

TABLE 5
Sentenced prisoners under the jurisdiction of state or federal correctional authorities, December 31, 2002–2012

Year	Total	Federal*	State	Male	Female
2002	1,380,516	143,040	1,237,476	1,291,450	89,066
2003	1,408,361	151,919	1,256,442	1,315,790	92,571
2004	1,433,728	159,137	1,274,591	1,337,730	95,998
2005	1,462,866	166,173	1,296,693	1,364,178	98,688
2006	1,504,598	173,533	1,331,065	1,401,261	103,337
2007	1,532,851	179,204	1,353,647	1,427,088	105,763
2008	1,547,742	182,333	1,365,409	1,441,384	106,358
2009	1,553,574	187,886	1,365,688	1,448,239	105,335
2010	1,552,669	190,641	1,362,028	1,447,766	104,903
2011	1,538,854	197,050	1,341,804	1,435,115	103,739
2012—advance ^a	1,512,391	196,574	1,315,817	1,411,006	101,385
Percent change					
Average annual, 2002–2011	1.1%	3.8%	0.8%	1.1%	1.6%
2011–2012	-1.7	-0.2	-1.9	-1.7	-2.3

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Counts are based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional officials.

*Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

^aTotal and state estimates include imputed counts for the three jurisdictions that did not submit National Prisoner Statistics (NPS) data in time to be included in this report. See *Methodology* for discussion of imputation strategy.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2002–2012.

TABLE 6

Sentenced prisoners under jurisdiction of state or federal correctional authorities, by jurisdiction and sex,
December 31, 2011 and 2012

Jurisdiction	2011			2012			Percent change, 2011–2012		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
U.S. total ^a	1,538,854	1,435,115	103,739	1,512,391	1,411,006	101,385	-1.7%	-1.7%	-2.3%
Federal ^b	197,050	184,901	12,149	196,574	184,258	12,316	-0.2%	-0.3%	1.4%
State ^a	1,341,804	1,250,214	91,590	1,315,817	1,226,748	89,069	-1.9%	-1.9%	-2.8%
Alabama	31,271	28,823	2,448	31,437	28,915	2,522	0.5	0.3	3.0
Alaska ^c	2,901	2,590	311	2,940	2,662	278	1.3	2.8	-10.6
Arizona	38,370	35,098	3,272	38,402	35,065	3,337	0.1	-0.1	2.0
Arkansas	16,037	14,938	1,099	14,615	13,567	1,048	-8.9	-9.2	-4.6
California	149,025	140,972	8,053	134,211	128,180	6,031	-9.9	-9.1	-25.1
Colorado	21,978	19,957	2,021	20,462	18,739	1,723	-6.9	-6.1	-14.7
Connecticut ^c	12,549	11,865	684	11,961	11,314	647	-4.7	-4.6	-5.4
Delaware ^c	4,003	3,815	188	4,129	3,913	216	3.1	2.6	14.9
Florida	103,055	95,913	7,142	101,930	94,945	6,985	-1.1	-1.0	-2.2
Georgia	53,955	50,211	3,744	53,990	50,510	3,480	0.1	0.6	-7.1
Hawaii ^c	3,910	3,527	383	3,819	3,439	380	-2.3	-2.5	-0.8
Idaho	7,739	6,854	885	7,985	6,977	1,008	3.2	1.8	13.9
Illinois ^d	48,427	45,562	2,865	/	/	/	/	/	/
Indiana	28,890	26,391	2,499	28,822	26,256	2,566	-0.2	-0.5	2.7
Iowa	9,057	8,336	721	8,686	7,917	769	-4.1	-5.0	-6.7
Kansas ^e	9,327	8,647	680	9,398	8,724	674	-	-	-
Kentucky	20,952	18,575	2,377	21,466	18,919	2,547	2.5	1.9	7.2
Louisiana	39,709	37,325	2,384	41,246	38,857	2,389	3.9	4.1	0.2
Maine	1,952	1,810	142	1,932	1,797	135	-1.0	-0.7	-4.9
Maryland	22,252	21,301	951	21,281	20,410	871	-4.4	-4.2	-8.4
Massachusetts	10,316	9,822	494	9,999	9,567	432	-3.1	-2.6	-12.6
Michigan	42,904	40,995	1,909	43,594	41,605	1,989	1.6	1.5	4.2
Minnesota	9,800	9,156	644	9,938	9,228	710	1.4	0.8	10.2
Mississippi	20,585	19,115	1,470	21,426	19,884	1,542	4.1	4.0	4.9
Missouri	30,829	28,254	2,575	31,244	28,541	2,703	1.3	1.0	5.0
Montana	3,678	3,274	404	3,609	3,210	399	-1.9	-2.0	-1.2
Nebraska	4,511	4,159	352	4,594	4,255	339	1.8	2.3	-3.7
Nevada ^d	12,639	11,672	967	/	/	/	/	/	/
New Hampshire	2,614	2,444	170	2,790	2,583	207	6.7	5.7	21.8
New Jersey	23,834	22,762	1,072	23,225	22,164	1,061	-2.6	-2.6	-1.0
New Mexico	6,855	6,230	625	6,574	5,954	620	-4.1	-4.4	-0.8
New York	55,262	52,973	2,289	54,073	51,846	2,227	-2.2	-2.1	-2.7
North Carolina	35,102	33,030	2,072	34,983	32,846	2,137	-0.3	-0.6	3.1
North Dakota	1,423	1,276	147	1,512	1,341	171	6.3	5.1	16.3
Ohio	50,964	47,061	3,903	50,876	47,008	3,868	-0.2	-0.1	-0.9
Oklahoma ^e	24,024	21,693	2,331	24,830	22,369	2,461	-	-	-
Oregon	14,459	13,343	1,116	14,801	13,574	1,227	2.4	1.7	9.9
Pennsylvania	51,390	48,657	2,733	50,918	48,219	2,699	-0.9	-0.9	-1.2
Rhode Island ^c	2,065	1,984	81	1,999	1,916	83	-3.2	-3.4	2.5
South Carolina	22,233	20,940	1,293	21,725	20,485	1,240	-2.3	-2.2	-4.1
South Dakota	3,530	3,092	438	3,644	3,221	423	3.2	4.2	-3.4
Tennessee	28,479	26,070	2,409	28,411	26,048	2,363	-0.2	-0.1	-1.9
Texas	163,552	151,343	12,209	157,900	146,292	11,608	-3.5	-3.3	-4.9
Utah	6,877	6,264	613	6,960	6,321	639	1.2	0.9	4.2
Vermont ^c	1,598	1,496	102	1,516	1,443	73	-5.1	-3.5	-28.4
Virginia	38,130	35,321	2,809	37,044	34,150	2,894	-2.8	-3.3	3.0
Washington ^d	17,808	16,420	1,388	/	/	/	/	/	/
West Virginia	6,803	6,056	747	7,027	6,235	792	3.3	3.0	6.0
Wisconsin	21,998	20,858	1,140	20,474	19,379	1,095	-6.9	-7.1	-3.9
Wyoming	2,183	1,944	239	2,204	1,966	238	1.0	1.1	-0.4

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Counts are based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional officials. As of December 31, 2001, sentenced felons from the District of Columbia are the responsibility of the Federal Bureau of Prisons.

--Not calculated.

/Not reported.

^aIncludes imputed counts for the three jurisdictions that did not submit National Prisoner Statistics (NPS) data in time to be included in this report. See *Methodology* for discussion of imputation strategy.

^bIncludes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

^cPrisons and jails form one integrated system. Data include total jail and prison populations.

^dState did not submit National Prisoner Statistics (NPS) Program data in time for inclusion in this report.

^eChange in reporting methods. See *National Prisoner Statistics jurisdiction notes*.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2011–2012.

Both state and federal imprisonment rates declined from 2011 to 2012

Driven by an overall decrease in the number of sentenced inmates, imprisonment rates declined from 2011 to 2012 for both state and federal prison systems (table 7). In addition to the total imprisonment rate for the U.S. resident population, this report includes adult imprisonment rates (based on the U.S. resident population age 18 or older) for all prisoners by sex for the first time. Adult imprisonment rates allow the rate of persons in prison to be compared to BJS's published rates of incarceration in local jails and community corrections programs.

The total imprisonment rate (480 inmates per 100,000 U.S. residents of all ages) in 2012 was 2.4% lower than in 2011. In 2012, males were imprisoned at the lowest rate since 2002 (910 male prisoners per 100,000 U.S. male residents of all ages in 2012, or 1,202 male inmates per 100,000 U.S. male residents age 18 or older). State prisons reported the lowest overall imprisonment rate in over a decade (418 prisoners per 100,000 U.S. residents of all ages).

With the exception of the federal prison system, which increased an average of 2.7% each year between 2002 and 2011, the average annual percentage decrease in imprisonment rates among the total U.S. prison population and among male and female prisoners was less than 1% between 2002 and 2011. From 2011 to 2012, rates for the total U.S. prison population, male and female prisoners, and the federal prison population declined by at least 1%. Among the reporting jurisdictions, 29 of the 47 states that reported data had a decrease in their total imprisonment rate during this period (table 8). California reported the largest imprisonment rate decline from 2011 to 2012 (down 11%), from 393 inmates per 100,000 state residents to 351 in 2012.

In 2012, states with the highest imprisonment rates included Louisiana (893 per 100,000 state residents), Mississippi (717 per 100,000 state residents), Alabama (650 per 100,000 state residents), Oklahoma (648 per 100,000 state residents), and Texas (601 per 100,000 state residents). The federal prison system reported the lowest imprisonment rate in 2012 (62 per 100,000 U.S. residents), followed by Maine (145 per 100,000 state residents), Minnesota (184 per 100,000 state residents), and Rhode Island (190 per 100,000 state residents).

TABLE 7
Imprisonment rate of sentenced prisoners under the jurisdiction of state or federal correctional authorities, December 31, 2002–2012

Year	Per 100,000 U.S. residents all ages					Per 100,000 adult U.S. residents		
	Total ^a	Federal ^b	State ^a	Male ^a	Female ^a	Total ^c	Male ^c	Female ^c
2002	477	49	428	909	61	639	1,234	80
2003	483	52	431	917	62	645	1,242	82
2004	487	54	433	923	64	649	1,248	84
2005	492	56	436	932	65	655	1,257	86
2006	501	58	443	948	68	666	1,275	89
2007	506	59	447	955	69	670	1,282	90
2008	506	60	447	956	69	669	1,279	90
2009	504	61	443	952	67	665	1,271	88
2010	500	61	439	948	66	656	1,260	86
2011	492	63	429	932	65	644	1,235	84
2012—advance ^d	480	62	418	910	63	626	1,202	82
Percent change								
Average annual, 2002–2011	0.3%	2.7%	0.0%	0.3%	0.8%	0.1%	0.0%	0.6%
2011–2012	-2.4	-1.0	-2.6	-2.4	-2.9	-2.7	-2.7	-3.2

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Counts are based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional officials.

^aImprisonment rate per 100,000 U.S. residents of all ages. These rates are comparable to those in previously published BJS reports.

^bIncludes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

^cImprisonment rate per 100,000 U.S. residents age 18 or older. Since this is the first year BJS is publishing adult imprisonment rates, they are not comparable to rates that included all U.S. residents in previously published BJS reports.

^dTotal and state estimates include imputed counts for the three jurisdictions that did not submit National Prisoner Statistics data in time to be included in this report. See *Methodology* for discussion of imputation strategy.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2002–2012.

TABLE 8

Imprisonment rate of sentenced prisoners under jurisdiction of state or federal correctional authorities, by jurisdiction and sex, December 31, 2011 and 2012

Jurisdiction	2011				2012			
	Total ^a	Male ^a	Female ^a	Total adult ^b	Total ^a	Male ^a	Female ^a	Total adult ^b
U.S. total ^c	492	932	65	644	480	910	63	626
Federal ^d	63	120	8	82	62	119	8	81
State ^c	429	812	58	561	418	791	56	545
Alabama	650	1,234	99	848	650	1,234	101	847
Alaska ^e	399	684	89	537	401	695	79	537
Arizona	589	1,084	100	784	583	1,070	101	773
Arkansas	545	1,033	73	718	494	934	70	651
California	393	749	42	521	351	674	31	463
Colorado	427	772	79	560	392	715	66	514
Connecticut ^e	350	678	37	450	333	645	35	426
Delaware ^e	439	862	40	566	448	877	46	577
Florida	537	1,021	73	678	524	999	70	661
Georgia	547	1,040	74	731	542	1,037	68	723
Hawaii ^e	282	506	56	361	273	487	55	349
Idaho	487	861	111	666	499	871	126	680
Illinois ^f	376	721	44	495	/	/	/	/
Indiana	443	821	75	586	440	814	77	581
Iowa	295	548	47	386	282	518	49	368
Kansas ^g	324	604	47	433	325	606	46	433
Kentucky	479	862	107	625	489	875	114	637
Louisiana	865	1,662	102	1,144	893	1,720	101	1,179
Maine	147	278	21	184	145	276	20	181
Maryland	380	750	31	493	360	713	29	466
Massachusetts	205	405	17	260	199	395	15	252
Michigan	434	845	38	565	441	857	39	571
Minnesota	183	344	24	240	184	344	26	241
Mississippi	690	1,320	96	921	717	1,370	100	954
Missouri	512	958	84	669	518	965	88	674
Montana	367	651	81	472	358	633	80	459
Nebraska	244	453	38	325	247	459	36	328
Nevada ^f	461	844	71	608	/	/	/	/
New Hampshire	198	375	25	251	211	396	31	266
New Jersey	269	527	24	350	261	511	23	338
New Mexico	329	604	59	437	315	576	59	417
New York	283	559	23	362	276	545	22	352
North Carolina	362	699	42	473	357	688	43	466
North Dakota	206	363	43	264	213	372	49	274
Ohio	441	834	66	575	440	832	65	572
Oklahoma ^g	632	1,152	122	838	648	1,178	127	858
Oregon	372	694	57	478	378	700	62	485
Pennsylvania	403	782	42	514	398	772	41	506
Rhode Island ^e	197	390	15	248	190	376	15	239
South Carolina	473	916	54	614	458	888	51	593
South Dakota	426	744	106	565	434	765	101	575
Tennessee	443	832	73	577	438	824	71	570
Texas	633	1,179	94	866	601	1,121	88	820
Utah	243	440	43	353	242	437	45	351
Vermont ^e	255	484	32	319	242	468	23	302
Virginia	468	883	68	606	451	845	69	582
Washington ^f	260	480	40	337	/	/	/	/
West Virginia	367	662	79	463	378	681	84	477
Wisconsin	385	735	40	500	357	680	38	463
Wyoming	382	666	85	500	379	663	84	496

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Counts are based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional officials.

/Not reported.

^aImprisonment rate per 100,000 U.S. residents of all ages. These rates are comparable to those in previously published BJS reports.

^bImprisonment rate per 100,000 U.S. residents age 18 or older. Since this is the first year BJS is publishing adult imprisonment rates, they are not comparable to rates that included all U.S. residents in previously published BJS reports.

^cIncludes imputed counts for the three jurisdictions that did not submit National Prisoner Statistics data in time to be included in this report. See *Methodology* for discussion of imputation strategy.

^dIncludes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

^ePrisons and jails form one integrated system. Data include total jail and prison populations.

^fState did not submit National Prisoner Statistics (NPS) Program data in time for inclusion in this report.

^gChange in reporting methods. See *National Prisoner Statistics jurisdiction notes*.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2011–2012.

Violent offenders comprised the majority of the state prison population in 2011

Inmates sentenced to more than 1 year of imprisonment for violent offenses continued to account for the majority (53%) of the state prison population in 2011, the latest year for which the most complete state offense data are available (table 9).

The distribution of offense categories was more evenly divided among female inmates than male inmates, with 37% of females imprisoned for violent offenses, 28% for property offenses, and 25% for drug crimes. Among male inmates, 54% were incarcerated for violent crimes, 18% for property offenses, and 16% for drug offenses.

TABLE 9
Estimated percent of sentenced prisoners under state jurisdiction, by offense, sex, race, and Hispanic origin, December 31, 2011

Offense	All inmates ^a	Male	Female	White ^b	Black ^b	Hispanic
Total	1,341,804	1,250,214	91,590	465,180	509,677	282,353
Violent	53.0%	54.3%	36.8%	49.2%	55.8%	57.5%
Murder ^c	12.2	12.3	10.7	9.8	12.9	13.4
Manslaughter	1.6	1.5	2.8	1.7	1.5	1.2
Rape/sexual assault	12.3	13.1	2.2	17.0	7.8	12.7
Robbery	13.5	13.9	8.9	8.2	19.4	13.0
Aggravated or simple assault	10.3	10.5	8.5	9.1	11.0	13.5
Other violent	3.0	3.0	3.6	3.3	3.2	3.6
Property	18.3%	17.7%	27.8%	23.3%	15.3%	13.6%
Burglary	9.6	9.8	6.9	11.5	9.2	7.8
Larceny-theft	3.1	2.8	7.7	4.2	2.5	2.0
Motor vehicle theft	1.1	1.1	1.1	1.4	0.7	1.5
Fraud	2.3	1.8	9.3	3.2	1.6	0.9
Other property	2.2	2.2	2.9	3.0	1.4	1.3
Drug^d	16.8%	16.2%	25.1%	14.5%	18.0%	16.8%
Public order^e	10.6%	10.7%	8.7%	11.8%	9.9%	11.4%
Other/unspecified^f	1.4%	1.1%	1.6%	1.2%	0.9%	0.7%

Note: Counts are based on state prisoners with a sentence of more than 1 year under the jurisdiction of state correctional officials. Detail may not sum to total due to rounding and missing offense data.

^aIncludes American Indians, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, and persons identifying two or more races.

^bExcludes persons of Hispanic or Latino origin and persons of two or more races.

^cIncludes nonnegligent manslaughter.

^dIncludes trafficking, possession, and other drug offenses.

^eIncludes weapons, drunk driving, and court offenses; commercialized vice, morals, and decency offenses; and liquor law violations and other public-order offenses.

^fIncludes juvenile offenses and other unspecified offense categories.

Sources: Bureau of Justice Statistics, National Prisoner Statistics Program and National Corrections Reporting Program, 2011.

The percentage of Hispanic inmates sentenced for violent offenses (58%) exceeded that of non-Hispanic black (56%) and non-Hispanic white (49%) inmates (table 10).² The number of black inmates imprisoned for violent crimes (284,631) surpassed that of white (228,782) or Hispanic (162,489) inmates. Among black inmates sentenced for violent crimes, the leading cause of incarceration was robbery (19% of the total black prison population), followed by murder and nonnegligent manslaughter (13%). Black and Hispanic inmates were incarcerated at similar percentages for violent offenses, with 13% of the Hispanic prison population held for murder and nonnegligent manslaughter, 13% for robbery, and 14% for

aggravated or simple assault. Among white inmates convicted of violent crimes, the leading cause for incarceration was rape or sexual assault (17% or 79,282 prisoners). When combined with rape or sexual assault convictions, the overall number of white inmates imprisoned for rape or sexual assault exceeded the number of black and Hispanic inmates sentenced for rape or sexual assault combined (75,838). The number of white inmates sentenced for property crime (108,560) was larger than the number of black (78,197) and Hispanic (38,264) inmates sentenced for property crime, while more black inmates were sentenced for drug offenses than inmates of other races or Hispanic origin.

²For distribution of prisoners by race categories, see *Prisoners in 2011*, NCJ 239808, BJS Web, December 2012.

TABLE 10
Estimated number of sentenced prisoners under state jurisdiction, by offense, sex, race, and Hispanic origin, December 31, 2011

Offense	All inmates ^a	Male	Female	White ^b	Black ^b	Hispanic
Total	1,341,804	1,250,214	91,590	465,180	509,677	282,353
Violent	710,875	678,786	33,695	228,782	284,631	162,489
Murder ^c	163,762	154,359	9,821	45,369	65,568	37,956
Manslaughter	21,051	18,544	2,587	8,107	7,408	3,456
Rape/sexual assault	165,656	163,863	2,032	79,282	39,975	35,863
Robbery	181,415	173,640	8,177	38,312	99,096	36,694
Aggravated or simple assault	138,574	131,100	7,816	42,375	56,281	38,252
Other violent	40,416	37,281	3,262	15,336	16,304	10,270
Property	245,351	220,753	25,486	108,560	78,197	38,264
Burglary	128,823	122,837	6,298	53,547	46,795	22,038
Larceny-theft	42,029	35,195	7,046	19,617	12,679	5,679
Motor vehicle theft	14,703	13,782	963	6,596	3,330	4,132
Fraud	30,333	22,000	8,559	14,738	8,256	2,628
Other property	29,463	26,940	2,621	14,063	7,137	3,786
Drug^d	225,242	203,081	22,971	67,271	91,775	47,479
Public order^e	141,803	134,203	7,954	54,834	50,489	32,275
Other/unspecified^f	18,534	13,391	1,484	5,733	4,585	1,846

Note: Counts are based on state prisoners with a sentence of more than 1 year under the jurisdiction of state correctional officials. Detail may not sum to total due to rounding and missing offense data.

^aIncludes American Indians, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, and persons identifying two or more races.

^bExcludes persons of Hispanic or Latino origin and persons of two or more races.

^cIncludes nonnegligent manslaughter.

^dIncludes trafficking, possession, and other drug offenses.

^eIncludes weapons, drunk driving, and court offenses; commercialized vice, morals, and decency offenses; and liquor law violations and other public-order offenses.

^fIncludes juvenile offenses and other unspecified offense categories.

Sources: Bureau of Justice Statistics, National Prisoner Statistics Program and National Corrections Reporting Program, 2011.

National Prisoner Statistics jurisdiction notes

Alaska—Prisons and jails form one integrated system. All NPS data include jail and prison populations housed in-state and out-of-state. Jurisdictional totals include individuals in electronic and special monitoring programs who are under the jurisdiction of the state of Alaska.

Arizona—Jurisdiction counts are based on custody data and inmates in contracted beds.

California—Population counts for inmates with over 1 year maximum sentence(s) include felons who are temporarily absent, such as in court, jail, hospital, etc. The majority of temporarily absent inmates are absent for fewer than 30 days. Population counts for unsentenced inmates include civil addicts who are enrolled for treatment and are not serving a criminal conviction sentence, but are under the jurisdiction of the California Department of Corrections and Rehabilitation. California is unable to differentiate between inmates held in federal facilities and in other states' facilities.

Colorado—Population counts include a small undetermined number of inmates with a maximum sentence of 1 year or less.

Connecticut—Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Delaware—Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Federal Bureau of Prisons—Jurisdiction counts include inmates housed in secure private facilities through private contracts and subcontracts, and inmates housed in jail or short-term detention and others held in state-operated secure facilities. Counts also include 8,932 inmates held in nonsecure privately operated residential reentry centers and 2,659 offenders on home confinement. The Federal Bureau of Prisons does not house inmates age 17 or younger in federal facilities.

Georgia—Females are not housed in privately operated correctional facilities in Georgia. Subtotals of race, sex, and sentence length for jurisdiction and custody counts were adjusted by the Georgia Department of Corrections using interpolation to match the overall totals.

Hawaii—Prisons and jails form one integrated system. All NPS data include jail and prison populations. In custody and jurisdiction counts, sentenced felon probationers and probation violators are included with the counts of a total maximum sentence of 1 year or less. Jurisdiction counts include dual jurisdiction (state of Hawaii or federal) inmates currently housed in federal facilities and in contracted beds.

Iowa—As of 2009, the Iowa Department of Corrections began including offenders on work release, the Operating

While Intoxicated population, and Iowa inmates housed in out-of-state prisons and jurisdiction counts. Iowa data included in BJS reports prior to 2009 were custody counts only. Jurisdiction counts include Iowa offenders housed in prisons in other jurisdictions who are under Iowa's jurisdiction. Data quality and collection methodology have been updated in 2012, so changes from previous years' counts may reflect these changes.

Kansas—Jurisdiction counts of inmates with sentences of less than 1 year are available in 2012, but were not in 2011.

Louisiana—Jurisdiction and capacity counts were as of December 27, 2012.

Massachusetts—By law, offenders in Massachusetts may be sentenced to terms of up to 2.5 years in locally operated jails and correctional institutions. This population is excluded from the state count, but is included in published population counts and rates for local jails and correctional institutions. Jurisdiction counts exclude approximately 3,271 inmates in the county system (local jails and houses of correction) serving a sentence of over 1 year, but these inmates are included in imprisonment rate calculations at the request of the Massachusetts Department of Corrections. Jurisdiction and custody counts may include a small but undetermined number of inmates who were remanded to court; transferred to the custody of another state, federal, or locally operated system; or subsequently released.

Maryland—The number of inmates with maximum sentences of more than 1 year is estimated by taking the percentages for these prisoners from the automated totals and applying them to the manual totals submitted for NPS. The number of male inmates included in the jurisdiction count of prisoners held in other state facilities may include a small number of female inmates.

Minnesota—Jurisdiction counts include inmates temporarily housed in local jails, on work release, or on community work crew programs.

Mississippi—Custody counts exclude county regional facilities, while jurisdiction counts include these facilities. Local jails and county regional facilities were included in the jurisdiction count of inmates housed at local facilities.

Nebraska—By statute, inmates are housed where they are sentenced by the judge and are never housed in local jails or by another state to ease prison crowding.

New Hampshire—The new offender database management system reports the number of inmates under New Hampshire's jurisdiction but housed in other state facilities in a different manner from NPS submissions prior to 2010.

New Jersey—Population counts for inmates with a maximum sentence of more than 1 year include inmates with sentences of 1 year. The New Jersey Department of Corrections has no jurisdiction over inmates with sentences of less than 1 year or over unsentenced inmates.

New Mexico—Jurisdiction counts do not include inmates from other states housed in New Mexico under the interstate compact agreement.

North Carolina—As of December 1, 2011, North Carolina prisons no longer housed misdemeanor offenders with sentences of less than 180 days.

Ohio—Population counts for inmates with a maximum sentence of more than 1 year include an undetermined number of inmates with a sentence of 1 year or less. Counts of inmates under Ohio's jurisdiction but housed in federal or other state facilities are estimates.

