

**SB**

**64**

<TARGET><BILL>SB 64</BILL><SUBJECT>SB  
64</SUBJECT><COMM>HFIN28</COMM></TARGET>

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version:	CSSB 64(JUD)
Fiscal Note Number:	8
(S) Publish Date:	2/14/2014

Identifier: SB064CS(JUD)-DOA-PDA-02-13-14  
 Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
 BILL  
 Sponsor: JUDICIARY  
 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)

	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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

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

**Positions**

Full-time								
Part-time								
Temporary								

**Change in Revenues**

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**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 If yes, by what date are the regulations to be adopted, amended or repealed?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 new version of the bill.
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Prepared By: Quinlan Steiner, Public Defender  
 Division: Public Defender Agency  
 Approved By: Curtis Thayer, Commissioner  
 Agency: Department of Administration

Phone: (907)334-4414  
 Date: 02/12/2014 04:50 PM  
 Date: 02/13/14

**REPORTED OUT OF  
SFC 03/14/2014**

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64

### Analysis

SB 64 amends the current requirements imposed on defendants applying for credit towards a sentence for time spent in a treatment program. The bill will expand the conditions under which a defendant's treatment may qualify towards credit.

Additionally, the bill raises the felony threshold for theft and other property crimes from \$500 to \$1000 and the A misdemeanor threshold from \$50 to \$250, adds conduct by non-relatives to the definition of custodial interference, and creates a criminal justice commission and outlines the commission's purpose and organization.

This legislation is not expected to have a fiscal impact on the Public Defender Agency. The Agency, therefore, submits a zero fiscal note.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version:	CSSB 64(JUD)
Fiscal Note Number:	10
(S) Publish Date:	2/14/2014

Identifier: SB064CS(JUD)-DOA-OPA-02-13-2014  
 Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
 BILL  
 Sponsor: JUDICIARY  
 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)

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

**Fund Source (Operating Only)**

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

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**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 new version of the bill.

Prepared By: Richard Allen, Director  
 Division: Office of Public Advocacy  
 Approved By: Curtis Thayer, Commissioner  
 Agency: Department of Administration

Phone: (907)269-3504  
 Date: 02/13/2014 08:30 PM  
 Date: 02/13/14

**REPORTED OUT OF  
SFC 03/14/2014**

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 064

**Analysis**

Senate Bill 064 is a Senate Judiciary Committee-sponsored bill which has two main substantive parts. The first part, in Section 2, adds new sections to AS 22.20 by creating an Alaska Sentencing Commission, with a defined public policy mission to research sentencing laws, practices and innovations and make recommendations to decision makers for changes in Alaska's sentencing laws and practices. The other part, in Sections 1 and Sections 3-7, modifies requirements for satisfying a sentence through time spent in a residential treatment program and modifies penalties for certain driving-related, substance-abuse related, offenses in Titles 12, 28 and 33. Sections 8-10 implement the bill and provide for an immediate effective date.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version:	CSSB 64(JUD)
Fiscal Note Number:	13
(S) Publish Date:	2/14/2014

Identifier: SB064-OOG-EO-2-14-14  
 Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
 BILL  
 Sponsor: JUDICIARY  
 Requester: Senate Judiciary

Department: Office of the Governor  
 Appropriation: Executive Operations  
 Allocation: Executive Office  
 OMB Component Number: 6

**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
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

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

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**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:**

Initial fiscal note.
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Prepared By: Guy Bell, Director of Administrative Services  
 Division: Administrative Services  
 Approved By: Guy Bell, Director of Administrative Services  
 Agency: Office of the Governor

Phone: (907)465-3876  
 Date: 02/14/2014 09:00 AM  
 Date: 02/14/14

REPORTED OUT OF  
SFC 03/14/2014

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2014 LEGISLATIVE SESSION**

**BILL NO. CSSB 64 (JUD)**

**Analysis**

Section 30 of SB 64 creates the Alaska Criminal Justice Commission in the Office of the Governor. In the same section, the Alaska Judicial Council is required to provide staff and administrative support to the Commission. For the purpose of this fiscal note, it is assumed that all fiscal impact associated with Section 30 will be borne by the Alaska Judicial Council.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version:	CSSB 64(FIN)
Fiscal Note Number:	14
(S) Publish Date:	3/14/2014

Identifier: SB064CS(FIN)-DHSS-ASS-03-13-14  
 Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
 BILL  
 Sponsor: JUDICIARY  
 Requester: Senate Finance Committee

Department: Department of Health and Social Services  
 Appropriation: Departmental Support Services  
 Allocation: Administrative Support Services  
 OMB Component Number: 320

**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
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services	93.0		93.0	93.0	93.0	93.0	93.0
Travel							
Services	2.0		2.0	2.0	2.0	2.0	2.0
Commodities	1.0		1.0	1.0	1.0	1.0	1.0
Capital Outlay	5.0						
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>101.0</b>	<b>0.0</b>	<b>96.0</b>	<b>96.0</b>	<b>96.0</b>	<b>96.0</b>	<b>96.0</b>

**Fund Source (Operating Only)**

1002 Fed Rcpts	30.3		28.8	28.8	28.8	28.8	28.8
1007 I/A Rcpts	70.7		67.2	67.2	67.2	67.2	67.2
<b>Total</b>	<b>101.0</b>	<b>0.0</b>	<b>96.0</b>	<b>96.0</b>	<b>96.0</b>	<b>96.0</b>	<b>96.0</b>

**Positions**

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

**Change in Revenues**

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**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:**

Initial version. The Grants Administration II position will be partially funded with federal funds as well as inter-agency receipts backed with GF from the Department of Corrections/Recidivism Reduction Grants appropriation.

Prepared By: Co-Chair Senator Kelly  
Senate Finance Committee  
Co-Chair Senator Meyer  
Senate Finance Committee

Phone: (907)465-3753  
 Date: 03/13/2014

**REPORTED OUT OF**  
**SFC 03/14/2014**

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB064(FIN)

**Analysis**

Section 29 of CS SB 64 version "S" adds a new chapter to AS 47, *Welfare, Social Services and Institutions*.

AS 47.38.100, *Recidivism reduction grant program and fund*, under Article 2 of the new chapter, establishes in the general fund a new recidivism reduction fund to promote the rehabilitation through transitional re-entry programs of incarcerated persons and those recently released from correctional facilities. The Commissioner of DHSS, in cooperation with the Commissioner of Corrections, may offer grants directly from this non-lapsing fund. Programs proposed under this recidivism reduction grants program must meet a series of specific statutory requirements.

The Division of Behavioral Health estimates that the addition of the new grant program to its array of behavioral health grant programs will necessitate addition of one centralized full-time Grants Administration II position, geographically and organizationally located in the Juneau Finance and Management Services/Grants & Contracts section, and accounted for within the Administrative Support Services component, as follows:

\$ 93.0	one full-time, Juneau-based Grants Administration II position, range 17, step A-B
\$ 2.0	share of increased DOA chargeback
\$ 1.0	office supplies
<u>\$ 5.0</u>	one-time capital outlay for work station
\$101.0	

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version:	CSSB 64(FIN)
Fiscal Note Number:	15
(S) Publish Date:	3/14/2014

Identifier: SB064CS(FIN)-DHSS-ASAP-03-13-14  
 Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
 BILL  
 Sponsor: JUDICIARY  
 Requester: Senate 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	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>					
Personal Services	96.5		96.5	96.5	96.5	96.5	96.5
Travel	6.6		6.6	6.6	6.6	6.6	6.6
Services	775.1		775.1	775.1	775.1	775.1	775.1
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>878.2</b>	<b>0.0</b>	<b>878.2</b>	<b>878.2</b>	<b>878.2</b>	<b>878.2</b>	<b>878.2</b>

**Fund Source (Operating Only)**

1004 Gen Fund	781.7		781.7	781.7	781.7	781.7	781.7
1007 I/A Rcpts	96.5		96.5	96.5	96.5	96.5	96.5
<b>Total</b>	<b>878.2</b>	<b>0.0</b>	<b>878.2</b>	<b>878.2</b>	<b>878.2</b>	<b>878.2</b>	<b>878.2</b>

**Positions**

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

**Change in Revenues**

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**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 note was revised to include costs identified in later versions of the bill. The inter-agency receipts included in this fiscal note are backed with GF from the Department of Corrections/Recidivism Reduction Grants appropriation to fund the Program Coordinator responsible for writing the requests for Recidivism Reduction grant proposals.

Prepared By: Co-Chair Senator Kelly  
Senate Finance Committee  
Co-Chair Senator Meyer  
Senate Finance Committee

Phone: (907)465-3753  
 Date: 03/13/2014

REPORTED OUT OF  
SFC 03/14/2014

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB064(FIN)

Analysis

AS 47.38.020 requires the Commissioner of the Department of Health & Social Services (DHSS), in cooperation with the Commissioner of Corrections (DOC) to establish a program for defendants with release conditions, and offenders with conditions of probation or parole, to monitor and report any use of controlled substances or alcoholic beverages by participants of this program.

The Division of Behavioral Health anticipates impact from this provision due to the approval and monitoring duties by the Alcohol Safety Action Program of services provided through testing agencies.

A portion of the individuals who are referred to this program are or have been involved with the Alcohol Safety Action Program (ASAP) so therefore should have only a minimal impact on the current service levels or needs. Those misdemeanor offenders that are affected by the latest version (S) of this bill are most likely already participating in the Alcohol Safety Action Program so there would only be an additional monitoring assignment to the testing agency which would result in a minor increase in workload for ASAP personnel, whose role is limited to receiving notifications when program participants do not adhere to program requirements and responding with notifications to the court system of such.

While treatment programming will/may be a component of this testing process, it does not appear to significantly increase the need for new treatment programs.

As SB64(S) is currently drafted, the 24/7 Sobriety monitoring program would be available to defendants who are out on bail and have been charged with an alcohol or controlled substance related offense which is an unclassified felony, class "A" felony, or a sexual felony. The program would also be available for defendants who have been charged with DUI or refusal and other alcohol related offenses, or with a crime involving domestic violence. The 24/7 Sobriety monitoring program may also be ordered as a condition of probation. According to the Department of Corrections in FY2013 there were 2,432 offenders identified that met the criteria outlined in SB64(S). It is estimated that a third of those offenders would also qualify as indigent and unable to afford to participate in the program without financial assistance. The fees that can be collected from offenders with an ability to pay will be paid directly by the offender to the private testing agency.

Sec. 47.38.100 includes the development, implementation, and monitoring of the Recidivism Reduction grant program and fund, by the Department of Health and Social Services. This addition will require a minimum of one additional ASAP Program Coordinator (to monitor and manage both the Recidivism grant program and the identified private testing programs) and one additional Grants Manager within the DHSS section of Grants & Contracts.

Assumptions

24/7 Sobriety:

- Total eligible in FY13: 2,432
- Estimated rural: 75
- Estimated urban: 2,357
- Estimated indigent: 1/3 of the total eligible
- Daily cost for rural: \$10/day + \$20 initial fee
- Daily cost for urban: \$5/day + \$20 initial fee
- Recommended duration: 180 days (6 months)

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB064(FIN)

### Analysis Continued

#### Recidivism Reduction Grant Program:

- Grant funding will not be appropriated to DHSS. The proposed legislation establishes the new grant fund within the general fund and allows the commissioner to make grants from the fund directly, without a direct appropriation to the department.
- Grants administration tasks are the responsibility of DHSS Department Support Services. One Grants Administrator II position and associated costs are included in a separate Administrative Support Services fiscal note.
- Grant management tasks are the responsibility of DHSS Behavioral Health. One ASAP Program Coordinator I position will be required to manage the grants.
- Six new grant sites are assumed.

#### Costs

##### - Personal Services: \$96,467

One FTE Program Coordinator I (R18/B) Based in Anchorage, this position would be responsible for writing the requests for proposals for the Recidivism Reduction grants and monitoring effectiveness.

##### - Contractual: \$775,120

- 24/7 fees to testing agencies for indigent population: \$768,620

*Urban:* 786 client count (2,357/3) multiplied by \$5/day multiplied by 180 days + \$20 multiplied by 786 client count = \$723,120

*Rural:* 25 (75/3) client count multiplied by \$10/day multiplied by 180 days + \$20 multiplied by 25 client count = \$45,500

- Ancillary costs to support one 1 FTE: \$6,500

##### - Travel: \$6,640

Travel to 6 grant agencies and 2 testing sites outside the Anchorage bowl for program monitoring

Airfare: \$500 x 8 trips = \$4,000

Car rental: \$35/day x 1 day x 8 trips = \$280

Hotel: \$175/night x 1 night x 8 trips = \$1,400

Per Diem: \$60/day x 2 days x 8 trips = \$960

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version:	CSSB 64(FIN)
Fiscal Note Number:	16
(S) Publish Date:	3/14/2014

Identifier: SB064CS (FIN) - DOC RRG 3-13-14  
 Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
 BILL  
 Sponsor: JUDICIARY  
 Requester: Senate Finance

Department: Department of Corrections  
 Appropriation: Recidivism Reduction Grants  
 Allocation: Recidivism Reduction Grants  
 OMB Component Number:

**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
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services							
Travel							
Services	500.0		500.0	500.0	500.0	500.0	500.0
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>500.0</b>	<b>0.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	500.0		500.0	500.0	500.0	500.0	500.0
<b>Total</b>	<b>500.0</b>	<b>0.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**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:**

Initial Version
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Prepared By: Co-Chair Senator Kelly  
Senate Finance Committee  
Co-Chair Senator Meyer  
Senate Finance Committee

Phone: (907)465-3753  
 Date: 03/13/2014

**REPORTED OUT OF  
SFC 03/14/2014**

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2014 LEGISLATIVE SESSION**

**BILL NO. SB64**

**Analysis**

This fiscal note appropriates money to DOC for Recidivism Reduction Grants, which will be administered via RSA to H&SS. Carry forward language may be added to the FY16 operating bill to ensure any unspent balance does not lapse.

SENATOR  
JOHN COGHILL  
CHAIRMAN

State Capitol, Room 119  
Juneau, Alaska 99801-1182  
(907) 465-3719

# 28<sup>th</sup> Alaska State Legislature



SENATOR  
LESIL MCGUIRE  
VICE-CHAIR

State Capitol, Room 103  
Juneau, Alaska 99801-1182  
(907) 465-2995

## Senate Judiciary Committee

### ***SB 64 OMNIBUS CRIME/CORRECTIONS/RECIDIVISM BILL*** Explanation of Changes

#### **(S)STA**

From version N to O

- The Alaska Sentencing Commission (Section 2) was moved from the Alaska Court System to the Office of the Governor.
  - The executive director of the Alaska Native Justice Center was removed.
  - The director of the Division of Juvenile Justice was removed.
  - A member of the Alaska Native community was added.
  - The commissioner of HSS was added.
  - A victims' rights advocate was added.
- In regards to staffing the commission, the Alaska Judicial Council replaced the Office of the Governor.
- Sections 3 & 4: A provision was added indicating that limited license privileges are granted, at a minimum, of either five years or the duration the person is participating in court-ordered treatment program.
- Two sections (6 & 7) were added creating a process for people with limited licenses to have their normal driving privileges restored upon successful completion of therapeutic courts and driving successfully for at least five years without being convicted of an offense since the license was revoked, as well as providing proof of insurance.

#### **(S)JUD**

From version O to D

- Sections relating to limited licenses (Sections 3, 4, 5, 6, & 7 of Version O) were removed.
- Sections 1-3 create a criminal offense of custodial interference in the second degree when a non-relative or individual without custodial rights to a child attempts to take or takes a child from a lawful custodian. Currently non-custodians who try to take a child can only be charged with criminal trespass. This section closes the loophole and creates a more serious criminal offense of non-custodial interference in the second degree.
- Sections 4-19 were added to adjust the felony threshold for property crimes from \$500 to \$750.

- Sections 20-22 were added to establish a 24/7 Sobriety program as a condition of release before trial for offenders who have been charged with an alcohol-related or substance abuse-related offense that is an unclassified felony, a class A felony, a sexual felony, or a crime involving domestic violence.
- Section 23 was amended to clarify what purposes a person can receive credit for time served in a residential treatment facility, provided the periods during which residents are permitted to leave the facility must be for rehabilitative purposes directly related to the person's treatment or for employment, vocational training, or community volunteer.
- Section 24 was added to establish a 24/7 Sobriety program as a condition of probation.
- Section 25 was added to clarify that the Judicial Council shall staff and provide administrative support to the commission.
- Section 26 was added to establish the main components of 24/7 Sobriety and P.A.C.E.
- Sections 27-28 were added to establish P.A.C.E. in the parole board.
- Section 29 was added to require the Department of Corrections to conduct a risk-needs assessment on all offenders serving a term of incarceration of 30 days or more.
- Section 30 establishes the Recidivism Reduction Grant Fund to promote transitional re-entry programs for people recently released from correctional facilities.
- Section 31 experienced several changes to the commission:
  - The name of the commission was changed from the Alaska Sentencing Commission to the Alaska Criminal Justice Commission to better conform to its powers and duties.
  - 1 Senator and 1 Representative were removed from the commission and the remaining legislators were made ex-officio, non-voting members.
  - The member of the Alaska Native community is designated by the Alaska Native Justice Center and no longer appointed by the Governor.
  - The commissioners of corrections, public safety, and health and social services were removed.
  - The director of the office of public advocacy was removed.
  - The victims' rights advocate was removed.
  - A private attorney was added.
  - A chief of a municipal law enforcement agency was added.
  - The Alaska Judicial Council provides staff and administrative support to the commission.
- Section 32 establishes a 5-year sunset on the commission.
- Section 35 gives the Department of Corrections authority to begin adopting regulations to implement sections of the bill.
- Section 36 establishes a 2016 effective date for section 29 of the bill.
- Section 38 establishes an effective date for the bill.

**(S)FIN**

From version D to L

- In sections 4-19, the felony theft threshold was raised to \$1,200.

- Section 29 was amended to include assessments for offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based disorder.
- The 24/7 Sobriety program was moved from the Department of Corrections to the Department of Health and Social Services.
- The Recidivism Reduction Fund was moved from the Department of Corrections to the Department of Health and Social Services.
- Two members of the Alaska Criminal Justice Commission were removed, the sunset was changed to 2018 (rather than 2019), and an audit provision was added upon expiration of the commission.

#### (H) JUD

From Version L to V

- In sections 4-19, the felony theft threshold was lowered to \$750.
- Sections 1 & 28 were added to incorporate Senate Bill 108 into the bill.
- Section 2 is clarified to provide that “intent to take or keep the child” must exist to meet the crime of custodial interference in the 2<sup>nd</sup> degree.
- Section 23 was changed to make “residents” singular rather than plural for the purposes of calculating Nygren credit.
- Section 26 establishes combat-related PTSD and TBI as a potential mitigating factor in sentencing.
- Sections 29-31 & 33 were added to establish a felony limited license.
- Section 32 was added to allow the Department of Corrections the ability to place first-time DUI offenders on electronic monitoring for the 72-hour minimum.
- A provision was added to Section 30 that requires the Department to prepare a report summarizing the findings and results of the increased assessments required under that section.
- In Section 30, a seat for a victims’ rights advocate was added to the Alaska Criminal Justice Commission.
- Multiple changes were made to Sec. 44.19.645 (Powers & Duties) and Sec. 44.19.646 (Methodology) of the Alaska Criminal Justice Commission.
- The sunset for the commission was reduced by several months and conforming changes were made to the date of the annual report and the commission staffing.
- A section was added that requires the Alaska Criminal Justice Commission to issue a special report to the governor and the legislature regarding AS Title 28.