Oklahoma—Jurisdiction counts exclude inmates from other states who were serving time in Oklahoma prisons under the interstate compact. Most of the inmates with sentences of less than 1 year were part of the Oklahoma Delayed Sentencing Program for Young Adults. Counts of prison release by escape reflect inmates escaping state-run prisons only. Because these inmates were included in the 2011 jurisdiction counts, the 2012 jurisdiction is not comparable to 2011.

Oregon—Most offenders with a maximum sentence of less than 1 year remain under the custody of local counties rather than the Oregon Department of Corrections.

Pennsylvania—All Pennsylvania inmates housed in Virginia were brought back to serve time in Pennsylvania in March 2012.

Rhode Island—Prisons and jails form one integrated system. All NPS data include jail and prison populations. Jurisdiction counts include inmates who have dual jurisdiction, or those serving Rhode Island sentences out of state while serving that state's sentence as well.

South Carolina—The December 31, 2012, custody count of unsentenced individuals includes Interstate Compact Commission (ICC) inmates. As of July 1, 2003, the South Carolina Department of Corrections (SCDC) began releasing inmates due for release and housed in SCDC institutions on the first day of each month. Since January 1, 2012, was a holiday, inmates eligible for release on January 1 were released on December 31, 2011. Therefore, the inmate count was at its lowest point for the month on December 31, 2012. All inmates in private facilities in South Carolina were housed in private medical facilities.

South Dakota—Custody and jurisdiction counts of inmates serving a maximum sentence of 1 year or less included those under the sentence of probation who, as a condition of probation, must serve up to 180 days in state prison. The custody count of unsentenced inmates included all holds for the U.S. Marshals Service (sentenced and unsentenced).

Texas—Offenders in custody were all offenders serving time in a facility owned and operated by the Texas Department of Criminal Justice at the time of data collection. Jurisdiction counts include offenders in custody and offenders held in privately operated prisons, intermediate sanction facilities, substance abuse felony punishment facilities, pre-parole transfer facilities, and halfway houses; offenders temporarily released to a county for less than 30 days; and offenders awaiting paperwork for transfer to state-funded custody.

Vermont—Prisons and jails form one integrated system. All NPS data include jail and prison populations.

Virginia—Jurisdiction counts were for December 31, 2012. As of September 1, 1998, the state is responsible for inmates with a sentence of 1 year or more, or a sentence of 12 months and 1 day. The state was responsible for a 1-year sentence, while local authorities were responsible for a 12-month sentence. Inmates with a sentence of 12 months or less were not the responsibility of the state.

Wisconsin—Custody and jurisdiction counts include 722 temporary probation and parole placements.

Terms and definitions

Adult imprisonment rate—The number of prisoners under state or federal jurisdiction sentenced to more than 1 year per 100,000 U.S. residents age 18 or older.

Average annual change—Average (mean) annual change across a specific period.

Custody—Prisoners held in the physical custody of state or federal prisons or local jails, regardless of sentence length or authority having jurisdiction.

Imprisonment rate—The number of prisoners under state or federal jurisdiction sentenced to more than 1 year per 100,000 U.S. residents of all ages.

Inmate—A person incarcerated in a local jail, state, or federal prison or a private facility under contract to federal, state, or local authorities.

Jail—A confinement facility usually administered by a local law enforcement agency that is intended for adults, but sometimes holds juveniles, for confinement before and after adjudication. Such facilities include jails and city or county correctional centers; special jail facilities, such as medical treatment or release centers; halfway houses; work

facilities; and temporary holding or lockup facilities that are part of the jail's combined function. Inmates sentenced to jail facilities usually have a sentence of 1 year or less. Connecticut, Rhode Island, Vermont, Delaware, Alaska, and Hawaii operate integrated systems, which combine prisons and jails.

Jurisdiction—The legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.

Prison—A long-term confinement facility run by a state or the federal government that typically holds felons and offenders with sentences of more than 1 year. However, sentence length may vary by state. Connecticut, Rhode Island, Vermont, Delaware, Alaska, and Hawaii operate integrated systems, which combine prisons and jails.

Prisoner—An individual confined in a correctional facility under the legal authority (jurisdiction) of state or federal correctional officials.

Sentenced prisoner—A prisoner sentenced to more than 1 year.

Methodology

Begun in 1926 under a mandate from Congress, the National Prisoner Statistics (NPS) Program collects annual data on prisoners at yearend. The Bureau of Justice Statistics (BJS) sponsors the survey, and the U.S. Census Bureau serves as the data collection agent. BJS depends entirely on voluntary participation by state departments of corrections and the Federal Bureau of Prisons for NPS data.

The NPS distinguishes between inmates in custody and prisoners under jurisdiction. To have custody of a prisoner, a state or the Federal Bureau of Prisons (BOP) must hold that inmate in one of its facilities. To have jurisdiction over a prisoner, the state or BOP must have legal authority over that prisoner, regardless of where the prisoner is incarcerated or supervised. Some states were unable to provide counts that distinguish between custody and jurisdiction. (See NPS jurisdiction notes to determine which states did not distinguish between custody and jurisdiction counts.)

The NPS jurisdiction counts include persons held in prisons, penitentiaries, correctional facilities, halfway houses, boot camps, farms, training or treatment centers, and hospitals. Counts also include prisoners who were—

- temporarily absent (less than 30 days), out to court, or on work release
- housed in privately operated facilities, local jails, or other state or federal facilities
- serving concurrent sentences for more than one correctional authority.

The NPS custody counts include all inmates held within a respondent's facilities, including inmates housed for other correctional facilities. The custody counts exclude inmates held in local jails and in other jurisdictions. With a few exceptions, the NPS custody counts include inmates held in privately operated facilities.

Respondents to NPS surveys are permitted to update the prior counts of prisoners held in custody and under jurisdiction. Some statistics on jurisdiction and sentenced prison populations for prior years have been updated in this report. All tables showing data based on jurisdiction counts—including tables of imprisonment rates—were based on the updated and most recently available data provided by respondents.

The NPS has historically included counts of inmates in the combined jail–prison systems in Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont. The District of Columbia (D.C.) has not operated a prison system since yearend 2001. Felons sentenced under the D.C. criminal code are housed in federal facilities. Jail inmates in D.C. are included in the Annual Survey of Jails. Some previously published prisoner counts and the percentage change in population include D.C. jail inmates for 2001, the last year of collection.

Additional information about the NPS, including the data collection instrument, is available on the BJS website at www.bjs.gov.

Nonreporting states

As of June 12, 2013, three states had not yet reported 2012 total and sex-specific jurisdiction or custody counts to the NPS. BJS compared data submitted to NPS by these states from past years to all jurisdiction or custody counts from past years available on each states' departments of corrections website (between 3 and 12 years' worth of data were available across the states). Within each year, BJS calculated the ratio of the reported NPS count to the count published on the website. The average of these ratios was applied to the count reported on each states' website that was closest to the count on December 31, 2012, to obtain the total imputed jurisdiction count for each state. This was repeated for total male and female jurisdiction counts. In the case of Washington, sex-specific counts were not available for 2012 on the DOC website, so BJS used the average ratio of males to females to impute the number of females. Finally, the within-state ratio of those sentenced to total jurisdiction by sex was applied to the imputed total jurisdiction values to obtain imputed counts for males and females sentenced to more than 1 year.

The imputed counts were used to calculate overall state and national totals of prisoners, but are not reported on the individual state level. BJS will publish the final total estimated and state-specific reported counts in the annual *Prisoners in 2012* report in late 2013.

Estimating offense distribution in the state prison population by race or Hispanic origin

National-level estimates of the number of state prisoners by race were based on adjusting NPS counts to comport with Office of Management and Budget (OMB) definitions of race and Hispanic origin. OMB defines persons of Hispanic or Latino origin as a separate category. Race categories are

defined exclusive of Hispanic origin. Not all NPS providers' information systems categorize race and Hispanic origin in this way. BJS adjusts the NPS data on race and Hispanic origin by the ratio of the relative distribution of prisoners by race and Hispanic origin in self-report inmate surveys that use OMB categories for race to the relative distribution of prisoners by race and Hispanic origin in the NPS data. This ratio was calculated for the year(s) in which BJS had an inmate survey and NPS data. For this report, the 2004 Survey of Inmates in State Correctional Facilities was used to calculate this ratio. The ratio obtained by comparing the within-year relative distributions by race and Hispanic origin was then multiplied by the NPS distribution in a year to generate the estimate of persons by race and Hispanic origin.

BJS employed a ratio adjustment method to weight the individual-level race or sex-specific offense data from the National Corrections Reporting Program (NCRP) to the state control totals for sex and the estimated race or ethnicity control totals from NPS, thereby yielding a national offense distribution for state prisoners. Because data submission for NCRP typically lags behind that of NPS, offense distribution estimates are published for the previous calendar year.



The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. William J. Sabol is the acting director.

This report was written by E. Ann Carson and Daniela Golinelli. Margaret Noonan, Todd Minton, and Sheri Simmons verified the report.

Morgan Young and Jill Thomas edited the report, and Barbara Quinn produced the report under the supervision of Doris J. James.

July 2013, NCJ 242467



Office of Justice Programs
Innovation • Partnerships • Safer Neighborhoods
www.ojp.usdoj.gov

4/13/13

Reclassifying Nonviolent, Small Quantity Possession

Potential Impact on Alaska's
Budget and Society

Reclassification of Drug Possession

- SB 56 creates an “Escalating Punishment” system, similar to the State’s approach to DUI’s or DV4’s (Domestic Violence in the 4th Degree). Key features:
 - Reclassification of small quantity, nonviolent possession to a misdemeanor
 - “3-strikes” Rule. Repeat offenses= felony.
 - Strict quantity limits; over the limit = implied distribution = felony.
 - No restrictions placed on law enforcement or prosecutors to pursue drug dealers, regardless of quantity (i.e., any evidence of selling drugs = felony).
- This should lead to reductions in:
 - Prison admissions
 - Legal and adjudication costs
 - Low-risk offenders being placed on felony probation
 - Collateral consequences for simple possession offenders
 - Reduction in indirect costs, such as welfare costs
- Significant cost savings while maintaining public safety.

Alaska's Prison Population Growth

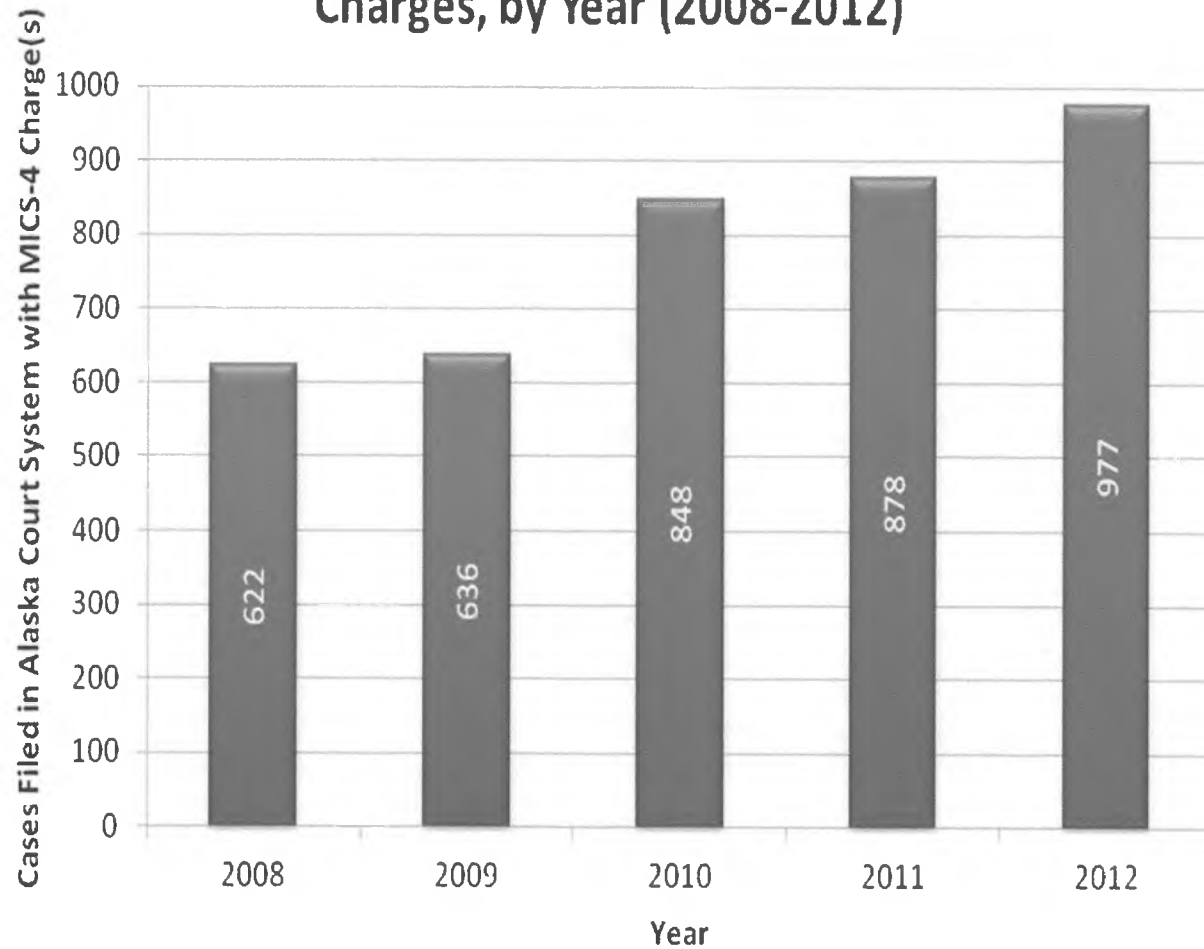


From 2003 to 2012, the annual average inmate population grew slightly less than 3% per year. Projections are based on a 3% growth rate. Based on this rate, inmate population is estimated to reach 6,145 by 2020. **(Note: Stated differently, the DOC population grew by approximately 28% in the decade preceding 2012. According to US Census Data, the total population of Alaska grew by just 13.3% from 2000 to 2010, a similar period.)**

Drivers of Alaska's Prison Population Growth

1. Increased admission for Felony Theft in the Second Degree—theft of property valued over \$500—and increased sentence lengths associated with these offenses.
 2. A 63% rise in prison admission for drug offenders, particularly felony offenders convicted of possession offenses.
 - >>Addressed by Senator Dyson's SB 56.
 3. Increase in Petitions to Revoke Probation (PTRP's) and probation violations.
 - >>Connected to number of offenders on felony probation; greatly impacted by SB 56.
- Source: DOC Memo, *Factors Driving Alaska's Prison Population Growth*, at 1 (August 24, 2012).

Cases Filed in Alaska Court System with MICS-4 Charges, by Year (2008-2012)

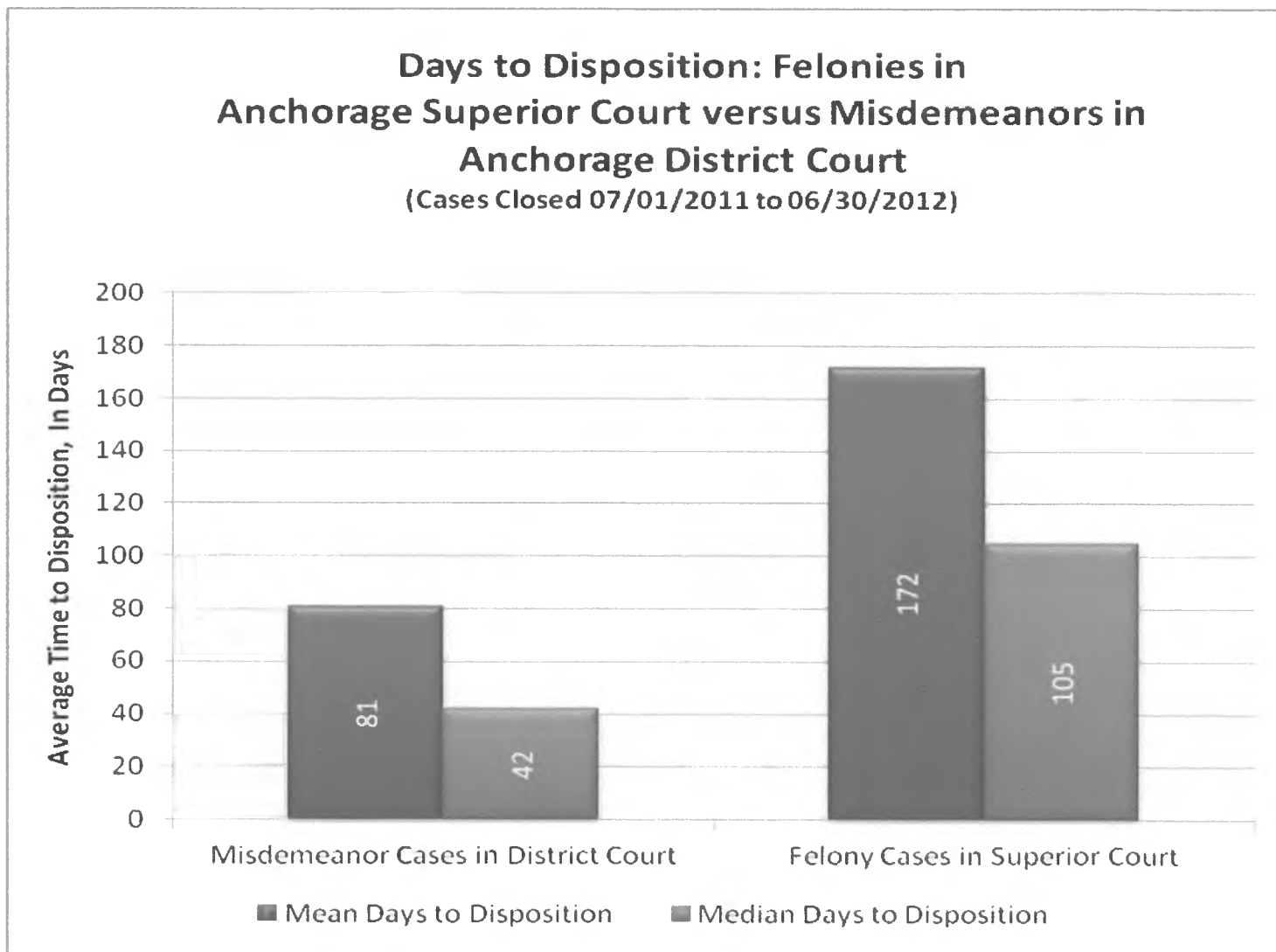


- MICS-4 (Misconduct Involving a Controlled Substance in the 4th Degree) is currently classified as a Class C Felony.

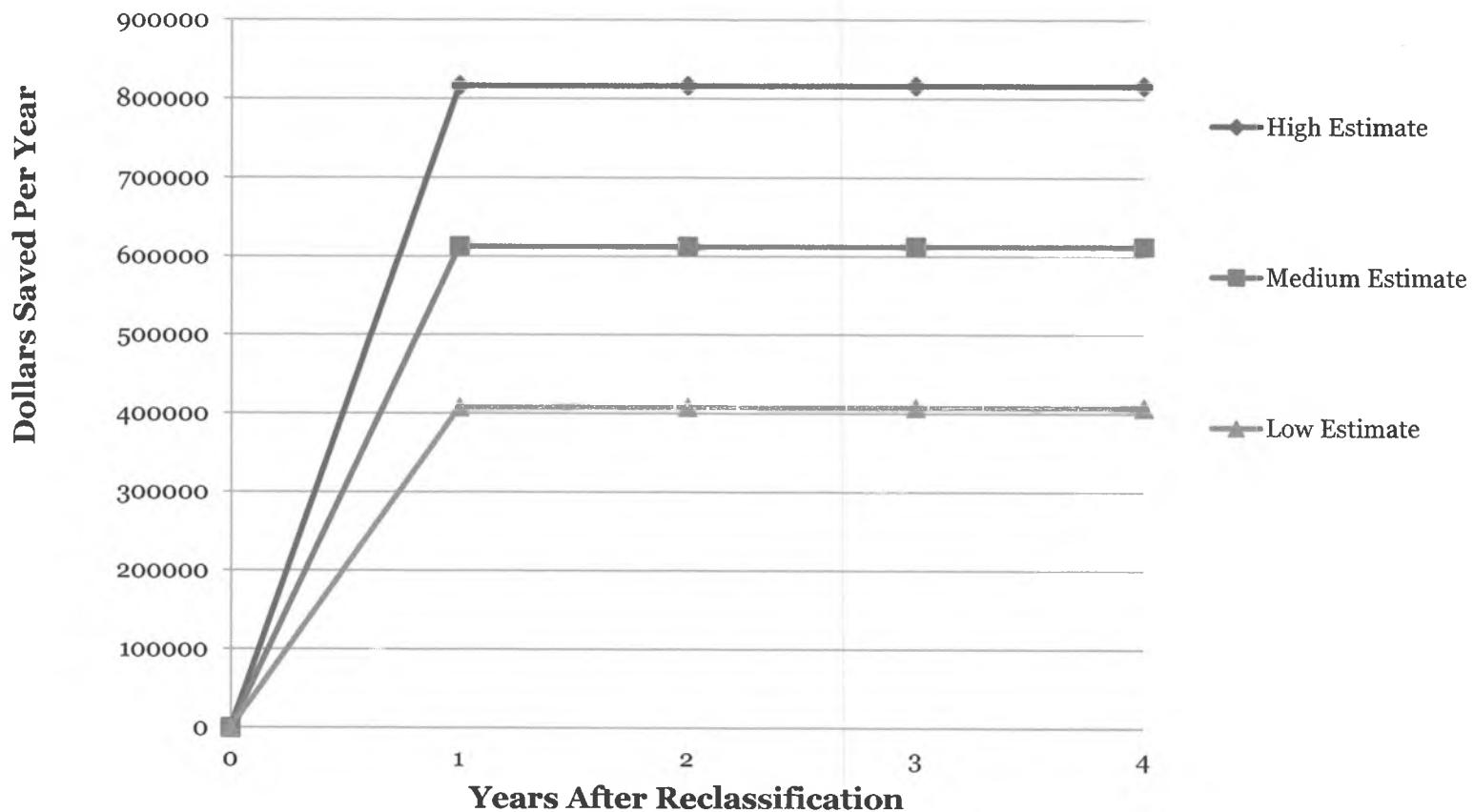
Collateral Consequences from Small-quantity Drug Felonies

- First and foremost, barrier to employment:
 - Medicare/Medicaid facilities → federal law
 - Anchorage School District → district policy
 - North Slope → Private HR decision
- Difficulty finding housing
- Inability to qualify for certain federal benefits, like Food Stamps
- Ineligible to become a Village Public Safety Officer
- Other barriers: stretched to 26 pages of appendices in full report
- SB 56 allows Alaskans to avoid many of these consequences if they are not repeat offenders.

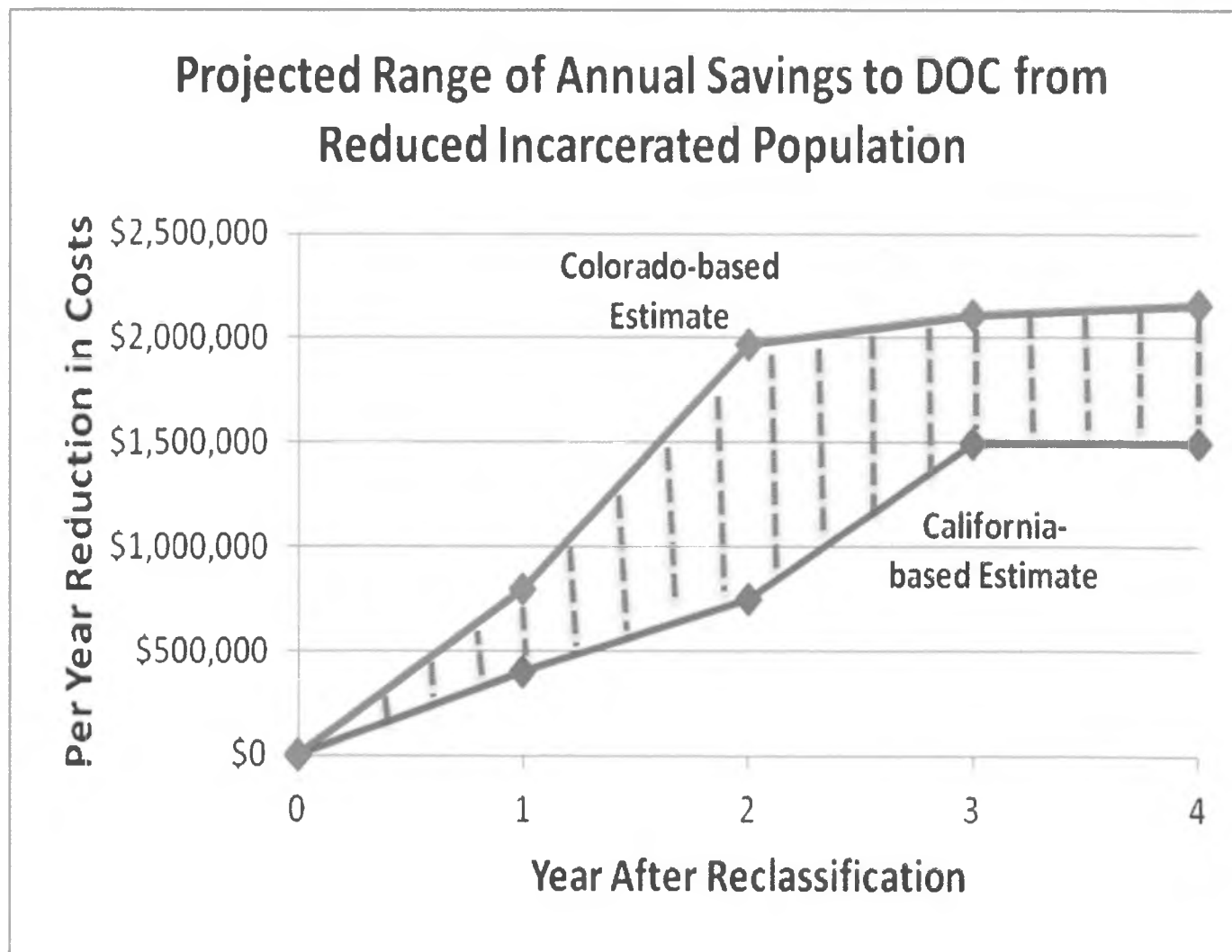
Reduced Legal and Adjudication Costs



Annual Savings from Reduced Legal and Adjudication Costs

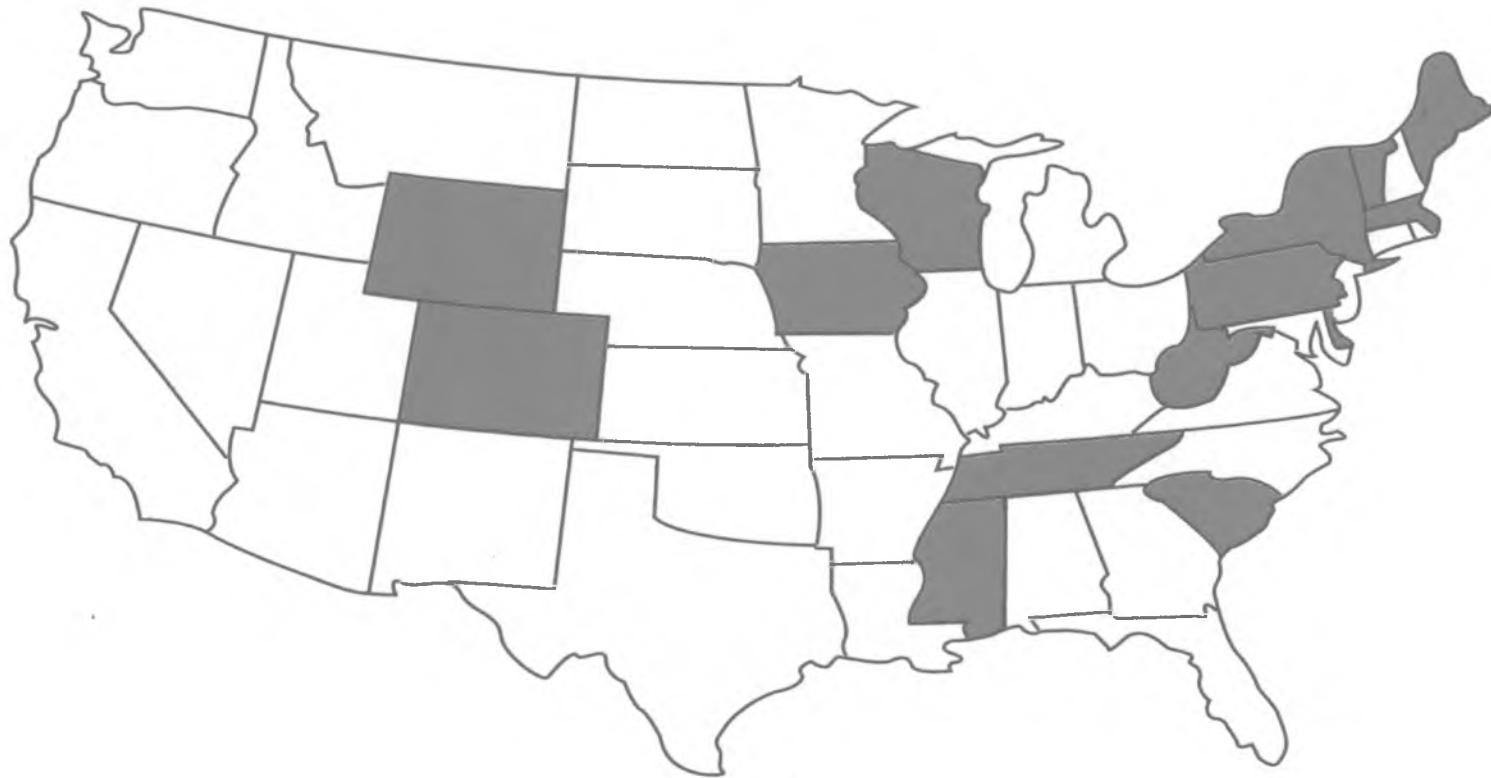


Even Assuming \$0 in savings from the Department of Law, projected savings still amount to \$408,000, \$613,000 or \$817,000 per year.



- Conservative estimates. The Legislative Research Service identified approximately \$14M in annual costs, the majority of which came from DOC.

Public Safety: Map of Lower-48 States Where Drug Possession is a Misdemeanor



Public Safety: Statistical Comparison

	States in which Possession is a Felony	States in which Possession is a Misdemeanor
Rate of Violent Crime Per 100,000	397.5	376.4
Rate of Property Crime Per 100,000	3,071.9	2,913.2
Incarceration Rate Per 100,000	401.23	372.20
Illicit Drug Use, Excluding Marijuana	3.61%	3.55%
Drug Treatment Admission Rates Per 100,000	431.69	512.65
Rates of rape, physical violence, and/or stalking by an intimate partner with a female victim in 2010 (percent reporting)	36.23%	35.5%

Conclusions

- Predicted outcomes from SB 56:
 - Minimal impact on public safety.
 - Large reduction in collateral consequences for offenders and improvement in employability.
 - Reduction in Probation Officer caseloads.
 - Between \$5.77 and \$10.31 million in savings to the State over four years, increasing thereafter (LRS estimates considerably larger).

ALASKA STATE LEGISLATURE



SENATOR FRED DYSON
SENATE DISTRICT F

SPONSOR STATEMENT FOR HCS CSSB 56(JUD)

Alaska's prison population is currently growing at one of the fastest rates in the nation. Despite the \$250 million Goose Creek Correctional Center, the Department of Corrections estimates that all available prison beds will again be full in 2016. Simultaneously, per inmate incarceration costs have risen from \$110/day to \$147/day, now equaling more than \$50,000/inmate per year. Since 2005, the DOC's operating budget has spiked nearly 94%, from \$167M to over \$323M. Finally, and perhaps most troubling, Alaska's prison beds are increasingly filled with non-violent offenders.

With our prisons packed and the cost of incarceration skyrocketing, we must seek responsible ways to slow prison population growth while preserving public safety. According to DOC data, from 2002 to 2011, non-violent offenders have been the fastest growing segment in our prison population; drug and alcohol offenses account for a substantial portion of this growth. A recent study by an Alaskan researcher concluded that a significant driver of Alaska's prison population growth is the rise in admissions for non-violent, small-quantity drug offenders, particularly felony offenders convicted of non-distributive possession. Reforming our drug policy could reduce this driver of prison growth and save the state millions of dollars. This conclusion is supported by leading justice reform policy groups, recent DOC Dep. Commissioner Carmen Gutierrez, and Legislative Research Services who concur that the fiscal burden of our current drug laws is significant.

HCS CSSB 56(JUD) creates an escalating punishment regime, similar to Alaska's approach to DUI's, reclassifying the initial possession of non-distributive (small quantity) amounts of Schedule IA (e.g. heroin, codeine, oxycodone) and IIA substances (e.g. methamphetamine, mushrooms, cocaine) from a Class C Felony to a Class A Misdemeanor. This reclassification preserves a serious criminal penalty for drug possession, but allows first time offenders to avoid the collateral consequences and longer prison sentences of a felony. It also protects law enforcement's ability to aggressively pursue distributors and repeat offenders.

Comparative analysis of states where small quantity possession is already a misdemeanor indicates that reclassification should have minimal impact on public safety. Misdemeanor states actually have slightly *lower* rates of violent crime, property crime and drug use. Finally, this reform will benefit offenders and their families by removing the stigma of a felony conviction, markedly improving employment prospects, professional licensing, and housing opportunities, all variables strongly correlated with decreased alcoholism, domestic violence and recidivism.

Staff contact: Chuck Kopp, (907)465-6580

ALASKA STATE LEGISLATURE



SENATOR FRED DYSON
SENATE DISTRICT F

SECTION ANALYSIS – HCS CSSB56(JUD)

Section 1

1. Amends the criminal statute AS 11.71.040 (Misconduct Involving Controlled Substance in the Fourth Degree), raising the quantity of Schedule IA or IIA controlled substance needed to be found in an offender's possession that would precipitate a felony charge from "any amount" to a quantity that implies distribution.
2. Establishes that the quantity possessed that implies distribution and opens an offender to a felony charge is 15 or more tablets, ampules, or syrettes when the Schedule IA or IIA is found in such a form.
3. Further establishes that the quantity possessed that implies distribution and opens an offender to a felony charge is 3 grams when the Schedule IA or IIA substance is in the form of a preparation, compound, or mixture.
4. Creates a carve out for the substances heroin and Lysergic acid diethylamide (LSD), each of which will be subject to a stricter felony quantity limit: 500 milligrams for heroin and 300 milligrams for LSD.
5. Creates an additional carve out for the "date rape" drug GHB and similar non-personal use drugs found in 11.71.140 (e), such that possession of those substances remains a felony.
6. Provides for an "escalating punishment" system wherein a repeat offender found in possession of any amount of Schedule IA or IIA substance may still be prosecuted for Misconduct Involving a Controlled Substance in the Fourth Degree—a Class C Felony—if they have been previously convicted of any drug offense defined in AS 11.71.010 – 11.71.050 in the seven years preceding the current offense.
7. Leaves unaffected any provisions of this statute or any other controlled substance statute that empowers law enforcement and prosecutors to charge and convict distributors of controlled substances.

Section 2

1. Provides that offenders found in possession of small quantities of Schedule IA and IIA substances may be prosecuted under AS 11.71.050 (Misconduct Involving a Controlled Substance in the Fifth Degree), a Class A Misdemeanor.
2. Establishes that an offender may be prosecuted of a Misconduct Involving a Controlled Substance in the Fifth Degree if they are found with any amount of a Schedule IA or IIA substance up to the felony limits, above which they are subject to felony convictions under AS 11.71.040.
3. Establishes the felony limit as 15 tablets, ampules, or syrettes if the substance is found in such a form, or 3 grams if found in a preparation, compound, or mixture.
4. Includes carve outs for heroin and LSD, for which the felony limits will be 500 and 300 milligrams, respectively.
5. Includes previously mentioned carve out for GHB and similar substances.

Section 3

1. Requires that offenders convicted of Misconduct Involving a Controlled Substance in the Fifth Degree are screened and evaluated for drug addiction under the Alcohol Safety Action Program or a similar program capable of conducting drug screening. Assignment to further treatment shall be based on the results of these screenings.

Section 4

1. Establishes that this Act applies to offenses committed on or after the effective date of the Act, except that references to previous convictions in the "escalating punishment" or "three strikes" provisions of Section 1 include convictions occurring before, on, or after the effective date.

Section 5

1. Removes conflicting language related to Bath Salts from the MICS-4 and MICS-5 statute. After the passage of this bill, Bath Salts will be treated as other Schedule IIA controlled substances, with the same felony limits as, for example, methamphetamine.

Section 6

1. Provides for an effective date.

ALASKA STATE LEGISLATURE



SENATOR FRED DYSON
SENATE DISTRICT F

SUMMARY OF CHANGES for HCS CSSB 56(JUD)

1. SB 56 received an amendment in Senate Judiciary to correct a drafting error which incorrectly identified the controlled substance 'DET', rather than the controlled substance 'LSD' as intended by the bill sponsor.
2. SB 56 received three amendments in House Judiciary – (1) extended the look back period from five to seven years during which time a conviction of a misdemeanor offense drug possession counts as a "strike" toward a felony charge; (2) removed the drug commonly identified as 'GHB', and known to be utilized as a date rape drug, from the provisions of the bill that make an initial possession offense for small amounts of Schedule IA and IIA drugs a misdemeanor; (3) requires the Court to send misdemeanant drug offenders to an alcohol safety action program or drug evaluation program for screening and treatment as necessary.

**Reclassifying Nonviolent, Small Quantity Drug Possession as a Misdemeanor:
Potential Impacts on Alaska's Budget and Society**

RESEARCH SUMMARY

1/16/13

Note: This is a summary of a more detailed, 95-page report produced in late 2012. The forecasting methodology and calculations leading to the cost and savings estimates in this summary are spelled out in detail in the full version; it also contains a large number of citations for the factual assertions made herein. A copy of the full report is available upon request.

Executive Summary

At present, if an individual in Alaska is found in possession of even trace amounts of a Schedule IA or IIA controlled substance, they can be charged with a felony. In contrast, fourteen states currently classify small quantity, nonviolent drug possession as a misdemeanor offense; in 2010, Colorado joined the ranks of these states in an attempt to reduce state expenditures.

Alaska's prison population is currently growing at one of the fastest rates in the nation, with much of that growth driven by incarceration of drug offenders. It costs the State approximately \$49,275 per year to incarcerate each of these prisoners. Capital expenses at the Goose Creek prison totaled more than \$250 million, and the Department of Corrections estimates that all of its facilities, including Goose Creek, will again be at capacity by 2016.

Reclassifying drug possession as a misdemeanor should lead to aggregate savings to the State of between \$5.77 and \$10.31 million over four years. These savings arise primarily from reduced incarceration, adjudication, and legal costs, and should grow over time. The conservative estimate developed for this report did not include capital expenses from prison construction.

Comparative analysis of states in which drug possession is already a misdemeanor suggests that reclassification's effect on public safety should be minor. Misdemeanor states actually have slightly lower rates of violent crime (including intimate partner and sexual violence), property crime, and drug use, as well as higher rates of drug treatment.

This reform would also remove a plethora of collateral consequences imposed by federal statute, state law, and private actors. Removing these collateral consequences should have wide-ranging benefits for offenders and their families, and would improve employment prospects, a variable strongly correlated with decreases in alcoholism, domestic violence, and recidivism.

Finally, insofar as reclassification might cause limited disruption to Alaska's current penal system and law enforcement strategy, sufficient policy tools exist to address many of these challenges. These tools include increased evaluation of offenders, an "escalating punishment" regime similar to Alaska's current approach to DUI's, expanded treatment for high-risk and drug-addicted offenders, and the innovative "PACE" program for similar probationers. Due to their impact on recidivism, these policy responses should also reduce total State expenditures over time.

Reclassifying small quantity, nonviolent drug offenses thus presents the Legislature with an opportunity to reduce government expenditures, while simultaneously preserving public safety and improving the prospects of drug users for rehabilitation and reentry.

The entire report is POSTED ON BASIS
CLICK ON THE 'DOCUMENTS' BOX UNDER THE BILL # (SB56)

Table of Contents

I.	Introduction: Alaska’s Prison Population Growth	3
II.	Drug Policy and Prison Population Growth	3
A.	Increased Arrests and Charging of “MICS-4” Felony Possession	4
B.	Increase in DOC Population	5
III.	Focusing on Felony Convictions	6
A.	The Collateral Consequences of a Felony: Cascading Effects	7
B.	The Collateral Consequences of a Felony: Cataloged in Alaska.....	9
IV.	The Estimated Budgetary Impact of Reclassification	11
A.	Savings from Reduced Incarceration.....	11
B.	Savings from Reduced Costs in Prosecution, Public Defense, and Judicial Processing	12
C.	Constant Costs: Probation, Parole, and Law Enforcement Agencies	15
D.	Possible Sources of Budgetary Increase or Shifting	15
V.	Reclassification’s Effect on Public Safety	16
VI.	Challenges Posed by Reclassification	18
VII.	Policy Approaches to Address Reclassification’s Challenges.....	20
A.	Structuring Reclassification Appropriately: Escalating Punishment.....	21
B.	Expanding Evaluation and Treatment	22
C.	PACE and “PACE Lite”	25
VIII.	Conclusion and Recommendations.....	27

FACTORS DRIVING ALASKA'S PRISON POPULATION GROWTH

Prepared by Carmen Gutierrez, DOC

August 24, 2012

I. Introduction:

Today Alaska is at a crossroads. DOC has opened GCCC at a cost of \$250 million to Alaskans with an annual operating budget of \$50 million. We also know that if our prison population continues to grow at 3% per year plus, the state's prisons will be operating, once again, at 100% capacity by 2016. If our growth rate continues at its present pace we can either start planning to build a new prison today, recommit to incarcerating out-of-state, or look at proven best practice approaches that more effectively address criminality, reduce recidivism and build healthier, safer Alaskan communities.

Research shows that it is possible for Alaska to cut corrections costs without sacrificing public safety. This can be accomplished by adopting evidence-based practices and a cross-governmental approach to reform, focusing resources on high-risk offenders, supporting mandatory supervision and treatment in the community, and using real-time data and information to drive policy-making decisions. Research shows that implementation of evidence-based practices/programs leads to an average decrease in crime of between 10% and 20%.¹ Experience in other states such as Texas, Virginia and Oregon further reveals that with the implementation of these evidence-based approaches, these and other states have successfully cut corrections costs and reduced crime while at the same time improving offender outcomes and ensuring public safety.

II. Statement of the Problem: DOC's growing prison population, the increased costs to the State and the fact that under current practices, 66% of prisoners released from custody come back within the first three years of release. Alaskans do not appear to be receiving good value for the criminal justice dollars spent.

1. The state's prison population is growing at just over 3% per year. Since 2005, the hard bed prison population grew from 4,231 to 4,961 in 2012. At this current rate, DOC's inmate population will reach 6,313 by 2020.
2. Since 2005, DOC's budget has grown from \$166.698.3 to 323.191.7 in 2013. This is an average of more than 5.5% growth each year. DOC's agency operations accounts for the state's fifth highest user of GF funds exceeded only by HSS, EED, U of A, and DOT.
3. The 2012 daily cost to incarcerate in a hard prison bed per inmate per day is \$135.00 up from \$110.00 in 2005.
4. The average length of stay in prison for a felony offender has increased. In 2002, the average length of stay for a felon was 6.60 years. By 2011, that had grown to 7.20.

¹ *One in 31: The Long Reach of American Corrections*, March 2009, 24.

5. Two out of three prisoners released from custody return to custody within three years of release for a re-arrest, reconviction or remand on a Petition to Revoke Probation.²
6. More than 50% of the approximate 6000 people on probation in 2011 had a Petition to Revoke Probation filed against them, 67% of these petitions alleged technical or no new crime allegations.³

III. What are the factors driving Alaska's 3% per year growth rate:

1. Over the last ten years, DOC has moved from primarily incarcerating violent offenders to incarcerating primarily non-violent offenses. In 2002, 58% of DOC's prisoners were violent offenders. In 2010 that had reversed; 64% were non-violent offenders.⁴
2. Probation violations: The single highest cause for felony admission to prison is probationers' failure to abide by conditions of probation. This results in a Petition to Revoke Probation (PTRP) filed by the probation officer. The filing of PTRPs has risen dramatically over the last several years.
 - a. In 2002, there were 1,641 jail admissions for probation violations. In 2010, there were 2,755. By July 2011, 3889 of 6000 total probationers statewide had PTRPs filed. Of the PTRPs filed, 67% were for technical violations and the remaining 33% were for new crimes.
3. Felony Theft in the Second Degree is the third greatest reason for felony admission. Prison admission for these crimes has increased from 875 in 2002 to 1037 in 2011.⁵ In short, the number of Felony C Theft convictions has been steadily increasing at a faster pace than all other convictions. In 2011, felony property offenses represented 32% of all felony cases filed with the court system. The length of the sentence imposed for Felony C Theft has also been steadily increasing since 2005.
4. Incarceration for both misdemeanor and felony drug offenses has increased by 63% since 2002, from 967 admissions to 1,574 in 2010. During this same period, admissions for felony drug offenses have risen by over 81%.⁶ In 2011, 348 admissions for Misconduct Involving a Controlled Substance (possession), a class C felony offense, were for offenders between the ages of 18 to 29 years of age.

² *Criminal Recidivism in Alaska*, Alaska Judicial Council (January 2007). This study was updated by the *Criminal Recidivism in Alaska*, 2008 and 2009, Alaska Judicial Council (November 2011) study which followed released prisoners for two years and found the recidivism rate had remained about the same.

³ DOC probation data.

⁴ October 2011 DOC Offender Data.

⁵ DOC data prepared by DOC data analyst, February 2012.

⁶ *Id.*

IV. What DOC is currently doing to reduce recidivism:

1. Implemented PACE in Anchorage, Palmer and Fairbanks ⁷
 - a. Results of the Alaska Judicial Council 9/16/11 Preliminary Evaluation
 - PACE appears to be successful at reducing positive drug tests.
 - 66 percent of the PACE probationers were free of any positive drug tests during their first three months on PACE.
 - In contrast, prior to their enrollment in PACE, only 20 percent of those probationers were free of positive drug tests.
 - b. DOC is expanding its rehabilitative institutional programs.
 - a. The best evidence-based institutional Substance Abuse Programs have been shown to reduce recidivism by 9 to 12% over a 3 year period. To date, DOC's programs Living Success Substance Abuse Treatment (LSSAT) and the Residential Substance Abuse Treatment (RSAT) programs are out-performing these national outcomes. DOC has followed substance abuse program completers for two years and is showing a 21% reduction in recidivism. We currently have the LSSAT in 8 of 13 institutions and the RSAT in two institutions. We are in the process of starting a LSSAT at GCCC with a RSAT to begin in FY14.
 - b. Prison Education programs work. Although DOC does not currently have recidivism data on those who have participated in its Education/Vocational Education programs, national data shows that basic or postsecondary education programs reduce recidivism by 8.3%. So do correctional industries programs, which reduce recidivism rates by 6.4%.
 - c. Cognitive Behavioral therapy (CAP) in prison or in the community reduces recidivism. A small sample study on the re-arrest of Alaska CAP completers compared to non-completers showed a recidivism reduction of 9.6%.
3. DOC's Offender Management Plan implemented in January 2012 and set forth in P & P 818.01 is similar to the approach Oregon DOC has been using since 2004. The Oregon approach is reported to have reduced Oregon's recidivism rate to the lowest in the country at 23%. ⁸ DOC has no outcome measures at this time given that it implemented the policy eight months ago.
4. As a result of technical assistance received from the National Institute of Corrections, DOC is reexamining the way it supervises probationers moving to evidence-based approaches. As a result of the NIC TA received and the analysis of its own data, the Division of Parole and Probation learned that it is not supervising based upon the results of its Level of Service Inventory Revised (LSI-

⁷ The Fairbanks and Palmer PACE programs are too new to have any evaluative data at this time.

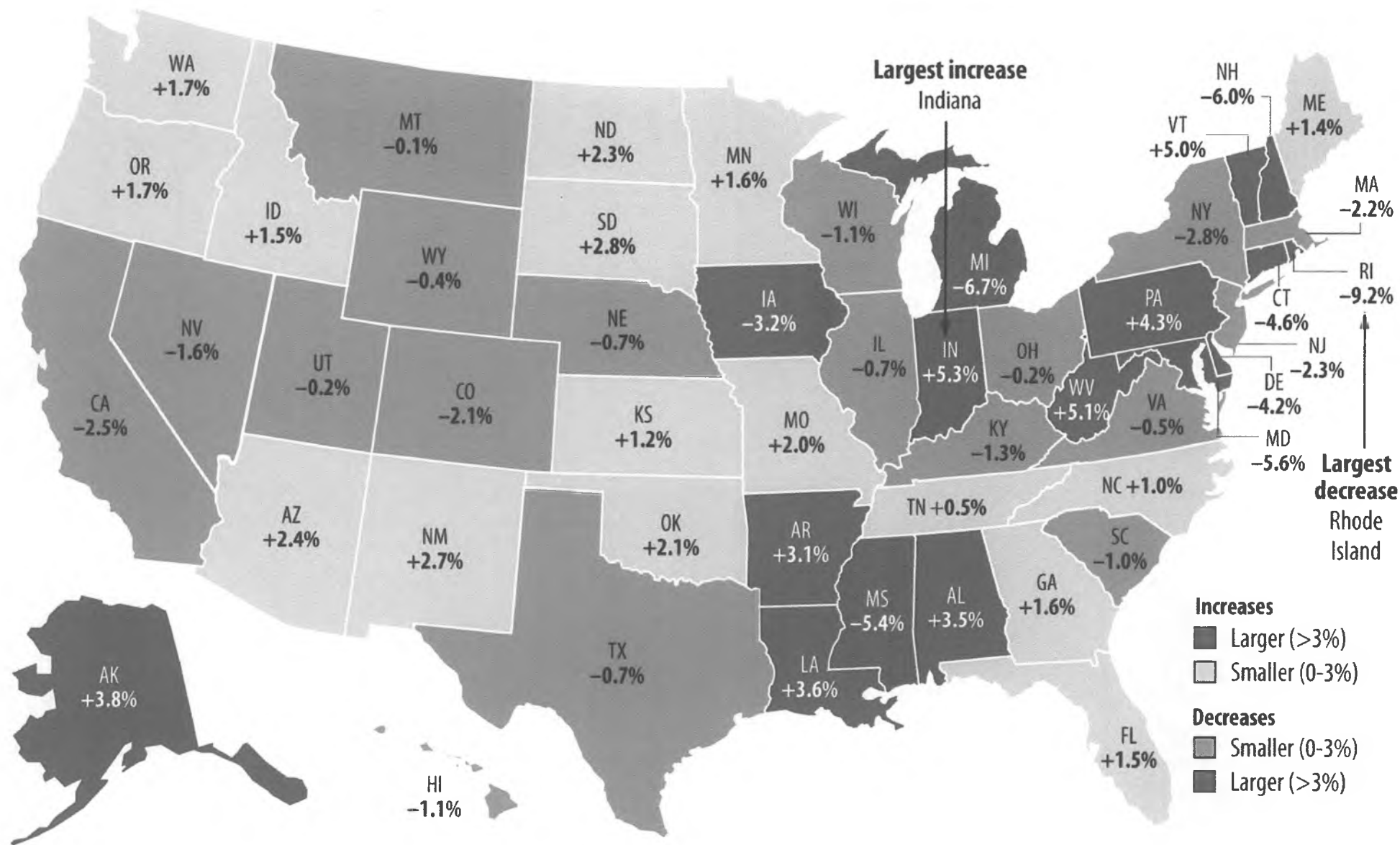
⁸ Oregon's recidivism definition is narrow than the one used by the Alaska Judicial Council's 2007 and 2011 recidivism studies.