# Senate Bill 64

"Improving public safety while saving money"

## The cost of 1 prisoner in Texas

Yearly: \$ 21,391

Daily: \$ 59

## The cost of 1 prisoner in Alaska

Yearly: \$ 57,914

Daily: \$ 158



# 2/3

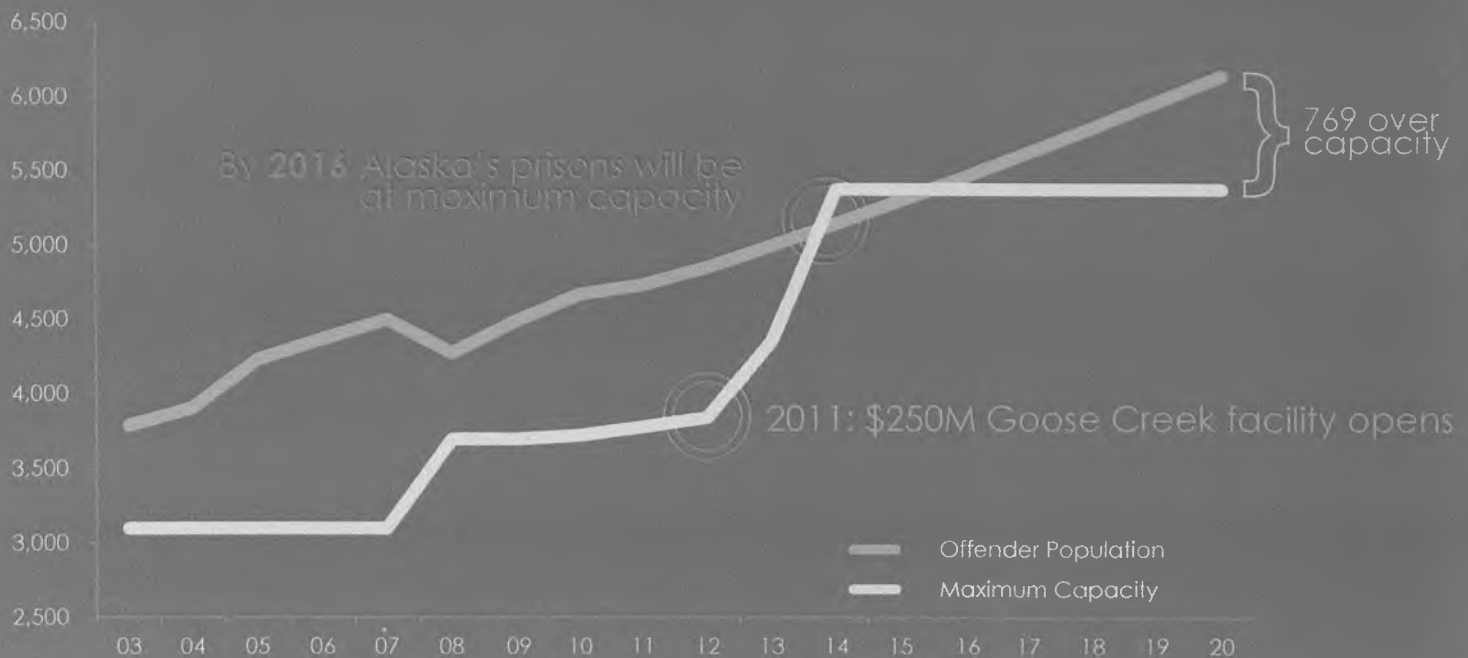
Of Alaska's prisoners  
**will return to  
prison.**  
This is higher than  
**any state.**



Alaska's  
prison population  
is growing at

# 4X

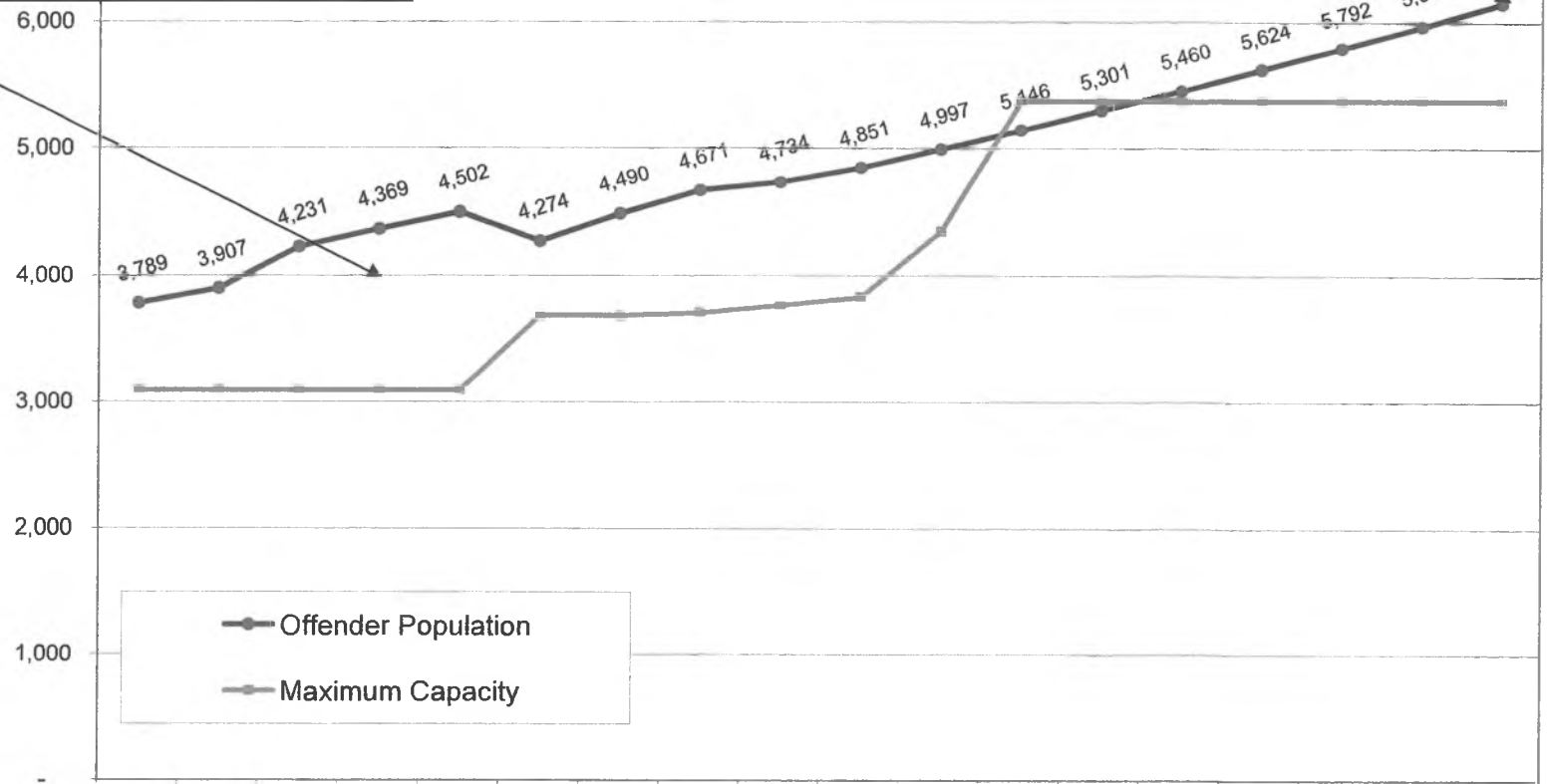
the rate of the  
state's population



# Alaska Institutional Inmate Population FY03-FY20

Excess institutional inmate population was contracted to out-of-state prisons until Goose Creek Correctional Center became fully operational in FY14.

Institutional inmate population is projected to exceed capacity by 769 beds in FY20.



	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20
Offender Population	3,789	3,907	4,231	4,369	4,502	4,274	4,490	4,671	4,734	4,851	4,997	5,146	5,301	5,460	5,624	5,792	5,966	6,145
Maximum Capacity	3,098	3,098	3,098	3,098	3,098	3,696	3,696	3,722	3,778	3,840	4,353	5,376	5,376	5,376	5,376	5,376	5,376	5,376
Over (Under) Capacity	(691)	(809)	(1,133)	(1,271)	(1,404)	(578)	(794)	(949)	(956)	(1,011)	(644)	230	75	(84)	(248)	(416)	(590)	(769)
GF Budget FnlBud Column (in millions)	\$166.9	\$165.5	\$170.2	\$187.5	\$210.4	\$218.4	\$227.5	\$247.5	\$256.3	\$271.6	\$305.6	\$313.6	\$336.5	\$361.0	\$387.2	\$415.4	\$445.6	\$478.1

\* FY14 enacted budget (does not include management plan adjustments)

\*\*FY15-FY20 budget projections based on DOC annual average GF growth rate of 7.3%

Based on the approximate 3% population growth rate experienced between FY03-FY12, the institutional inmate population is expected to reach 6,145 by FY20.



# LEGISLATIVE RESEARCH SERVICES

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## Research Brief

TO: Senator John Coghill  
FROM: Roger Withington, Legislative Analyst  
DATE: November 1, 2013  
RE: Driving Under the Influence: First Time Offenders and Costs  
*LRS Report 14.096*

---

*You asked for information pertaining to individuals convicted of driving under the influence (DUI). Specifically, you asked for the number of first-time DUI convictions in each of the last three years, the average number of days these first-time offenders spent imprisoned, the average daily cost of incarceration of these first-time offenders, and the average daily cost of electronic monitoring. In addition, you asked us to estimate the savings, if any, to the State if mandatory electronic monitoring of individuals convicted for the first-time of DUI were substituted for mandatory imprisonment.*

---

As you may know, pursuant to AS § 28.35.030(a) a person is considered to be driving under the influence (DUI) of alcohol if

as determined by a chemical test taken within four hours after the alleged operating or driving, there is 0.08 percent or more by weight of alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of blood, or if there is 0.08 grams or more of alcohol per 210 liters of the person's breath.

Operating a motor vehicle, aircraft, or watercraft while under the influence of alcohol is generally a misdemeanor offense; however, the offense can become a Class C felony if the person has previously been convicted of a DUI offense two or more times within the ten years preceding the date of the present offense. The offense is also considered a Class C felony if punishment for a felony DUI or felony refusal to submit to a chemical test was imposed on the offender within the last ten years.<sup>1</sup>

According to Nancy Meade, General Counsel for the Alaska Court System, a total of 3,563 individuals were convicted of driving under the influence for the first time during calendar year (CY) 2012.<sup>2</sup> Of those, 2,245 were prosecuted under the jurisdiction of the State while 1,318 were prosecuted under the jurisdiction of a municipality. Table 1 provides the number of individuals prosecuted by the State and convicted of driving under the influence for the first-time during calendar years 2010 through 2012.

For those prosecuted by the State and subsequently convicted of driving under the influence for the first time, Alaska Statute 28.35.030 (b)(1)(A) establishes a sentence as follows:

(b) Except as provided under (n) of this section, driving while under the influence of an alcoholic beverage, inhalant, or controlled substance is a class A misdemeanor. Upon conviction,

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

(A) not less than 72 consecutive hours, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of six months, and impose a fine of not less than \$1,500 if the person has not been previously convicted[.]

---

<sup>1</sup> AS § 28.35.030(n).

<sup>2</sup> Ms. Meade can be contacted at 907-264-8264.

According to Kaci Schroeder, Special Assistant to the Commissioner, the Alaska Department of Correction's (DOC) current average daily cost of incarceration is \$147.21, and the average current cost of passive electronic monitoring is \$19.84 per day, of which the offender pays about \$14.00, unless he or she can demonstrate financial hardship.<sup>3</sup> Using the cost figures provided by the DOC and assuming that each individual convicted under State jurisdiction of driving under the influence for the first-time was imprisoned for the minimum of 72 hours (three days), we compare, in Table 1, the estimated cost of incarceration of individuals convicted of DUI for the first time to the estimated cost incurred if electronic monitoring were to have been substituted for incarceration.<sup>4</sup> Please note that, in determining our estimates, we did not reduce the duration of imprisonment or electronic monitoring for "good time" as AS 33.20.010 limits the application of good time to those sentenced to more than three days of imprisonment and does not apply to any time spent on electronic monitoring.

**Table 1: Cost Comparison of Incarceration to Electronic Monitoring of First-Time Driving Under the Influence Convictions, Calendar Years 2010 through 2012**

Individuals Convicted of DUI for the First Time by Incarceration Status		Calendar Year		
		2010	2011	2012
Individuals Convicted of DUI for the First Time Who Were Prosecuted by the State <sup>(a)</sup>		2,557	2,411	2,245
Estimated Total Cost of Incarceration Compared to Electronic Monitoring for First-Time DUI Convictions	Incarceration	\$1,129,248	\$1,064,770	\$991,459
	Electronic Monitoring	\$152,193	\$143,503	\$133,622
	<b>Potential Savings</b>	<b>\$977,055</b>	<b>\$921,267</b>	<b>\$857,837</b>
<p><b>Notes:</b> (a) This figure represents the number of defendants convicted of DUI in each of the last three calendar years who had no prior DUIs within the previous ten years in Alaska courts. These figures do not include DUI cases heard under municipal jurisdiction.</p> <p>"Incarceration" cost estimates are calculated using the current average daily cost of incarceration of \$147.21, the number of individuals convicted of DUI for the first time, and assumes an incarceration period of three days.</p> <p>"Electronic Monitoring" cost estimates are calculated using the average current per day cost of passive electronic monitoring of \$19.84, the number of individuals convicted of DUI for the first time, and assumes a monitoring period of three days.</p> <p><b>Source:</b> Number of individuals convicted of DUI for the first time is from Nancy Meade, General Counsel for the Alaska Court System, 907-269-8264.</p>				

As Table 1 demonstrates, under current costs, if the 2,245 individuals who were convicted for a first-time DUI in 2012 were monitored electronically instead of incarcerated, and the State paid the entire cost of such monitoring, the State would have saved approximately \$858,000.

Ms. Schroeder notes that the DOC does not have any issues with sentenced first-time DUI offenders spending their imprisonment on electronic monitoring (EM). She adds, however, "as with the expansion of any program, DOC may see an increase in the costs to administer the EM program depending on how many more offenders are referred to it."

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

<sup>3</sup> Ms. Schroeder can be contacted at 907-465-1854.

<sup>4</sup> According to Ms. Meade, the majority of those convicted of DUI under a municipal jurisdiction are currently sentenced to electronic monitoring. Ms. Schroeder reports that the DOC is incapable of calculating the average number of days first-time DUI offenders were actually incarcerated.



# LEGISLATIVE RESEARCH SERVICES

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---

## Research Brief

TO: Senator John Coghill  
FROM: Roger Withington, Legislative Analyst  
DATE: January 13, 2014  
RE: Estimated Cost of Incarceration Due to Technical Violations of Participants in the Probationer Accountability with Certain Enforcement (PACE) Program Compared to Those Not in the PACE Program  
*LRS Report 14.087*

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***You asked for information the Probation Accountability and Certain Enforcement (PACE) program. Specifically, you asked us to compare the estimated cost of incarceration due to technical violations by probationers participating in the PACE program compared to those who are not in the program.***

---

In July 2010, the Anchorage Superior Court, in partnership with a number of other criminal justice agencies, started the Probationer Accountability with Certain Enforcement, or PACE, pilot project.<sup>1</sup> Generally, under this “swift and certain” model, when a probationer violates a condition of his or her probation by, for example, testing positive for drugs or alcohol, failing to appear for a scheduled drug or alcohol test, or missing an appointment with a probation officer, that individual is arrested immediately and brought to court within 72 hours. At the court hearing, the judge imposes a sanction of a short jail term, commonly two to three days. If the offender violates his or her terms again, the process is repeated. In short, every single probation violation is dealt with quickly and a sanction is imposed each time.<sup>2</sup>

In contrast, under “probation as usual,” petitions to revoke probation might not be filed or a court hearing held until several probation violations are reported.<sup>3</sup> As a result, the process may take several court hearings over a six-month period and can be generally characterized as anything but “swift and certain.”

Kaci Schroeder, Special Assistant to the Commissioner of the Alaska Department of Corrections (DOC), provided us with a comparison of the number of days individuals were incarcerated due to probation violations between probationers participating in the PACE program to those who are not in the program.<sup>4</sup>

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<sup>1</sup> Alaska’s Probationer Accountability with Certain Enforcement, or PACE, program is modeled after Hawaii’s Project HOPE. Three sources of additional information regarding Hawaii’s Project HOPE are <http://hopehawaii.net/>, [http://www.courts.state.hi.us/special\\_projects/hope/about\\_hope\\_probation.html](http://www.courts.state.hi.us/special_projects/hope/about_hope_probation.html), and for description and evaluation of Project HOPE see *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii’s HOPE*, at <https://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf>.

<sup>2</sup> For a summary and preliminary evaluation of the PACE program see *Anchorage PACE: Probation Accountability with Certain Enforcement: A Preliminary Evaluation of the Anchorage Pilot PACE Project*, at <http://www.ajc.state.ak.us/reports/pace2011.pdf>.

<sup>3</sup> In general, the probation revocation process consists of arraignment, counsel appointment, adjudication on the petition to revoke probation, and sentencing to a term of incarceration.

<sup>4</sup> Ms. Schroeder can be contacted at 907-465-1854.

**Table 1: Median and Mean Length of Incarceration for Parole and Probation Violations for PACE Offenders and a Non-PACE Control Group**

Cohort	Cohort Size	Mean Stay in Days	Median Stay in Days
PACE Participants	117	5.95	3.00
Control Group	260	83.28	27.50

**Notes:** The "mean" is one measure of central tendency and is frequently known as an average. The "median," also measure of central tendency, is the "middle" value in the list of numbers ordered from smallest to largest. The median is not overly sensitive to outliers, or extreme values, in a set of data, particularly those data sets that are small. Stay days are inclusive. In other words, if an offender's period of incarceration began on January 1 and ended on January 2, then it is calculated as 2 days even though it is possible the offender only stayed for 24 hours. The PACE cohort consists of a sample of 117 offenders who entered the program from December 27, 2010 through December 11, 2012. The stay days reported represent the days sentenced on the probationer's first violation following the assignment to the PACE program. Also, for the PACE cohort, some probationers were already on "traditional" probation before being placed into the PACE program and may have spent time incarcerated as a result of a probation violation. The Control Group consists of a sample of 260 offenders convicted of a parole or probation violation in calendar year 2010 who also had a prior alcohol related conviction within five years of the probation violation. As with the PACE cohort, the stay days are based on the first probation violation following the probationer's "placement" into the Control Group. Some of these 260 probationers may have already been convicted of a probation violation prior to 2010, and spent time incarcerated as a result. Also, the Control Group may include probationers who were released from supervision because they "flat-timed," or fulfilled the terms of their original sentence while incarcerated for a probation violation

**Source:** Kaci Schroeder, Special Assistant to the Commissioner of the Alaska Department of Corrections, 907-465-1854.

Using the current average daily cost of incarceration of \$158.67, and the mean, or average, number of days these two cohorts spent incarcerated due to a technical violation, the PACE cohort would have accounted for a total incarceration cost of \$110,458, or approximately \$944 per probationer, while the Control Group cohort would have accounted for a total incarceration cost of approximately \$3,435,650, or \$13,214 per probationer.

Using the median number of days these two cohorts spent incarcerated due to a technical violation, the PACE cohort would have accounted for a total incarceration cost of \$55,693, or approximately \$476 per probationer, while the Control Group cohort would have accounted for a total incarceration cost of approximately \$1,134,491, or \$4,363 per probationer.

However, we urge caution when considering these data, particularly any cost differences between the two probation methods. In our view there are a number of deficiencies in this analysis, the most notable of which is the decision by the Department of Corrections to limit the "stay days" reported to the first period of incarceration for both cohorts. In our view, a more accurate way to compare these two cohorts would be to examine the total number of days spent incarcerated due to a probation violation measured during a specific period of time.

The DOC notes that the PACE program is relatively new from a data analysis point of view and since a high number of the original participants are still in PACE, only the first violation was measured. They also note that as PACE matures and more offenders "graduate" from the program, a more comprehensive analysis can be performed.

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

275 P.3d 567

(Cite as: 275 P.3d 567)

**C**

Court of Appeals of Alaska.  
**Bobby McKINLEY**, Appellant,  
 v.  
 STATE of Alaska, Appellee.

No. A-10790.

May 4, 2012.

**Background:** Defendant was convicted in the Superior Court, Third Judicial District, Anchorage, Jack W. Smith, J., of vehicle theft and was sentenced to 60 months imprisonment, but credited with 30 days for his participation in a residential treatment facility while awaiting trial. Defendant appealed.

**Holding:** The Court of Appeals, Mannheimer, J., held that defendant was not entitled to sentencing credit for time spent in facility during treatment phase in which he was allowed to leave the facility without staff supervision.

Affirmed.

West Headnotes

**Sentencing and Punishment 350H**  **1171**

## 350H Sentencing and Punishment

350HV Sufficiency and Construction of Sentence Imposed

350HV(D) Credits

350Hk1171 k. Medical and psychological treatment or rehabilitation. Most Cited Cases

Defendant, who participated in a residential treatment facility while awaiting trial, was not entitled to sentencing credit for time spent in facility during treatment phase in which he was allowed to leave the facility without staff supervision; pursuant to statute a treatment program did not qualify for sentencing credit if the program allowed unsupervised absences from the facility for any purpose except for court appearances, meetings with counsel, and work required by the treatment program and

approved in advance by the court. AS 12.55.027(c)(2).

\*567 Andrew Steiner, Bend, Oregon, for the Appellant. Ann B. Black, Assistant Attorney General, Office of Special Prosecutions and Appeals, Anchorage, and John J. Burns, Attorney General, Juneau, for the Appellee.

Before: COATS, Chief Judge, and MANNHEIMER and BOLGER, Judges.

MANNHEIMER, Judge.

Under AS 12.55.025(c), a sentencing judge must give a defendant credit against their sentence for time spent in custody pending their trial, sentencing, or appeal. In *Nygren v. State*, 658 P.2d 141 (Alaska App.1983), we interpreted this statute as requiring a court to give a defendant credit for time spent in non-prison residential treatment, if the defendant “is subjected to restrictions approximating those experienced by one who is incarcerated.” *Id.* at 146. We also set forth the criteria that a court should consider when assessing whether a defendant’s residence at a facility qualified as “custody” for purposes of AS 12.55.025(c). *Ibid.*

The *Nygren* line of cases governed this aspect of Alaska law for close to a quarter-century. Then, in 2007, the legislature enacted a new statute, AS 12.55.027, that defines the situations in which defendants are entitled to credit against their sentences for time spent in these non-prison residential settings.

The question presented in this appeal is whether this statute should be interpreted in accordance with its wording, or whether the statute should be interpreted more broadly than its wording suggests, so that defendants would continue to receive credit against their sentences under the more liberal rule established in the *Nygren* line of cases.

275 P.3d 567

(Cite as: 275 P.3d 567)

For the reasons explained here, we conclude that the statute should be interpreted \*568 in accordance with its wording, even though the statute may impose a more restrictive rule than is found in the *Nygren* line of cases.

#### *Underlying facts*

The defendant in this case, **Bobby McKinley**, was charged with first-degree vehicle theft and second-degree theft. While he was awaiting trial on these charges, as a condition of **McKinley's** bail, the superior court required him to enter a residential treatment facility—the Salvation Army's adult rehabilitation program. **McKinley** entered the Salvation Army program on December 4, 2008, and he stayed there for five months, until he was discharged on May 3, 2009.

In April of the following year (2010), **McKinley's** criminal case was resolved: he pleaded guilty to the vehicle theft charge, and he received a sentence of 60 months' imprisonment with 42 months suspended (*i.e.*, 18 months to serve). On the same day that he received this sentence, **McKinley** filed a motion asking the superior court to give him 5 months' credit against this sentence for the time he spent in the Salvation Army residential program.

Superior Court Judge Jack W. Smith concluded that **McKinley's** motion was governed by the provisions of AS 12.55.027, and that the question of whether **McKinley** was entitled to credit against his sentence hinged on whether the Salvation Army treatment program satisfied the requirements set forth in AS 12.55.027(c).