R) risk/needs assessment tool. In many cases it was found to be over-supervising low risk probationers and not providing sufficient supervision of higher risk probationers where more direction was needed on fundamental issues such as housing, employment and sober/mental health supports.

5. The Alaska Prisoner Reentry Task Force is encouraging the creation of community coalitions to address some of the challenges that face newly released individuals when returning to their communities. Community coalitions now exist in Kenai, the Mat-Su Valley and Anchorage.
6. DOC is working with the Department of Law and the Fairbanks Court System to implement the Fairbanks PACE Misdemeanor Domestic Violence Demonstration Project. Under this model, high-risk misdemeanor DV offenders are supervised by a DOC probation officer utilizing the PACE approach.
7. DOC is in the process of using the PACE model as an intermediary sanction approach for furloughed inmates.

STATES MOVE IN DIFFERENT DIRECTIONS

Percent change in state prison populations, 2008–2009.



NOTE: Percent change is from December 31, 2008 to January 1, 2010 unless otherwise noted in the jurisdictional notes.

SOURCE: Pew Center on the States, Public Safety Performance Project



LEGISLATIVE RESEARCH SERVICES

Alaska State Legislature
Division of Legal and Research Services
State Capitol, Juneau, AK 99801

(907) 465-3991 phone
(907) 465-3908 fax
research@legis.state.ak.us

Research Brief

TO: Senator Johnny Ellis
FROM: Chuck Burnham, Legislative Analyst
DATE: January 8, 2013
RE: Fiscal Impact of Reclassifying Misconduct Involving a Controlled Substance IV
LRS Report 13.061

You asked us to delineate the fiscal impact on the State of reclassifying the criminal charge of Misconduct Involving a Controlled Substance IV from a class C felony to a class A misdemeanor. You also wanted to know what legal restrictions are attached to felons that are not experienced by misdemeanants.

With the data available to us, we are unable to reliably calculate the annual fiscal impact of reclassifying Misconduct Involving a Controlled Substance IV (MICS 4). We are, however, able to provide a rough calculation of the cost of imprisonment and parole for those convicted of class C felonies as compared to costs for class A misdemeanants over the entire, multi-year course of those cases. As we detail below, using this "life-cycle" methodology, we estimate that had the average number of prisoners discharged in recent years after serving a sentence for a MICS 4 felony been instead convicted of a class A misdemeanor, the costs associated with the entirety of their collective sentences would have been reduced by an average of roughly \$14.3 million per annual cohort of discharged prisoners. We emphasize that this is the difference in aggregate costs but should not be viewed entirely as possible savings should the reclassification be made. That is, a portion of such costs are fixed—those for heating prisons and paying correctional officers, for example—and would be incurred regardless of the length of sentence for a given crime or group of prisoners.

It is important to note that our conclusions are made in the absence of certain important information including, significantly, data from the Alaska Department of Law, and a detailed understanding of how other variables in the criminal justice process may change, thereby altering costs, should a reclassification of MICS 4 occur. Nonetheless, the single most significant cost associated with both class C felonies and class A misdemeanors, and the largest expenditures made for each by a wide margin, are generated by incarcerating and providing parole supervision for those convicted of such crimes. Therefore, because periods of both incarceration and parole are invariably much longer for felons, we are confident that reclassifying MICS 4 to a class A misdemeanor would result in substantial net savings to the state.

MICS 4 Crimes and Penalties

As you know, the crimes classified as MICS 4 are enumerated at AS § 11.71.040. They include manufacturing or delivering any amount of a schedule IVA or VA drug, or more than one ounce of a schedule VIA substance; possession of any amount of IA or IIA drugs or larger amounts of IIIA and IVA substances; and a variety of other offenses ranging from possession of certain drugs near schools to obtaining a controlled substance through fraud or forgery.¹ There are six levels of controlled substance offenses in Alaska Statute, decreasing in severity from MICS 1 to MICS 6. Therefore, although offenses classified as MICS 4 are not among the most serious drug crimes, those offenses are treated in Alaska law as being sufficiently serious to warrant punishment at the felony level.

Pursuant to AS § 12.55.125(e) and AS § 12.55.035(b)(4), individuals convicted of a class C felony are subject to imprisonment of up to five years and/or a maximum fine of \$50,000, with consideration given to aggravating and mitigating factors in establishing punishment within the presumptive ranges set out in AS §§ 12.55.155-175. By contrast, the maximum penalty assigned to a class A misdemeanor is one year imprisonment and/or a \$10,000 fine. Clearly, given disparate penalties,

¹ We include a copy of AS § 11.71.040 as Attachment A. As you know, in the schedules of controlled substances, drugs, narcotics, and related substances are grouped by the perceived risk they pose to users and society with schedule IA containing the most dangerous drugs (heroin and methamphetamines, for example) through schedule VIA, which contains substances such as marijuana that are perceived as relatively less dangerous.

reclassifying MICS 4 in the manner you contemplate would be a consequential change both to those convicted and to the state's criminal justice budget.²

Estimated Fiscal Impacts of Reclassification

The reclassification of MICS 4 would most directly impact the operations, and therefore budgets, of three state entities—the Departments of Law (DOL) and Corrections (DOC) and the Alaska Court System (ACS). We contacted representatives of each for assistance on your request.

Department of Law

Staff with the DOL determined that their electronic records systems do not offer any means of determining the Department's historical costs associated with prosecuting MICS 4 cases and, therefore, there is no ready basis for estimating the impacts of reclassification.³ Producing such an estimate would require an extensive review of physical court files, which would be both time-intensive and likely to produce imprecise findings.

Based on data provided by the Court System, which we detail below, it is reasonable to believe that reclassifying MICS 4 to a lesser offense would result in a reduction in the hours that DOL attorneys and staff spend on those cases. Clearly, however, the cases would not be eliminated completely. We cannot say whether the reduction in time dedicated to prosecuting MICS 4 cases were they class A misdemeanors would be sufficient to justify eliminating staff positions. If this were to be the case, it would most likely occur in Anchorage, where roughly half of MICS 4 cases are heard. We speculate that the overall annual impact on the DOL budget would be in the tens of thousands of dollars—perhaps into the low hundreds of thousands if a limited number of positions were eliminated—and that, impacts in the millions of dollars are unlikely.

Alaska Court System

According to ACS General Counsel Nancy Meade, in recent years the state's courts have heard an average of approximately 900 cases in which a charge of MICS 4 was brought.⁴ Of these, MICS 4 was the only or most serious charge in roughly 71 percent of cases, or about 640 per year on average. These are the cases that reclassification of MICS 4 would significantly impact.⁵ However, it is important to emphasize that very few—less than one percent—of MICS 4 cases are contested at trial. This is because the vast majority of such cases are settled through plea arrangements that take relatively little court time. In fiscal year (FY) 2012, just four MICS 4 trials received a verdict by jury.

Although discernible savings would likely occur in the ACS budget with a reclassification of MICS 4, the overall net impact would likely be relatively small. Any cost reductions would likely stem primarily from the transfer of cases from Superior Court, where felonies are heard, to District Court, where misdemeanors are handled. At the district level, juries are reduced in size from twelve to six members and judges' salaries are lower. Ms. Meade estimates that combined these two factors would likely produce approximately \$35,000 in annual savings. She cautions, however, that these projections are theoretical and based on limited data.

² This report focuses strictly on costs; however, there would no doubt be impacts beyond strictly fiscal matters should MICS 4 be reclassified. For example, where prosecutors currently offer a reduction in charges in exchange for guilty pleas in MICS 4 cases in order to expedite proceedings, their ability to do so may be hampered should defendants be facing a class A misdemeanor charge. Further, it is unclear how, if at all, the change might impact penalties for other levels of MICS crime, and how those changes would alter judicial proceedings.

³ We communicated with Anne Carpeneti, Attorney V, on several occasions via email and telephone (907-465-3428) regarding this request.

⁴ Ms. Meade can be reached at 907-264-8264. We include her full analysis of the impact on the ACS of reclassifying MICS 4 as Attachment B.

⁵ The remaining MICS 4 cases were brought in addition to more serious charges. According to Ms. Meade, the reclassification of MICS 4 would have very little impact in such cases.

Department of Corrections

In researching your request we encountered numerous uncertainties. What is abundantly clear, however, is that any significant savings from reclassifying MICS 4 to a misdemeanor would come from the Department of Corrections.

As we mentioned, the maximum penalty for a class C felony is five times that for a class A misdemeanor. Although the contrast is not as stark in actual penalties handed down, the difference remains substantial, leading to wide variation in the cost of care for felons as compared to misdemeanants. Michael Matthews, Research Analyst IV with the DOC, compiled data from FY 2008 to FY 2011 on the average cost of imprisonment and probation for those convicted of MICS 4 compared to that for class A misdemeanors.⁶ Please note that these are not annual expenditures but rather the average cost of care over the entire course of multi-year term of incarceration and parole for all such prisoners who were discharged during the years in question.

For both felons and misdemeanants the daily costs of imprisonment and parole were the same at \$140.46 and \$6.73, respectively. The major difference, as you might expect, lay in the length of sentence. Those convicted of class A misdemeanors and discharged between 2008 and 2011 served an average of roughly 155 days of imprisonment and 263 days of probation. By contrast, MICS 4 convicts discharged over the same period were incarcerated for 457 days and served 441 days of probation, on average. In addition, about 41 percent of MICS 4 prisoners were discharged to a Community Correctional Facility, or "half-way house," for an average period of roughly 59 days, at a cost of \$80.17 per day, prior to entering probation. All told, the 1,289 MICS 4 convicts discharged between 2008 and 2011 generated corrections costs of over \$85.5 million. Had all of those prisoners been instead convicted of class A misdemeanors, and served the average sentences for such crimes, the cost would have been approximately \$28.3 million, or nearly \$57.2 million less than actual costs. This equates to cost of care reductions of approximately \$14.3 million per average annual cohort of MICS 4 prisoners discharged between 2008 and 2011. We include a table aggregating the data prepared by Mr. Matthews as Attachment C.

Please note that the cost of care for MICS 4 prisoners discussed above is a relatively blunt measure in that it is simply the total number of applicable prisoners multiplied by average costs for all prisoners. That is, the total cost of correctional institutions divided by the number of prisoner days. As a result, the difference between the costs of care for those convicted of MICS 4 and those found guilty of class A misdemeanors cannot, in a strict sense, be viewed as potential savings. A portion of the costs of operations (heat, certain maintenance costs, etc.) remain constant so long as the correctional facility in question holds prisoners.⁷ With the data available to us, we are unable to precisely identify what portion of the above differences in costs would be realized in actual savings to the State.

Loss of Revenue from Fines

In the fiscal years 2008-2012, the average of annual aggregate fines levied on MICS 4 convicts was about \$205,000. We do not have data on average misdemeanor fines but presume, for the sake of this report, that they would be roughly one-fifth of the MICS 4 average, or about \$41,000 per year. As a result of reclassification then, the state could expect to lose roughly \$154,000 in fines annually as a result of reclassification.

Legal Restrictions on Felons

Legal restrictions placed on felons but not on misdemeanants include the following:

AS 08.11—disqualified from obtaining certain professional licenses. (In certain instances, misdemeanants may also be barred from licensure.);

AS § 09.20.020—barred from serving as a juror until discharged from imprisonment, parole, and probation;

⁶ Mr. Matthews can be reached at 907-465-3313.

⁷ Presumably, with a significantly reduced prisoner population, portions of prisons or even entire facilities could be closed, thereby generating savings; however, we do not view the reclassification of MICS 4 alone as sufficient to cause such action.

AS § 11.61.200(a)(1)—may not possess a firearm capable of being concealed on one's person;

AS § 15.05.030—disqualified from voting until “unconditional release” from sentence;

AS § 18.65.440—revocation of licensure as a security guard upon conviction of a felony;

AS § 24.45.041—may not register as lobbyists; and

AS § 44.50.020—commission as a Notary Public is unavailable to felons for ten years after conviction.⁸

We hope this is helpful. If you have questions or need additional information, please let us know.

⁸ Although we believe our research to be thorough, there may be additional legal restrictions placed upon felons that we were unable to locate due to variations in legal wording and construction.

Attachment A

AS § 11.71.040

1 of 1 DOCUMENT

ALASKA STATUTES
2012 by The State of Alaska and Matthew Bender & Company, Inc
a member of the LexisNexis Group.
All Rights Reserved.

*** Current through the 2011 First Regular Session of the Twenty-Seventh State Legislature and the 2011 First and Second Special Sessions. ***

*** Annotations current through opinions posted on Lexis.com as of June 22, 2012. ***

TITLE 11. CRIMINAL LAW
CHAPTER 71. CONTROLLED SUBSTANCES
ARTICLE 1. OFFENSES RELATING TO CONTROLLED SUBSTANCES

Go to the Alaska Code Archive Directory

Alaska Stat. § 11.71.040 (2012)

Legislative Alert: LEXSEE 2012 AK. ALS 57 -- See section 1.

Sec. 11.71.040. Misconduct involving a controlled substance in the fourth degree

(a) Except as authorized in *AS 17.30*, a person commits the crime of misconduct involving a controlled substance in the fourth degree if the person

(1) manufactures or delivers any amount of a schedule IVA or VA controlled substance or possesses any amount of a schedule IVA or VA controlled substance with intent to manufacture or deliver;

(2) manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule VIA controlled substance;

(3) possesses

(A) any amount of a schedule IA or IIA controlled substance;

(B) 25 or more tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of

(i) three grams or more containing a schedule IIIA or IVA controlled substance except a controlled substance in a form listed in (ii) of this subparagraph;

(ii) 12 grams or more containing a schedule IIIA controlled substance listed in *AS 11.71.160(f)(7)* -- (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material;

(D) 50 or more tablets, ampules, or syrettes containing a schedule VA controlled substance;

(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of six grams or more

containing a schedule VA controlled substance;

(F) one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces or more containing a schedule VIA controlled substance; or

(G) 25 or more plants of the genus cannabis;

(4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center; or

(B) on a school bus;

(5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for keeping or distributing controlled substances in violation of a felony offense under this chapter or *AS 17.30*;

(6) makes, delivers, or possesses a punch, die, plate, stone, or other thing that prints, imprints, or reproduces a trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of these upon a drug, drug container, or labeling so as to render the drug a counterfeit substance;

(7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

(8) knowingly furnishes false or fraudulent information in or omits material information from any application, report, record, or other document required to be kept or filed under *AS 17.30*;

(9) obtains possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge; or

(10) affixes a false or forged label to a package or other container containing any controlled substance.

(b) It is an affirmative defense to a prosecution under (a)(4)(A) of this section that the prohibited conduct took place entirely within a private residence located within 500 feet of the school grounds or recreation or youth center. Nothing in this subsection precludes a prosecution under any other provision of this section or any other section of this chapter.

(c) Nothing in (a)(5) or (6) of this section precludes a prosecution or civil proceeding brought under any other provision of this section or any other section of this chapter or under *AS 17*.

(d) Misconduct involving a controlled substance in the fourth degree is a class C felony.

Attachment B

Nancy Meade, General Counsel, Alaska Court System, analysis of the fiscal impact of reclassifying Misconduct involving a Controlled Substance IV from a class C felony to a class A misdemeanor

I've looked into your questions about the potential fiscal impact on the court system of reclassifying the MICS 4 crimes from felonies to misdemeanors. You did clarify that you are interested in the impact of reclassifying *all* MICS 4 charges, not just the possession charges, and that is the data that I used. In other words, the case statistics are for all charges brought under AS 11.71.040, whether the charge was for manufacture/distribution of Schedule IVA or VA drugs under (a)(1) or (2), running a "crackhouse" under (a)(5), using fraudulent pharmaceutical credentials or forms under (a)(7)-(a)(10), or possession of smaller amounts of specified proscribed drugs under (a)(3). We don't keep case statistics by statutory subsection of the offenses, so pulling out just the possession offenses would not have been possible with our data.

I'm sorry to say that my responses are fairly vague, because, as you note, there are lots of missing data pieces and coming up with a reliable estimate of the impact is difficult. I can say, though, with the caveats below, that the proposal could likely result in some fiscal impact; I estimate is that it **could save up to \$35,000 per year** for the court system. This savings is mostly because, as you know, felonies are handled in superior court and misdemeanors in the district court, and, very generally, district court cases are less expensive for the court to process. Below is an explanation and the reasoning I used.

1. There were 977 cases filed with a MICS 4 charge in FY 12; the number was 878 in FY11 and 848 in FY12, so I'll average those three years and begin with an **assumed 900 cases filed per year** with at least one charge under AS 11.71.040.
2. Of the 900 cases, some have other charges, which could be other felonies or other misdemeanors. This is relevant because if the case had other felony charges, reclassifying the MICS 4 to a misdemeanor would have very little impact, as the case would remain in superior court for resolution of the accompanying felony charges. Our case statistics show that the MICS 4 charge was the highest or only charge in the case in 71-72% of the cases over the last three fiscal years, meaning that those cases were handled in the superior court, but would be handled in the district court if the charge became a misdemeanor. For this estimate, then, I took 71% of the assumed 900 cases to conclude that **approximately 640 cases per year** are either stand-alone MICS 4 or MICS 4 with misdemeanor charges, but not other felony charges. These cases would become misdemeanors and be handled by the district court rather than the superior court under the proposal.
3. There are three potential areas of cost savings from moving 640 criminal cases from the superior court to the district court: no grand juries are used in misdemeanors, misdemeanor trials use 6 rather than 12 jurors, and a district court judge (who would be handling these cases) is paid at a lower salary than a superior court judge.
 - a. *Grand Juries.* A defendant is not entitled to a grand jury for a misdemeanor charge, so that could be seen as a cost savings for the system. This does not appear to be the case however, mainly because grand jurors are paid one flat fee per day (\$25) no matter how many hours they serve that day. (There are 18 grand jurors, so at \$25/juror/day, a day when the grand jury convenes costs the court \$450 in juror payments.) And, I heard an estimate from one prosecutor that presenting a MICS 4 charge to a grand jury might take about 20 minutes. (This is, obviously, anecdotal and not researched at this point.) You could conclude that 640 cases x 1/3 of an hour equals 213 hours in grand juror time, and at 7.5 hours

per day, that is a savings of 28.5 days. Then, \$450/day x 28 days equals \$12,787 in saved grand jury costs.

But, this savings is theoretical and is unlikely to actually occur in practice. That's because in nearly every grand jury day, multiple cases are presented for consideration. It is not the case that a grand jury convenes for just one case, such that removing that case from the grand jury would save the day's pay. Instead, the incremental 213 hours per year that the MICS 4 cases might take in grand jury time (which is equal to just 17.5 hours per month spread over the 12 court locations where grand juries convene, for approximately 1-1/2 hours of additional grand jury time per month per location) would be absorbed in the days when the grand jury is already convening to hear numerous cases, and is already being paid. Because the number of cases is low and the time spent presenting them to the grand jury is minimal, it is likely that making these cases misdemeanors rather than felonies would result in **extremely small, if any, actual savings of court funds for the grand jury aspect.**

- b. *Petit (Trial) Juries.* Trials in misdemeanor cases use six jurors, while felony trials use twelve. Again, this could be seen as a cost savings for the court, since it would save half the expense of juror payments if the trials for the MICS 4 cases were misdemeanor trials in district court.

This savings, again, would be quite small. This is because so few cases in general proceed through to a trial; the court has an overall trial rate in criminal cases of between 1 and 5%. For the approximately 640 cases where MICS 4 was the highest or only charge over the last three fiscal years, our data shows that very few were resolved by a jury trial. (For example, of the 271 MICS 4 cases in Anchorage in FY12, zero proceeded to a jury.) For this calculation, if we approximate that 2% statewide would go to a jury, that means that there could be possibly 12 trials around the state; these could last from 1-8 days for ALL the charges to be presented and resolved by the jury. (This approximation of the number of trials is high; as explained in section c. below, the percentage is actually between 1/2% and 2%. For this calculation, however, the court is supplying an optimistic estimate.) Six extra jurors x \$25/day x average of 4 days equals a savings of \$600/trial, x 12 trials equals **\$7,200 in trial juror pay.**

The court would also see small savings from other costs associated with the jury, such as parking fees (for trials held in Anchorage) and a meal provided during jury deliberations (if they proceed through a meal time; \$16/lunch x 6 extra jurors = \$96/trial). We could estimate that half the trials require a juror meal, and half require parking fees to be paid by the court; the **incidental jury costs could reach approximately \$900** for this number of trials. These juror pay and incidental jury costs may overstate the savings in this category, but those amounts may be possible.

- c. *Judge Processing Time.* If 640 cases were reclassified as misdemeanors rather than felonies, and therefore moved from the superior to the district court calendar, the court would experience some savings because the cases would be presided over by judges who make a lower salary. In theory, one might estimate the savings by comparing 640 to the average number of cases a superior court judge handles, and computing the percent of a judge's time these cases would take, and then considering that percentage of a salary as a savings; the cases would be added to the district court judge's caseload, and the two would be netted for the total potential savings.

This approach, however, has a flaw that makes the result imprecise. That is, even though a superior court judge generally handles 600 cases per year, it does not follow that removing these 640 MICS 4 cases from the superior court calendar would save about one judge's worth of time. The reason is that MICS 4 cases have an *extremely* low trial rate: between ½% and 2% of the MICS 4 cases have gone to trial statewide over the last three years. (In FY12, a total of *four* MICS 4 cases went to trial; the number was 10 in FY11, and 13 in FY10.) Though a superior court judge handles about 600 cases per year, the vast majority of the judge's time (and therefore of the court's costs) is spent on the cases that go to trial. Those are the cases with discovery disputes, motions to dismiss, and motions to suppress evidence that are filed, argued, and decided, and with a number of hearings to discuss the parties' readiness and scheduling. The cases that go to trial also involve time-consuming jury issues such as the wording of instructions, questioning and choosing jurors, and the time spent on the trial itself.

The cases that don't go to trial, like most of the MICS 4 cases, take up very little judge time, generally speaking, since they are often resolved right at the initial hearing (arraignment), or by the parties in a plea agreement that is presented to the court at one hearing before the case is closed. Even though just four of the 640 MICS 4 cases went to trial last year (and therefore the vast majority of the MICS 4 cases did not take significant judge time), the superior court judges would still see some small decrease in workload if these cases were eliminated from the statewide superior court calendar. Even if there were an average of just eight trials per year statewide that could be moved from the superior to the district court, at an estimated four days per trial, the court could see a savings of **approximately \$17,760** (\$23,680 in saved superior court pro tem judge time, minus the additional \$5,920 in district court pro tem judge time; though the pro tem judges are paid the same for work in both courts, the caseload in the district court is about four times higher per judge, and therefore the computed cost per day for a district court case is about one-fourth of the cost for a superior court case.).

In addition, the MICS 4 cases that do *not* go to trial (the other approximately 632 of the 640) certainly take some judge time, though the amount is variable and can't be calculated with our data. Though many of the charges are dismissed or result in a guilty plea very quickly, some may take more judge time for status hearings or other disputes. (These cases also take up time for other court staff who open the file, enter data, track deadlines, and do other file processing tasks, but those costs would remain the same whether the charge were a felony or a misdemeanor.) The savings in judge time from moving these non-jury-tried cases to the district court could be up to \$10,000, though the amount cannot be determined with accuracy.

In total, then, we can say that the proposal could result in approximately \$35,000 in savings to the court system (\$7,200 in trial juror pay + \$900 in incidental jury costs + \$17,760 in judge's trial time + ~\$10,000 in other time). Thank you for the chance to explain this, and if you have any more questions or want further information, please give me a call.

Attachment C

Michael Matthews, Research Analyst IV, Alaska Department of Corrections, analysis of the fiscal impact of reclassifying Misconduct involving a Controlled Substance IV from a class C felony to a class A misdemeanor

Cost of Care for MICS-4 Offenders

MICS-4 Variables	Total MICS-4 Discharges	Annual Averages					
		Number of Days Incarcerated for MICS-4 from Intake to Discharge	Number of MICS-4 Discharges that go to Probation	Number of Discharges Going to Probation Sent to a CRC	Length of Stay for MICS-4 Offenders Discharged from CRC	Number of Discharges going to Probation not including CRC	Length of Stay on Probation for MICS-4 not including CRC
Discharge Years (Calendar Year)							
2008-2011	1289	457	179	131	59	48	441

Class A Misdemeanors

Average Length of Sentence for Misdemeanor A Convictions Where There Were no Other Convictions of Greater Offense	Average Length of Stay on Probation for Misdemeanor A Discharges
156	263

> Total cost of care for MICS-4 offenders was calculated by multiplying the number of MICS-4 discharges by the average number of days incarcerated and multiplying the product by the average daily cost of care for offenders in institutions. Additionally, the cost of housing MICS-4 discharges in a CRC was created using the same methodology and added to the product of the institutional stay. Finally, the cost of putting MICS-4 discharges on probation was also added to the sum.

>The cost of Misdemeanor A offenders was created much the same way but with the following exceptions:

- ~ Instead of using average number of days incarcerated, average length of Misdemeanor A sentence was used. Since it is impossible to determine how long a judge will require an offender to remain incarcerated should the felony C drug conviction be changed to Misdemeanor A, the average length of sentence was used instead of average length of incarceration.
- ~ Very few discharged Misdemeanor A offenders ended up housed in a CRC, so this number was not used.
- ~ Average length of probation for Misdemeanor A discharges was calculated the same as probation length for felony C discharges.

Constants

Institution Daily Cost of Care	CRC daily Cost of Care	Probation daily Cost of Care
\$140.46	\$80.17	\$6.73

Calculations

Institutional Cost of Care for Felony C MICS-4 Offenders	CRC Cost of Care for Felony C MICS-4 Offenders	Probation Cost of Care for Felony C MICS-4	Total Cost Associated with MICS-4 Offenders from Intake to Full Discharge	Total Cost if Felony C Drug Convictions were Misdemeanor A Offenses	Potential Reduction in Cost
\$82,432,723.76	\$2,483,198.41	\$566,777.11	\$85,482,699.28	\$28,311,035.86	\$57,171,663.42

>Please note: These numbers should not be interpreted as realized savings. Actual savings in cost are difficult to calculate. For example, the heating bill for an institution will remain unaffected regardless of whether MICS-4 is a felony or misdemeanor.



SENATOR FRED DYSON

To: Senator Kevin Meyer, Co-Chair
Senator Pete Kelly, Co-Chair
Senate Finance Committee

From: Senator  Fred Dyson

Date: March 19, 2013

Re: **SB 56 – Response to Questions from March 18th Hearing**

On Monday, March 18th, the Senate Finance Committee heard public testimony regarding SB 56, a bill which will reclassify certain nonviolent, small-quantity drug offenses as misdemeanors. Both supporters and opponents spoke to the substance of the bill. As the bill's sponsor, I would like to clear the air about a number of claims raised in the committee hearing.

First, I want to say that I have tremendous respect for Alaskans at the frontlines of our struggle with drugs and drug addiction, including the police officers and prosecutors who voiced their concerns during the hearing. Many of these concerns are valid, and deserve to be addressed.

Regarding the Quantity Limits Laid Out in SB 56

Officer Seth McMillan of APD expressed doubts regarding the appropriate quantity thresholds for an implied distribution felony as set out in SB 56. I was pleased that the officer seems to agree that *some* type of threshold is necessary to differentiate drug dealers from drug abusers, and that the current system, which brings down an automatic felony on a drug user or possessor for any amount whatsoever, is not effective.

The quantity limits laid out in SB 56 are based on a survey of other jurisdictions that now prosecute simple possession as a misdemeanor, or otherwise differentiate between "small" quantities and larger amounts that imply distribution. While detailed data from every jurisdiction was a bit difficult for my staff to track down, here is a chart from several of these jurisdictions:

Limits for "User Quantities" or Analogous Small Amounts of Controlled Substances				
<u>State</u>	<u>Cocaine</u>	<u>Heroin</u>	<u>Methamphetamine</u>	<u>LSD</u>
Maine	7 grams	1 gram	7 grams	25 tabs or 1,250 micrograms (.000125 grams)
Oregon (simple possession is a felony; this defines "small amounts")	10 grams	5 grams	10 grams	Two hundred or more "user units"
South Carolina	1 gram	2 "grains" (0.13 grams)	1 gram	50 micrograms (.00005 grams)
Tennessee	.5 grams	(data missing)	.5 grams	(data missing)
Vermont	2.5 grams	.2 grams	2.5 grams	100 milligrams (0.1 grams)
Wisconsin	1 gram	Any amount	Any amount	1 gram
Wyoming	3 grams	0.3 grams (in liquid form). 3 grams in powder form	3 grams	0.3 grams

As you can see, SB 56's proposed quantity limits place us at about the average of these jurisdictions. In fact, our reform tracks most closely with the laws of Wyoming, a state which shares many of Alaska's political and demographic/geographic features:

Alaska & Wyoming Felony Quantities

<u>Substance</u>	<u>Alaska (Proposed)</u>	<u>Wyoming (Current)</u>
Cocaine	3 grams	3 grams
Heroin	500 milligrams	3 grams (powder form); 300 milligrams (liquid form)
Methamphetamine	3 grams	3 grams
LSD	300 milligrams	300 milligrams
Psychedelic Mushrooms	3 grams	3 grams
Oxycodone/ controlled pharmaceuticals (IA & IIA)	15 or more tablets, ampules, or syrettes, or 3 grams, whichever is smaller.	3 grams in "pill or capsule form"

I again want to point out that nothing in this bill prevents law enforcement or prosecutors from pursuing felony charges against drug dealers when they have evidence of distribution. Regardless of

the quantity possessed by a drug dealer, if there is evidence of distribution, the offender will be subject to a felony distribution charge.

Regarding the Assertions of Deputy Attorney General Rick Svobodny

I was pleased that Mr. Svobodny pointed out that our current laws on drugs, as structured in the early 1980's, do not take the costs of incarceration or adjudication into account. While SB 56 does not attempt to go line-by-line through our penal code and do so, it is very much in the spirit of matching laws with their real-world costs that this bill was introduced.

Mr. Svobodny also correctly pointed out that the "look back" portion of SB 56's three-strikes provision goes back for 5 years, while the "look back" for DUI's is currently 10 years. Though SB 56's "look back" differs from our DUI laws, I believe it is of an appropriate length for this type of offense. If a drug user has remained clean for 8 years, for example, I do think that if they happen to "fall off the wagon" we should acknowledge the capacity for rehabilitation demonstrated by this extensive clean period. In contrast, I find DUI's more troublesome, even if spaced out over many years, because of the very real possibility of a victim that stems from this behavior.

Mr. Svobodny further stated that SB 56 might be the "death knell" for therapeutic courts in Alaska. As a supporter of therapeutic courts, this was a topic my office gave considerable thought to before introducing SB 56. We would not have introduced the bill had we believed it would actually eliminate these treatment efforts.

Because SB 56 contains a three-strikes provision that preserves felony charges for drug-addicted repeat offenders (a provision of the bill that was suggested by an Anchorage judge, not coincidentally), we believe that the felony hammer will remain for those serious addicts most in need of therapeutic court intervention. Furthermore, after numerous conversations with stakeholders, we feel that an appropriately-structured misdemeanor sentence can be incentive enough to keep people in treatment, especially those first and second time offenders who are more amenable to that treatment. We can see this dynamic at work in the therapeutic courts run by the Municipality of Anchorage, which works with only misdemeanants.

Mr. Svobodny also mentioned that many offenders who currently qualify for therapeutic courts voluntarily choose jail time instead, even with the option of a "Suspended imposition of Sentence" (SIS) for their felony charge. What he failed to point out is that after the completion of an SIS—wherein an offender avoids jail time and has the charge "set aside"—offenders nevertheless *still receive the label of a convicted felon* in our current system. I submit that this is the most serious disincentive for participation in the therapeutic courts, and urge the Department of Law to help address it.

Similar to his concerns about treating misdemeanants in the therapeutic courts, Mr. Svobodny also raised the issue of probation officers and misdemeanants. Yet here too, he misspoke. Mr. Svobodny

stated that Alaska provides no probation officer supervision to misdemeanants. This is not the case. While it is true that at present the DOC does not provide Division of Probation and Parole supervision to misdemeanants, nearly all misdemeanants convicted of substance abuse offenses are assigned to the Alcohol Safety Action Program (ASAP) and with it a probation officer from the Department of Health and Social Services. Supervision by this probation officer and completion of ASAP involves an initial assessment of the misdemeanant, assignment to treatment if appropriate, and follow up with the treatment provider to ensure that the offender completed this treatment. While the program's name might suggest an exclusive focus on alcohol offenses, research conducted by Mr. Dunbar, whose report you received, indicated that ASAP can and does work with the abusers of other substances. A supervisor at ASAP confirmed that they already work with a number of drug addicted convicts.¹

Finally, the full version of Mr. Dunbar's report also expressly addresses Mr. Svobodny's prediction that some prosecutorial practices will change (e.g. some MICS-3's will no longer be negotiated down to MICS-4's); that is why the report provides a "low," "medium," and "high" estimate of savings, each corresponding to a different level of prosecutorial adjustment.

Regarding Federal Grant Monies

Senator Bishop asked Mr. Svobodny if Alaska might miss out on certain federal grant monies if we adopted this reform. While Mr. Svobodny did not claim to know of specific grants that might be threatened by this reform, he did allude to problems winning federal grants now experienced by Colorado and Washington State following their legalization of marijuana. But this assertion conflates two different types of reforms. SB 56 does not legalize anything. Every drug that is currently illegal will remain illegal under SB 56, and will be subject to felony charges with regards to distribution—where the majority of federal dollars are targeted.

My office is aware of no evidence that the fourteen states which already classify possession as a misdemeanor are categorically disadvantaged when applying for federal grants because of this feature of their laws, or that they receive less grants per capita. Given that classifying possession as a misdemeanor while maintaining distribution felonies is a far cry from legalization, I doubt that such evidence exists.

Regarding the Seriousness of a Class A Misdemeanor

I would like to close with this point, because I believe it is tremendously important: at times during the public testimony, it was asserted or alluded to that by reclassifying possession as a Class A Misdemeanor we are "sending the wrong message to children," or indicating to them that we do not

¹Dunbar, Forrest, "Reclassifying Nonviolent, Small Quantity Drug Possession as a Misdemeanor: Potential Impacts on Alaska's Budget and Society," at 39 (January 7th, 2013). Summary version in committee packet; full version available upon request.

consider drug abuse a serious crime. Those of you who have worked with me know that I care deeply about Alaska's youth, and I think always about how our policies affect them. But I simply do not believe that a Class A Misdemeanor is an ambiguous message. It is a very serious charge—the highest level of misdemeanor—and can carry with it up to a year in prison and a \$10,000 fine. I suspect that if any of you told your son or daughter that their behavior could lead to a year in jail and a \$10,000 fine, they would not view that behavior as being condoned by our laws.

For comparison, I have included several other offenses that are Class A Misdemeanors. I think you will agree that they are unambiguously and rightly condemned by our legal code, and are perhaps even more dangerous than simple drug possession:

Assault in the Fourth Degree (AS 11.41.230), wherein an offender "recklessly causes physical injury to another person" or "with criminal negligence... causes physical injury to another person by means of a dangerous instrument." **This can include domestic violence, as defined in AS 18.66.990.**

A second DUI, as well as a first (AS 28.35.030).

Endangering the Welfare of a Child in the First Degree (AS 11.51.100 (b)), when the charge relates to operating a vehicle while under the influence of alcohol or another substance (as defined in AS 28.35.030).

Endangering the Welfare of a Vulnerable Adult in the Second Degree (AS 11.51.210) wherein an offender "fails without lawful excuse to provide support for the vulnerable adult and the vulnerable adult is in the person's care (1) by contract or authority of law; or (w) in a facility or program that is required by law to be licensed by the state."

Sexual Abuse of a Minor in the Fourth Degree (AS 11.41.440), wherein either "(1) being under 16 years of age, the offender engages in sexual contact with a person who is under 13 years of age and at least three years younger than the offender; or (2) being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim."

These are all serious crimes, most of which require victims. Yet all of them are Class A Misdemeanors. If a Class A Misdemeanor was truly such an insignificant charge, we would have constituents—not to mention the Department of Law—beating down our doors to make these felonies. That this has not occurred demonstrates that a Class A Misdemeanor is far from a slap on the wrist or the legal equivalent of decriminalization. I thus believe that a Class A Misdemeanor is an appropriately serious charge for nonviolent, small-quantity offenders, and carries with it a strongly disapproving social message.

Representative Doug Isaacson
Alaska State Legislature



Rep.doug.isaacson@akleg.gov • phone: 907-465-4527 • fax: 907-465-2197

To: House Judiciary Committee
Rep. Wes Keller, Chair

From: Rep. Doug Isaacson

A handwritten signature in black ink, appearing to be "Doug Isaacson", written over the "From:" line.

Re: HB 178 - April 3rd Hearing of the Judiciary Committee

This memo mirrors a similar response put out by Senator Dyson's office on March 19th, regarding HB 178's companion bill in the Senate. That response addressed testimony given by Deputy Attorney General Rick Svobodny and others before the Senate Finance Committee. Because Mr. Svobodny's testimony remained substantively unchanged between March 18th and April 3rd, most of the explanation and rebuttal already laid out by Senator Dyson's office stands. However, we have sharpened the focus on several points raised, provided additional detail where necessary, and omitted several sections present in the memo of March 19th, already included in the House bill committee packet.

Regarding the Comments of Deputy Attorney General Rick Svobodny

1. On Mandatory Sentencing

The supporters of this reform have analogized the proposed "three-strike" system to the State's approach to DUI's, domestic violence and theft. I believe that in the most important respect this analogy holds true: we do not usually impose an immediate felony sentence on first time offenders in those other offense categories, but provide an escalating punishment system that allows for redemption for first and second time offenders. However, Mr. Svobodny points out that unlike in the DUI context, there is no mandatory sentencing in this bill, and in that way possession offenses will not be analogous. This observation is correct, but not dispositive; I do not believe mandatory minimum sentences are appropriate in this context.

For possession offenders, I believe that judges should be given the discretion to order screening and treatment. These are tools they already have and widely deploy. We know from conversations with judges and attorneys that in the vast majority of instances when an offender is convicted of possession of a Schedule IA or IIA substance they will be ordered into a screening program similar to that conducted in Alcohol Safety Action Program (ASAP). In the rare case that this does not occur, it is because a judge has evaluated the specific circumstances (such as the case of the hunter with the old Oxycotin in his pocket that was raised in committee) and determined that this response is not necessary. We believe that judges are in the best position to make those calls based on the facts of the case and the criminal history of the defendant.

Studies have shown that providing drug treatment to offenders who are experimenters rather than addicts can actually be deleterious, and can lead to a deepening drug problem.¹ Furthermore, in cases where a prosecutor strongly believes that an offender is an addict, they have the ability to stress treatment elements in their plea bargain negotiations. They thus have a tremendous amount of influence over the process. I am confident that the overwhelming majority of people who require screening and treatment will receive that treatment under HB 178, and I believe the increased costs and negative side effects of a mandatory sentencing scheme significantly outweigh the benefit it might provide in capturing the very rare offender who falls through the cracks on their first offense.

2. Concerns about the "Look Back" Provision

Mr. Svobodny also correctly points out that the "look back" portion of HB 178's three-strike provision goes back for 5 years, while the "look back" for DUI's is currently 10 years. Though HB 178's "look back" differs from our DUI laws, it is an appropriate length for this type of offense. A drug user that has remained clean for 8 years, for example, and happened to "fall off the wagon" should be acknowledged as an example of the capacity for rehabilitation demonstrated by this extensive clean period. In contrast, I find DUI's more troublesome, even if spaced out over many years, as this is a lethal behavior (operating a motor vehicle while impaired) with the very real possibility of an innocent victim.

Mr. Svobodny raised the hypothetical of an offender violating at two or three year increments, and thus avoiding jail time. He stated that the first offense could lead to "no jail time," and the second offense could also lead to "no jail time," and the third, and the fourth, and so on, as the offender (rather cleverly, considering he or she would presumably be a drug addict) avoided the five year felony window. In addition to this being an unrealistic picture of offender behavior, it is also an extremely unlikely representation of prosecutor approaches to the plea and

¹ See e.g. the research underlying the Substance Abuse and Mental Health Services Administration's "Treatment Improvement Protocols," particularly protocol #43, which discusses matching patients "to appropriate levels of care and types of services." See also the work of Dr. Mark A.R. Kleiman of the UCLA School of Public Affairs.

sentencing processes. A repeat offender like the one he describes is almost certain to see jail time, even if he or she is fortuitous enough to avoid a felony charge. Our judges and prosecutors have easy access to records of prior offenses, and take those factors into consideration at sentencing.

3. Regarding the Therapeutic Courts

Mr. Svobodny stated in the Senate Finance hearing that reclassification might be the “death knell” for therapeutic courts in Alaska. Senator Dyson refutes this statement saying, “As a supporter of therapeutic courts, this was a topic my office gave considerable thought to before introducing SB 56. We would not have introduced the bill had we believed it would actually eliminate these treatment efforts.”

Because HB 178 contains a “three-strike” provision that preserves felony charges for drug-addicted repeat offenders (a provision of the bill that was suggested by an Anchorage judge involved in the therapeutic courts, not coincidentally), we believe that the felony hammer will remain for those serious addicts most in need of therapeutic court intervention. Furthermore, after numerous conversations with stakeholders, we feel that an appropriately-structured misdemeanor sentence can be incentive enough to keep many people in treatment, especially those first and second time offenders who are more amenable to that treatment. We can see this dynamic at work in the therapeutic courts run by the Municipality of Anchorage, which works with only misdemeanants.

Mr. Svobodny also mentioned that many offenders who currently qualify for therapeutic courts voluntarily choose jail time instead, even with the option of a “Suspended Imposition of Sentence” (SIS) for their felony charge. What he failed to point out is that after the completion of an SIS—wherein an offender avoids jail time and has the charge “set aside”—offenders nevertheless *still receive the label of a convicted felon* under our current system. I submit that this is the most serious disincentive for participation in the therapeutic courts, and urge the Department of Law to help address it.

Testimony by a representative of the Court System before the Senate Finance Committee further established that the Courts do *not* believe that there will be a shortage of individuals in the Anchorage drug court following reclassification, because of the high number of eligible individuals. I was surprised that Mr. Svobodny reiterated his claim following the Court representative’s testimony.

The problems in the Bethel therapeutic court, which Mr. Svobodny raised as an example of low participation, go far beyond any felony/misdemeanor distinction, and have been a frequent topic of conversation at the Criminal Justice Working Group.

Finally, Mr. Svobodny failed to mention that, while it is true that the Anchorage drug court serves exclusively felons, there are a number of mental health courts around the state that

serve primarily or exclusively misdemeanants. This is important, because many of those offenders are dual-diagnosis, suffering from both a mental disorder and substance abuse problems. This reform would actually *increase* the pool of eligible offenders for those therapeutic courts.

4. Probation Officers and Supervision

Similar to his concerns about treating misdemeanants in the therapeutic courts, Mr. Svobodny also raised the issue of probation officers and misdemeanants. He believes that probation officers are helpful in ensuring that offenders are both provided support and held accountable, a conviction that I share.

While it is true that the DOC does not provide Division of Probation and Parole supervision to misdemeanants, nearly all misdemeanants convicted of substance abuse offenses are assigned to programs such as the Alcohol Safety Action Program (ASAP) and with it a probation officer from the Department of Health and Social Services. Supervision by this probation officer and completion of ASAP involves an initial assessment of the misdemeanant, assignment to treatment if appropriate, and follow up with the treatment provider to ensure that the offender completed this treatment. While the program's name might suggest an exclusive focus on alcohol offenses, ASAP can and does work with the abusers of other substances. A supervisor at ASAP confirmed that they already work with a number of drug addicted convicts.²

5. Changing Prosecutor Behavior

Following this reform, Mr. Svobodny warned that some cases that are currently plead down to MICS-4 possession felonies would instead be prosecuted as higher level distribution felonies, because prosecutors are unwilling to agree to misdemeanor charges. The full version of Mr. Dunbar's report expressly addresses Mr. Svobodny's prediction that some prosecutorial practices will change as a result of reclassification (e.g. some MICS-2's and MICS-3's will no longer be negotiated down to MICS-4's); that is why the report provides a "low," "medium," and "high" estimate of savings, each corresponding to a different level of prosecutorial adjustment. Our cost savings projections thus take his prediction into account.

However, I cannot help but point out that if the Department of Law has evidence of drug distribution it should *already* be charging and pursuing those crimes as such. If this bill is coupled with an increased focus on drug distribution and a more aggressive approach towards drug dealers, I see that as a net positive, not a problem. In the rare instances where the DOL feels that a drug distribution charge is truly disproportionate to an offense, as in the Juneau case Mr. Svobodny raised, *and* that drug dealer has quantities small enough to avoid our felony

²Dunbar, Forrest, "Reclassifying Nonviolent, Small Quantity Drug Possession as a Misdemeanor: Potential Impacts on Alaska's Budget and Society," at 39 (January 7th, 2013). Summary version in committee packet; full version available upon request.

thresholds, then I would think that prosecutors should be content in pleading down to Class A misdemeanor and insisting on the full year in prison that can accompany that charge.

6. Prior Offenses in Other Jurisdictions

This reform establishes an “escalating punishment” regime, wherein an offender is subject to a felony charge if they have previously offended under our drug statutes. This includes offenses prior to the passage of this bill and offenses in other jurisdictions. Mr. Svobodny expressed concern that it will be difficult for the Department of Law to establish that an offense in another jurisdiction is analogous to an Alaskan offense, because other jurisdictions might have their own quantity limits—or no limits—that establish drug felonies and misdemeanors.

This logic does not follow. The language of HB 178 states clearly that an offender earns a “strike” if they violate:

- (i) AS 11.71.010 - 11.71.050; or
- (ii) a law or ordinance of this or another jurisdiction with elements similar to those of an offense under the provisions described in (i) of this subparagraph”

This covers the *highest level* of distribution crime (AS 11.71.010—Misconduct Involving a Controlled Substance in the First Degree) all the way down to a possession misdemeanor, following reform, of *any* amount of a Schedule IA or IIA substance (AS 11.71.050, as revised). Any conceivable crime of possession or distribution of a substance listed in Schedule IA or IIA, of *any* quantity, would count as a “strike” for the purposes of this statute. Moreover, in the determination of whether or not an offense from another jurisdiction is a “strike,” there is no differentiation between a felony and misdemeanor.³ Thus, the “strikes” provision should be a very easy element of the crime for the Department of Law to prove, because whatever the prior offense in another jurisdiction was, if it involves a Schedule IA or IIA substance, it counts as a “strike.”

7. “Bifurcated Trials”

Mr. Svobodny claimed that this reform will lead to “bifurcated trials” or even two trials for every offense. My staff discussed this issue at length with a number of criminal attorneys. According to those accounts, “bifurcated trials” are not two separate trials, but rather two separate parts of the same trial. The first part of the trial is used to prove possession; the second part determines “prior bad acts,” i.e. the former convictions needed for the “three strikes” language.

³ Though of course there may be a difference in sentencing based on the severity of a crime in another jurisdiction. But this factor already exists in all our laws, including the drug laws at issue.

But these “bifurcated trials” are not a major driver of expense. Alaska already has a number of contexts, including DUI and low-level theft, which use this system. The same jury is utilized in both portions of these trials, helping to alleviate the jury pool exhaustion warned about by Judge Steinkruger. In the vast majority of these cases, the defense simply stipulates to the prior convictions, because prior convictions are extremely easy for the State to prove. For the reasons stated in the section above, this holds true even when prior convictions are from other jurisdictions, as all convictions involving Schedule IA and IIA substances count as “strikes.” While this “bifurcated trial” process may lead to slightly longer or more expensive trial in a very limited number of cases, that additional cost is overwhelmed by the savings potential to the State of an overwhelming majority of cases being resolved faster, with less expensive judges and attorneys.

8. Specific Concerns Regarding LSD

At present, Alaska law stipulates that when measuring the quantity of a substance (for example, in a MICS-4 charge involving Schedule IIIA substances); the state calculates the total mass of the “preparations, compounds, mixtures, or substances of an aggregate weight.”⁴ Our current laws thus often charges people with having a much larger quantity of a substance than they might actually have, because the substance has been “cut” or diluted with other substances. Taken in this context—where the law is already heavily skewed against defendants—Mr. Svobodny’s specific concerns about LSD seem oddly placed. The State has not previously taken the position that it is unfair to charge an offender caught holding a large mixture with a higher charge than one caught with a smaller, purer form of a drug. Nevertheless, if Mr. Svobodny would prefer language that specifies a number of “delivery units”—in addition to or instead of aggregate weight—I am open to such a change, and hope to work with his office.

⁴ Alaska Stat. § 11.71.040(a)(3)(C)



PRISONER REENTRY & RECIDIVISM

Senate Judiciary Overview

MISSION STATEMENT

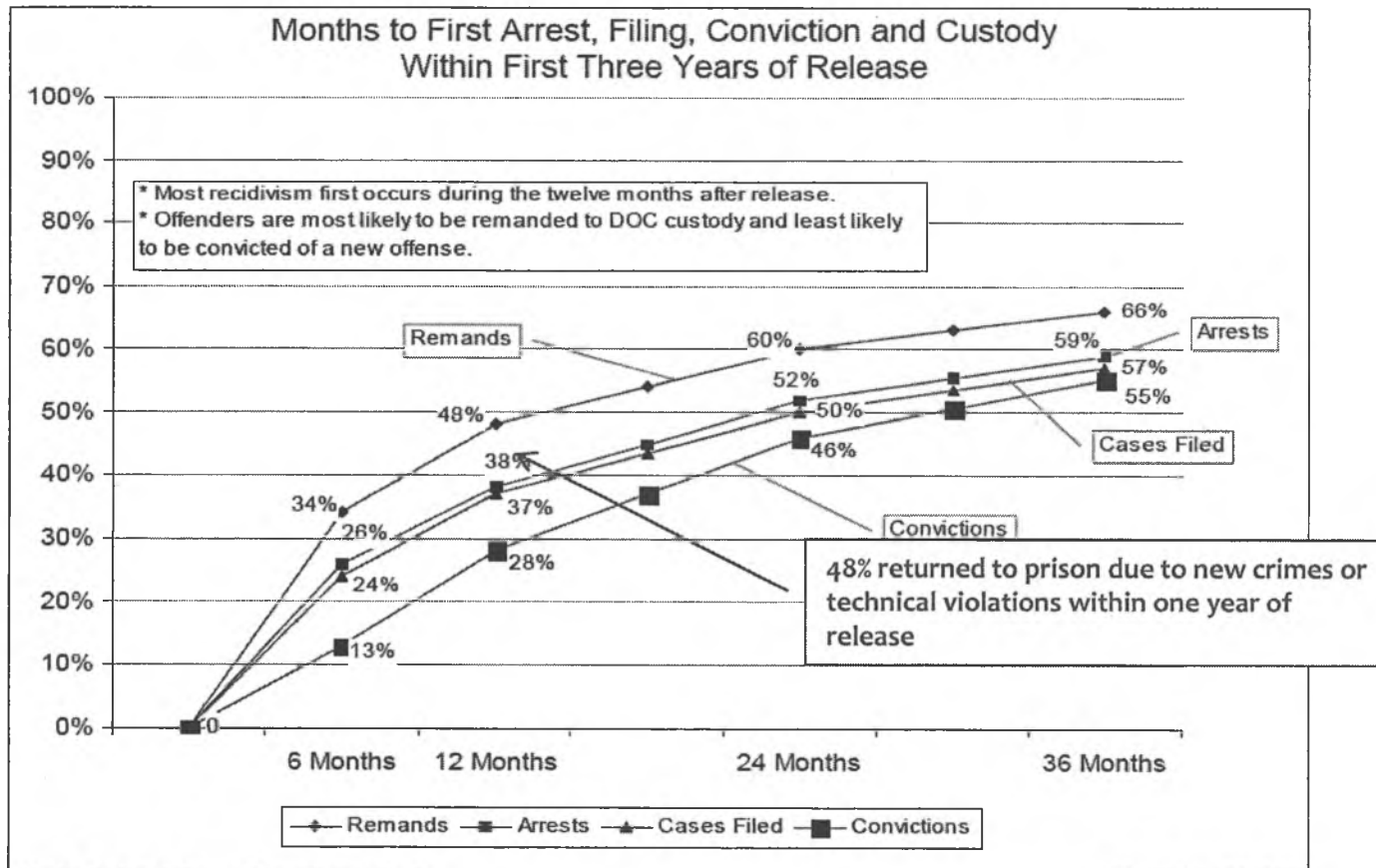
The Alaska Department of Corrections provides secure confinement, reformatory programs, and a process of supervised community reintegration to enhance the safety of our communities.