During the litigation of this question, the primary issue was whether the Salvation Army program met the requirement set forth in subsection (c)(2) of the statute—that participants in the program “be confined at all times to the grounds of the facility[,] or be in the physical custody of an employee of the facility, except for court appearances, meetings with counsel, and work required by the treatment program and approved in advance by the court”.

The Salvation Army's director of rehabilitation services, Dean Bundy, submitted a lengthy letter describing the program, and he later supplemented this description with testimony. Based on Mr. Bundy's description of the operation of the program, Judge Smith concluded that **McKinley** was entitled to only 30 days' credit against his sentence, not 5 months.

According to Bundy's letter and testimony, the Salvation Army program has six phases of treatment, each with differing levels of restriction on the activities of the participants. During the first phase of treatment, participants are essentially forbidden from leaving the facility. However, beginning with the second phase, participants are allowed more freedom. In particular, second-phase participants can be granted “therapeutic” passes to attend outside treatment and counseling sessions such as those offered by AA or NA (Narcotics Anonymous). In fact, the Salvation Army *requires* participants to attend AA / NA community-based sessions, a minimum of twice per week.

In addition, beginning with the second phase, participants can receive “buddy” passes that allow them to leave the facility for up to three hours (on weekends, up to six hours) in the company of another, more senior program participant. Beginning with the fourth phase, participants are eligible for overnight family visit passes twice per month. And in the sixth phase, participants are eligible for 24-hour therapeutic sponsor passes or family passes, up to twice per month on alternate weekends.

Based on the fact that participants in the Salvation Army program are permitted to leave the facility without staff supervision beginning with the second phase of their treatment, Judge Smith concluded that only the first phase of the Salvation Army's program satisfied the requirements of AS 12.55.027(c)(2). Accordingly, he gave **McKinley** credit against his sentence for this first phase only—a total of 30 days.

275 P.3d 567

(Cite as: 275 P.3d 567)

Judge Smith noted that the requirements of subsection 027(c)(2) were more restrictive than the *Nygren* line of cases. Under *Nygren*, a defendant might receive credit against their sentence even though the defendant's treatment program granted participants unsupervised absences—as long as those absences were of specified duration and for specified purposes. See \*569 *Nygren v. State*, 658 P.2d 141, 146 (Alaska App.1983) (stating that one of the criteria of a qualifying residential program was that “any periods during which residents [are] permitted to leave the facility [must be] expressly limited, both as to time and purpose”).

(We applied this rule in *Potter v. State*, unpublished, Alaska App. Memorandum Opinion 4569 (May 1, 2002), 2002 WL 818059. In *Potter*, we held that the defendant was entitled to credit against his sentence for time spent at the Cordova Community Residential Center, even though he was permitted various unsupervised absences from the facility. We noted that Potter “could leave the facility only with authorization”, and that he “was required to travel directly to and from an approved location.” *Id.* at \*2.)

Judge Smith also indicated that he believed that AS 12.55.027(c) was so restrictive that it defeated some of the policies it was intended to promote. The judge explained:

*The Court:* [O]ne of the underlying goals of incarceration is rehabilitation, [and] it is essential to foster a system that provides opportunities for drug and alcohol treatment, life skills training, and education.

The reality is that the prisons and jails ... provide few opportunities for inmates to better themselves and their future quality of life. [On the other hand], programs such as [the Salvation Army program], Akeela House, etc., are designed to provide treatment and support for every step of the rehabilitation process.

[Because AS 12.55.027(c) forces] defendants

to choose between [staying in] prison and receiving credit for time served, and going to a treatment program where they will not receive credit, [this] creates a disincentive for seeking necessary treatment.

... [A]lthough [the Salvation Army program allows] opportunities for unsupervised leave, it also imposes rigid restrictions on participants: hourly bed checks, significant time confined to the facility, daily drug tests, hours of required classes[.] [It also offers] programs including, but not limited to, drug and alcohol treatment, GED, fatherhood [training], anger management, and spirituality training.

Nevertheless, Judge Smith concluded that he was required to apply the statute as written, and that **McKinley** was therefore not entitled to credit against his sentence for the second and subsequent phases of his residence at the Salvation Army program—because, during those phases of his treatment, **McKinley** was granted unsupervised absences from the facility for various purposes.

Accordingly, Judge Smith granted **McKinley** credit against his sentence for the 30 days he spent in the first phase of the Salvation Army's program, but the judge denied **McKinley** credit for the second and subsequent phases (the remaining 121 days).

*The legislative history of AS 12.55.027*

AS 12.55.027 began life as section 6 of the House Judiciary Committee's Substitute for House Bill 90 (25th Legislature). Although this bill was sponsored by Representative Ralph Samuels, portions of the bill were drafted by the Department of Law.<sup>FN1</sup> Rep. Samuels introduced a representative of the Department, Assistant Attorney General Anne Carpeneti, who proceeded to describe the proposed bill section by section.<sup>FN2</sup>

FN1. Minutes of the House Judiciary Committee for April 10, 2007 @ 1:13:33.

FN2. Minutes, House Judiciary Committee, April 10, 2007 @ 1:11:26.

In her remarks to the Committee, Ms. Carpeneti explained that section 6 of the bill—the portion that ultimately became AS 12.55.027—“would enact standards that the courts must follow [when] deciding ... whether to give credit against a term of imprisonment for time spent in a treatment facility”.<sup>FN3</sup> According to Carpeneti, the standards proposed in section 6 of the bill “follow [ed] decisional law to a great degree”.<sup>FN4</sup>

FN3. *Id.* @ 1:26:34.

FN4. *Ibid.*

Carpeneti explained that the Department of Law's rationale for proposing this statute was to make sure that “judges throughout the state [were] reasonably consistent when \*570 granting credit against a term of imprisonment”.<sup>FN5</sup> According to Carpeneti, the standards set forth in section 6 “pretty much mirror[ed] what the courts have [already] set out in *Nygren*”.<sup>FN6</sup>

FN5. *Ibid.*

FN6. *Ibid.*

However, under the version of the bill that the Department of Law was proposing, a defendant would not receive credit against their sentence for participation in a residential treatment program unless the defendant was “confined at all times to the grounds of the facility or [was] in the physical custody of an employee of the facility”.<sup>FN7</sup> As we explain later in this opinion, this provision was more restrictive than the *Nygren* line of cases.

FN7. *Ibid.*

When Committee Chair Jay Ramras suggested that the bill's criteria for treatment programs were “too specific”, given the treatment programs currently available, Ms. Carpeneti responded that the proposed bill would not limit a sentencing court's

authority to “fashion the [defendant's] sentence based on a particular program”.<sup>FN8</sup>

FN8. *Ibid.*

This response was technically true, but not responsive to Representative Ramras's concerns. The proposed bill did not deal with a judge's sentencing authority. Rather, it dealt with the question of whether defendants would receive credit against their sentences for the time they spent at a residential treatment program to which they were committed as a condition of release.

When Rep. Ramras continued to express reservations about the content of the proposal, Carpeneti assured him that the proposed statute “merely reflect[ed] past court rulings”.<sup>FN9</sup>

FN9. *Id.* @ 1:33:11.

Steve Christopher, chief operations manager of Alaska Monitoring Services, suggested that the wording of subsection (c)(2) would be counterproductive, because it would require the employees of a treatment program to personally escort defendants whenever they left the facility for any purpose.<sup>FN10</sup>

Mr. Christopher noted that many treatment programs currently allowed defendants to work in the community without an escort.<sup>FN11</sup> Rep. Samuels responded that, according to the statistics he had seen, treatment programs made no difference to recidivism rates—and he observed that “[people] who are in jail are not committing crimes while [they are] there”.<sup>FN12</sup>

FN10. *Id.* @ 2:17:46.

FN11. *Ibid.*

FN12. *Ibid.*

Rep. Ramras then asked Christopher if the language of subsection (c)(2)—that is, the requirement that program participants never leave the grounds of the facility unless they were personally supervised by a staff member—would affect the opera-

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tion of the halfway house in Fairbanks. Christopher said that he did not know, but he pointed out that the halfway house currently did not have enough staff to escort all of its clients whenever they went out into the community, as would be required by subsection (c)(2).<sup>FN13</sup>

FN13. *Ibid.*

Quinlan Steiner, the Director of the Public Defender Agency, added that subsection (c)(2)—the requirement that a defendant be in the physical custody of a staff member whenever the defendant was not within the grounds of the facility—might make it unreasonably difficult for a defendant to visit their attorney or attend court hearings, due to a lack of sufficient staff.<sup>FN14</sup> Joshua Fink, the Director of the Office of Public Advocacy, added that subsection (c)(2) would create a similar difficulty for participants in the Salvation Army's treatment program, because that program required participants to have a job.<sup>FN15</sup> He urged the Committee to contact the various treatment providers to find out what types of out-of-facility activities were required by their treatment programs.<sup>FN16</sup>

FN14. *Id.* @ 2:41:36.

FN15. *Id.* @ 2:57:24.

FN16. *Ibid.*

\*571 Three days later, during the Judiciary Committee's continued hearing on HB 90, Rep. Samuels offered an amendment to subsection (c)(2) which made exceptions to the rule that defendants had to be personally supervised by staff whenever they left the grounds of the facility. Under this amendment, defendants would have to be "confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for court appearances or meetings with counsel".<sup>FN17</sup> This amendment was approved without objection.<sup>FN18</sup>

FN17. Minutes of the House Judiciary Committee for April 13, 2007 @ 2:19:00.

FN18. *Ibid.*

Apparently prompted by this amendment to subsection (c)(2), Rep. Ramras offered an additional amendment that would allow a treatment program to qualify for later credit against a defendant's sentence even if the defendant was allowed to leave the facility grounds unsupervised, as long as the absence was for the purpose of "work or traveling to or from work".<sup>FN19</sup> Rep. Ramras explained that his amendment was intended to cover defendants who participated in treatment programs that required their participants to work as part of the treatment.<sup>FN20</sup>

FN19. *Id.* @ 2:23:08.

FN20. *Ibid.*

Ms. Carpeneti spoke against this proposed amendment. She told the Committee that the Department of Law's position was that *Nygren* credit (*i.e.*, credit against a defendant's sentence of imprisonment) was supposed to be awarded only for treatment programs that were similar to incarceration—and that any treatment program which allowed participants to leave the facility, unsupervised, in order to work was not "similar to incarceration". Thus, Carpeneti argued, defendants should not receive credit against their sentences for time spent at a treatment program if that program allowed them to leave the facility grounds, unsupervised, to engage in employment.<sup>FN21</sup>

FN21. *Ibid.*

Although Carpeneti's remarks may have accurately reflected the Department of Law's position on this issue, Carpeneti failed to explain that the Department's position was at odds with the existing *Nygren* case law.

In *State v. Fortuny*, 42 P.3d 1147, 1150–52 (Alaska App.2002), this Court rejected the State's argument that a defendant should be deemed ineligible for *Nygren* credit because his residential treatment program allowed him to be absent from

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the facility, sometimes for up to fifty hours a week, to engage in employment. In *Fortuny*, we noted that the clinical staff at the defendant's treatment program “view[ed] work release as part of the treatment regimen”, *id.* at 1151, and we held that the defendant “should receive full credit for the days he resided at [the residential treatment program] under court order, even [though] he was authorized to spend many hours away from the treatment facility on work release.” *Id.* at 1152.

After Carpeneti spoke against giving *Nygren* credit to defendants whose treatment programs allowed them to leave the facility to engage in employment, Representative Max Gruenberg offered a compromise amendment. Under Rep. Gruenberg's proposal, a treatment program would qualify for credit against a defendant's sentence, even if defendants were allowed unsupervised absences from the facility grounds for employment purposes, but only if the defendant's work “[was] part of the treatment program and [was] specifically approved by the court.”<sup>FN22</sup>

FN22. *Id.* @ 2:27:28.

Rep. Ramras then repeated his support for this concept. He told the Committee that he knew of a situation where a young offender attended and successfully completed a treatment program, and he wondered what the young offender would have done if the treatment program had contained a work component—specifically, what the young offender would have done if she had known that, by complying with the work component of the program, she would thereby forfeit the credit against her sentence. Rep. Ramras urged the Committee not to “restrict [treatment \*572 alternatives] that will help people become productive members of society”.<sup>FN23</sup>

FN23. *Ibid.*

Shortly afterwards, Representative Lindsey Holmes told the Committee that Mr. Steiner had handed her proposed wording for a revised subsec-

tion (c)(2).<sup>FN24</sup> Under this proposal, (c)(2) would state that defendants participating in qualifying treatment programs

FN24. *Id.* @ 2:30:39.

must be confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for court appearances, meetings with counsel, and for work as required by the treatment program [.]<sup>FN25</sup>

FN25. *Ibid.*

Rep. Samuels spoke in opposition to this proposal. Echoing Carpeneti's earlier comments, Rep. Samuels argued that if a person was able to work off-site while attending a treatment program, this “[was] not like being in jail”, and people in this situation should not receive credit against their sentence.<sup>FN26</sup>

FN26. *Ibid.*

Rep. Gruenberg then renewed his proposal for the compromise language, “unless the person is at work or traveling to or from work as required by the treatment program and as specifically approved by the court”.<sup>FN27</sup> There was no objection to Rep. Gruenberg's proposal, and it was adopted.<sup>FN28</sup>

FN27. *Ibid.*

FN28. *Ibid.*

A few minutes later, House Bill 90 (as just amended)<sup>FN29</sup> was passed out of the Judiciary Committee. Section 6 of this bill—the provision that engendered so much debate—was ultimately enacted as SLA 2007, chapter 24, § 20, and it became AS 12.55.027.

FN29. *Id.* @ 2:37:56.

The final version of AS 12.55.027(c)(2) contains the language that was hammered out in the House Judiciary Committee:

(c) To qualify for credit against a sentence of imprisonment for time spent in a treatment program, the treatment program ... must impose ... restrictions on a person's liberty [which include] the requirement that a participant in the program

...

(2) must be confined at all times to the grounds of the facility[,] or be in the physical custody of an employee of the facility, except for court appearances, meetings with counsel, and work required by the treatment program and approved in advance by the court[.]

Now that we have described this legislative history, we turn to **McKinley's** argument on appeal.

#### *McKinley's argument on appeal*

Although **McKinley** asked Judge Smith to give him credit against his sentence for the 151 days he spent in the Salvation Army's residential treatment program, Judge Smith gave **McKinley** only 30 days' credit—the 30 days that **McKinley** spent in phase one of the Salvation Army program.

As we have explained, Judge Smith's decision was based on the wording of AS 12.55.027(c)(2). Under this subsection of the statute, a treatment program does not qualify for sentencing credit if the program allows unsupervised absences from the facility for any purpose except the three purposes specified: “court appearances, meetings with counsel, and work required by the treatment program and approved in advance by the court”.

**McKinley** argues that, despite its wording, subsection (c)(2) was intended to allow other types of unsupervised absences. **McKinley** points out that Assistant Attorney General Carpeneti repeatedly told the House Judiciary Committee that the statute was intended to codify the *Nygren* line of cases—that the standards set forth in the statute “pretty much mirror[ed] what the courts have [already] set out in *Nygren*”, and that the statute “merely reflect[ed] past court rulings”.

\*573 As we explained earlier, under the *Nygren* line of cases, a treatment program will qualify for *Nygren* credit even if program residents are allowed to leave the facility without immediate personal supervision, so long as “[the] periods during which residents [are] permitted to leave the facility are expressly limited, both as to time and purpose”. *Nygren*, 658 P.2d at 146; see also *Fortuny*, 42 P.3d at 1151–52. Based on this, **McKinley** suggests that we should interpret subsection (c)(2), not according to its wording, but according to the *Nygren* rule.

But even if the Department of Law was mistaken in telling the House Judiciary Committee that their proposed statute was simply a codification of the *Nygren* rule, this does not mean that we can disregard the wording of the statute and continue to apply the *Nygren* rule. The true question here is whether that the Department of Law's description of the proposed statute misled the Committee as to the meaning of the language contained in subsection (c)(2) of the statute. And the record of the proceedings in front of the Judiciary Committee—in particular, the debate over the precise wording of subsection (c)(2)—demonstrates that the Committee members fully understood the restrictions they were placing on the types of treatment programs that would qualify for sentencing credit.

As we have explained, the Department of Law's original proposal was that *no* unsupervised absences would be allowed—and everyone understood the provision to mean exactly that.

Various members of the Judiciary Committee, as well as various people testifying in front of the Committee, criticized this approach on the ground that (1) there were valid reasons for allowing program participants to leave the grounds of the treatment facility, and (2) treatment programs simply did not have sufficient numbers of staff to satisfy the requirement that every off-facility activity be personally supervised by a staff member.

To answer these concerns, the Committee first amended the Department of Law's wording to allow

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unsupervised absences for court hearings and meetings with attorneys. Then some Committee members argued in favor of expanding the language again, this time to include absences for off-site work, because many treatment programs had work components. The Committee finally reached a compromise solution on this issue—allowing unsupervised absences for work, but only if the treatment program required the work, and only if the sentencing court approved it.

In other words, even though the final version of subsection (c)(2) is more restrictive than the *Nygren* rule it superseded, and even though the Committee members might not have understood that they were changing the law, it is clear that the Committee members understood the meaning of subsection (c)(2)—specifically, that unsupervised absences from treatment programs would be strictly limited to the three purposes specified in the statute.

As Judge Smith noted when he issued his decision, there may be good reasons to allow other types of unsupervised absences from treatment programs. As the judge observed, one of the underlying goals of penal administration is the rehabilitation of offenders—and, to achieve this goal, it would doubtless be better to foster opportunities for drug and alcohol treatment, education, and training in life skills.

It is unrealistic to expect that every treatment program will have the funding and the trained personnel to offer *all* of these opportunities to its residents. And it may be unrealistic to expect that every treatment program will be able to hire a sufficient number of staff to personally supervise every resident who wishes to take advantage of off-site opportunities for treatment, education, and training.

But whether to expand the scope of allowed unsupervised absences under AS 12.55.027(c)(2) is a matter of policy—and, therefore, the decision is up to the legislature, not the judiciary. It was Judge Smith's duty to apply the statute as the legislature

intended. And the legislative history of AS 12.55.027 makes it clear that the rule intended by the legislature is not as broad as the rule contained in the *Nygren* line of cases.

*\*574 Conclusion*

The judgement of the superior court is AFFIRMED.

Alaska App., 2012.

McKinley v. State

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# LEGISLATIVE RESEARCH SERVICES

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Division of Legal and Research Services  
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## Research Brief

TO: Senator John Coghill  
FROM: Patricia Young, Manager  
DATE: March 10, 2014  
RE: Value of Property Stolen for Classifying Theft as a Felony Offense  
*LRS Report 14.310*

***You wished to know the monetary value of stolen property at which theft becomes a felony offense.***

For the purposes of this report, we look at non-aggravated theft only. Table 1 shows the value threshold at which laws in each state currently classify theft as a felony offense, in descending order of value. Table 2, on the following page, provides the same information listed by state. As you will see, the majority of states classify theft as a felony offense when the value of the property stolen exceeds \$500, with \$1,000 being the most frequently established threshold value.

**Table 1: Value Threshold for Felony Theft, by Value**

Indiana*	IC 35-43-4-2	class D felony	Ohio	R.C. § 2913.02	\$ 1,000
Wisconsin	W.S.A. 943.20	\$ 2,500	Oregon	O.R.S. § 164.055	\$ 1,000
Colorado	CRSA 18-4-401	\$ 2,000	South Dakota	SDCL § 22-30A-17	\$ 1,000
Connecticut	CT ST 53a-124	\$ 2,000	West Virginia	W. Va. Code, § 61-3-13	\$ 1,000
Pennsylvania	18 Pa. C.S.A. § 3903	\$ 2,000	Wyoming	W.S.1977 § 6-3-402	\$ 1,000
South Carolina	Code 1976 § 16-13-30	\$ 2,000	California	Cal Penal Code 487	\$ 950
Delaware	11 Del C 841	\$ 1,500	Vermont	13 V.S.A. § 2502	\$ 900
Georgia	GCA 16-8-12	\$ 1,500	Washington	West's RCWA 9A.56.040	\$ 750
Montana	MCA 45-6-301	\$ 1,500	Nevada	N.R.S. 205.0835	\$ 650
Rhode Island	Gen.Laws 1956, § 11-41-5	\$ 1,500	Alabama	Ala Code 13A-8-4	\$ 500
Texas	V.T.C.A., Penal Code § 31.03	\$ 1,500	Alaska	AS § 11.46.130	\$ 500
Utah	U.C.A. 1953 § 76-6-412	\$ 1,500	Illinois	720 ILCS 5/16-1	\$ 500
Arizona	ARS 13-1802	\$ 1,000	Kentucky	KRS 514.030	\$ 500
Arkansas	ACA 5-36-103	\$ 1,000	Louisiana*	LSA-RS 14:67	\$ 500
Idaho	IC 18-2407	\$ 1,000	Mississippi	Miss Code Ann 97-17-41	\$ 500
Iowa	ICA 714.2	\$ 1,000	Missouri	VAMS 570.030	\$ 500
Kansas	KSA 21-5801	\$ 1,000	Nebraska	Neb.Rev.St. § 28-518	\$ 500
Maine	17 AMRSA 353	\$ 1,000	New Jersey	N.J.S.A. 2C:20-2	\$ 500
Maryland	ACM 7-104	\$ 1,000	New Mexico	N. M. S. A. 1978, § 30-16-1	\$ 500
Michigan	MCLA 750-356	\$ 1,000	Oklahoma	21 Okl.St.Ann. § 1704	\$ 500
Minnesota	MSA 609.52	\$ 1,000	Tennessee	T. C. A. § 39-14-105	\$ 500
New Hampshire	N.H. Rev. Stat. § 637:11	\$ 1,000	Florida	FSA 812.014	\$ 300
New York	McKinney's Penal Law § 155.30	\$ 1,000	Hawaii	HRS 708-832	\$ 300
North Carolina	N.C.G.S.A. § 14-72	\$ 1,000	Massachusetts	MGLA 266-30	\$ 250
North Dakota	NDCC, 12.1-23-05	\$ 1,000	Virginia	VA Code Ann. § 18.2-95	\$ 200

**Notes:** All theft in Indiana is classified as a felony. Louisiana law does not classify crimes into misdemeanor and felony; however, crimes punishable by imprisonment of one year or more are typically considered serious offenses, or felonies.