GOALS

- Protect the public
- Reduce recidivism
- Delay the need for the construction of a new prison for sentenced offenders
- Ensure that incarcerated offenders spend their time in custody productively
- Work collaboratively with stakeholders to achieve these goals.

ALASKA RECIDIVISM RATES

The Judicial Council established the release date for each offender in its sample, and then determined how many arrests, cases filed, convictions, and remands to custody the offender had at different times after that release date. This showed how soon after release the offender came into contact with the justice system.



Alaska Judicial Council Recidivism Study

November 21, 2006

INCREASING COSTS

- DOC's overall operating budget has increased from around \$167 million in 2005 to over \$323 million in 2013.
- Goose Creek Correctional Center cost approximately \$250 million to construct - *annual operating costs are around \$51 million*
- DOC's daily cost of incarceration increased from \$110 per inmate for 2005 to over \$147 in 2013
- Medical care costs in Anchorage have almost doubled in the past decade (56.2%), compared to national average of only 29.8%. (*Alaska Economic Trends, July 2012*)

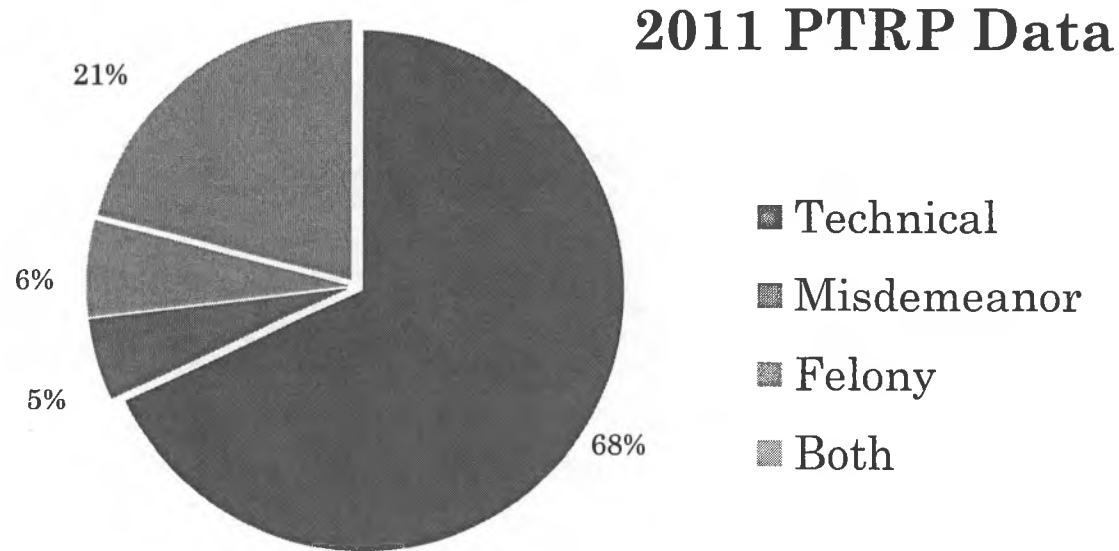
Institutional Inmate Population 2003 - 2020



From 2003 to 2012, the annual average inmate population grew slightly less than 3% per year. Projections are based on a 3% growth rate. Based on this rate, inmate population is estimated to reach 6,145 by 2020.

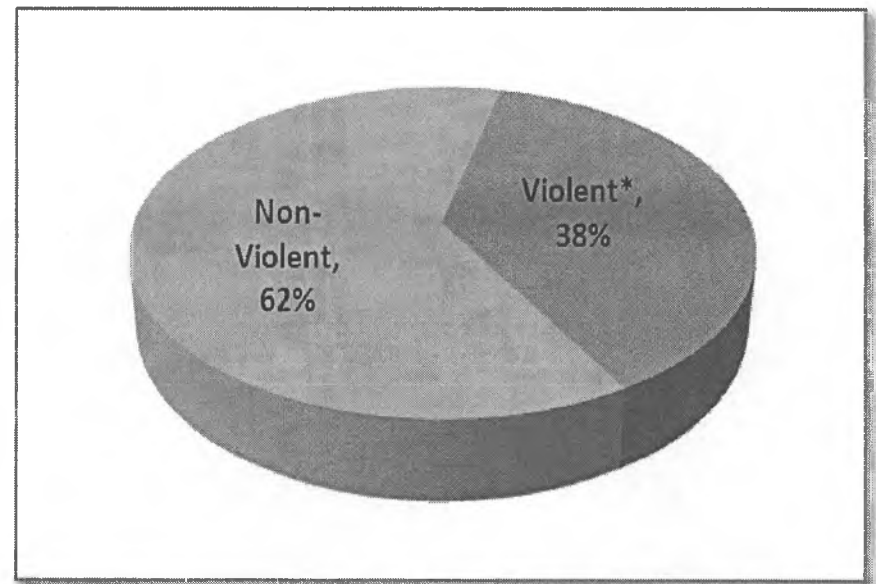
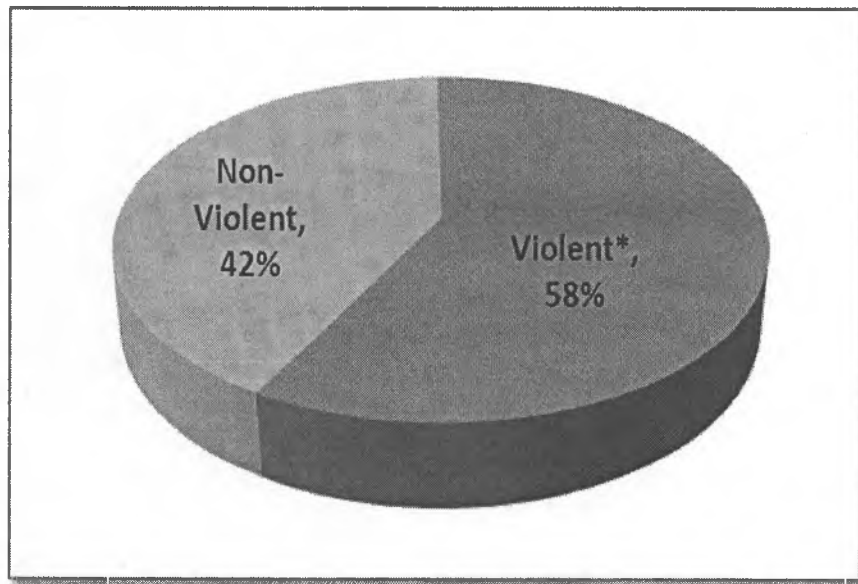
HIGH PROBATION VIOLATIONS

- Jail admissions for probation violations increased from 1,641 in 2002 to 2,755 in 2010.
- Probation caseloads increased over 20% during the same time frame.
- In 2011, more than 50% of the 6,000 probationers had a Petition to Revoke Probation filed.



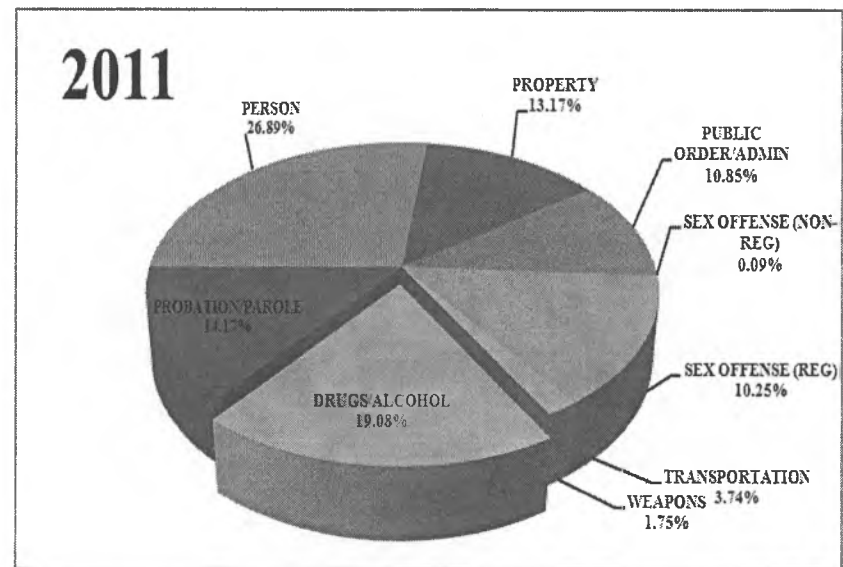
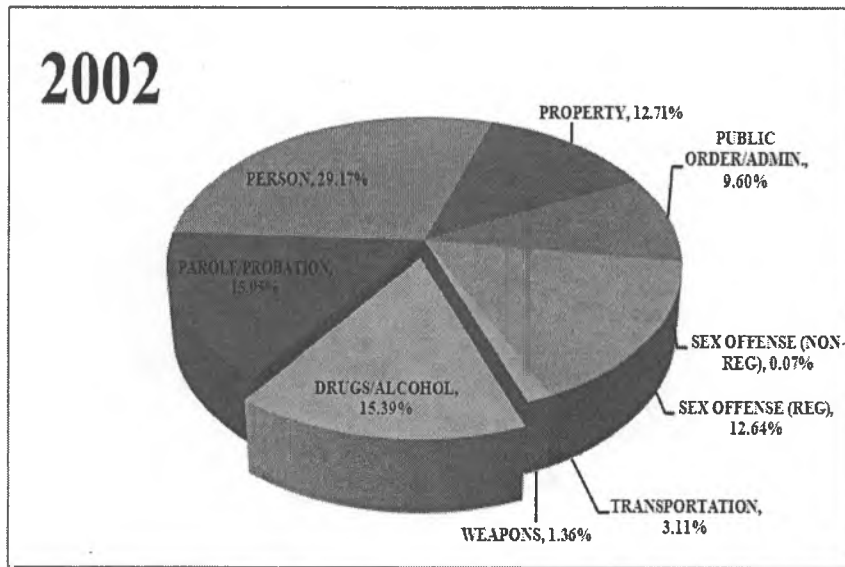
INCREASING NON-VIOLENT POPULATION

- 62% inmates are incarcerated for non-violent crimes. Violent crimes include all crimes against a person, including registerable sex offenses.



MORE DRUGS AND ALCOHOL

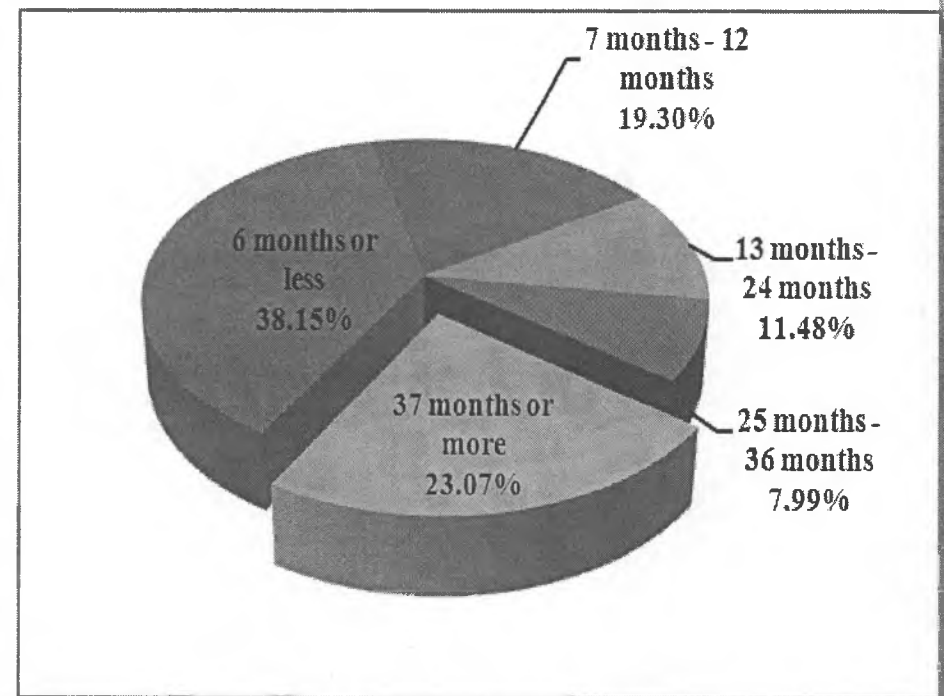
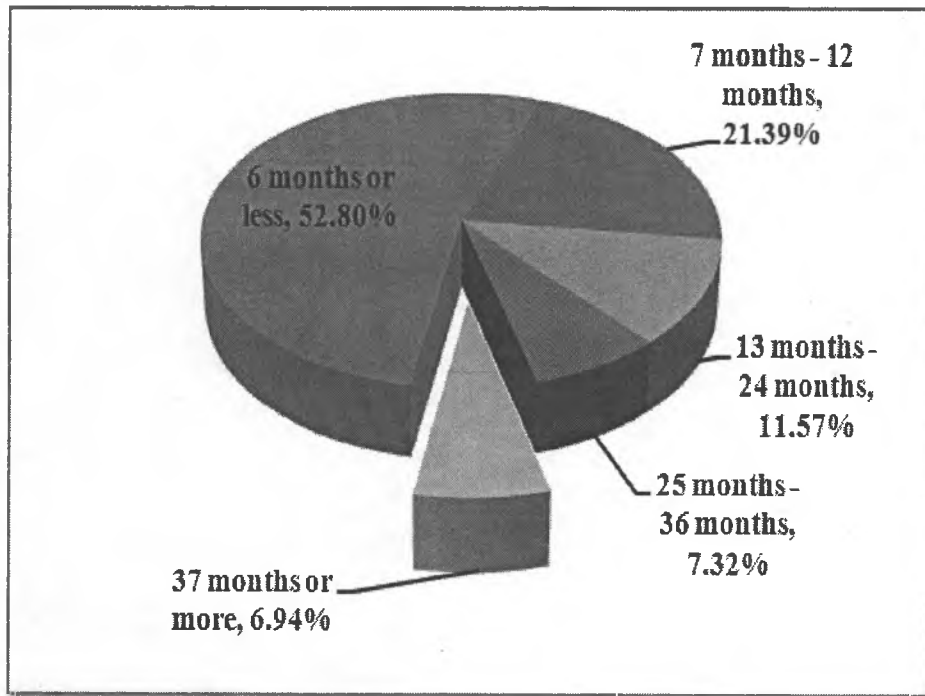
- In 2002, 15.39% of offenders in Alaska were incarcerated for drug or alcohol offenses. By 2011, Alaska offenders incarcerated for drug or alcohol offenses increased to 19.08%.



LONGER LENGTH OF STAY

As of December 31, 2002

As of December 31, 2011



THREE PRINCIPLES OF EFFECTIVE CORRECTIONAL INTERVENTION

Principles

Description

Risk Principle

Devote your time, energy and resources to moderate and high risk cases.

Need Principle

Target the criminogenic needs of moderate and high risk offenders (i.e. the dynamic risk factors that, when changed, will change the probability of an offender's recidivism).

Responsivity Principle

General: Design your efforts around behavioral and cognitive-behavioral techniques.

Specific: Tailor your efforts to the individual abilities (strengths), style, culture and personality of the client.

FOCUSING ON BEHAVIOR CHANGE

FROM

- Custody/ monitoring
- Agency isolation
- Unproven methods
- Measuring inputs
- Offender failure

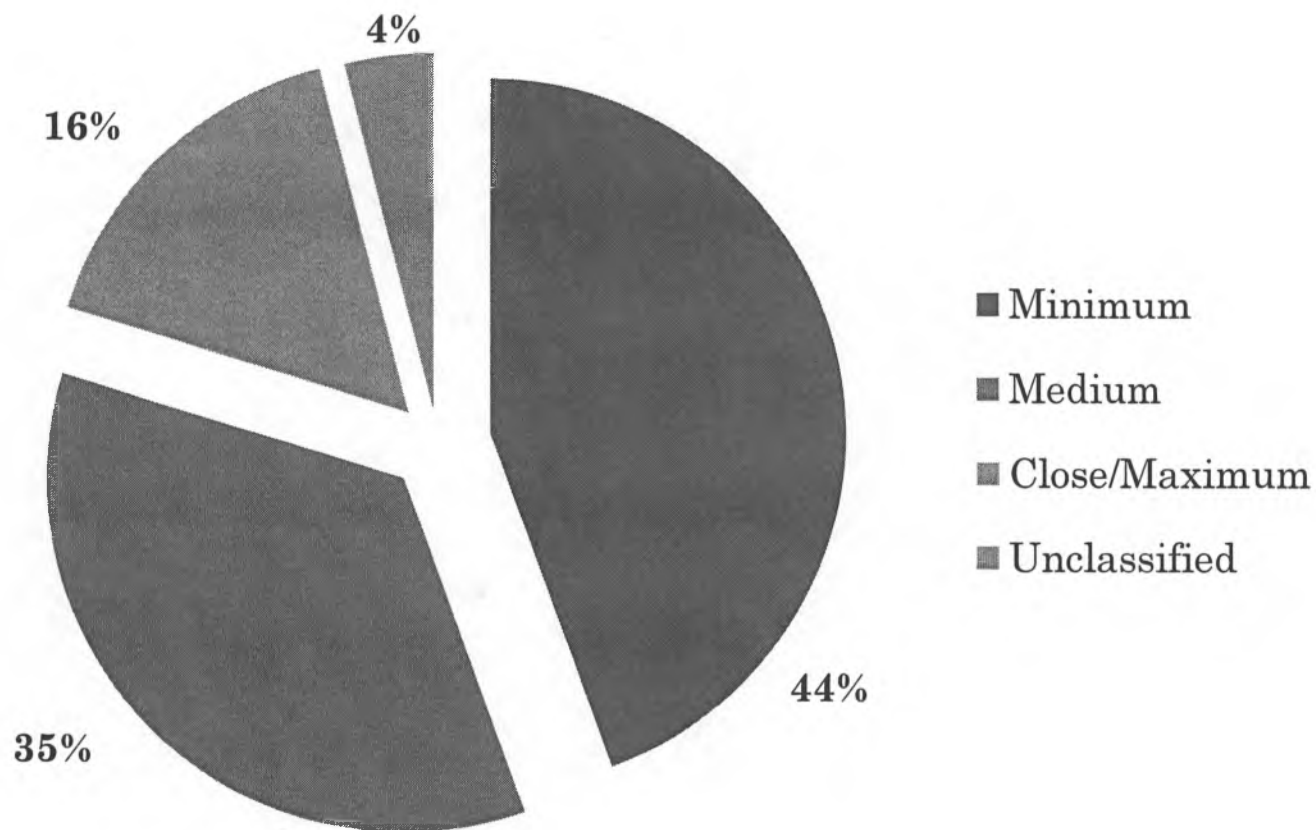
TO

- Behavior change
- Collaboration
- Using what works
- Measuring outcomes
- Offender success and improved public safety

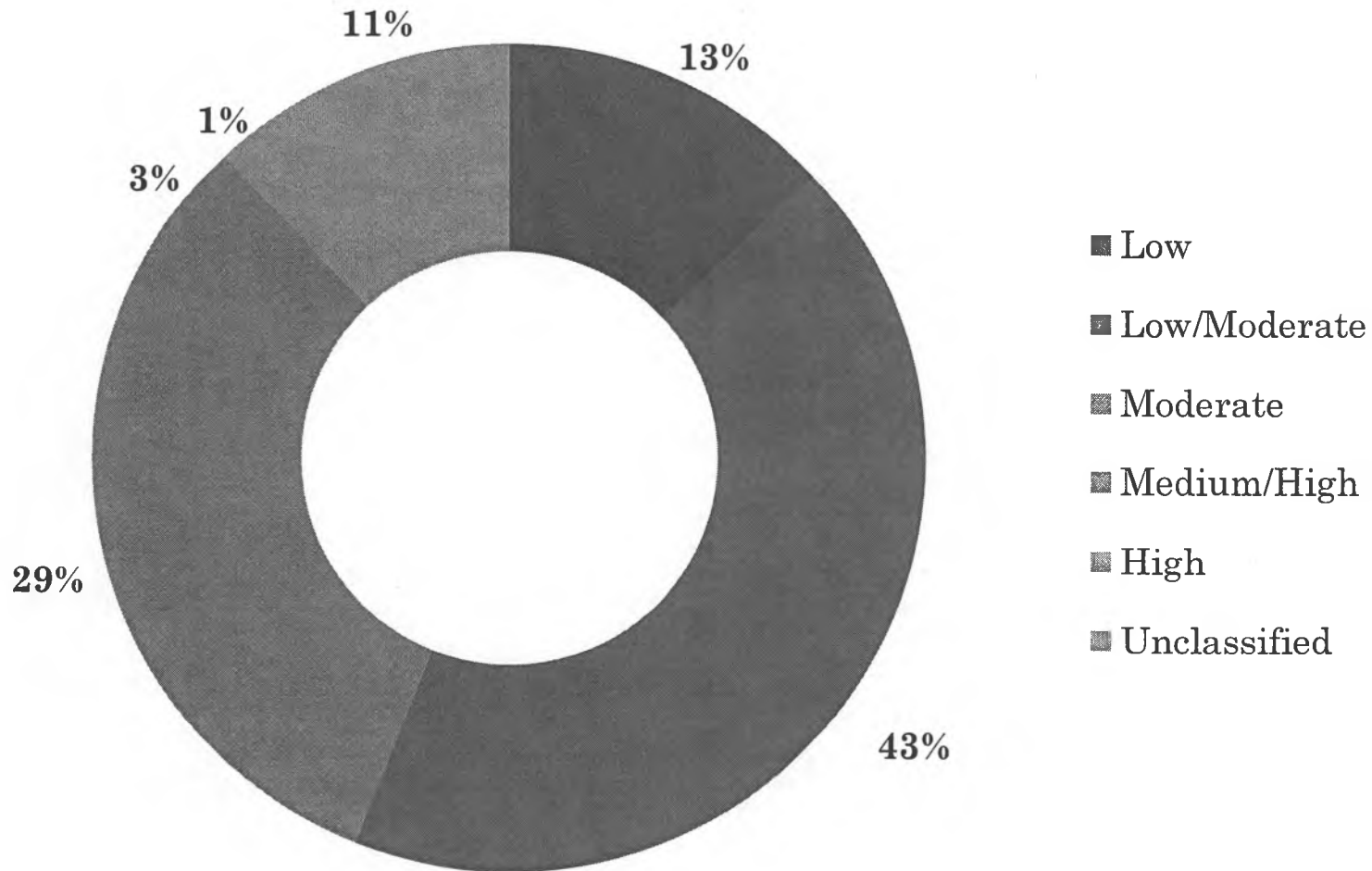
ASSESSING RISK

- DOC Classification Policies have been updated to emphasize behavioral incentives that encourage compliance with programming and other expectations.
- DOC Offender Reentry policy including an Offender Management Plan (OMP) provides a road map for the prisoner to determine what programs are needed and will provide a means of measuring a prisoner's readiness for reentry into the community.
- Probation & Parole has received technical assistance from the National Institute of Corrections (NIC), and is in the process of modifying the current risk assessment protocols.

CUSTODY/RISK LEVEL



PROBATION/PAROLE RISK LEVELS



CRIMINOGENIC FACTORS

- **Anti-social values/beliefs/cognition**
Reduce anti-social cognition, recognize risky thinking and feelings.
- **Anti-social companions**
Reduce association with criminals, enhance contact with pro-social peers.
- **Anti-social personality or temperament**
Build problem solving, self management, anger management, and skills for coping with restless/aggressive energy.
- **Family and/or marital**
Reduce conflict, build positive relationships and communication, enhance monitoring/supervision.

CRIMINOGENIC FACTORS (CONTINUED)

- **Substance abuse**
Reduce usage, reduce the supports for abuse behavior, enhance alternatives to abuse.
- **Employment**
Provide employment seeking and keeping skills.
- **Education**
Enhance performance rewards and satisfaction.
- **Leisure and/or recreation**
Enhance involvement and satisfaction in pro-social activities.

Sources: Adapted from Ed Latessa, University of Cincinnati/Gendreau and Andrews, 1990/PRI Effective Case Management Coaching Packet, CEPP, 2010

EXPANDING REHABILITATIVE PROGRAMS

Programs	Capacity FY13	Served FY12	Completed FY12	Wait List
Substance Abuse				
○Assessment	N/A	N/A	501	N/A
○LSSAT	1,150	781	420	171
○RSAT	210	140	110	209
○Aftercare	800	270	106	N/A
Education				
○Adult Basic Ed	N/A	970	N/A	N/A
○GED	N/A	N/A	251	N/A
○Vocational Ed	Varies	1,935	1,347	N/A
Faith-Based Pgms				
○Faith-Based Pgms	143	108	46	N/A

- Probationer Accountability with Certain Enforcement (PACE): Pilot program began in Anchorage Superior Court in July 2010.
- Provides swift, certain and proportionate sanctions to **70 high risk felony** probationers who had an established pattern of noncompliance with court ordered conditions of probation
- **Results:** Alaska Judicial Council 9/16/11 Preliminary Evaluation shows
 - PACE appears to be successful at reducing positive drug tests. 66 percent of the PACE probationers were free of any positive drug tests during their first three months on PACE.
 - In contrast, prior to their enrollment in PACE, only 20 percent of those probationers were free of positive drug tests.