**Source:** Westlaw

**Table 2: Value Threshold for Felony Theft, by State**

Alabama	Ala Code 13A-8-4	\$ 500	Montana	MCA 45-6-301	\$ 1,500
Alaska	AS § 11.46.130	\$ 500	Nebraska	Neb.Rev.St. § 28-518	\$ 500
Arizona	ARS 13-1802	\$ 1,000	Nevada	N.R.S. 205.0835	\$ 650
Arkansas	ACA 5-36-103	\$ 1,000	New Hampshire	N.H. Rev. Stat. § 637:11	\$ 1,000
California	Cal Penal Code 487	\$ 950	New Jersey	N.J.S.A. 2C:20-2	\$ 500
Colorado	CRSA 18-4-401	\$ 2,000	New Mexico	N. M. S. A. 1978, § 30-16-1	\$ 500
Connecticut	CT ST 53a-124	\$ 2,000	New York	McKinney's Penal Law § 155.30	\$ 1,000
Delaware	11 Del C 841	\$ 1,500	North Carolina	N.C.G.S.A. § 14-72	\$ 1,000
Florida	FSA 812.014	\$ 300	North Dakota	NDCC, 12.1-23-05	\$ 1,000
Georgia	GCA 16-8-12	\$ 1,500	Ohio	R.C. § 2913.02	\$ 1,000
Hawaii	HRS 708-832	\$ 300	Oklahoma	21 Okl.St. Ann. § 1704	\$ 500
Idaho	IC 18-2407	\$ 1,000	Oregon	O.R.S. § 164.055	\$ 1,000
Illinois	720 ILCS 5/16-1	\$ 500	Pennsylvania	18 Pa.C.S.A. § 3903	\$ 2,000
Indiana	IC 35-43-4-2	class D felony	Rhode Island	Gen.Laws 1956, § 11-41-5	\$ 1,500
Iowa	ICA 714.2	\$ 1,000	South Carolina	Code 1976 § 16-13-30	\$ 2,000
Kansas	KSA 21-5801	\$ 1,000	South Dakota	SDCL § 22-30A-17	\$ 1,000
Kentucky	KRS 514.030	\$ 500	Tennessee	T. C. A. § 39-14-105	\$ 500
Louisiana*	LSA-RS 14:67	\$ 500	Texas	V.T.C.A., Penal Code § 31.03	\$ 1,500
Maine	17 AMRSA 353	\$ 1,000	Utah	U.C.A. 1953 § 76-6-412	\$ 1,500
Maryland	ACM 7-104	\$ 1,000	Vermont	13 V.S.A. § 2502	\$ 900
Massachusetts	MGLA 266-30	\$ 250	Virginia	VA Code Ann. § 18.2-95	\$ 200
Michigan	MCLA 750-356	\$ 1,000	Washington	West's RCWA 9A.56.040	\$ 750
Minnesota	MSA 609.52	\$ 1,000	West Virginia	W. Va. Code, § 61-3-13	\$ 1,000
Mississippi	Miss Code Ann 97-17-41	\$ 500	Wisconsin	W.S.A. 943.20	\$ 2,500
Missouri	VAMS 570.030	\$ 500	Wyoming	W.S.1977 § 6-3-402	\$ 1,000

**Notes:** All theft in Indiana is classified as a felony. Louisiana law does not classify crimes into misdemeanor and felony; however, crimes punishable by imprisonment of one year or more are typically considered serious offenses, or felonies.

**Source:** Westlaw

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

JANUARY 2010



# The Impact of Hawaii's HOPE Program on Drug Use, Crime and Recidivism



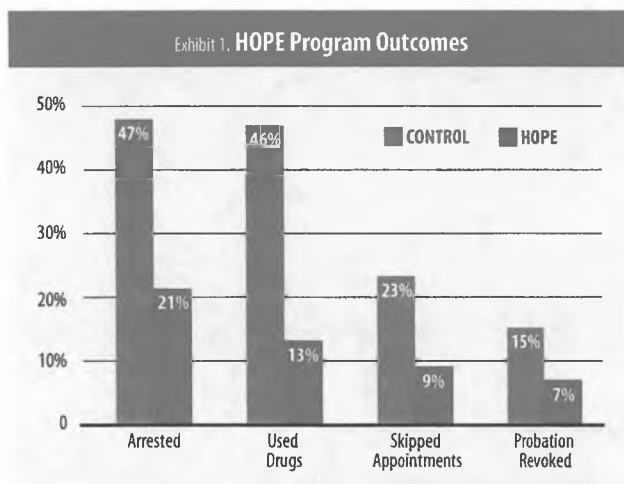
## The HOPE Program

Launched in 2004, Hawaii's Opportunity Probation with Enforcement (HOPE) program aims to reduce crime and drug use among criminal offenders. HOPE identifies probationers who are likely to violate their conditions of community supervision; notifies them that detected violations will have consequences; conducts frequent and random drug tests; responds to detected violations (including failed drug tests and skipped probation meetings) with swift, certain and short terms of incarceration; responds to absconding probationers with warrant service and sanctions; and mandates drug treatment upon request or for those probationers who do not abstain from drug use while on the testing and sanctions regimen.

By 2009, more than 1,500 probationers (one in every six felony probationers in Oahu) were enrolled in HOPE. The Public Safety Performance Project of the Pew Center on the States and the National Institute of Justice of the U.S. Department of Justice collaborated to produce this summary of an evaluation conducted to assess HOPE's effectiveness.

## Results

In a one-year, randomized controlled trial, HOPE probationers were 55 percent less likely to be arrested for a new crime, 72 percent less likely to use drugs, 61 percent less likely to skip appointments with their supervisory officer and 53 percent less likely to have their probation revoked. As a result, they also served or were sentenced to, on average, 48 percent fewer days of incarceration than the control group (Exhibit 1).<sup>1</sup>



## Evaluation Structure

Adult probation officers in Honolulu identified 507 men and women on probation who showed an elevated risk of violating probation conditions based on a widely used risk assessment instrument and prior behavior while under supervision. Office supervisors deemed 493 of these probationers eligible.<sup>2</sup> In October 2007, random assignment by computer placed 330 probationers (two-thirds of

In this  
Brief:

What is the HOPE  
Program?

The Impact on Drug  
Use, Crime and  
Recidivism

How was the Evaluation  
Structured?

the eligible group) into HOPE (the “treatment group”) while 163 remained on probation-as-usual (the “control group”). This randomized controlled trial followed an intent-to-treat design: all probationers assigned to the treatment group were included in the evaluation regardless of what occurred after assignment. Due to randomization, the treatment and control groups were not statistically different in terms of age, sex, race or ethnicity, assessed risk level and criminal history (Exhibit 2).<sup>3</sup>

The evaluation was conducted by Dr. Angela Hawken of Pepperdine University, with funding from the National Institute of Justice. The full evaluation report is available online at <http://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf>.

Additional research could focus on which program components are most important, what types of offenders respond best, and whether the outcomes are sustained after probation supervision ends.

*Launched in 2006, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.*

*NIJ is the research, development and evaluation agency of the U.S. Department of Justice and is dedicated to researching crime control and justice issues.*

Exhibit 2. HOPE Program Demographics<sup>3</sup>

	HOPE	Control
Average age (median)	36.1 (35.2)	35.4 (34.4)
Male	75%	71%
Asian/Polynesian	65%	64%
Caucasian	16%	14%
Black	5%	3%
Portuguese	1%	2%
Puerto Rican	1%	1%
Other or Unknown	11%	14%
Percent assessed high risk	46.7%	44.1%
Average prior arrests (median)	17 (13)	16.4 (12)
Most serious prior charge: drug	35%	33%
Most serious prior charge: property	30%	34%
Most serious prior charge: violent	22%	22%
Most serious prior charge: other	14%	11%

<sup>1</sup> All reported differences across groups are significant at the .01 level. To determine the rate of skipped appointments, the evaluator calculated the percent of skipped appointments for each probationer and then averaged those percentages. The same method—giving equal weight to each probationer—was used for rate of detected drug use. Using another method, she also calculated the rates for total skipped appointments divided by total appointments (control group = 18 percent, HOPE = 5 percent) and total positive drug screens divided by total drug screens (control group = 41 percent, HOPE = 9 percent). Because of the one-year observation period, figures for days incarcerated include both served and sentenced days in both jail and prison. If not all sentenced days are served, then the percentages may change for both HOPE and control probationers.

<sup>2</sup> The 14 excluded probationers included 10 who had been transferred or were preparing to transfer to another unit; two who were pending deportation; one who was deceased; and one who was pending transfer to drug court.

<sup>3</sup> Baseline HOPE and control group statistics are not significantly different at the .05 level.



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## THE FISCAL CASE FOR CORRECTIONS REFORM

In terms of corrections policy, Alaska is at a crossroads. The Alaska Department of Corrections (DOC) opened the Goose Creek Correctional Center 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 in three years, 2016. This creates an inescapable reality; the state must today either start planning to build a new prison, 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.

1. Crime in Alaska has decreased. All of the violent crime index offense totals and the property crime index offense totals decreased in 2011. The crime rate, which relates the incidence of crime to population, likewise experienced similar decreases as the index offense totals. <sup>1</sup>
2. Yet, Alaska's prison population continues to grow by 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.
3. Not only has DOC's prison population continued to grow while the crime rate has dropped but so has the number of Alaskans under the jurisdiction of DOC. In 1982, 1 in 80 Alaskans were under the jurisdiction of the department. By 2007 that number had grown to 1 in 38 and by 2009 to 1 in 32. <sup>2</sup>
4. At this rate, by 2016 DOC will be at 100% capacity even with GCCC. It costs more than 250 million to build and 50k per year to operate.
5. 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.
6. The 2012 daily cost to incarcerate in a hard prison bed per inmate per day is \$135.00 up from \$110.00 in 2005.

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<sup>1</sup> Department of Public Safety Uniform Crime Report, 2011, p. 29, found at: <http://dps.alaska.gov/statewide/ucr.aspx>

<sup>2</sup> *One in 31: The Long Reach of American Corrections*, March 2009, 24 by The Pew Public Safety Project found at: [http://www.pewtrusts.org/our\\_work\\_report\\_detail.aspx?id=49694](http://www.pewtrusts.org/our_work_report_detail.aspx?id=49694)

7. 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 years.
8. The number of nonviolent incarcerated offenders has increased from 42% in 2002 to 62% in 2011.
9. 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. 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.
10. 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%. 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.
11. Current effectiveness of Alaska's return for the money spent on the criminal justice system: 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. <sup>3</sup>
12. The above analysis does not take into account the money spent on the Dept of Law, PDs and OPA criminal defense attorneys, courts, etc.

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<sup>3</sup> *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.

# Efficacy of Frequent Monitoring With Swift, Certain, and Modest Sanctions for Violations: Insights From South Dakota's 24/7 Sobriety Project

Beau Kilmer, PhD, Nancy Nicosia, PhD, Paul Heaton, PhD, and Greg Midgette, MPP

Alcohol consumption can impose enormous health and safety costs on individuals and society.<sup>1,2</sup> Problem drinkers account for a disproportionate share of these costs.<sup>2,3</sup> Although millions of problem drinkers pass through the criminal justice system each year,<sup>4,5</sup> reducing their alcohol consumption has proven difficult. Those arrested for or convicted of an alcohol-involved offense are sometimes ordered not to drink or frequent bars, but abstinence is difficult to enforce because alcohol passes through the system more quickly than other substances. For example, a 160-pound man who exceeds the legal drinking limit for driving after consuming 5 drinks in 2 hours will likely register a 0.00 in a breathalyzer test 8 hours after drinking.<sup>6-8</sup>

In traditional community corrections settings (e.g., probation and parole), sanctions often occur only after major violations or after a series of minor violations, and they may not be imposed until weeks or months after the offense. However, a growing body of evidence from neurobiology, psychology, and economics suggests that punishment certainty is a stronger deterrent to criminal activity than punishment severity.<sup>9-13</sup> Research also suggests that individuals value immediate rewards more strongly than delayed rewards,<sup>14,15</sup> a tendency particularly pronounced among alcohol-abusing populations.<sup>16,17</sup>

In 2004, South Dakota Attorney General Larry Long proposed an innovative pilot project called the 24/7 Sobriety Project (hereinafter, 24/7) that made twice-a-day breathalyzer tests (i.e., once in the morning and once in the evening) a condition of bail for those who had been rearrested for driving while under the influence of alcohol (DUI). Individuals who failed or skipped tests were immediately subject to a short jail term, typically 1 or 2 days. The 5-county pilot project quickly expanded

*Objectives.* We examined the public health impact of South Dakota's 24/7 Sobriety Project, an innovative program requiring individuals arrested for or convicted of alcohol-involved offenses to submit to breathalyzer tests twice per day or wear a continuous alcohol monitoring bracelet. Those testing positive are subject to swift, certain, and modest sanctions.

*Methods.* We conducted differences-in-differences analyses comparing changes in arrests for driving while under the influence of alcohol (DUI), arrests for domestic violence, and traffic crashes in counties with the program to counties without the program.

*Results.* Between 2005 and 2010, more than 17 000 residents of South Dakota—including more than 10% of men aged 18 to 40 years in some counties—had participated in the 24/7 program. At the county level, we documented a 12% reduction in repeat DUI arrests ( $P = .023$ ) and a 9% reduction in domestic violence arrests ( $P = .035$ ) following adoption of the program. Evidence for traffic crashes was mixed.

*Conclusions.* In community supervision settings, frequent alcohol testing with swift, certain, and modest sanctions for violations can reduce problem drinking and improve public health outcomes. (*Am J Public Health.* 2013;103:e37-e43. doi:10.2105/AJPH.2012.300989)

to incorporate additional counties, individuals arrested or convicted for other offenses (e.g., assault), and additional monitoring technologies. By the end of 2010, more than 17 000 of the roughly 825 000 residents of South Dakota—including more than 10% of men aged 18 to 40 years in some counties—had participated in the program.

Our analysis of data from the South Dakota Attorney General's Office revealed that program participants were ordered to take approximately 3.7 million breathalyzer tests from 2005 to 2010 and that the pass rate exceeded 99% (99.3% of the tests were clean, 0.36% dirty, and 0.34% no shows). With inclusion of the results from continuous alcohol monitoring bracelets (worn by roughly 15% of participants), there were approximately 2.25 million days without a detected alcohol violation. These patterns suggest that the program may have been effective in reducing problem drinking among the target population. If 24/7

successfully reduces alcohol use among problem drinkers, we might expect improvements in alcohol-related public health outcomes following the establishment of the program.

Although 24/7 has won national awards and is being implemented in other states, evidence to date of its effectiveness has been largely anecdotal and descriptive.<sup>18-20</sup> We provide the first rigorous empirical evaluation of 24/7 across a range of public health outcomes by using a differences-in-differences research design that leverages the program's phased implementation across counties using a 10-year county-month panel (January 2001–December 2010).

## METHODS

We measured the effects of the program by comparing changes in public health outcomes in counties that adopted 24/7 with changes over the same period in control counties that did not adopt the program. Our approach estimated

program effects on the basis of how within-county changes in the outcomes of interest related to within-county changes in the program's availability; hence, we did not rely solely on cross-sectional variation, which can bias estimates because of unobserved heterogeneity across counties. Although estimates from our approach may be considered conservative because impacts may not always be sufficiently large to be detected at the county level, the scale of the program minimizes this concern.

### Operationalizing 24/7 Implementation

To determine when 24/7 was implemented in various counties within the state, we drew from a database provided by the South Dakota Attorney General's Office. This database includes participant-level data (e.g., demographic characteristics, county of residence, dates of participation) as well as detailed information about every test (e.g., date and time of each test, result) for all individuals assigned to the program since its inception. We defined 24/7 as operational in each county once the number of county residents participating in 24/7 for a given month equaled or exceeded a quarter of the number of DUI arrests in the county, where the latter was defined as the county's moving monthly average during the previous year to address any seasonality. This definition applied well to both large and small counties and reduced "false positives" resulting from the fact that some counties had a few residents participating before the program's formal establishment. We examined the sensitivity of our results to alternative approaches for defining implementation.

Figure 1 displays the timing of program implementation across South Dakota's counties when defined with this threshold. The 5-county pilot program started in 2005 and quickly expanded within and across counties. Once judges realized that offenders would show up for twice-a-day testing and that virtually all tests were clean, they started extending the program to those arrested for other offenses (e.g., domestic violence) and those who had already been convicted. Judges from other counties learned about the pilot and asked to join the program. By the end of 2006, there were 19 counties administering breathalyzer tests for 24/7 and some counties started using continuous alcohol monitoring bracelets.

The unanimous passage of House Bill 1072 dramatically expanded the 24/7 program.<sup>21</sup> The bill went into effect July 1, 2007, and provided funds to counties that wanted to adopt the program. The new law allowed judges to order anyone they believed had an alcohol problem, pre- or postconviction, to participate in the program. The law also changed rules for those who lost their license for a repeat DUI offense. It had previously been possible for some of these individuals to receive a permit to drive only to and from work, but these permits were now conditional on 24/7 participation.

Many of South Dakota's large counties were among the early adopters of the program, but some experienced important declines in participation over our analysis period. For example, in Pennington County, there were 570 participants in 24/7 for twice-a-day testing in October 2008; by 2010 the monthly average was 377 participants. One potential explanation for this decline is that 24/7 reduced drunk driving.

### Dependent Variables

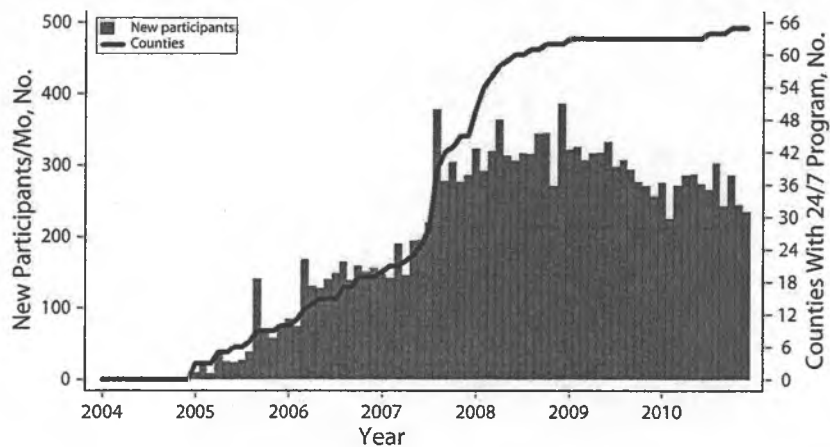
We focused on 3 drinking-related public health outcomes: DUI arrests, arrests for domestic violence, and traffic crashes. Arrest data for DUI and domestic violence from 2001 to 2010 were made available by the South Dakota Department of Criminal Investigation.

For DUI, we can distinguish first-time offenders from repeat offenders—an important distinction for a program that primarily targets repeat offenders. Information about traffic crashes reported to the police from 2004 to 2010 was made available by the South Dakota Office of Highway Safety. Table 1 presents the descriptive statistics for these outcomes at the county-month level.

In addition to looking at all traffic crashes, we also considered crashes involving male drivers aged 18 to 40 years because this subpopulation is most likely to report driving under the influence of alcohol.<sup>22</sup> This age group also accounts for more than half of 24/7 participants. Approximately 63% of new 24/7 participants entering the program from 2005 to 2010 entered for DUI, 6% for community corrections violations, 5% for domestic violence, 5% for assault (excluding domestic violence), 5% for drug possession, and 17% for other offenses (numbers do not add to 100% because of rounding).

### Independent Variables

The analyses controlled for a number of time-varying county characteristics that could influence our outcomes (Table 1). County characteristics measured monthly included the unemployment rate,<sup>23</sup> snowfall,<sup>24</sup> an indicator variable for the Sturgis Motorcycle Rally



Note. We defined 24/7 as operational in each county once the number of county residents in 24/7 for a given month equaled or exceeded one quarter the number of driving under the influence arrests in the county, where the latter is defined as the county's moving monthly average during the previous year to address any seasonality. Calculations to determine when 24/7 was operational in each county exclude 55 individuals (0.3%) who wore a continuous alcohol monitoring bracelet in 2006 and 2007, but were missing residency and 24/7 status information.

FIGURE 1—Participation in South Dakota's 24/7 Sobriety Project, 2005-2010.

**TABLE 1—Descriptive Statistics of Model Variables for South Dakota's 24/7 Sobriety Project, 2001–2010**

Variable	No.	Mean (SD)	Min	Median	Max
<b>Dependent</b>					
<b>Arrests</b>					
DUI-1	7920	8.872 (24.812)	0	2	272
Repeat DUI	7920	3.228 (8.341)	0	1	82
Domestic violence	7920	2.742 (8.558)	0	0	85
<b>Traffic crashes<sup>a</sup></b>					
Total	5544	20.913 (44.789)	0	9	591
Men aged 18–40 y	5544	7.500 (18.547)	0	3	250
<b>Independent</b>					
Population	7920	11 905 (23 500)	999	5533	183 048
Percentage White	7920	85.178 (24.026)	5.891	96.178	99.779
Men aged 18–40 y share of population	7920	13.266 (3.212)	7.601	12.575	25.190
Unemployment rate	7920	4.080 (1.984)	1.400	3.500	18.600
Police officers per capita <sup>b</sup>	7920	14.075 (5.583)	0	14.097	37.364
VMT per capita <sup>c</sup>	7920	1.601 (1.245)	0.500	1.282	9.444
Bars per capita <sup>b</sup>	7920	5.688 (4.026)	0	5.283	23.328
Package stores per capita <sup>b</sup>	7920	2.017 (2.212)	0	1.522	10.828
Snowfall <sup>d</sup>	7920	0.106 (0.181)	0	0	3.700
Sturgis Rally	7920	0.004 (0.061)	0	0	1
College in session	7920	0.044 (0.206)	0	0	1

Note. DUI = driving while under the influence of alcohol; DUI-1 = first-time DUI; VMT = vehicle miles traveled.