PRISONER REENTRY TASK FORCE

- **Purpose** of the task force is to reduce Alaska's recidivism rate and thereby improve public safety and the overall health of Alaska's communities.
- **Workgroups**
 - Misdemeanor Workgroup
 - Substance Abuse Workgroup
 - Employment work group
- **Regional Reentry Coalitions**
 - Anchorage
 - Kenai
 - Mat-Su Valley
 - Dillingham
 - Juneau

Memo: Comparison between Alaska and Wyoming Possession Laws and Current Corrections Outcomes

Prepared for: Rick Allen, Chuck Kopp

Author: Forrest Dunbar

February 19th, 2013

Current Legal Regime

Substance	Alaskan Felony Limits	Wyoming Felony Limits¹
Cocaine	Any amount = felony.	3 grams
Heroin	Any amount.	3 grams (powder form); 300 milligrams (liquid form)
Methamphetamine	Any amount.	3 grams
LSD	Any amount.	300 milligrams
Psychedelic Mushrooms	Any amount.	3 grams
Oxycodone/controlle d pharmaceuticals (IA & IIA)	Any amount	3 grams in "pill or capsule form"

	Alaska Statute	Wyoming Statute
<u>"Three Strikes" Language</u>	No three strikes language; automatic felony.	"Any person convicted for a third or subsequent offense under this paragraph, including convictions for violations of similar laws in other jurisdictions, shall be imprisoned for a term not more than five (5) years, fined not more than five thousand dollars (\$5,000.00), or both."

¹ Source: Wyoming Statute 35-7-1031. Unlawful manufacture or delivery; counterfeit substance; unlawful possession. Available at: <http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title35/T35CH7AR10.htm>

Current Outcomes

<u>Category</u>	<u>Alaska</u>	<u>Wyoming</u>
Total Corrections Population, 2011	5,957 ²	3,734 ³
Per capita correction populations, 2011, based on U.S. Census estimates	5,597 : 723,860 = 1 prisoner per 129 residents	3,734 : 567,356 = 1 prisoner per 152 residents
Percent of offenders (for AK) or probationers (for WY) who successfully complete supervision and do not return to custody within three years of release from supervision. (2008 population) ⁴	Felons: 61 Misdemeanants: 52 (recidivism rate of 48% for misdemeanants and 39% for felons, within just two years from release)	Felons: 66 Misdemeanants: 54 (recidivism rate of 46% for misdemeanants and 34% for felons, within three years from release)
Percent of Illicit Drug Use Including Marijuana in Past Month, Age 12+ (2009-2010) ⁵	14.15	7.07
Percent of Illicit Drug Use Excluding Marijuana in Past Month, Age 12+ (2009-2010) ⁶	3.98	3.27

² Alaska Department of Corrections, Offender Profile, at 7 (2011).

³ See The Sentencing Project, Wyoming: Total Offender Population (2011). Available at: <http://www.sentencingproject.org/map/statedata.cfm?abbrev=WY&mapdata=true>. It is difficult to perform an exact comparison for prisoners, as Wyoming does not operate a unified jail/prison system, as does Alaska. However, this count tracks closely to the Wyoming DOC Annual Report with regard to the prison population; the added jail population is based on a 2009 estimate.

⁴ See Wyoming Department of Corrections Annual Report, REPORT PERIOD: FY2011 (July 1, 2010 through June 30, 2011); Alaska Judicial Council, *Criminal Recidivism in Alaska, 2008 and 2009*, at 39 (November 2011). Available at: <http://www.ajc.state.ak.us/reports/ucid2011.pdf>. Measures of offenders versus probationers are not precisely the same, but more inclusive "offenders" measurement for WY would likely further skew the statistics in WY's favor, due to the higher success rate in WY's parolee population.

⁵ Substance Abuse and Mental Health Services Administration, "Appendix C: Comparison of the 2008-2009 and 2009-2010 Model-Based Estimates (50 States and the District of Columbia)." Available at: <http://www.samhsa.gov/data/NSDUH/2k10State/NSDUHsae2010/NSDUHsaeAppC2010.htm#tabC.1>

⁶ *Id.*

Proposed Legal Regimes

<u>Substance</u>	<u>Alaska</u>	<u>Wyoming (Current)</u>
Cocaine	3 grams	3 grams
Heroin	500 milligrams	3 grams (powder form); 300 milligrams (liquid form)
Methamphetamine	3 grams	3 grams
LSD	300 milligrams	300 milligrams
Psychedelic Mushrooms	3 grams	3 grams
Oxycodone/ controlled pharmaceuticals (IA & IIA)	15 or more tablets, ampules, or syrettes	3 grams in "pill or capsule form"

	<u>Alaska Statute</u>	<u>Wyoming Statute</u>
<u>Three Strikes Language</u>	"...any amount of a schedule IA or IIA controlled substance, and, two or more times within the preceding five years, the person was convicted under (i) AS 11.71.010 - 11.71.050; or (ii) a law or ordinance of this or another jurisdiction with elements similar to those of an offense under the provisions described in (i) of this subparagraph... [is guilty of a felony.]"	"Any person convicted for a third or subsequent offense under this paragraph, including convictions for violations of similar laws in other jurisdictions, shall be imprisoned for a term not more than five (5) years, fined not more than five thousand dollars (\$5,000.00), or both." ⁷

⁷ Source: Wyoming Statute 35-7-1031. Unlawful manufacture or delivery; counterfeit substance; unlawful possession. Available at: <http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title35/T35CH7AR10.htm>

Public Opinion on Sentencing and Corrections Policy in America

2012 polling, consistent with 2010 research, indicates that voters are concerned first and foremost with keeping communities and people safe. Without question, voters want a strong public safety system where criminals are held accountable and there are consequences for illegal activities. They also believe that these goals can be reached while reducing the size and cost of the prison system.

A national public opinion survey conducted in January 2012, along with similar surveys in Georgia, Missouri, and Oregon, found those attitudes persist and revealed opinions on specific policy solutions.

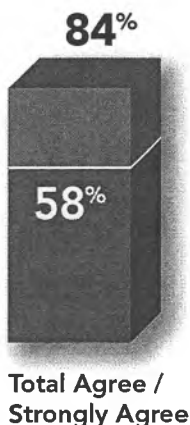
KEY TAKEAWAYS

1. American voters believe too many people are in prison and the nation spends too much on imprisonment.
2. Voters overwhelmingly support a variety of policy changes that shift non-violent offenders from prison to more effective, less expensive alternatives.
3. Support for sentencing and corrections reforms (including reduced prison terms) is strong across political parties, regions, age, gender, and racial/ethnic groups.

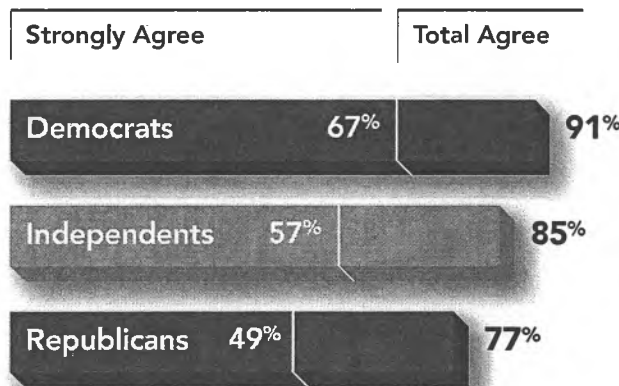
THE BOTTOM LINE...

"Some of the money that we are spending on locking up low-risk, non-violent inmates should be shifted to strengthening community corrections programs like probation and parole."

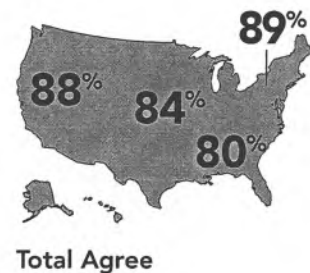
Overall



By Party Identification



By Region

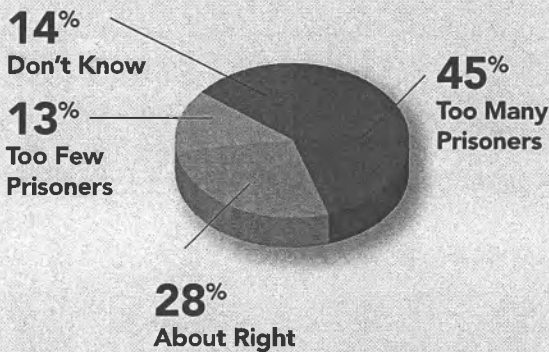


UNDERLYING ATTITUDES

Research from 2010 showed that crime is a low concern among voters. It also showed that voters want offenders held accountable for their actions, and that they make a big distinction between violent and nonviolent offenders. The current survey found that voters also feel safe in their communities, rating their sense of safety at an average of 8 on a 10-point scale.

A plurality believes there are too many people in prison.

"Do you think there are too many people in prison in the United States, not enough people in prison, or is the number of people in prison about right?"



On average, voters think about a fifth of prisoners could be released without posing a threat to public safety.



A strong majority, even among victims, believes prison is not always the best response to non-violent crime.

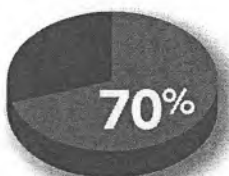
"Which comes closer to your point of view?"

Statement A

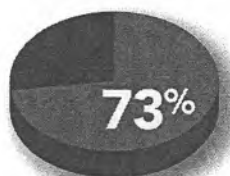
"One out of every 100 American adults is in prison. That's too many, and it costs too much. There are more effective, less expensive alternatives to prison for non-violent offenders and expanding those alternatives is the best way to reduce the crime rate."



% Total Favor



Violent Crime Victim Households



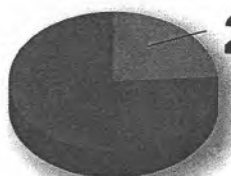
Non-Violent Crime Victim Households

Statement B

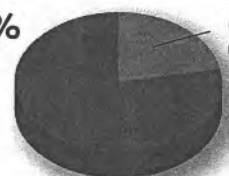
"People who commit crimes belong behind bars, end of story. It may cost a lot of money to run prisons, but it would cost society more in the long run if more criminals were on the street."



% Total Favor

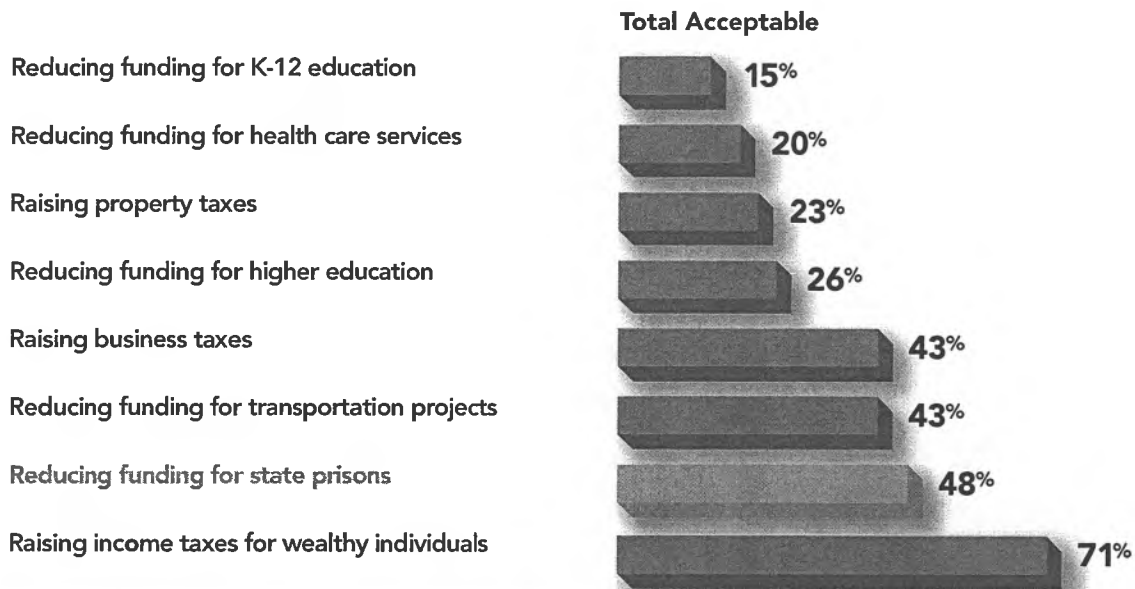


Violent Crime Victim Households



Non-Violent Crime Victim Households

Voters are more willing to raise taxes on the wealthy or reduce funding for state prisons than they are to consider other types of funding reductions.

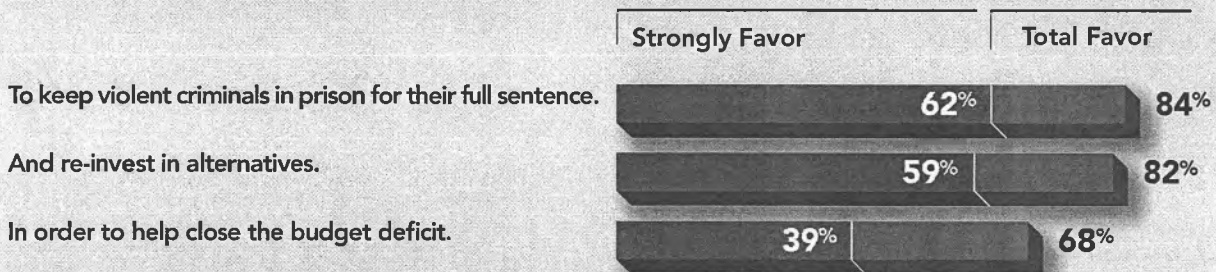


POLICY SOLUTIONS

State policy makers seeking to reduce prison costs while maintaining public safety often look to reduced sentences for non-violent offenders as a policy remedy. The poll tested public support for a variety of such reforms. In the abstract, a plurality of voters believes that current sentences are "about right." But there is widespread support for shorter sentences and alternatives to incarceration for non-violent crimes, especially when prison savings are reinvested in less costly supervision options.

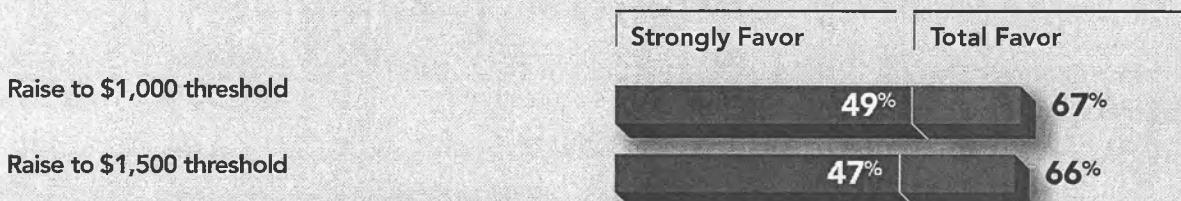
1. DIVERT MORE NON-VIOLENT OFFENDERS FROM PRISON

Send fewer low-risk, non-violent offenders to prison:



Raise the Felony Theft Threshold

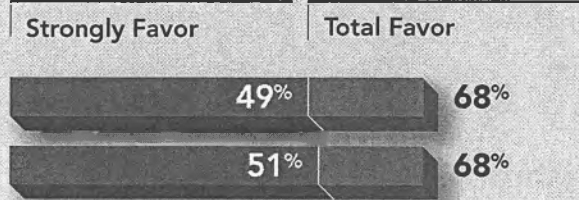
"Many states have a law that stealing property valued over \$500 is a felony crime, and thus the offenders face at least one year in prison. Some states have raised this felony threshold from \$500 to \$1,000 [or] \$1,500. Do you favor or oppose a proposal to raise the threshold to \$1,000 [or] \$1,500 in your state?"



Voters continue to support an increase in the threshold even in the face of a strong argument against it.

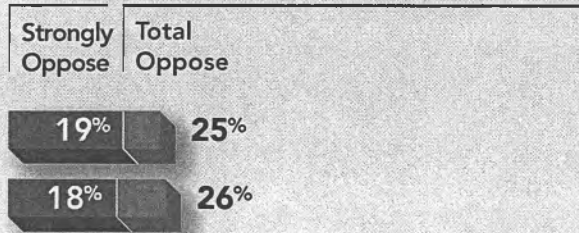
Supporters...

...say these laws were passed decades ago. Now electronics cost more than \$500. If someone steals one, they shouldn't be locked up at a cost to taxpayers of thousands per year. The threshold should be raised to at least \$1,000 [or] \$1,500.



Opponents...

...say that it is the wrong time to go soft on crime in this bad economy. People who steal make our communities less safe, and they should be locked up.

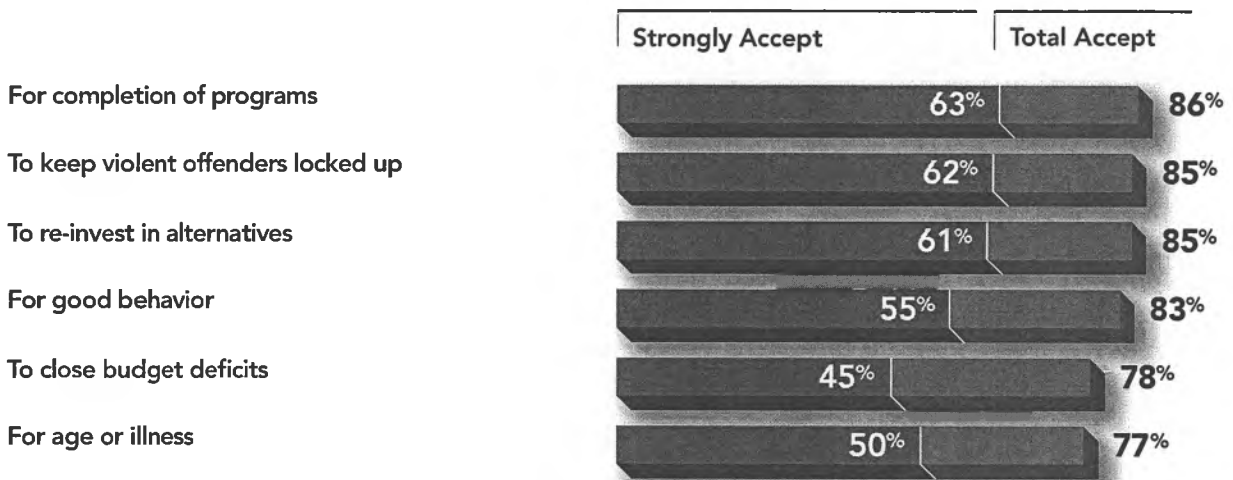


Total Support	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Law Enforcement Member
\$1,000	72%	71%	60%	70%	64%	69%	71%	68%	69%	51%
\$1,500	71%	72%	60%	69%	66%	65%	72%	68%	66%	60%

2. REDUCE PRISON TIME FOR NON-VIOLENT OFFENDERS

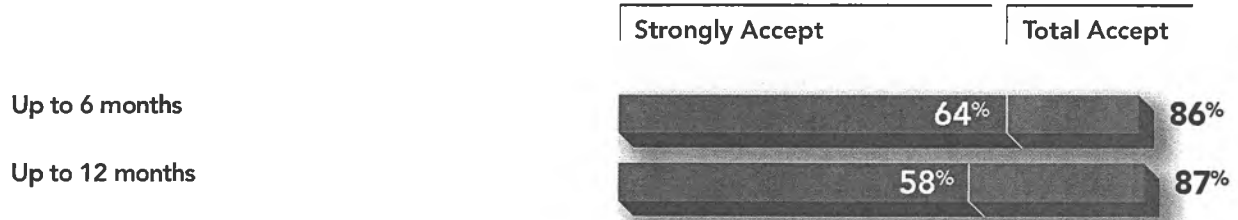
All the approaches examined to reduce prison time served are broadly acceptable to voters.

Voters strongly support reducing prison time for low-risk, non-violent offenders for a variety of reasons:



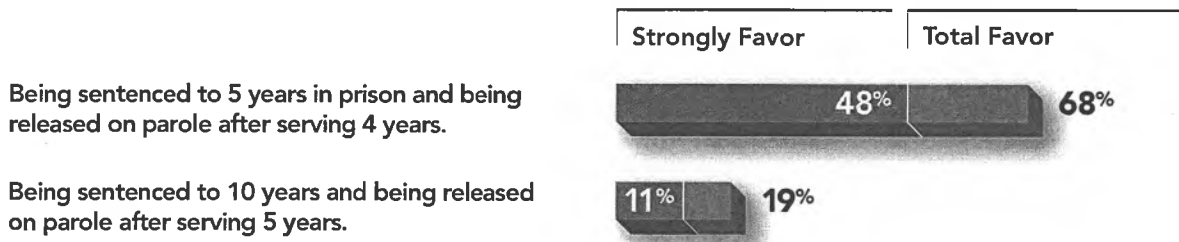
A large majority of voters favor shortening prison terms for non-violent offenders by a full year.

"Allow non-violent crime inmates to be released up to 6 [or] 12 months early if they have behaved well and are considered a low risk for committing another crime."



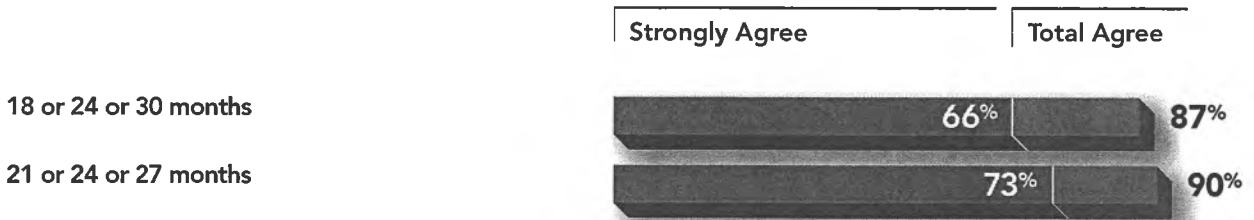
The percentage of a sentence served seems more important than its length.

"Which of the following do you prefer as punishment for someone convicted of a non-violent crime?"



Nearly all voters prioritize preventing recidivism over time served, even when prison time varies up to a year.

"It does not matter whether a non-violent offender is in prison for 18 or 24 or 30 months [or] 21 or 24 or 27 months. What really matters is that the system does a better job of making sure that when an offender does get out, he is less likely to commit another crime."



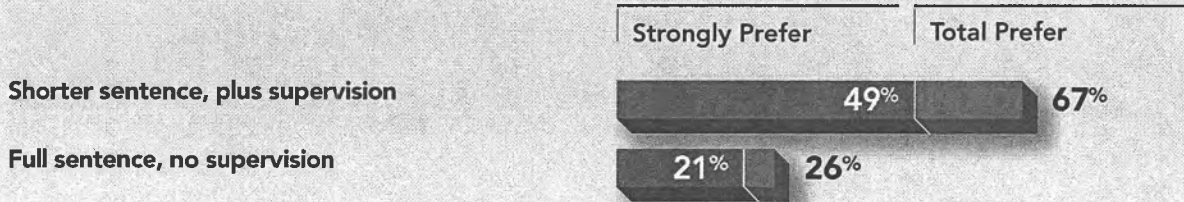
Total Agree	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Law Enforcement Member
18/24/30 months	90%	85%	85%	86%	86%	86%	89%	83%	89%	87%
21/24/27 months	94%	93%	84%	91%	89%	94%	88%	86%	91%	91%

3. MANDATE SUPERVISION FOR ALL OFFENDERS RELEASED FROM PRISON

Voters strongly prefer that inmates be subject to a period of mandatory supervision, rather than be held until their sentences expire and released without any supervision, regardless of offense type.

Violent Offenders

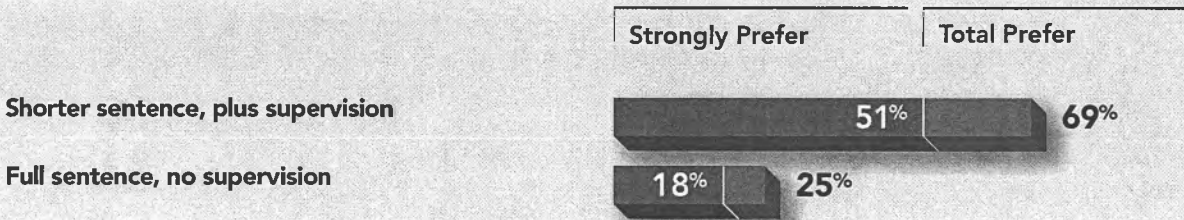
When given a choice between violent offenders serving a full 5-year prison sentence or 4 years of a 5-year sentence plus 1 year of mandatory supervision, voters prefer the mandatory supervision option.



Total Prefer	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Law Enforcement Member
With Supervision	72%	66%	62%	65%	59%	72%	76%	68%	69%	62%
No Supervision	24%	25%	30%	27%	33%	21%	20%	24%	23%	34%

Non-Violent Offenders

When given a choice between non-violent offenders serving a full 3-year prison sentence or 2 years of a 3-year sentence plus 1 year of mandatory supervision, voters prefer the mandatory supervision option.



Total Prefer	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Law Enforcement Member
With Supervision	72%	67%	67%	70%	65%	70%	73%	74%	74%	67%
No Supervision	23%	25%	26%	23%	27%	24%	23%	21%	21%	28%

4. IMPROVE PROBATION AND PAROLE SUPERVISION

	Strongly Agree	Total Agree	Democrats	Independents	Republicans
"An effective probation and parole system would use new technologies to monitor where offenders are and what they are doing, require them to pass drug tests, and require they either keep a job or perform community service."	74%	92%	95%	91%	89%
"There are five million offenders who are out of prison and under community supervision. If we are serious about public safety, we need a better system to supervise and track these people."	70%	89%	90%	88%	88%
"We have too many low-risk, non-violent offenders in prison. We need alternatives to incarceration that cost less and save our expensive prison space for violent and career criminals."	69%	88%	94%	89%	81%
"Prisons are a government program, and just like any other government program they need to be put to the cost-benefit test to make sure taxpayers are getting the best bang for their buck."	66%	87%	88%	87%	87%
"Ninety-five percent of people in prison will be released. If we are serious about public safety, we must increase access to treatment and job training programs so they can become productive citizens once they are back in the community."	66%	87%	90%	89%	82%
"Our spending on corrections has grown from \$10 billion to \$50 billion over the last twenty years but we are not getting a clear and convincing return on that investment in terms of public safety."	57%	77%	81%	74%	76%
"Parole and probation are just a slap on the wrist and not a substitute for prison."	29%	50%	43%	49%	59%

METHODOLOGY

On behalf of the Pew Center on the States, Public Opinion Strategies and the Mellman Group conducted phone interviews with 1,200 likely voters nationwide on January 10-15, 2012. The survey has a margin of error of $\pm 2.8\%$. The margin of error is higher for subgroups.