<sup>a</sup>Traffic crashes only cover 2004–2010.

<sup>b</sup>Per capita measure based on rate per 10 000 people.

<sup>c</sup>VMT are based on annualized rate; miles in 10 000s.

<sup>d</sup>Average monthly snowfall in inches.

(equals 1 for Pennington, Meade, and Lawrence counties in August of each year), and an indicator for whether college was in session in the 4 counties with substantial student populations. Other county characteristics available at the annual level include vehicle miles traveled,<sup>25</sup> per capita police officers,<sup>26</sup> per capita on- and off-premises alcohol outlets,<sup>27</sup> and demographic characteristics including total population, share of population that is male aged 18 to 40 years, and share of population that is White.<sup>28</sup> We linearly interpolated these annual series to construct monthly measures.

### Statistical Analyses

Our statistical model was:

$$(1) Y_{it} = \alpha(24/7)_{it} + \beta X_{it} + \gamma_i + \delta_t + \varepsilon_{it},$$

where  $Y_{it}$  represents a public health outcome in county  $i$  and month  $t$ . The indicator  $24/7_{it}$  captures whether the program was operational

in county  $i$  and month  $t$ . The coefficient of interest,  $\alpha$ , measures the effect of 24/7, which we hypothesized to be negative. The vector  $X_{it}$  includes the time-varying county-level control covariates already described. County fixed effects ( $\gamma_i$ ) capture unobservable characteristics of each county that are fixed over time. Finally, the vector  $\delta_t$ , consists of fixed effects for each month in the sample to control for seasonal and temporal trends that are common to all counties, such as statewide legislative changes.

In the models examining arrests for repeat DUI offenses, we also controlled for first-time DUI arrests. The inclusion of first-time DUI arrests as a control potentially helps account for unobservable factors that affect all types of DUI, such as unobserved enforcement intensity (for example, DUI checkpoints) or reporting changes. Moreover, there is a mechanical relationship between first-time and repeat DUI arrests, because counties with a greater number of first-time DUI arrests have more

residents at risk for repeat DUIs, so failing to control for this variable could lead to omitted variable bias. Given that the precise mapping from first-time DUIs into subsequent DUIs is unknown, the relationship is modeled flexibly by using a high-degree polynomial.

Because our outcomes involved count data and included zeros, we estimated equation 1 using Poisson regression. The Poisson model provides consistent estimates of the conditional mean function across a wider range of data-generating processes than some other count models such as the negative binomial model.<sup>29</sup> To conduct valid statistical inference even under a failure of the Poisson equal mean-variance assumption or with arbitrary forms of within-county autocorrelation in error terms, we reported cluster-robust standard errors with clustering at the county level.<sup>30</sup> We conducted our analysis by using Stata/MP version 12 (StataCorp LP, College Station, TX).

### RESULTS

Table 2 presents the incident rate ratios (IRRs) estimated from the Poisson regressions of our 5 outcomes. There was no statistically or substantively significant effect of 24/7 on first-time DUI arrests (DUI-1). The null finding is intuitive because 24/7 primarily targeted offenders at risk for repeat DUI arrests. Although, in theory, the program could create a general deterrent effect that reduces DUI-1, such an effect was not apparent in these data. The IRR for 24/7 on repeat DUI was 0.883 ( $P = .023$ ), which represents a 12% reduction in arrests. The analyses also suggest that 24/7 reduced arrests for domestic violence by 9% (IRR = 0.905;  $P = .035$ ; Table 2).

Table 2 shows the effect of 24/7 on traffic crashes overall and among male drivers aged 18 to 40 years. The model did not identify a reduction for crashes overall (IRR = 0.980;  $P = .338$ ); however, there is suggestive evidence that 24/7 may have modestly reduced traffic crashes for male drivers aged 18 to 40 years (IRR = 0.956;  $P = .085$ ).

Table 3 demonstrates that our findings for repeat DUI arrests, domestic violence arrests, and crashes involving male drivers aged 18 to 40 years are robust across alternative specifications. The first 3 rows address

TABLE 2—Results from Poisson Regressions: South Dakota's 24/7 Sobriety Project, 2001–2010

	DUI-1 (n = 7800), IRR (95% CI)	Repeat DUI (n = 7920), IRR (95% CI)	Domestic Violence (n = 7560), IRR (95% CI)	Traffic Crashes (n = 5544), IRR (95% CI)	Traffic Crashes, Men Aged 18–40 Years (n = 5544), IRR (95% CI)
24/7 implemented	1.062 (0.955, 1.181)	0.883* (0.794, 0.983)	0.905* (0.825, 0.993)	0.980 (0.941, 1.021)	0.956 (0.909, 1.006)
Population <sup>a</sup>	1.607 (0.745, 3.466)	10.522* (1.343, 82.46)	2.327* (1.069, 5.068)	1.188 (0.838, 1.683)	1.625** (1.184, 2.231)
Percentage White	10.672 (0.002, 45 568)	< 0.001* (< 0.001, 0.904)	< 0.001 * (< 0.001, 0.743)	0.010 (< 0.001, 4.440)	0.009 (< 0.001, 5.234)
Men aged 18–40 y share of population	< 0.001* (< 0.001, 0.654)	< 0.001* (< 0.001, 0.185)	< 0.001 (< 0.001, 18.344)	1.269 (0.003, 570.135)	7.358 (0.015, 3515.884)
Unemployment rate	0.981 (0.944, 1.020)	1.005 (0.975, 1.036)	0.949* (0.902, 0.998)	0.965 (0.930, 1.001)	0.967 (0.935, 1.000)
Police officers per capita <sup>b</sup>	1.008 (0.991, 1.026)	1.002 (0.984, 1.020)	1.004 (0.978, 1.030)	1.020** (1.005, 1.036)	1.018* (1.001, 1.035)
VMT per capita <sup>c</sup>	1.056 (0.887, 1.257)	1.076 (0.698, 1.661)		1.046 (0.952, 1.149)	1.007 (0.916, 1.107)
Bars per capita <sup>b</sup>	1.002 (0.977, 1.027)	0.977 (0.939, 1.017)	1.001 (0.975, 1.029)	0.997 (0.989, 1.005)	1.000 (0.990, 1.010)
Package stores per capita <sup>b</sup>	1.056* (1.002, 1.114)	0.976 (0.913, 1.044)	1.005 (0.956, 1.055)	1.000 (0.978, 1.022)	1.002 (0.980, 1.025)
Snowfall <sup>d</sup>	0.942 (0.725, 1.224)	0.903 (0.677, 1.204)	0.944 (0.843, 1.057)	1.251* (1.048, 1.493)	1.560*** (1.338, 1.820)
Sturgis Rally	2.854 (0.934, 8.723)	1.477*** (1.330, 1.641)	1.240* (1.013, 1.519)	1.642*** (1.293, 2.086)	1.485** (1.154, 1.910)
College in session	1.026 (0.677, 1.555)	0.970 (0.812, 1.159)	0.920 (0.829, 1.021)	1.071 (0.922, 1.244)	1.153* (1.003, 1.327)
DUI-1 polynomial					
First degree		1.241*** (1.181, 1.304)			
Second degree		0.873*** (0.838, 0.910)			
Third degree		1.108*** (1.068, 1.148)			
Fourth degree		0.972 (0.940, 1.004)			
Fifth degree		1.000 (0.982, 1.018)			

Note. CI = confidence interval; DUI = driving while under the influence of alcohol; DUI-1 = first-time DUI; IRR = incidence rate ratio; VMT = vehicle miles traveled. All models included county fixed effects and year-month fixed effects. Ninety-five percent confidence intervals estimated by using robust standard errors clustered at the county level in parentheses. The full sample size for repeat DUI arrests is 7920 based on a full 10-year county-month panel (66 counties × 10 y × 12 mo). The sample sizes for DUI-1 and domestic violence arrests are smaller because some counties reported no arrests for certain offenses to the state Department of Criminal Investigation over the entire time period. For DUI-1, this includes Shannon County whereas for domestic violence this includes Shannon, Dewey, and McPherson counties. Sample sizes for the crash models were 5544 because we only had data for 2004 through 2010 (66 counties × 7 y × 12 mo).

<sup>a</sup>Natural log of monthly linear interpolation of population.

<sup>b</sup>Per capita measure based on rate per 10 000 people.

<sup>c</sup>VMT are based on annualized rate; miles in 10 000s.

<sup>d</sup>Natural log of average monthly snowfall in inches.

\* $P < .05$ ; \*\* $P < .01$ ; \*\*\* $P < .001$ .

alternative approaches for determining when 24/7 went into effect in each county. Our base specification defined 24/7 as operational when the number of county residents participating equaled or exceeded our threshold defined as 25% of the county's average number of DUI arrests. In the first and second rows, we considered alternative thresholds based on 40% and 10% cut-offs, respectively. In the third row, we considered whether the threshold should be denominated in terms of county population rather than DUI arrests. For repeat DUI arrests, the reductions remained statistically significant and even become larger with the less conservative 10% threshold (from 12% to 17%;  $P = .016$ ). The point estimates remained similar for domestic violence and crashes, but standard errors increased for

domestic violence and often declined for crashes.

We also looked at potential data-reporting problems (Table 3). Tribal police departments are not required to submit arrest and crash data to state agencies. The inclusion of DUI-1 helps us account for such reporting inconsistencies in repeat DUI arrest models, but there could still be bias in the results for domestic violence and crashes. In the fourth row, we re-estimated the models excluding information reported by tribal police departments and the point estimates remained similar.

To ensure the validity of our data on DUI arrests, we compared our county-level DUI arrest data with the number of DUI cases filed by prosecutors, which are collected by a different agency (Table 3). These data series should

be highly correlated, but not perfectly correlated because DUI arrests may ultimately be charged as a different offense or not charged at all. Furthermore, for some counties, such as those with tribal agencies, comprehensive arrest information but not prosecution data may be submitted to the state, or vice versa. Although the median (mean) within-county correlation coefficient across the 2 data series was high at 0.93 (0.84), the correlation was low in some counties. (We were only able to obtain county filing information at the annual level, so we correlated county DUI arrest and filing information at the fiscal-year level.) Therefore, in the fifth row, we excluded the 10 counties with correlation coefficients below 0.7 (Table 3). The point estimates remain largely unchanged.

TABLE 3—Sensitivity Analysis: South Dakota's 24/7 Sobriety Project

	Repeat DUI, IRR (95% CI)	Domestic Violence, IRR (95% CI)	Traffic Crashes, Men Aged 18–40 y, IRR (95% CI)
Definition of 24/7 program implementation			
Change threshold from 25% to 40%	0.899* (0.812, 0.996)	0.909 (0.819, 1.008)	0.951* (0.907, 0.997)
Change threshold from 25% to 10%	0.834* (0.718, 0.967)	0.913 (0.832, 1.002)	0.949 (0.900, 1.001)
Change threshold to 5 residents in 24/7 per 10 000 population	0.892* (0.805, 0.989)	0.894* (0.804, 0.994)	0.955* (0.915, 0.998)
Potential reporting issues			
Exclude arrests and crashes reported by tribal police agencies	0.905 (0.817, 1.003)	0.902* (0.822, 0.990)	0.951 (0.905, 1.000)
Exclude 10 counties where the correlation coefficient for DUI arrest and court is below 0.7	0.883* (0.791, 0.986)	0.896* (0.814, 0.987)	0.955 (0.903, 1.010)
Exclude counties reporting no DUI-1 or domestic violence arrests (Dewey, McPherson, and Shannon counties)	0.885* (0.796, 0.984)	0.905* (0.825, 0.993)	0.952 (0.904, 1.002)
Alternative specifications			
Exclude controls for DUI-1	0.843* (0.715, 0.993)	...	...
Negative binomial (25% threshold)	0.885 (0.781, 1.002)	0.909 (0.822, 1.005)	0.958 (0.906, 1.014)

Note. CI = confidence interval; DUI = driving while under the influence of alcohol; DUI-1 = first-time DUI; IRR = incidence rate ratio. Full results available upon request. Models included the full set of covariates except as noted.

\* $P < .05$ ; \*\* $P < .01$ ; \*\*\* $P < .001$ .

We also re-estimated the models excluding counties that did not report either DUI-1 (Shannon) or domestic violence arrests (Shannon, Dewey, McPherson) to the state Department of Criminal Investigation over the 10-year period. Again, the results remain unchanged (Table 3).

In our main results, we included DUI-1 as an explanatory variable in the repeat DUI models to control for unobserved enforcement activities and potential reporting bias. Controlling for DUI-1 may not be desirable if part of the impact of the program comes through changing patterns in DUI-1 offending. Excluding DUI-1 from this model increased the size of the 24/7 reduction (IRR = 0.843;  $P = .041$ ; Table 3).

Finally, when we estimated negative binomial rather than Poisson models, we obtained similar (albeit less precise) point estimates (Table 3).

## DISCUSSION

More than 17 000 individuals participated in the 24/7 Sobriety Project between 2005 and 2010 and their tests indicated that there were approximately 2.25 million days without a detected alcohol violation. This does not mean that there was absolutely no drinking on

those days. Rather, it provides support for a reduction in the incidence of heavy drinking among a population with a history of problem drinking.

Our analysis provides strong evidence that the 24/7 program reduced the incidence of repeat DUI and domestic violence arrests, and provides suggestive evidence that it may have reduced reported traffic crashes involving men aged 18 to 40 years. The findings are robust to many alternative assumptions and specifications.

These estimated effects are not small. When we used a measure that defines a 24/7 program as operational in a county once the number of residents participating equaled or exceeded a quarter of DUI arrests in the county, we found that program led to a 12% reduction ( $P = .023$ ) in repeat DUI arrests and a 9% reduction ( $P = .035$ ) in domestic violence arrests at the county level.

Some may consider these results to be conservative for 2 reasons. First, aggregate-level impacts depend both on the magnitude of the individual-level impact and the number of program participants. Because in most counties only a fraction of eligible DUI offenders participated in the program (albeit a high fraction in some counties), an analysis

using individual-level data could yield larger behavioral effects of the program. However, an important challenge with the individual-level approach is addressing the potential selection issues introduced by judicial discretion regarding who participates and for how long. Our county-level approach overcomes this concern.

Second, defining 24/7 as operational only after the number of residents participating in the program equaled or exceeded a quarter of DUI arrests means that we classified some counties as not operational when the program was actually up and running. This approach could dilute the program effect. In our sensitivity analysis, we considered a less conservative 10% threshold and the reduction for repeat DUI arrests became larger and more precise (17%;  $P = .016$ ) and conversely became smaller for the higher threshold of 40%. The alternate thresholds did not have a noticeable effect on the other outcomes.

Most studies of interventions targeting DUI are not directly comparable to our results because they rely on individual-level analyses or do not focus specifically on repeat DUI arrests; however, there are some that help put our findings in perspective. For California, Rogers found that the implementation of mandatory administrative license suspension

following a DUI arrest reduced all DUI arrests in the state by 4%.<sup>31</sup> For Alberta, Canada, Voas et al. found that the introduction of a province-wide interlock program reduced aggregate DUI reconviction rates by 6%.<sup>32</sup> The authors suggested that this effect is “small” because less than 10% of eligible drivers participated in the program. Finally, Kenkel used nationally representative data to estimate the cross-price elasticity of the demand for drunk driving with respect to the price of alcohol to be 0.74 for men.<sup>33</sup> This cross-price elasticity suggests that it would take a 16% increase in alcohol prices to reduce DUI among men by 12%. Thus, we interpret our 24/7 results to be important contributions to the DUI literature and remind readers that we also found evidence that 24/7 reduced domestic violence arrests.

### Limitations

Because 24/7 has only been in existence for a few years, our analysis captured only the short-run effects of the program. As counties gain experience with implementation and as the program is extended to a wider range of problem users, it is possible that impacts will increase. Alternatively, it may be that the deterrent impacts of frequent testing may fade over time as individuals become increasingly removed from their program experience. Understanding the longer-run effects of the program will be important for assessing its overall effectiveness.

Our aggregate analysis delivered an estimate of the average effect of the program, but it seems possible that the program may be more effective for certain types of offenders. Future research that exploits individual-level data to better understand heterogeneity in response to 24/7 would enrich our understanding of the program and inform efforts to export this enforcement model to other jurisdictions.

We did not address the variation in how the program was implemented across and within counties. Although every violation was supposed to be punished with jail time, we know this did not always occur. Future research that accounts for program fidelity would improve our understanding of how 24/7 works.

We also considered only a limited set of public health outcomes. If, as suggested by these findings, 24/7 is successful at reducing problem drinking, potential benefits may

extend to a range of outcomes not considered here (e.g., mental health, hospitalization or other forms of health care utilization). Further analysis to more clearly understand the impacts of 24/7 and similar programs on a broader range of outcomes is warranted.

### Conclusions

We found strong support for the hypothesis that frequent alcohol testing with swift, certain, and modest sanctions can reduce problem drinking and improve public health outcomes. Our empirical analysis of South Dakota's 24/7 Sobriety Project demonstrated reductions in arrests for repeat DUI and domestic violence as well as suggestive evidence of a decline in traffic crashes involving men aged 18 to 40 years.

Taking these results in a broader perspective, our findings provide support for a new approach to monitoring and influencing behaviors that relies on changes in the certainty and celerity of consequences. We demonstrate the efficacy of this approach with respect to alcohol-related behaviors, but taken together with emerging evidence from a similar program in Hawaii focused on illegal drug consumption (Project HOPE<sup>12</sup>), our findings suggest that this model may have implications for influencing a wide range of problem behaviors.

Although quasiexperimental analyses such as ours provide strong evidence in favor of this approach, we hope that our research encourages funding agencies to support experimental evaluations to provide further evidence on the causal effects of programs such as 24/7 that adopt innovative deterrence approaches. Indeed, it is critical that researchers study whether 24/7 can work outside South Dakota in both rural and urban areas. It will also be useful to explore how testing programs with swift and certain sanctions can best incorporate positive incentives for compliance as well as treatment services. ■

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### Contributors

B. Kilmer designed the study and supervised the data collection. G. Midgette was in charge of data management. All authors conducted statistical analyses and contributed to the writing and editing of the article.

### Acknowledgments

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Note. The views expressed herein are only those of the authors.

### Human Participant Protection

All relevant ethical safeguards have been met in relation to participant protection, including approval from the RAND Corporation's Human Subject Protection Committee (assurance number: FWA00003425; IRB number: IRB00000051).

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## **The South Dakota 24/7 Sobriety Project: A Summary Report**

**Attorney General Larry Long**, Attorney General of South Dakota  
**Stephen K. Talpins**, Chief Executive Officer, National Partnership on Alcohol Misuse and Crime  
**Robert L. DuPont, M.D.**, President, Institute for Behavior and Health, Inc.

### **Overview**

The 24/7 Sobriety Project is a court-based management program originally designed for repeat Driving Under the Influence (DUI) offenders. The program began in South Dakota and new programs are now being initiated in other states. The 24/7 Sobriety Project sets the standard of no use of alcohol and no use of illegal drugs as a condition of continuing to drive and remaining in the community, rather than being incarcerated. This standard is enforced by intensive monitoring by law enforcement agencies with alcohol and drug testing mandated for each participant. Violation of program rules leads to immediate and usually brief incarceration of the offender. This combination of a strict monitoring and a no-use standard with swift, certain, and meaningful, but usually not severe, consequences has been extremely successful.

Conceived, developed, and administered by South Dakota Attorney General Larry Long and Special Agent Bill Mickelson, this progressive program received the prestigious John P. McGovern Award for Innovation in Drug Abuse Prevention from the Institute for Behavior and Health, Inc., on June 30, 2009 in Washington, D.C. and most recently an award from the National Highway Traffic Administration Award for Public Service. The 24/7 Sobriety Project:

- reduces recidivism;
- improves public safety;
- serves as an alternative to incarceration that reduces the number of people in local jails and state prisons;
- allows offenders to remain in the community with their family and friends;
- permits offenders to maintain employment;
- saves tax dollars because most monitoring costs are paid by the offenders and because offenders are being diverted from jail and prison where appropriate.

### **24/7 Monitoring and Accountability**

Participants in the 24/7 Sobriety Project have been arrested for DUI offenses on multiple occasions. The program utilizes a variety of mechanisms to ensure abstinence from alcohol and other drugs, including twice-daily breath testing for alcohol, SCRAM ankle bracelets that continuously monitor wearers for alcohol consumption, drug patches that collect sweat samples for laboratory drug testing, and urine testing for drugs. Offenders are given breath and urine tests

at their local sheriff's office. If they test positive, they are taken into custody *immediately and brought to court*. Judges typically give them escalating jail terms. A first violation typically results in incarceration of one or more nights in jail. Repeat violations of the no-use standard or missing test appointments leads to increased periods of incarceration and the revocation of any pretrial release. All sanctioning is swift and certain.

The 24/7 Sobriety Project as originally constituted does not incorporate any screening, assessments or treatment. However, state law required DUI offenders to participate in treatment programs upon conviction. There is no requirement that these offenders undergo treatment pretrial. Currently the treatment and justice systems operate in parallel but separate from one another.

### **Program Results**

The program's results are impressive, particularly given the fact that almost half of the participants have been convicted three or more times for DUI offenses:<sup>1</sup>

- As of January 2010, almost 13,000 offenders participated in twice-daily alcohol breath testing. They took over 2.4 million tests, passing 99.6% of them. Over 66% of the offenders were totally compliant during their entire term of their participation.<sup>2</sup>
- As of November 2009, 1,755 offenders wore the SCRAM ankle bracelet. Offenders wore the device for an average of 125 days. Approximately 77.72% of offenders were totally compliant.<sup>3</sup>
- Forty offenders wore drug patches, passing 92.8% of the tests.<sup>4</sup>
- Over 1,261 offenders took 17,730 urine tests, passing 97.5% of the time.<sup>5</sup>

In addition, the large majority of participants who were surveyed about the program indicated that the program helped them stop using substances, improved their family functioning and helped them maintain or improvement their employment.<sup>6</sup>

### **Public Impact**

While early skeptics of the 24/7 Sobriety model predicted that close monitoring with a strict no-use standard would fill the jails with offenders, the results of the program are exactly the opposite. The program has reduced incarceration leading to reductions in jail populations and jail costs.

At the time the program was introduced, South Dakota had one of the highest rates of adults 18 and older who reported driving under the influence of alcohol in the nation (21.6% in the previous year). Additionally, nearly three-fourths of those involved in fatal crashes in South Dakota had a blood alcohol level (BAC) of 0.15 or higher. The number of people killed in

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<sup>1</sup> R. Loudenberg, "Analysis of South Dakota 24-7 Sobriety Program Data" at 3 (Mountain Plains Evaluation, LLC January 2007).

<sup>2</sup> South Dakota Office of the Attorney General 2010.

<sup>3</sup> Alcohol Monitoring Systems, Inc., 2009.

<sup>4</sup> South Dakota Office of the Attorney General 2010.

<sup>5</sup> South Dakota Office of the Attorney General 2010.

<sup>6</sup> South Dakota Office of the Attorney General 2010.

alcohol-impaired crashes<sup>7</sup> in the state has declined steadily. From 2006 to 2007, alcohol-impaired traffic deaths in South Dakota declined by 33% (National Highway Traffic Safety Administration, 2008). In a year where the U.S. had a 4% decline in DUI fatalities, South Dakota outperformed every other state in its percentage reduction of DUI fatalities. Preliminary data indicates that the number fell another 45% from 2007 to 2008.<sup>8</sup>

It is important to note other important initiatives in South Dakota may have impacted South Dakota's success in combating DUI offenses. In 2006, South Dakota repealed its implied consent law. Any person arrested for a DUI offense must provide a sample of their blood, breath or urine to law enforcement. No longer is a defendant able to refuse to provide evidence of their intoxication. Law enforcement officers increased enforcement efforts through the use of checkpoints and saturation patrols. South Dakota substantially revised required classes for DUI first offenders, which has reduced recidivism. There has been a concerted effort to increase the use of media campaigns. Finally, South Dakota started a "Parents Matters" program to combat underage drinking. The combination of these programs should be considered when discussing South Dakota's success in combating DUI offenses.

It is difficult to attribute the improvements to any one cause or causes; however, the 24/7 Sobriety Project is a contributing component.

## **Conclusions**

The 24/7 Sobriety Project is not just saving lives; it is reducing DUI recidivism and saving tax dollars. Jail populations have decreased in most counties across South Dakota and in the two largest counties these populations have dropped by almost 100 people on any given day. With jail costs estimated at \$75 per day per person, the state is saving millions of dollars.<sup>9</sup> At least part of these gains are due to the 24/7 Sobriety Project.

The 24/7 Sobriety Project is also an important response to critics who erroneously claim that it is not possible to stop DUI offenders from drinking and/or using drugs because they believe relapse is inevitable. It also belies claims that efforts need to focus exclusively on preventing DUI offenders from driving. If efforts to prevent driving without stopping drinking and drugging were possible and successful, there would not be so many repeat DUI offenses. It is the repeat DUI offenders that the 24/7 Sobriety Project identifies and positively impacts changes in behaviors. The 24/7 Sobriety program is continuing to evolve including plans to develop brief screening and intervention modules and formal links to addition treatment. The comprehensive monitoring and care management model being developed for the 24/7 Sobriety Project has wide applicability within the criminal justice system, well beyond the DUI offense, because alcohol and illegal drug use are major contributors to crime and incarceration. This program demonstrates a powerful ability to stop alcohol and drug use and the criminal behavior that alcohol and drug use often lead to among arrested offenders. The program has been extended to a wide range of criminal charges related to alcohol and drug use, including domestic violence and civil abuse and

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<sup>7</sup> NHTSA defines an alcohol-impaired crash as one where at least one driver had a blood or breath alcohol level at or above the 0.08 illegal limit.

<sup>8</sup> South Dakota Department of Public Safety 2009.

<sup>9</sup> South Dakota Office of the Attorney General 2009.

neglect cases. These changes show the broad applicability of the 24/7 Sobriety Program, far beyond the original focus only on DUI offenders and alcohol use.

Although funding for the program was initially provided by the South Dakota Office of Highway Safety and then supported through legislative appropriations, it is anticipated that it will be a cost neutral program since it is supported through offender fees . Other states have expressed interest in implementing a similar program. The North Dakota Attorney General's Office began a pilot of its own 24/7 Sobriety Project in January 2008 and, with legislative support, is taking it statewide.

The impressive, positive results of the 24/7 Sobriety Project reinforce the results of other related programs, HOPE Probation<sup>1</sup> (Hawaii's Opportunity Probation with Enforcement) in Honolulu,<sup>2,3</sup> and DUI/Drug Court programs. These programs have a zero tolerance standard for any use of alcohol or other drugs that is enforced by intensive monitoring and linked to meaningful and swiftly applied consequences. Each of these programs has produced results that set a new and far higher outcome standard for substance abuse among alcohol and drug dependent people. This unique and transferable model has wide applicability both in the criminal justice system and in substance abuse treatment. The 24/7 Sobriety Project model holds the promise of reducing the serious problems caused by alcohol and other drug use while making substance abuse treatment and the criminal justice system far more successful in promoting both public safety and public health than they are today.

\*A complete listing of the administrative rules, copies of forms, and program statistics can be found on the South Dakota Attorney General's website at: [www.state.sd.us/attorney/DUI247/index.htm](http://www.state.sd.us/attorney/DUI247/index.htm).

<sup>1</sup> Hawken, A. & Kleiman, M. (January, 2009). Research brief: Evaluation of HOPE probation. Retrieved July 23, 2009, from [http://www.state.hi.us/jud/pdf/Hope\\_Brief\\_Feb09.pdf](http://www.state.hi.us/jud/pdf/Hope_Brief_Feb09.pdf).

<sup>2</sup> McLellan, A. T., Skipper, G. E., Campbell, M. G. & DuPont, R. L. (2008). Five year outcomes in a cohort study of physicians treated for substance use disorders in the United States. *British Medical Journal*, 337:a2038.

<sup>3</sup> DuPont, R. L., McLellan, A. T., Carr, G., Gendel, M & Skipper, G. E. (2009). How are addicted physicians treated? A national survey of physician health programs. *Journal of Substance Abuse Treatment*, 37, 1-7



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To: The Honorable John Coghill, Chair, Alaska Senate  
Judiciary Committee;  
The Honorable Wes Keller, Chair Alaska House Judiciary  
Committee; and  
Members of the House and Senate Judiciary Committees

From: Alison Lawrence  
Senior Policy Specialist, Criminal Justice Program, NCSL

Date: Thursday, July 25, 2013

Subject: Senate Bill 64

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Good afternoon. I'm Alison Lawrence a senior policy specialist with the National Conference of State Legislatures. I specialize in sentencing and corrections laws.

Chairman Coghill and Chairman Keller, thank you for including NCSL in your interim discussion on Senate Bill 64. You asked me to provide you with information on provisions of the bill as they relate to "justice reinvestment". My remarks will focus on the proposed Sentencing Commission and Probation and Parole Accountability with Enforcement program, both of which have been addressed by many of the states that have pursued justice reinvestment.

**Justice Reinvestment**

Today, states have available more and better information about what works to reduce crime and control corrections costs. Legislatures are using this data to inform the policymaking process and enact cost effective measures that reduce offender recidivism and maintain public safety.

Justice Reinvestment is a data-driven process used by a growing number of states. It involves collecting data and analyzing drivers of prison populations and costs. Policies are then developed and adopted to address these factors. This strategy is characterized by reallocating funds to support effective sentencing and corrections policies and, in some states, by reinvesting a portion of savings achieved policies and programs that reduce recidivism.

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Figure 1: The Justice Reinvestment Process

Since 2007, 27 states have amended their sentencing and corrections policies through a process known as "justice reinvestment." This process typically involves:

- Analyzing jail, prison and community corrections data to identify drivers of corrections growth and spending;
- Developing and adopting policies that effectively manage corrections resources, increase public safety and improve offender accountability; and
- Measuring the impact of policy changes on both public safety and corrections budgets to ensure that projected results and benefits are achieved.

A public-private partnership of the Bureau of Justice Assistance in the Office of Justice Programs and the Public Safety Performance Project of The Pew Charitable Trusts provides states with support and assistance with justice reinvestment initiatives.



Source: Public Safety Performance Project of The Pew Charitable Trusts, 2013.

Since 2007, at least 27 states have enacted justice reinvestment reforms. These reforms have included expanding eligibility for community-based diversion and treatment programs, employing the use of risk assessments and evidence-based practices for improved community supervision, and revising sentence lengths and eligibility for prison release. These efforts have been supported by a public-private partnership of the Bureau of Justice Assistance in the U.S. Department of Justice and The Pew Charitable Trusts.

On the last page I have included a chart that shows South Carolina's identified prison population drivers and the policy responses adopted by the General Assembly in 2010.

**Sentencing Commissions and Other Oversight Bodies**

SB 64 proposes establishment of a sentencing commission. A distinguishing feature of some of the most comprehensive sentencing and corrections changes in recent years has been the use of cross-governmental commissions or task forces. These have involved stakeholders from all branches and levels of government to oversee data collection and analysis, and put forth recommendations for legislative and administrative order. In some states, these commissions have been created through executive action, while others, like the proposed sentencing commission, have been codified. These

groups not only make recommendations but will continue to track and evaluate to ensure that policy choices continue to be data-driven and that desired results are achieved.

Connecticut, Illinois and Louisiana have recently created or redefined sentencing commissions to focus their work on improvement of public safety; ensuring sentencing laws and practices are fair, proportional and consist; and increasing efficiency and effectiveness of criminal penalties.

A number of state commissions have oversight responsibility for not only sentencing practices, but also for prison policies, reentry programs and community-based supervision. Some also make funding recommendations. The South Carolina Sentencing Reform Oversight Commission evaluates and tracks savings from policies adopted in their 2010 omnibus act and makes recommendations to the General Assembly on reallocating a portion of the savings.

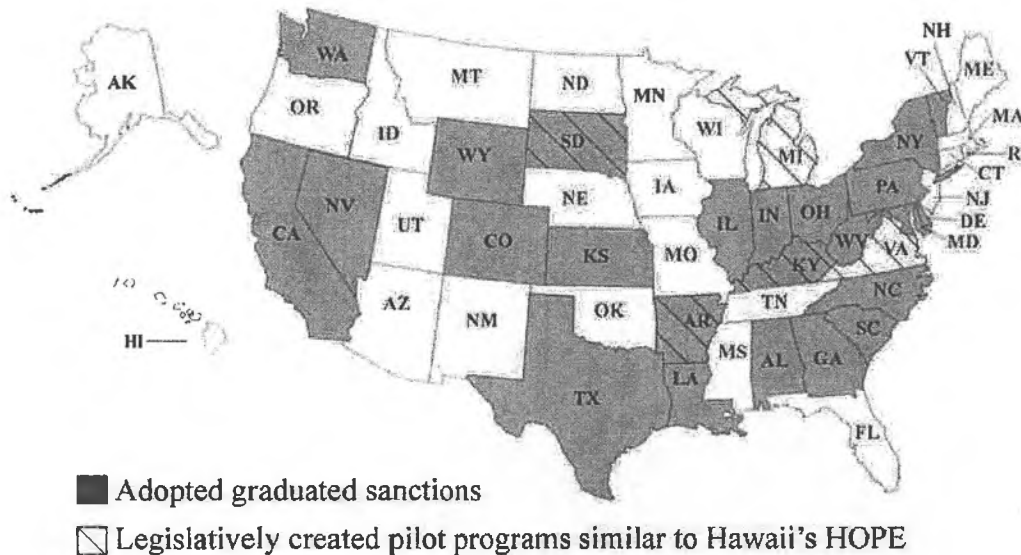
### **Swift and Certain Sanctions for Rule Violations**

Swift and certain non-prison sanctions for probation and parole rule violations is a data-driven policy that many states have adopted in recent years. Data show that offenders who are sent to prison for technical violations contribute substantially to prison populations, and more than half of all state inmates meet the criteria for substance abuse or dependence. Swift and certain sanctions, like the proposed Probation and Parole Accountability with Enforcement program, hold these offenders accountable while allowing them to remain in the community, continue to work, pay restitution and child support, and attend treatment.

At least 17 other states currently operate programs modeled after Hawaii's HOPE. Five of these states—Arkansas, Kentucky, Michigan, South Dakota and Virginia—have passed laws; the others have been created by judicial action. The enacted laws authorize local pilot projects and some have included state general fund appropriations to cover start up costs. The laws include a list of permissible sanctions and require program evaluation and reporting. Arkansas, Kentucky and Virginia laws also require use of a validated risk assessment tool to determine which offenders are high risk.

These HOPE-type programs are similar to another policy, called graduated sanctions. Authorized by more than 20 states in recent years, graduated sanctions operate statewide and are used for most offenders, not just those designated high risk. These policies involve clearly established non-prison sanctions that are delivered quickly, and with the severity of the sanction proportionate to the violation. Sanctions include increased reporting or drug testing requirements, electronic monitoring, participation in treatment, short jail stays and specialized violator facilities. In many of the states, probation and parole officers are authorized to handle the rule violations rather than referring the offender to the court or parole board for formal proceedings. This can decrease the response time for delivering sanctions and clear up crowded dockets.

Figure 2. Laws Authorizing Swift and Certain Sanctions



Source: National Conference of State Legislatures, 2013

**Maximizing Resources**

Making the best use of corrections dollars is a key component of the justice reinvestment process. Effective community supervision policies like swift and certain sanctions help to maximize corrections dollars by allowing agencies to focus resources on the highest risk offenders.

The six states that adopted justice reinvestment legislation in 2012 have a collective projected corrections savings of nearly \$685 million over the next five to 10 years. Savings are expected to be used for increasing availability of treatment options and supervision technology, training for corrections officers on evidence-based practices and risk assessments; and supporting law enforcement and victims services.

Thank you for including NCSL in your discussion. I am happy to provide you or your staff with any additional information as your interim work moves forward.

Figure 3. South Carolina Justice Reinvestment Data and Responses

In 2009, the South Carolina prison population was projected to grow by more than 3,200 inmates by 2014, with an estimated increase of \$141 million in operating costs and an additional \$317 million for construction of new prisons. The corrections population had nearly tripled, and state spending on prisons had increased by more than 500 percent during the past 25 years. A study of the causes of and how to address this unsustainable growth resulted in the General Assembly's Omnibus Crime Reduction and Sentencing Reform Act of 2010.

**Drivers of Prison Growth**

Forty-four percent of prison admissions in 2009 were for low-level offenses and sentences of less than 18 months.

In 1980, 6 percent of the prison population was serving a sentence for a drug crime. By 2009 this had tripled to 20 percent of the prison population.

In 2009, probation and parole violations accounted for 24 percent of prison admissions, 65 percent of which were for non-criminal, technical violations of supervision.

More than half of all inmates released in 2009 left prison without any kind of supervision or access to services.

The parole grant rate declined from a 63 percent approval rate in 1980, to 27 percent in 2000, and 10 percent in 2008.

**Policy Approaches**

Reserved prison space for high-risk, violent offenders, and added to list of "violent crimes." Increased the felony property theft threshold from \$1,000 to \$2,000, thereby reducing numbers of low-level thefts handled as felonies.

Authorized alternatives to incarceration and provided for parole, work release and sentence credits for certain drug offenders. Narrowed the application of enhanced penalties for certain habitual drug offenders.

Required use of evidence-based practices for assessment and supervision of offenders in the community. Authorized administrative sanctions for probation and parole technical violations. Created a fee for drug convictions to fund expansion of drug court programs.

Authorized work release for certain inmates during the last three years of a prison term. Required mandatory reentry supervision for nonviolent offenders during the last 180 days of their sentences.

Required the parole board to use a risk and needs assessment tool for making parole decisions and setting parole conditions. Allowed parole for terminally ill, geriatric or permanently incapacitated inmates.

Source: *Principles of Effective Sentencing and Corrections Policy*, NCSL (2011)



Dear Members of the Senate Judiciary Committee,

Thank you for introducing Senate Bill 64 to address Alaska's rising corrections costs. Today, Alaska faces declining revenue and the need for extreme fiscal restraint. Last year, the Alaska Department of Corrections (DOC) opened the Goose Creek Correctional Center 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 full by 2016.

This creates an inescapable reality, Alaskans must start looking to build and fund another prison, or look at proven best practice approaches that more effectively address criminality, reduce recidivism and build safer and healthier Alaskan communities.

Currently, 2 out of 3 Alaskan prisoners return to custody within the first three years of release at a cost of \$159 dollars per inmate per day. SB 64 aims to determine how Alaskans can get better value for their criminal justice dollars spent by establishing the Alaska Criminal Justice Commission (ACJC). The ACJC will evaluate the effect of laws and practices on the criminal justice system to determine whether those laws and practices provide for maximum public safety while yielding the maximum benefit from our money spent.

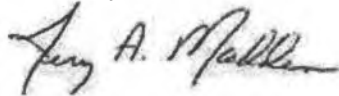
The other provisions in SB 64 are intended to bend the corrections cost curve, and to provide incentives and tools for offenders to help themselves successfully reintegrate once released from supervision. SB 64 updates the felony theft threshold, requires twice daily alcohol monitoring for certain offenders, creates swift and certain sanctions for probation and parole violations, lessens the statutory threshold required before a defendant is eligible to receive credit for time served in a residential substance abuse treatment program, grants limited licenses for individuals who have successfully completed a rigorous court-ordered treatment program, allows first-time DUI offenders to serve their mandatory 72-hour sentence on electronic monitoring, requires assessments for every DOC inmate in custody for 30 days or longer, and establishes the Recidivism Reduction Fund to support community re-entry services.

All of these statutory changes ascribe to the philosophy that has proven true in Texas and a whole host of tough on crime states: low-risk, nonviolent offenders can be effectively supervised in the community at a significantly lower cost, and will help keep prison beds available for violent criminals while holding non-violent offenders accountable for their actions. Research shows that implementation of evidence-based practices leads to an average decrease in crime of between 10% and 20%. Experience in other states further reveals that with the implementation of these evidence-based approaches, states have successfully cut corrections costs and reduced crime while at the same time improving offender outcomes and ensuring public safety.

SB 64 uses evidence-based practices and a cross-governmental approach to reform by 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. Evidence shows that it is possible for Alaska to cut our rising corrections costs without sacrificing public safety. Alaska has a great opportunity to join other states such as Texas, Georgia, and Ohio that have made similar reforms and realized the benefits of lower crime, lower costs, and lives redeemed.

I greatly appreciate your consideration of our perspective on the benefits of SB 64 and appreciate your leadership on this critical issue.

Sincerely,

A handwritten signature in cursive script that reads "Jerry A. Madden".

Jerry Madden

Senior Fellow, Right on Crime

Former Chairman, Texas House of Representatives Corrections Committee

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**PSEA statement of support: SB 64**

The Public Safety Employees Association supports raising the felony threshold limits for property crimes from \$500 to \$1000. PSEA's membership, consisting of municipal and state police officers and troopers, are tasked with the investigation of property crimes in the state. The monetary thresholds for all crimes against property has been unchanged, but the reality is today's economic situation is much different than it was several decades ago. \$500 damage in 2014 is relatively insignificant in comparison to the same crime committed in the 1970's. The mere theft of a cellular phone, a daily investigation facing our membership, is almost always a felony investigation.

PSEA believes raising the felony threshold for crimes against property from \$500 to \$1000 is reflective of inflation over the years. Those persons committing crimes such as stealing cellular phones should be held accountable, but not to such an extreme degree as to require years of incarceration and/or parole. Further, those charged with property crimes in excess of \$1000 should be held accountable, up to and including a substantial jail sentence. Prosecutors, with what will be a lower number of felony cases should be strongly encouraged to maintain these cases at the felony level up to the conviction and sentencing of the violator, and discouraged from lowering the charge to a misdemeanor in exchange for a guilty plea.

PSEA believes all property crimes should be prosecuted vigorously, but the statutes should be fair and reflective of current monetary levels for charging purposes.



**Sgt. Chris Gifford  
Juneau Police Department Employees Association  
PSEA Municipal Chapter President**



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fillymcc@aol.com  
www.partnersforprogressak.org

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Senator John Coghill

February 23, 2014

Alaska State Legislature  
State Capitol Room 119  
Juneau, AK, 99801

Dear Senator Coghill:

Partners for Progress much appreciates your leadership in the development of SB 64. Being involved in the process from the start, I saw you and the Judiciary Committee do an exemplary job of studying the issue by listening to testimony from a range of different credible sources from across the political spectrum. It was clear that Alaska is incarcerating many non-violent offenders much longer than necessary, and that this is a costly use of public money no matter where you stand on the subject. Alaska's sentencing legislation is due for reform! You have studied the issues in an open and inclusive manner and gained strong bi-partisan support for measures included in SB 64.