The full survey is available at www.pewcenteronthestates.org/publicsafety.

Poll Respondent Demographics

- 39 percent identified as conservative
- 30 percent identified as liberal

- 32 percent identified as a Republican or leaning Republican
- 24 percent identified as Independent
- 37 percent identified as Democrat or leaning Democratic

- 17 percent identified as a violent crime victim household
- 43 percent identified as a non-violent crime victim household
- 12 percent identified as a law enforcement household



Public Opinion Strategies is a leading national political, public policy, and public affairs research firm. Public Opinion Strategies is widely recognized as the nation's leading Republican polling firm, listing 19 U.S. Senators, 6 Governors, and over 70 Members of Congress as clients. Public Opinion Strategies also works for some of America's largest corporations and associations in the public affairs realm.



The Mellman Group has provided sophisticated opinion research and strategic advice to political leaders, public interest organizations, Fortune 500 companies, and government agencies for over thirty years. Current clients include the majority leader of the U.S. Senate and the Democratic whip in the U.S. House.

ALASKA STATE LEGISLATURE



SENATOR FRED DYSON
SENATE DISTRICT F

HCS CSSB 56(JUD) SUPPORT

Alaska Native Justice Center

Alaska Network on Domestic Violence and Sexual Assault

Alaska Mental Health Board

Advisory Board on Alcoholism and Drug Abuse

Central Peninsula Hospital & CPH Behavioral Health Affiliates

Sid Billingslea, Past President of the Alaska Bar Association

Carmen Gutierrez, former Dep. Commissioner of Corrections

Walt Monegan, former Commissioner of Public Safety

Many parents of youth under the weight of a "one strike and your out" felony conviction

Retired Superior Court Judges who have dealt with these issues day in and day out for decades



central peninsula behavioral health

serenity house | diamond willow | outpatient services

245 N. Binkley Suite 202
Soldotna, AK 99669

Phone: (907) 714-4521
Fax: (907) 260-4063

March 15, 2013

The Honorable Pete Kelly
Co-Chair Senate Finance Committee
State Capitol, Room 532
Juneau, AK 99801-1182

The Honorable Kevin Meyer
Co-Chair House HESS Committee
State Capitol, Room 532
Juneau, AK 99801-1182

RE: CS for Senate Bill 56(JUD)

Dear Senators Kelly and Meyer:

The purpose of this letter is to lend support to Senator Dyson's efforts to reclassify small quantity possession charges of schedule IA and IIA substances from a C Felony to a Class A Misdemeanor. As the Director of Behavioral Health for Central Peninsula Hospital I have the honor of running Serenity House Treatment Center, which is one of a scarce few residential programs in Alaska designed to address addiction.

Inarguably drug abuse rates are climbing and the so called "War on Drugs", which relies on intensive legal sanctions, has failed to turn the tide. Part of the problem is we have lied to ourselves about who an addict really is. Addicts are not some mysterious shifty character in the night but rather they are our children or our neighbor's children. Our typical admission to residential treatment is under 25 years old, raised in our communities, and often the parent of at least one child under five years old. As a society we have reached out to slap this already disenfranchised group instead of reaching out with a hand of compassion. Addiction is a *medical problem*, while addicts do illegal acts; we can no longer deny that at its core addiction is biologically based.

Those convicted of MICS-4 represent the fastest growing subsection of the prison population and costs nearly \$50,000 each to incarcerate for one year. As I watch treatment centers struggle under ever increasing budget pressure and cuts, I can only dream about what we could do with even a fraction of that funding. Treatment outcome data tells us that we could make real and lasting changes in our community.

At the individual level, it is heartbreaking to see the life obstacles that are created by felony convictions. Most obvious are the barriers in employment; many of the North Slope hiring systems eliminate those with felony convictions. As a treatment center, we can attest to the miracle of someone's recovery but cannot employ them for five years due to the regulations disallowing health and social service workers to have felony convictions. These obstacles typically relegate them to the

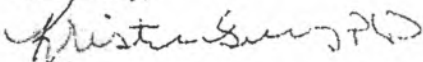
lowest paying jobs such as food service or seasonal fish processing. The financial pressures build as they are also ineligible for food stamps and temporary assistance. Life advancement opportunities become further limited as they lose access to some types of student aid. Many housing programs eliminate candidates based on background checks, resulting in extremely substandard housing. The net result is in an inability to provide for themselves and their families. As a group, they place extreme pressure on other social systems such as churches, food pantries, and local donations. The stresses and pressure drive return to drug use and build the temptations of illegal acts. Is this the punishment we intend?

There is a brighter option. Our agency enjoys a positive working relationship with the Alcohol Safety Action Program (ASAP), which monitors the treatment compliance of those convicted of misdemeanors. The beauty of this program is that it allows clients to choose among trained treatment providers. Treatment professionals work with clients in the development of individualized treatment plans and goal setting, while ASAP monitors and reports their compliance. This is in stark contrast to the limited programming made available to felony offenders, which is typically punitive in nature and often confuses the advocacy role of a counselor with that of a monitoring or enforcement official.

Many arguments can be made against this legislation; it is "soft on crime" or imposes punishment that is insufficient to dissuade individuals from drug use. With 15 years experience in the treatment of addiction, I can attest that fear of consequences alone will always be insufficient to alter addictive behavior. People with addiction are compulsively engaging in acts which could cost them their very lives and they remain unable to stop. The only true road to change involves developing recovery skills and re-aligning life supports to sustain recovery.

Thank you for your time. I am available to provide you with information or answer any questions you might have as you consider this legislation. I urge the Senate Finance Committee to pass CSSB 56 from committee.

Sincerely,



Kristie Sellers, Ph.D.
Director of Behavior Health
Central Peninsula Hospital/Serenity House

Cc: Senate Finance Committee Members
Senator Fred Dyson

April 03, 2013
Sen. Fred Dyson
SB 56

Senator Dyson,

I applaud someone taking the initiative to address a DOC that is bursting at the seams due to incarceration of non-violent criminals. The re-classification of certain crimes will enhance Corrections ability to focus on those individuals truly in need of incarceration and lessen the burden to the taxpayer. An additional step now utilized by most states is an expunction statute which allows felons that have not committed physical violent crimes to have their records expunged.

In doing so, there is a dramatic reduction in recidivism by these felons who are now enabled to secure work and not hindered by their non-violent felony record. The selection of those who would be applicable to expunction of course would be for non-physical violent first time felons that have successfully completed probation and have no re-occurring criminal issues. This often targets individuals that have no history of criminal activity and had a one-time error in judgment that will most likely never be repeated.

If interested, you might look at the State of Oregon's expunction statute given; it is within the same Supreme Court judicial district. I wish you luck in your endeavor.

Sincerely,

Mike Moore
Retired Law Enforcement & Corrections Officer

Chuck Kopp

Subject: FW: SB 56 in House Judiciary Committee

From: ODIN BRUDIE [<mailto:odin@oci.net>]

Sent: Saturday, April 06, 2013 5:16 PM

To: Rep. Max Gruenberg; Rep. Bob Lynn; Rep. Neal Foster; Rep. Gabrielle LeDoux; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Charisse Millett; Rep. Wes Keller

Subject: SB 56 in House Judiciary Committee

Dear Honorable Representatives:

On Monday you will be hearing Senate Bill 56, "An Act relating to certain crimes involving controlled substances; and providing for an effective date."

I urge you to recommend passage of this bill, and to apply an (retroactive) effective date of January 1, 2013, if that is possible.

Federal and State prosecutors are effectively filling our State prisons with non-violent offenders. Rather than simply incarcerating them and bearing this cost for many years, we should strive to solve the problem through rehabilitation and reform, the options for which are being dismissed by State and Federal prosecutors.

I believe we could go further than this bill to make it so individuals convicted of felony drug misconduct for the first time are not the ones filling our prisons. Within the past year, an alarming number of young Juneau men and women have been arrested on felony drug charges. The sentences being handed out are draconian and extreme. My 23-year old son is among those convicted this winter on drug charges. A first-time offender, he is now a felon facing a 10 year sentence! This is a One Strike and You're Out approach, and a sure-fire way to destroy individuals, destroy families, and fill our prisons at public cost.

I am supporting this bill because, if nothing else, it seeks to fix a portion of a badly broken administrative, judicial and corrective system with respect to illegal drug charges.

Thank You and Sincerely,

Odin Brudie
51 6th St.
Juneau, AK 99801
odin@oci.net

Carmen L. Gutierrez
529 W 19th Avenue
Anchorage, Alaska 99503
907-301-6650

March 3, 2013

Senator Fred Dyson
State Capital, Room 121
Juneau, Alaska 99801

Re: Senate Bill 56

To the Honorable Senator Dyson,

This letter is written to voice my strong support for Senate Bill 56. Given the importance of this issue to the health and public safety of all Alaskans, I would be present in Juneau to testify personally if it were not for the fact that on the day of the hearing I will be out of the country with no access to phone or internet.

I am a second generation born Alaskan who has lived and worked in Alaska all my life. I was criminal defense attorney for 24 years and then with the Department of Corrections (DOC), first, as Special Assistant to the Commissioner and then as Deputy Commissioner for Prisoner Rehabilitation and Reentry until my recent retirement on December 31, 2012. During my career, I witnessed the destruction of young lives as a result of felony labeling and incarceration that occurred primarily because society decided it was appropriate to use incarceration to punish people we were mad at instead of using expensive prison beds to house people we were afraid of. Because of the State's growing propensity for incarcerating nonviolent offenders, the number of nonviolent incarcerated offenders has increased from 42% in 2002 to 62% in 2011. Furthermore, DOC's annual operating budget has grown consistently over the years. Since 2005, DOC's budget grew from \$166.698.3 to 323.191.7 in 2013. This is an average of more than 5.5% growth each year. DOC's agency operations account for the state's fifth highest user of GF funds exceeded only by the Departments of Health and Social Services, Education and Early Childhood Development, the University of Alaska and Transportation.

As you well know, the number of Alaskans being charged and convicted as felony drug offenders is growing each year. This is illustrated by the following facts:
(1) Incarceration for both misdemeanor and felony drug offenses has increased by 63% since 2002, from 967 admissions to 1,574 in 2010;

(2) during this same period, admissions for felony drug offenses have risen by over 81%; and,
(3) in 2011, 348 admissions for Misconduct Involving a Controlled Substance (possession), a class C felony offense, were for offenders between the ages of 18 to 29 years of age.

Moreover, the average length of stay in prison for a felony offender has increased during the last ten years. In 2002, the average length of stay for a felon was 6.60 years. By 2011, that had grown to 7.20 years.

The increased cost, the increased length of stay and the increased number of offenders being labelled for life convicted felons may be well and fine if our approaches were effective in reducing criminal recidivism. Unfortunately, research shows this is not the case. In November 2011, the Alaska Judicial Council updated its 2007 recidivism study. The updated study reports that Alaska's recidivism rates have not improved. Two out of three Alaskans return to prison for a probation violation and or a new arrest within the first three years of their release. Given these poor outcomes, Alaskans are clearly not receiving good value for the criminal justice dollars spent.

Today, Alaska is at a crossroads. DOC opened the Goose Creek Correctional Center in 2012 at a cost of \$250 million to Alaskans with an annual operating budget of \$50 million. If the state's prison population continues to grow at its current rate of 3% per year, the state's prisons will be operating, yet again, at full capacity by 2016, just three years from now. This creates an inescapable reality; the state must today either start planning to build a new prison at huge cost to Alaskans, recommit to incarcerating out-of-state, or look at proven best practice approaches that more effectively address criminality, reduce recidivism and thereby build healthier, safer Alaskan communities.

I respectfully submit that SB 56, a bill that would reduce from a felony to a Class A Misdemeanor, the simple possession of most controlled substances, is a sound public safety minded strategy. This legislation is very likely to reduce correction costs and most importantly would provide individuals involved in the drug milieu with an opportunity for meaningful rehabilitation. I say "meaningful" because given the escalating penalties proposed in the bill if an individual is not willing to demonstrate an ability to conform their conduct to the law, sanctions will increase and eventually they will earn the lifetime label of "convicted felon". But before a person is labelled a felon for possession, there ought to be an opportunity for meaningful reformation. A growing number of judges in Alaska and across the nation recognize that incarceration is not the best approach to address addiction issues. Whether the perspective in support of SB 56 is more effective rehabilitation or as a way to cut state spending, this bill can only serve to reduce recidivism, cut correctional costs and improve the health and safety of Alaska's communities. Our current practices have certainly not been proven effective in this regard.

Thank you for any consideration you may give my comments and perspective.

Sincerely yours,

Carmen L. Gutierrez

Advisory Board on Alcoholism
and Drug Abuse



Alaska Mental Health Board

ALASKA MENTAL HEALTH BOARD
ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE
431 NORTH FRANKLIN STREET, SUITE 200
JUNEAU, ALASKA 99801
(907) 465-8920

March 5, 2013

Senator Fred Dyson
Alaska Capitol Room
Juneau, Alaska 99801

Re: SB56 — Certain Crimes Involving Controlled Substances

Dear Senator Dyson,

The Advisory Board on Alcoholism and Drug Abuse and Alaska Mental Health Board support SB 56 reducing the penalty for first offenses involving possession of small amounts Schedule IIA controlled substances. There is ample research showing that traditional justice responses – jail and probation – for these types of offenses are less effective than community-based responses. SB 56 protects our communities by ensuring an appropriate justice response while reserving prison space for more serious offenders.

Long jail sentences for first offenders have not been shown to improve public safety or decrease the incidence of drug crimes. They do increase the costs to the justice and corrections systems and to communities and families as a result of diminished economic and employment opportunities for returning offenders. What have proven effective in Alaska and nationally is community-based probation, education, treatment, and accountability programs. For example, participants in the Anchorage Wellness Court for misdemeanor alcohol offenses have shown to be less likely to reoffend than offenders subject to traditional sentencing responses.¹

By making first offenses involving possession of Schedule IIA controlled substances a Class A Misdemeanor, SB 56 preserves the courts' discretion to impose a jail sentence where appropriate, while also offering opportunities for effective community-based responses — participation in education and treatment programs, alcohol/drug testing, and community work service — through probation. Courts and communities have the chance, with SB 56, to use the conditions of probation available for misdemeanor offenses as opportunities for intervention and targeted prevention to divert first offenders from potential addiction and promote healthier choices.

The Boards appreciate your work on behalf of Alaskans.

Sincerely,

Michael Kerosky, Chairman
Advisory Board on Alcoholism and Drug Abuse

Brenda Moore, Chairperson
Alaska Mental Health Board

¹ *Impact and Cost-Benefit Analysis of the Anchorage Wellness Court*, Urban Institute Justice Policy Center (2008) available online at http://www.urban.org/UploadedPDF/411746_anchorage_wellness.pdf.

March 19, 2013

Senator Dyson
Alaska State Senate
Juneau, Alaska

RE: SB 56 "An Act relating to certain crimes involving controlled substances; and providing for an effective date."

Dear Senator Dyson:

This letter is in support of SB 56, a bill that reflects a conservative, humane, realistic and practical approach to illegal drug possession and use/addiction in Alaska. I have reviewed the literature and the testimony on both sides before the Senate Finance committee.

I am a lifelong Alaskan who returned home to practice law. For the last twenty-nine years I have maintained a statewide practice, beginning as a public defender in Juneau, Kenai, Anchorage and Palmer, as a federal public defender statewide, and as a sole practitioner since 1994. I have been an active member of the Alaska Bar, serving on the Criminal Rules committee, the Alaska Association of Trial Attorneys, and as a board member and past president of the Alaska Bar Association, where I was also the discipline/ethics liaison.

As an attorney I have witnessed the effects of the drug statutes/penalties on my clients, their families and the justice system. I have experienced the frustration that everyone in the system feels when we are confounded by the persistent lack of funded treatment beds compared to the money spent on hard beds in prisons. That frustration increases with the knowledge that the recidivism rate is still 2/3, despite an overall increase in average prison sentences and Alaskans under Department of Corrections supervision. Those who testified against SB 56 all agreed that the current drug laws are not effective, and "doubling down" with sentence increases would not work to solve the drug problem in Alaska.

In 1982 when the Alaska drug statutes were last revised, 1 in 90 Alaskans was under supervision: in 2009 1 in 36 Alaskans was under DOC supervision, either by incarceration or probation. This is an astounding number of citizens who are stigmatized by felony convictions. The collateral consequences of felony convictions for "any amount" of controlled substance in schedules IA and IIA are devastating: no vote, no jury service, no student loans, severe lack of housing and employment opportunity, travel limitations, loss of family support and incarceration to name but a few.

134 West 15th Avenue
Anchorage, Alaska USA 99501
Phone: +1.907.277.9119
FAX: +1.907.276.0405
email: sidneyb@alaska.com


LAW OFFICE OF
Sidney K. Billingslea
ATTORNEY AT LAW

Those who would rely on the judgment of individual prosecutors to sort out who gets labeled a felon for "any amount" are, in my opinion, shifting too much discretion and responsibility onto busy line lawyers and defense attorney skills in advocacy. This leads to a lack of uniformity and predictability in a justice system already viewed as being unfair. It frankly makes no difference (other than the prison time) if a person gets a "deal" for a C felony vs. a B felony or an A felony. The collateral consequences are the same. Plea bargains have been a poor substitute for the changes proposed in your bill. They are simply the tools we have had to make do with in attempting to reach just results for individuals.

SB 56 offers drug offenders an opportunity to get clean and lead productive lives without the crippling setbacks of a felony conviction. We know from our experience with DUI laws that offering opportunities like limited licenses to drive on proof of compliance with treatment and employment reduces other crime -- like driving with a suspended license -- and promotes rehabilitation. We know that statistically first time DUI offenders typically do not reoffend; it takes three DUIs within 10 years to make a felon. SB 56 has a look back of five years, where a person may be convicted of a felony if he or she commits a third possession after two or more priors in the preceding five years. It is my opinion that these look backs serve to protect the public from an offender whose rehabilitation has failed.

In closing, the data support SB 56. The opponents appear to rely on anecdotes and fear. But even the opponents testified that the current laws do not work. Thank you for your attention.

Very truly yours,
LAW OFFICE OF SIDNEY K. BILLINGSLEA


Sidney K. Billingslea



March 25, 2013

The Honorable Fred Dyson
Alaska State Senate
State Capitol Rm 121
120 4th Street, Mail Stop: 3100
Juneau AK 99801-1182

Dear Senator Dyson:

I am writing on behalf of the Alaska Peace Officers Association (APOA), regarding Senate Bill 56, "An Act relating to certain crimes involving controlled substances: and providing for an effective date".

The APOA Legislative Committee recently reviewed this proposed legislation and opposes this bill as it fails to take into consideration any other felonies committed by a person charged under this offense and whether or not the person may have a history of violent behavior. The changes put forth by SB 56 simply don't take into consideration the variety of criminal activities which are driven by addiction and the cost of funding that addiction.

Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist you in your work for our state.

Sincerely,

John Lucking, Jr.
State President

Chuck Kopp

From: pbrown <pbrown@andvsa.org>
Sent: Monday, April 08, 2013 2:52 PM
To: Sen. Fred Dyson
Cc: Rep. Charisse Millett; Chuck Kopp; Rep. Wes Keller
Subject: SB 56 comments from ED at ANDVSA
Attachments: Peggy Brown (pbrown@andvsa.org).vcf

Dear Senator Dyson,

I just testified in HJUD on SB56. I sincerely apologize for coming to this so late. When we originally reviewed the bill, we saw that our initial concern regarding "predator drugs" such as Rohypnol, used to incapacitate victims, was a schedule IVA substance and not affected by your bill. However, after further research, we saw that GHB and GBL, are in fact, predator drugs listed as schedule IA and thus pertinent to the bill.

After the hearing, I spoke with Mr. Kopp and Annie Carpeneti and we agreed it would be appropriate to carve out these drugs and keep possession of them a felony, not subject to reclassification under this bill. I know your intent would never be to lessen the accountability of predators who use these drugs to sexually abuse children, women and men. With this change, I sincerely hope SB56 moves forward.



"By believing passionately in something that still does not exist, we create it."

Peggy Brown, Executive Director
Alaska Network on Domestic Violence
& Sexual Assault
130 Seward Street, Suite 209
Juneau AK 99801
(907) 586-3650
(907) 463-4493 fax
www.andvsa.org

CONFIDENTIALITY WARNING: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

//

Prison problems: Reduced recidivism would fight against rising costs

Posted: Wednesday, March 27, 2013 12:00 am

Fairbanks Daily News-Miner Editorial

Alaska is facing an incarceration crossroads.

The state has just finished a \$250 million prison outside Wasilla that is expected to cost \$50 million per year to operate.

But the prison population in Alaska is growing at 3 percent per year. If that trend continues, the state's jails will be at full capacity again by 2016.

The budget for the Department of Corrections has been growing at 5.5 percent per year in part because the number of people behind bars has climbed from 4,231 in 2005 to 4,961 in 2012.

The daily cost of keeping an inmate behind bars is now about \$135.

So we either need to start planning now for a new jail, make plans to continue to send prisoners Outside or look at real ways to reduce recidivism.

One of the most intriguing suggestions we've seen is to reclassify the offense of possession of small amounts of illegal drugs as misdemeanors instead of felonies.

There is room for debate as to the quantities of drugs that should lead to simple misdemeanor possession charges, but the legislative review now taking place is warranted.

Drug dealers should continue to face felony charges and law enforcement officers have testified that relaxing drug laws would endanger public safety.

On the other hand, advocates of reclassification say some people picked up for small amounts of drugs would be better candidates for rehabilitation if they are not charged with a felony. The advocates of reclassification say there ought to be a chance for changing behavior before someone is branded as a felon.

Protecting society and recognizing the need for rehabilitation are not necessarily conflicting goals, but they don't always work in unison.

Drug addiction is a serious problem in Alaska that is getting worse. There is no easy solution here.

We need to improve rehabilitation programs and protect public safety, while recognizing that if we don't do something about the growing rate of incarceration in Alaska, we need to get moving now to

build our next prison.

The New York Times

Expect the World®

March 23, 2013

Shrinking Prisons, Saving Billions

By THE EDITORIAL BOARD

The mandatory sentencing craze that gripped the country four decades ago drove up the state prison population sevenfold — from under 200,000 in the early 1970s to about 1.4 million today — and pushed costs beyond \$50 billion a year. Until recently, it seemed that the numbers would keep growing. But thanks to reforms in more than half the states, the prison census has edged down slightly — by just under 2 percent — since 2009. A new analysis by the Pew Charitable Trusts shows that the decline would have been considerably larger had the other states not been pulling in the opposite direction.

Over the last five years, 29 states have managed to cut their imprisonment rates, 10 of them by double-digit percentages. California, which has been ordered by the Supreme Court to ease extreme prison crowding, led the way with a 17 percent drop, mainly by reducing parole and probation revocations and shifting custody of low-level offenders to counties. Other states reduced prison terms for low-level offenses; diverted some offenders to community supervision; and strengthened parole programs, so that fewer offenders landed back in jail for technical violations like missed appointments or failed drug tests.

Even law-and-order states like Texas, which cut its imprisonment rate by 7 percent, have discovered that they can shrink the prison population without threatening public safety. Investing heavily in drug treatment and community supervision, Texas has avoided nearly \$2 billion in spending on new prisons, while the crime rate has dropped to levels unseen since the 1960s. But even as

the national prison population has declined, 20 other states — including Arizona, Arkansas, Pennsylvania and West Virginia — keep sending more people to prison than need to be there.

In West Virginia, the imprisonment rate rose by 17 percent in the same five-year period. The Council of State Governments Justice Center, a corrections policy group, warns that West Virginia's prison population will grow by an additional 18 percent by 2018 — costing the state nearly \$350 million unless its Legislature adopts a pending reform package that includes expanded drug treatment and a new community supervision system that focuses more closely on high-risk offenders. States that lag in reducing their prison populations should swiftly embrace these kinds of reforms.

Meet The New York Times's Editorial Board.

Distributed by Senator Johnny Ellis

ADN.com

[Next Story >](#)

Alaska GOP soap opera continues with ouster of chairwoman

Drug crime bill moves out of first House committee

Published: April 10, 2013

The Associated Press

JUNEAU, Alaska — A Senate bill that changes how Alaska punishes drug possession crimes are punished has moved out of its first committee of referral in the House.

SB56, by Sen. Fred Dyson, was advanced from the House Judiciary Committee on Tuesday.

The bill would make the possession of a small amount of certain controlled substances a misdemeanor if a person has not been convicted of more than two drug-related offenses within a seven year time period.

The committee adopted an amendment that would exclude GHB, a date rape drug, from the proposed sentencing regime.

Possession of GHB would remain a felony offense if the bill becomes law.

SB56 is in line with the smart justice movement, which stresses that the length and nature of a punishment fit the severity of a crime.

[Back to Top](#)
[< Previous Story](#)

Oil, fluids spill when hose falls near Alaska well

[Next Story >](#)

Alaska GOP soap opera continues with ouster of chairwoman

- [Email Newsletters >](#)
- [Manage newsletter subscriptions](#)
- [Tablets >](#)
- [Apps and services for tablet devices](#)
- [Mobile >](#)
- [Apps and services for your mobile phone](#)
- [Social Media >](#)
- [Get updates via Facebook and Twitter](#)
- [e-Edition >](#)
- [Your daily paper delivered to your computer](#)
- [Home Delivery >](#)
- [Manage your home delivery account](#)
- [Digital Subscriptions >](#)