These measures, especially the creation of a Sentencing Commission, use of 24/7 sobriety monitoring for bail and probation, and strengthening the Probation and Parole Accountably with Certain Enforcement (P.A.C.E. Program) are all big steps forward.

Partners for Progress particularly appreciates the Judiciary Committee's recognition of the value of community-based re-entry programs to reduce recidivism. As you may know, last summer we started a transitional re-entry center located near the Anchorage Correctional Complex. Already the Center is intensely busy, serving 40 to 50 people daily. Partners for Progress operates this Center with two non-profit partners, the Alaska Native Justice Center and Nine Star Education and Employment. We coordinate with the Department of Corrections so former prisoners can go directly from prison to transitional housing provided through the Center. Close collaboration with our non-profit partners allows us to provide a strong combination of services to meet the range of needs of individuals with different risk levels, and to hold participants accountable for their own success. We hope that our successful re-entry center in Anchorage will serve as a model for community re-entry centers in other locations.

Over the interim Partners for Progress and the Alaska Therapeutic Court Alumni Group would like to work with you and members of the Judiciary Committee on a separate bill that would engage your knowledge of Smart Justice to address important provisions that would greatly benefit Alaska's felony level therapeutic courts. Again, we thank you and the Judiciary Committee!

Sincerely,

Janet McCabe  
Chair, Partners for Progress



# Nine Star Education & Employment Services

"Developing Alaska's Workforce"

**Administrative Office**  
730 I Street  
Anchorage, AK 99501  
(907) 279-7827  
F (907) 279-3299  
www.ninestar.com

February 27, 2014

The Office of Senator Coghill

RE: SB 64

**Work Services:**

5<sup>th</sup> Avenue  
125 W. 5<sup>th</sup> Avenue  
Anchorage, AK 99501  
(907) 644-8259

4<sup>th</sup> & Barrow  
208 E. 4th Ave  
(907) 433-8500

Tudor Road  
2217 E. Tudor Road, #4  
(907) 644-9933

Mountain View  
315 N. Price Street  
(907) 297-5422

**Other Locations:**  
High School Completion  
and Youth Employment  
730 I Street  
(907) 743-6074

Adult Education/GED  
English as a Second Language  
730 I Street  
(907) 279-7827

Returning Citizens' Center  
1220 E Street  
(907) 339-9960

Partners Reentry Center  
419 Barrow Street  
(907) 258-1192

Wasilla – Youth Employment  
300 N. Willow Street  
(907) 444-9481

Wasilla – Adult Education  
877 W. Commercial Drive  
(907) 352-2587

Dear Senator Coghill:

Nine Star Education and Employment Services serves young men and women ages 14-24. Some of these participants and their custodial parents would be influenced positively by SB 64. Our staff have had significant success in working with students to develop employment opportunities as well as obtain high school diplomas. Kids who are negatively affected by other school or institutional environments discover their ability to succeed in our Youth Employment and High School Completion Program in addition to our Reading, Math, and Writing classes as well as our English as a Second Language Program.

Our corporation functions under IRS section 501(c)(3). We favor SB 64 and endorse it as a legitimate piece of legislation, which will positively affect our young clients and their parents. We bring to this deliberation the opinions of our twelve-person board of directors in addition to those who have assisted us with community support to pay for our academic and workplace placement delivery for the youth we serve.

Sincerely,

David S. Alexander  
President

**Compassion. Excellence. Collaboration.**

Nine Star's mission, through education and employment services, is to help Alaskans get a job, keep a job, and advance on the job.



March 28, 2014

Senator John Coghill  
State Capitol Room 119  
Juneau AK, 99801

**RE: SB 64 – OMNIBUS CRIME/CORRECTIONS BILL**

Dear Senator Coghill:

Please accept this letter of support from the Mat-Su Health Foundation (MSHF) Board of Directors for SB 64, the Omnibus Crime/Corrections/Recidivism Bill. Mat-Su Health Foundation (MSHF) is the official business name of Valley Hospital Association, Inc., which shares ownership in Mat-Su Regional Medical Center. MSHF invests its assets into charitable works to improve the health and wellness of Alaskans living in Mat-Su.

The Mat-Su Health Foundation recently completed a Mat-Su Community Health Needs Assessment (CHNA), where we compiled all the valid and reliable health data on Mat-Su and then conducted 24 community meetings in 2013 with different stakeholder groups and across the Mat-Su Borough. Attendees at these community forums ranked the top five health issues in Mat-Su. *The top five ranked health issues were all behavioral health related. These issues included alcohol and substance abuse, child abuse, access to mental health care, depression and suicide and domestic violence and sexual assault.* In all likelihood, the prevalence of these behavioral health issues and their concern to the community is comparable to communities across Alaska.

Mat-Su is home to the new Goose Creek Correctional Center. The majority of those incarcerated suffers from behavioral health issues and will be released back into the Mat-Su community. We are seeing a meaningful shift across our nation away from incarceration and towards evidence-based smart justice strategies to protect public safety and help Alaskans successfully re-integrate back into our communities. We know the State is concerned about the capital and operating costs of Goose Creek. We need to rethink how we use our criminal justice dollars and the outcomes they yield. SB 64 does just that.

The Mat-Su Health Foundation in particular supports the sections of SB 64 that

- Increase the felony threshold for property related crimes
- Institute the 24/7 sobriety program
- Institute the P.A.C.E. program
- Require the Department of Corrections to conduct a risk-needs assessment on all offenders who have been sentenced to 30 days or more
- Establish a fund for treatment programs that contribute to reducing recidivism, and
- Allow credit for time served in residential substance abuse treatment programs.

We appreciate your advocacy on behalf of Alaskans who are challenged by these behavioral health issues and for your consideration of these smart justice strategies. We appreciate your help in creating a healthier Alaska.

Sincerely,

Elizabeth Ripley  
Executive Director  
Mat-Su Health Foundation

# JUNEAU REENTRY COALITION

February 27, 2014

Dear Chairman Coghill,

Thank you for introducing Senate Bill 64 to address Alaska's rising corrections costs. Today, Alaska faces declining revenue and the need for extreme fiscal restraint. As you know, last year the Alaska Department of Corrections (DOC) opened the Goose Creek Correctional Center 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 full by 2016.

This creates an inescapable reality, Alaskans must start looking to build and fund another prison, or look at proven best practice approaches that more effectively address criminality, reduce recidivism and build safer and healthier Alaskan communities.

Currently, 2 out of 3 Alaskan prisoners return to custody within the first three years of release at a cost of \$159 dollars per inmate per day. SB 64 aims to determine how Alaskans can get better value for their criminal justice dollars spent by establishing the Alaska Criminal Justice Commission (ACJC). The ACJC will evaluate the effect of laws and practices on the criminal justice system to determine whether those laws and practices provide for maximum public safety while yielding the maximum benefit from our money spent. The other provisions in SB 64 are intended to bend the corrections cost curve, and to provide incentives and tools for offenders to help themselves successfully reintegrate once released from supervision.

All of these statutory changes ascribe to the philosophy that has proven true in Texas and a whole host of tough on crime states: low-risk, nonviolent offenders can be effectively supervised in the community at a significantly lower cost, and will help keep prison beds available for violent criminals while holding non-violent offenders accountable for their actions. Research shows that implementation of evidence-based practices leads to an average decrease in crime of between 10% and 20%. Experience in other states further reveals that with the implementation of these evidence-based approaches, states have successfully cut corrections costs and reduced crime while at the same time improving offender outcomes and ensuring public safety.

SB 64 uses evidence-based practices and a cross-governmental approach to reform by 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. Evidence shows that it is possible for Alaska to cut our rising corrections costs without sacrificing public safety. We can't afford to do nothing.

Juneau Reentry Coalition strongly supports SB 64 and appreciates your leadership on this issue.

Sincerely,



Kathryn Chapman, MSW

Chair



2/28/2014

Re: SB 64- Alaska

The research regarding time served in a treatment program with restrictions finds recidivism is significantly reduced because addiction is addressed and, perhaps more importantly, offenders have the opportunity to raise educational levels, gain job skills and jobs, reunite with family, and learn to engage in pro-social activities. Two elements, both contained in SB 64, are necessary to this success: that the justice system clearly restricts certain unhealthy activities while the person is in treatment, and that the treatment takes place over a significant number of months and involves comprehensive and continual treatment.

Janus of Santa Cruz has been successful in treating criminal justice system clients through California's PROP 35; a state corrections program known as SASCA; and more recently AB 109, a program aimed at low level non-violent offenders, many of whom have significant histories with the justice system.

The recommended Janus program is 12 months long and based on a series of 'step downs'. Following a comprehensive assessment of all of the participant's needs regarding addiction, mental health, and medical needs, the first level is a thirty day residential program that involves group and individual counseling and education. Families are also included in counseling. The program at this level is firmly focused on helping the participant understand her/his addiction and build a plan for lifetime sobriety. Participants are then 'stepped down' to thirty days of day treatment which continues the same focus as residential, but the participant lives in a Janus Sober Living Environment (SLE), a group home that houses a number of recovering addicts and alcoholics focused on recovery. This phase is followed by the Intensive Outpatient Program (IOP), a 12 week long counseling and education program that meets for 3 hours 3 times per week. During this time, and for the remaining 7 months the participant lives in the SLE, attends weekly Aftercare counseling, and must be attending school and/or developing job skills and seeking employment.

During this time in treatment participants are tested both randomly and for cause. Corrections or probation and parole can receive weekly reports on the participants.

<http://scienceblogs.com/thepumphandle/2013/05/24/study-sending-nonviolent-drugs-offenders-to-treatment-instead-of-prison-saves-money/>



tel 907.793.3600  
fax 907.793.3602  
web CITCI.org

March 3, 2014

Senate Finance Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Senate Finance Committee Members:

Cook Inlet Tribal Council (CITC) supports passage of Senate Bill 64 (the crime bill, sponsored by the Senate Judiciary Committee), and offers the following comments.

This legislation provides important new innovations to turn around Alaska recidivism rates, save money and make the state safer. CITC has been operating Chanlyut, a rehabilitation program for men recently released from prison, homelessness or substance abuse, for the past six years. Chanlyut is modeled on the successful Delancey Street program from California, and operates on the principle that learning a strong work ethic and responsibility for others is key to turning lives around, without the use of professional staff. Chanlyut is a 24/7 residential program located in Anchorage. Since the start of the program, CITC has saved the state millions of dollars by housing residents who otherwise would have been in a corrections facility, and has many success stories. Of the residents who have entered Chanlyut since January 2009, 70% have not reoffended after leaving the program. Key to the positive impact of the program is both the work component and complete responsibility each man has for the maintenance of the house and the program. Given CITC's experience, the opportunities offered in CSSB 64 (Jud) align with Chanlyut and its operations.

Please let us know if you have any questions or if CITC can provide further assistance.

Sincerely,



Gloria O'Neill  
President/CEO

COOK INLET TRIBAL COUNCIL  
3600 SAN JERONIMO DRIVE  
ANCHORAGE, ALASKA 99508



# Catholic Social Services

3710 East 20th Avenue, Anchorage, AK 99508 • (907) 222-7300 • fax (907) 258-1091 • [www.cssalaska.org](http://www.cssalaska.org)

January 31, 2014

Senator John Coghill  
Alaska State Legislature  
State Capitol Room 119  
Juneau AK, 99801

Dear Chair Coghill and members of the Senate Judiciary Committee,

Thank you for introducing Senate Bill 64 to address Alaska's rising corrections costs while building safer and healthier Alaskan communities. Catholic Social Services (CSS) supports SB 64 because we need better incentives and tools for offenders to successfully reintegrate when they are released from prison. We witness first-hand the impact of our current revolving door prison system where 2 out of 3 Alaskan prisoners return to custody within the first three years of release because their first stop is often Brother Francis Shelter in Anchorage, if they are released in south-central Alaska.

People getting out of prison have a very difficult time – they are often released without any resources and gaining employment and securing housing, due to their criminal record, is challenging. CSS whole heartedly supports key components of the bill that would allow for twice daily alcohol monitoring for certain offenders, the ability to receive credit for time served in a residential substance abuse treatment programs, and the establishment of a Recidivism Reduction Fund to support community re-entry services.

SB 64 is sound legislation because it uses evidence-based practices and a cross-governmental approach to reform by focusing resources on high-risk offenders and supporting mandatory supervision and treatment in the community. If it is possible to cut our rising corrections costs without sacrificing public safety we should absolutely try it.

Catholic Social Services supports SB 64 and thanks you for your leadership on this critical issue.

Sincerely,

Susan Bomalaski, Ph.D, LPC  
Executive Director

CC: State Senate Members Alaska Legislature  
Archbishop Roger Schwietz



Dan Sullivan,  
Mayor

# ANCHORAGE POLICE DEPARTMENT

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



Service since 1921

April 4, 2014

Senator John Coghill, Chairman  
Senate Judiciary Committee  
State Capitol Building, Room 119  
Juneau, AK 99801-1182

Senator Coghill:

The Municipality of Anchorage supports passage of Senate Bill 64, the Omnibus Crime and Corrections Bill. Much is contained in this bill. I would like to concentrate on three points of particular interest to a municipal police department.

**PACE:** The Anchorage Police Department began studying a Hawaii version of this concept in 2010, and implemented it on a local level in about 2011. The program was easy to operate from the standpoint of the police department, and showed early successes. We believe there is much promise in PACE, and would like to see the program institutionalized statewide.

**24X7:** The Anchorage Police Department also participated in a 24X7 pilot project. This experiment was a short-lived but worthwhile effort that was undertaken in about 2012. It lasted a year or so until funding ran out. 24X7 can be used in pre-conviction or post-conviction applications, and can be narrowly scoped or broadened to include almost any crime with a nexus to alcohol. Thus, 24X7 is a very adaptable concept which has great potential over time as we learn how to maximize its benefits. We learned a great deal during our pilot, and are enthusiastic at the prospects of such a program running on a sustainable basis in our city and state.

**Felony Theft Threshold:** While raising the felony threshold for thefts and vandalism may be controversial for some, an adjustment is fair if only from the standpoint of inflation. The statutes have been static on this point for well over 30 years, and cases that were standard misdemeanor fare when I began in this business are now felonies—at least technically so. It is unclear to me how many of these cases actually result in felony convictions.

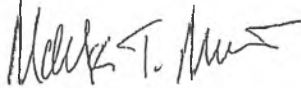
In Anchorage we have a Municipal Prosecutor. This office is willing and very able to take the shift in load from the District Attorney should the threshold be raised. The Municipal Prosecutor deals exclusively in misdemeanors. It is likely that these new misdemeanor property cases will get more attention from the Municipal Prosecutor than they did from the DA, because they no longer have to compete with major felonies for prosecutor time. In Anchorage, I don't think a

reasonable increase in the felony threshold will negatively impact our mission, and it may well ease any backlogs at the DA's office.

I know there has been a lot of discussion on what the new threshold should be, and that the target value has been adjusted in different versions of the bill. I, personally, think \$1,000 is a reasonable number, but feel we could work with successfully with anything within a couple hundred dollars on either side of that value.

Thank you for the opportunity express my opinions of this bill. I am happy to support it.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark T. Mew". The signature is written in a cursive style with a long horizontal stroke at the end.

Mark T. Mew  
Chief of Police

# 28<sup>th</sup> Alaska State Legislature

**Senator John Coghill, Chairman**  
State Capitol Building  
Room 119  
Juneau, AK 99801-1182  
(907) 465-3717



**Senator Lesil McGuire**  
**Vice-Chair**  
State Capitol Building  
Room 103  
Juneau, AK 99801-1182  
(907) 465-2995

## Senate Judiciary Committee

### SPONSOR STATEMENT Omnibus Crime/Corrections Bill Version D

Senate Bill 64 implements proven-practices to reduce recidivism and cut the cost of corrections while maintaining public safety.

**24/7 Sobriety Program:** In an effort to reduce recidivism, a 24/7 Sobriety program is proposed for certain offenders during pre-trial or on probation. Hallmarks of the program include twice-a-day alcohol testing and swift and certain punishment if alcohol is consumed. 24/7 Sobriety is modeled after similar evidence-based programs in South Dakota, North Dakota, and Montana that have proven successful in reducing drunk driving and domestic violence.

**Criminal Justice Commission:** Establishes a commission to review, analyze and evaluate the effect of laws and practices within the state's criminal justice system.

**Probation and Parole Accountability with Certain Enforcement (P.A.C.E.):** The Commissioner shall establish a drug testing program for felons who are at high risk of violating their conditions of probation or parole. The program relies on swift and certain punishments to deter a probationer or parolee from using drugs and alcohol or otherwise violating their probation requirements.

**Recidivism Reduction Fund:** To address Alaska's rate of recidivism (2/3 of offenders return to prison within 3 years), a fund established in the Department of Corrections will grant money to transitional re-entry programs. This will help supply funds to residential treatment programs for those recently released from prison. Programs must include work placement, case management, and sober living.

**Felony Theft Threshold:** This bill increases the felony theft threshold from \$500 to \$750. The threshold was established in 1978 and has never been adjusted for inflation.

**Custodial Interference:** This bill creates a criminal offense of custodial interference in the second degree when a non-relative without custodial rights attempts to take or keeps a child from a lawful custodian. Currently, non-custodians who try to take a child can only be charged with criminal trespass. This section closes the loophole and creates a more serious criminal offense for attempted child abduction.

**Credit for Time Served in Residential Treatment:** A person will receive credit against a sentence of imprisonment for time spent in a residential treatment facility. Participants are restricted to the grounds of the facility unless permitted to leave for rehabilitative purposes that are limited to time & purpose. This incentivizes people to seek and pay for their own treatment.

**Expanded Risk-Needs Assessments:** The Department of Corrections would be required to conduct risk-needs assessments on all offenders incarcerated for 30 days or greater. This will improve the ability to link inmates to resources, reduce recidivism and improve policymakers' understanding of the offender population.

# The TRUST

The Alaska Mental Health Trust Authority

March 1, 2014

Senator John Coghill  
State Capitol Room 119  
Juneau AK, 99801

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**RE: SB 64 – OMNIBUS CRIME/CORRECTIONS BILL**

Dear Senator Coghill,

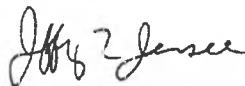
The Alaska Mental Health Trust Authority (The Trust) appreciates your leadership in identifying evidenced based smart justice strategies to protect public safety and help Alaskans successfully re-integrate back into our communities. Trust beneficiaries are overrepresented in all parts of the criminal justice system – in their contact with law enforcement, in the courts, in our jails, and in parole and probation caseloads. The problem affects both rural and urban communities of our state.

The Alaska Department of Corrections opened the Goose Creek Correctional Center at a cost of \$250 million to Alaskans with an annual operating budget of \$50 million. If the state's correctional population continues to grow, the state's prisons will be full by 2016. At a time when our state budget faces declining revenue, making the best use of criminal justice dollars is critical to the justice reinvestment process and to improving the overall safety and wellness of our state. The Trust supports SB64; in particular,

- the sections increasing the felony threshold for property related crimes,
- the sections instituting the 24/7 sobriety program,
- the sections instituting the P.A.C.E. program,
- the section requiring the Department of Corrections to conduct a risk-needs assessment on all offenders who have been sentenced to 30 days or more,
- the section establishing a fund for treatment programs that contribute to reducing recidivism, and
- the section allowing credit for time served in residential substance abuse treatment programs.

We appreciate your advocacy on behalf of Alaskans in particular those who are Trust beneficiaries.

Sincerely,



Jeff Jessee, CEO

**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 25, 2013

Senator John Coghill  
Alaska Capitol Room 119  
Juneau, Alaska 99801

Re: SB64 – Omnibus Crime Bill

Dear Senator Coghill,

The Alaska Mental Health Board and Advisory Board on Alcoholism and Drug Abuse support SB 64 and the effort to reduce recidivism through increased access to substance use disorder treatment and recovery supports. Promoting screening, assessment, treatment, and recovery supports will prevent individuals who experience substance use disorders from committing further offenses related to substance abuse.

The 24/7 Sobriety Program and the PACE Program both offer effective supervision of people convicted of alcohol- and drug-related offenses. Estimates show a large percentage of Alaska's prison population experience a substance use disorder. People exiting incarceration are often released without access to support to maintain their sobriety after completing institutional substance abuse treatment. The 24/7 and P.A.C.E. programs will help incentivize maintaining sobriety, since the swift consequence of testing positive for drugs or alcohol will result in immediate consequences.

Screening individuals in prison for fetal alcohol spectrum disorders and other brain-based disorders will help identify and support vulnerable offenders who are at risk of harm, exploitation, or recidivism because of their disability. It will support referral to appropriate services and supports inside and out of prison that will help prevent further offenses.

We appreciate that SB 64 includes a Recidivism Reduction Fund to provide funding for these efforts. Our current community capacity is not sufficient to meet the need for substance use disorder treatment, and that capacity continues to erode when behavioral health grant funding remains flat or is decreased year after year. We hope that allocating funding to programs that will reduce recidivism will help shore up these services.

Thank you for all your work on behalf of Alaskans, especially those who experience disabilities.

Sincerely,

J. Kate Burkhart  
Executive Director



February 28, 2014

Senator John Coghill, Jr.  
Alaska State Legislature  
120 4<sup>th</sup> St., State Capitol, Room 3  
Juneau, AK 99801-1182

Akeela Administrative Office  
360 West Benson Blvd., Suite 300  
Anchorage, AK 99503-3953  
907-565-1200  
Fax 907-258-6052

Gateway Center for Human Services  
3050 Fifth Avenue  
Ketchikan, AK 99901  
907-225-4135  
Fax 907-247-4135

Substance Abuse Programs:  
Akeela House Residential  
907-561-5266

Stepping Stones Residential  
907-569-0097

KAR House Residential  
907-225-3510

Akeela Co-Ed Outpatient  
907-562-7483

Women & Families Outpatient  
907-279-5000

Gateway Outpatient  
907-225-4125

D.O.C. Prison Programs  
907-328-9196

Mental Health Programs:  
Anchorage Family Mental Health  
907-562-7438

Gateway Outpatient  
907-275-4135

Gateway Drop Inn Center (CSP)  
907-228-6534

Prevention/Intervention Programs:  
Anchorage - 907-565-1200

Alcohol Safety Action Program (ASAP)  
Kenai - 907-283-6586  
Ketchikan -- 907-228-6504

www.akeela.org  
E-Mail: info@akeela.org

Membership:  
Therapeutic Communities of America

Dear Senator Coghill:

This letter serves to demonstrate Akeela's support of SB 64.

Nearly two thirds of all Alaska inmates reoffend within three years of being released from prison. Inmates often reoffend because of the failure of the correctional system to habilitate – not rehabilitate – prisoners. These individuals have often never been habilitated; therefore, the term “rehabilitate” does not appropriately depict the services that this population desperately needs.

An essential need of this population, one that too often the correctional system is not equipped to meet, is behavioral health treatment to address the underlying issues that precipitated their crimes. These individuals have addiction issues and mental health problems that are not being dealt with while they are behind bars. In fact, according to the Indian Law and Order Commission report, more than 95 percent of all crimes committed in rural Alaska can be attributed to alcohol. Therefore, by not providing these individuals with the tools that they need to be successful, we are setting them up for failure.

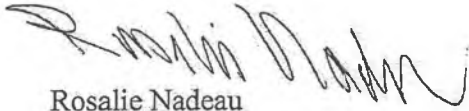
Furthermore, community based substance abuse and culturally appropriate reentry services are desperately lacking in Alaska. If not treated, and not habilitated, this population will continue to reoffend and the recidivism rate in Alaska will continue to rise. Reentry programs are intended to assist offenders in acquiring the life skills needed to succeed in their communities and become law-abiding citizens. The implementation and use of prisoner reentry programs will, in turn, reduce the overall occurrence of offender recidivism. This will result in safe communities, more productive citizens, and less money spent on reoffenders.

SB 64 not only encourages residential substance abuse treatment in lieu of incarceration by giving individuals credit against time served in a residential

treatment facility , but it also creates a recidivism reduction to fund grant money for transitional re-entry programs.

We ask for your thoughtful consideration of SB 64.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosalie Nadeau". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Rosalie Nadeau  
Chief Executive Officer  
Akeela, Inc.

# Alaska Dispatch

News and voices from the Last Frontier

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

[Home](#) > SB 108: A simple, sensible, fair solution for restricting access to criminal records

Mary Geddes

April 10, 2014

Senate Bill 108, introduced by Sen. Fred Dyson, provides a simple and sensible answer to an important question: What should happen with the record of a state court criminal case when no convictions were obtained and the case is now closed? More specifically, when a defendant was acquitted of all charges in a case, or when all criminal charges in a case have been dismissed by the prosecutor, or when a defendant was acquitted of some of the criminal charges in a case and the remaining charges were dismissed.

Under the current language of SB 108, the approach is straightforward. Four months after such a case is closed, the court record is designated as confidential. This means, simply, that the court record is no longer offered for general public viewing.

In many states, expungement is an available remedy for a nonconviction record, but Alaska does not have an expungement statute. SB 108 provides a less drastic remedy than expungement. SB 108 would not require the destruction of court records. Nor does it impede or unnecessarily burden law enforcement.

Does a court system have an ongoing obligation to continually publish on the Internet the existence of a nonconviction record and allow unrestricted public access to the record long after it is closed? No. The fact of an arrest or charge, without conviction, is not evidence and not admissible to prove wrongdoing. The Legislature has long recognized that not every piece of court-maintained information is accessible by the general public. Not probate records. Not adoption records. Not records of civil commitment proceedings concerning the decision whether to institutionalize mentally ill people.

How often does it happen that a criminal case filing ends with a dismissal and no conviction? More frequently than you might imagine. According to the Alaska court system, approximately 7,563 misdemeanor and 945 felony cases were dismissed by state prosecutors in FY13. In addition, approximately 100 felony and misdemeanor cases were closed as a result of acquittals.

The reason for making nonconviction court records confidential is a good one. It avoids an unnecessary risk of harm to a person. Even though we all know it should not make any difference, just the information that there once was a criminal accusation can limit a person's economic opportunity and severely damage a reputation. Making such records confidential, by contrast, provides a meaningful end to a criminal process.

Perhaps there is no better illustration of the personal impact of criminal litigation for us Alaskans

than the case of Sen. Ted Stevens. After 41 years of faithful service, he was charged with crimes and convicted. His conviction was later thrown out because of prosecutorial misconduct, and the case was entirely dismissed. Let's suppose for a moment that Sen. Stevens had been charged in state court. Even after a dismissal of all charges, public court records would forever list him -- really, brand him -- as a "criminal defendant." Why is that fair? Why should any citizen be treated that way for all time when the government has closely evaluated the evidence and seen fit to dismiss the charges, or when a defendant has been acquitted?

Taylor Winston, an employee of the state Office of Victims' Rights, recently wrote in Alaska Dispatch concerning SB 108. Ms. Winston opposes the idea of making closed nonconviction records confidential for reasons stated in her [column on April 9, 2014](#) [1]. Under such a theory of justice, however, a person once charged of a crime should be forever considered "not innocent," even though prosecutors and courts lack any constitutional authority to make such a determination. Neither prosecutors acting alone nor a grand jury has a "good enough" fact-finding process such that their indictments should forever stand as public monuments. Let's remember that a grand jury meets in secret with the prosecutor, and that the accused and his lawyer aren't allowed in. Not only did the Founding Fathers reject the Star Chamber as a means of determining criminal responsibility, they also imposed no continuing penalty, no loss of privilege and certainly no lifetime loss of privacy for those who had been once charged but not convicted of a crime.

Ms. Winston argues that the information provided on the court's electronic website (showing information on open and closed criminal cases) is "objective" and provides information the public can use to protect itself. In a letter she submitted to the Legislature, she provided an example: She said she would check the website to help make a decision on a babysitter. This is a great example as to why SB 108 should be enacted. The website warns the reader as to its unreliability and prejudicial effect and yet people still rely on it, presumptively, for divining someone's trustworthiness.

A zealous advocate, Ms. Winston seems genuinely concerned, but her dire prediction that "victims of domestic violence, sexual assault, and child sexual abuse, and our communities will suffer" under SB 108 is certainly not justified by the very modest reach of this bill.

Senate Bill 108 would not block any police, prosecutor or judge from access to closed nonconviction court records. Any party to a closed case still has automatic access. Because Alaska's statutes and its constitution now also require the criminal justice system to accommodate the rights of crime victims, it is almost certain that a complaining witness would also have automatic access. Access by any other individuals can be obtained with the written permission of the court if the court finds that the requestor's interest outweighs the potential harm to the person or interests being protected. In making this call, the court will consider (1) risk of injury to individuals; (2) individual privacy rights and interests; (3) proprietary business information; (4) the deliberative process; or (5) public safety. Finally, it should be noted that SB 108 does not impose any burdens of secrecy or non-publication on persons or companies who obtain the record.

Senate Bill 108 is a neat, nifty way to be fair to defendants whose cases are entirely dismissed -- like Sen. Stevens -- without undermining law enforcement or prosecutorial functions. Let your state representative know that SB 108 should pass.

Currently a stay-at-home mom, **Mary Geddes** is an Alaska attorney with 28 years of criminal law experience.

*The views expressed here are the writer's own and are not necessarily endorsed by Alaska Dispatch, which welcomes a broad range of viewpoints. To submit a piece for consideration, e-mail [commentary\(at\)alaskadispatch.com](mailto:commentary(at)alaskadispatch.com) <sup>[2]</sup>.*

**Source URL:** <http://www.alaskadispatch.com/article/20140410/sb-108-simple-sensible-fair-solution-restricting-access-criminal-records>

**Links:**

[1] <http://www.alaskadispatch.com/article/20140409/keep-all-alaskas-criminal-records-public>

[2] <mailto:commentary@alaskadispatch.com>



**Interior Alaska – The “Place” To Do Business**

100 Cushman St., Suite 102 | Fairbanks, Alaska 99701-4665  
Phone (907) 452-1105 | fax (907) 456-6968 | www.FairbanksChamber.org

April 10, 2014

Honorable Alan Austerman & Bill Stoltze  
Co-Chairs, House Finance Committee  
Alaska State Capitol  
Juneau, AK 99801-1182

**RE: Letter of Support for Senate Bill 64: Omnibus Crime/Corrections/Recidivism**

Dear Representatives Austerman & Stoltze and members of the House Finance Committee,

The Greater Chamber of Commerce represents over 700 businesses and organizations in the greater Fairbanks area and our mission is to ensure a healthy economic environment. As a member-driven organization the Chamber advocates for a healthy economic environment and promotes the greater Fairbanks area as an attractive place for business and community.

The Chamber supports SB 64, the Omnibus Crime/Corrections/Recidivism bill, recognizing that fiscally responsible efforts by the legislature promote a healthy community and a healthy workforce. While we understand that SB64 requires an upfront financial investment, we believe the investment to be worthwhile as the State of Alaska will realize substantial cost-savings in the future.

Provisions in SB 64 are aimed at reducing Alaska’s high recidivism rates by providing for a Recidivism Reduction Fund (\$500k) and by re-establishing a Criminal Justice Commission. The bill also increases public safety measures and decreases costs to the state by providing alternatives to mega prisons, increasing the threshold for felony theft, and providing an innovative, yet proven drug and alcohol testing program for paroled persons.

The Greater Fairbanks Chamber is pleased to support social policies that are fiscally sound, thoroughly vetted, and responsive to a changing budget environment. SB 64 manages to meet these criteria without reducing services or public safety initiatives; as such the Chamber offers support of this bill.

Sincerely,

**THE GREATER FAIRBANKS CHAMBER OF COMMERCE**

Steve Lundgren  
Board of Directors, Chair

Lisa Herbert  
Executive Director

Cc: Senate Judiciary Chair Senator Coghill

**I N V E S T O R S**

**D I A M O N D**

- BP Exploration
- ConocoPhillips
- ExxonMobil
- Fairbanks Daily News-Miner
- Fairbanks Memorial Hospital & Denali Center
- Flint Hills Resources Alaska
- Mt. McKinley Bank

**P L A T I N U M**

- Alyeska Pipeline Service Co
- Doyon, Limited
- Fred Meyer Stores
- Golden Heart Utilities
- Wells Fargo Bank Alaska

**G O L D**

- Birchwood Homes
- Carlson Center
- Denali State Bank
- Design Alaska
- Doyon Utilities LLC
- First National Bank Alaska
- GCI
- Kinross Fort Knox Mine
- Lynden
- Northrim Bank
- Sumitomo Metal Mining Pogo LLC
- Usibelli Coal Mine
- WAL-MART Stores, Inc.

**S I L V E R**

- Alaska Airlines
- Alaska Communications
- Alaska Railroad
- Alaska USA
- Dr. Christopher Henry – Henry Orthodontics
- Everts Air Cargo, Everts Air AK
- Exclusive Paving/Univ. Redi-Mix
- Fairbanks Natural Gas
- Flowline Alaska
- General Teamsters Local 959
- Golden Valley Electric Association
- Hale & Associates, Inc.
- JL Properties, Inc.
- Key Bank
- MAC Federal Credit Union
- Personnel Plus
- Sam’s Club
- Shell Exploration & Production Co.
- Spirit of Alaska FCU
- Tanana Valley Clinic
- TDL Staffing
- Tower Hill Mines-Livengood Gold Project
- University of Alaska Fairbanks
- Verizon Wireless
- Viviamore Companies
- Yukon Title Company



# Senate Bill 64

Omnibus Crime/Corrections/Recidivism Bill

To improve public safety, slow the growth of Alaska's prison population, and save money.

# Goose Creek Correctional Center

Completed in 2011

\$250 million

+

\$50 million a year to operate

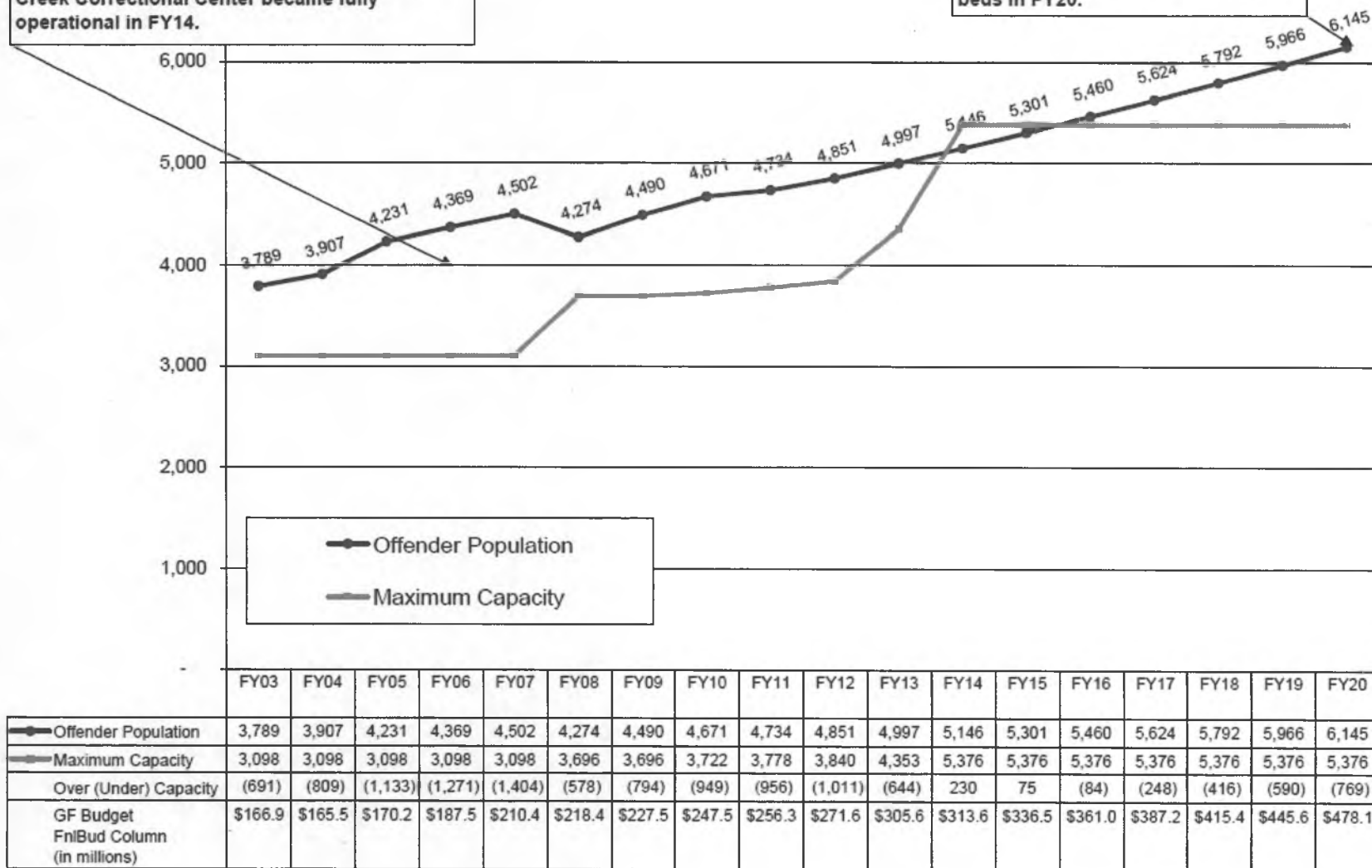
Cost per Day per Inmate = \$159

\$58k per year

## Alaska Institutional Inmate Population FY03-FY20

Excess institutional inmate population was contracted to out-of-state prisons until Goose Creek Correctional Center became fully operational in FY14.

Institutional inmate population is projected to exceed capacity by 769 beds in FY20.



\* FY14 enacted budget (does not include management plan adjustments)

\*\*FY15-FY20 budget projections based on DOC annual average GF growth rate of 7.3%

Based on the approximate 3% population growth rate experienced between FY03-FY12, the institutional inmate population is expected to reach 6,145 by FY20. 3

# Sentencing and Corrections Reforms in Justice Reinvestment States

		2013				2012					2011					2010			2009		2008					2007			Total			
Policy Reform		OR	SD	WV	KS	MO	DE	GA	PA	HI	OK	AR	KY	AL	LA	NC	OH	SC	NH	MI	IL	WI	AZ	PA	CT	RI	VT	KS		NV	TX	
Sentencing/Pretrial	Reclassify/redefine drug offenses	✓	✓					✓				✓	✓			✓	✓															7
	Reclassify/redefine property offenses	✓	✓					✓				✓						✓	✓												6	
	Establish/expand presumptive probation for certain offenses	✓	✓							✓			✓					✓	✓										✓		6	
	Revise sentencing enhancements							✓					✓					✓	✓												4	
	Revise mandatory minimums	✓						✓		✓					✓			✓	✓												5	
	Reduce crack-powder cocaine disparity																		✓	✓											2	
	Revise sentencing guidelines/establish sentencing commission																					✓				✓					3	
	Improve pretrial release systems			✓			✓			✓			✓										✓								4	
	Establish presentence assessment			✓			✓	✓			✓		✓															✓			6	
	Revise drug-free school zone												✓						✓												2	
	Authorize risk-reduction sentencing																✓	✓							✓						3	
Release	Revise parole hearing/decision/eligibility standards				✓					✓		✓	✓					✓	✓	✓					✓	✓				10		
	Expand good/earned-time prison credits /re-entry leave	✓			✓		✓	✓				✓	✓		✓	✓	✓	✓								✓	✓			11		
	Establish/expand geriatric or medical parole											✓			✓			✓		✓										4		
Community Corrections	Establish earned discharge (probation/parole)	✓	✓		✓	✓	✓					✓	✓					✓	✓				✓							10		
	Authorize performance incentive funding	✓							✓			✓	✓					✓	✓		✓						✓			8		
	Authorize administrative jail sanctions			✓	✓	✓	✓					✓	✓		✓	✓		✓	✓												9	
	Authorize graduated responses for violations		✓	✓	✓		✓	✓	✓			✓	✓		✓	✓		✓	✓									✓	✓		13	
	Cap revocation time				✓	✓	✓	✓	✓	✓				✓		✓															8	
	Establish/improve electronic monitoring			✓				✓				✓	✓		✓												✓				6	
	Establish mandatory reentry supervision			✓	✓							✓	✓		✓	✓		✓	✓												8	
	Require/improve risk-needs assessment	✓	✓	✓			✓	✓		✓		✓	✓		✓	✓		✓	✓		✓	✓				✓					15	
	Require evidence-based practices		✓				✓	✓		✓		✓	✓		✓	✓		✓	✓			✓				✓					11	
	Reform/pilot specialty courts (HOPE, drug courts, etc.)	✓	✓	✓				✓				✓	✓	✓		✓						✓									8	
	Reduce probation terms									✓																	✓				2	
Improve interventions such as sub abuse/mental health/CBT		✓	✓	✓		✓											✓	✓			✓			✓		✓	✓	✓		13		
Sustainability	Require fiscal impact statements	✓	✓									✓						✓			✓										5	
	Establish leadership/board qualification requirements														✓			✓													2	
	Require data collection/performance measurement	✓	✓	✓	✓			✓		✓	✓	✓	✓		✓	✓		✓		✓	✓										15	
	Establish measures to streamline/improve efficiency of system		✓	✓				✓	✓		✓	✓	✓		✓			✓			✓			✓	✓						11	
	Improve restitution/victim notification systems		✓						✓	✓								✓													4	
Establish oversight council	✓	✓			✓		✓											✓												5		

**Notes:** The Justice Reinvestment Initiative is supported by The Pew Charitable Trusts and the U.S. Department of Justice, Bureau of Justice Assistance. Intensive technical assistance to the states is provided by Pew, the Council of State Governments Justice Center, the Vera Institute of Justice, and other partners. Reforms include those enacted in legislation and by executive or court order. Reforms in GA were enacted in 2012 and 2013; LA reforms in 2011 and 2012; CT reforms in 2004 and 2008. Policy reforms in each state were developed by bipartisan, inter-branch working groups and based on analyses of the states' specific criminal justice challenges. The number of policy reforms in a state does not correspond with the impact on prison populations or costs. For more details about policies, impacts, and reinvestments, see individual state pages at [www.pewstates.org/publicsafety](http://www.pewstates.org/publicsafety).



# Goals

- 1) Improve Public Safety
- 2) Reduce Recidivism
- 3) Reduce Cost

# DOC 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.

## Department of Corrections - Key Performance Indicators

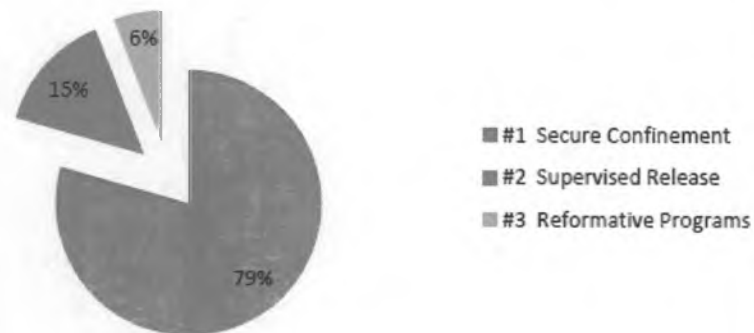
	FT Positions	Total Funds
#1 Secure Confinement	1591	265,134,400.00
#2 Supervised Release	189	49,126,200
#3 Reformatory Programs	81	19,806,200
<b>Total:</b>	<b>1861</b>	<b>334,066,800.00</b>

Source: Office of Budget and Management, 2013

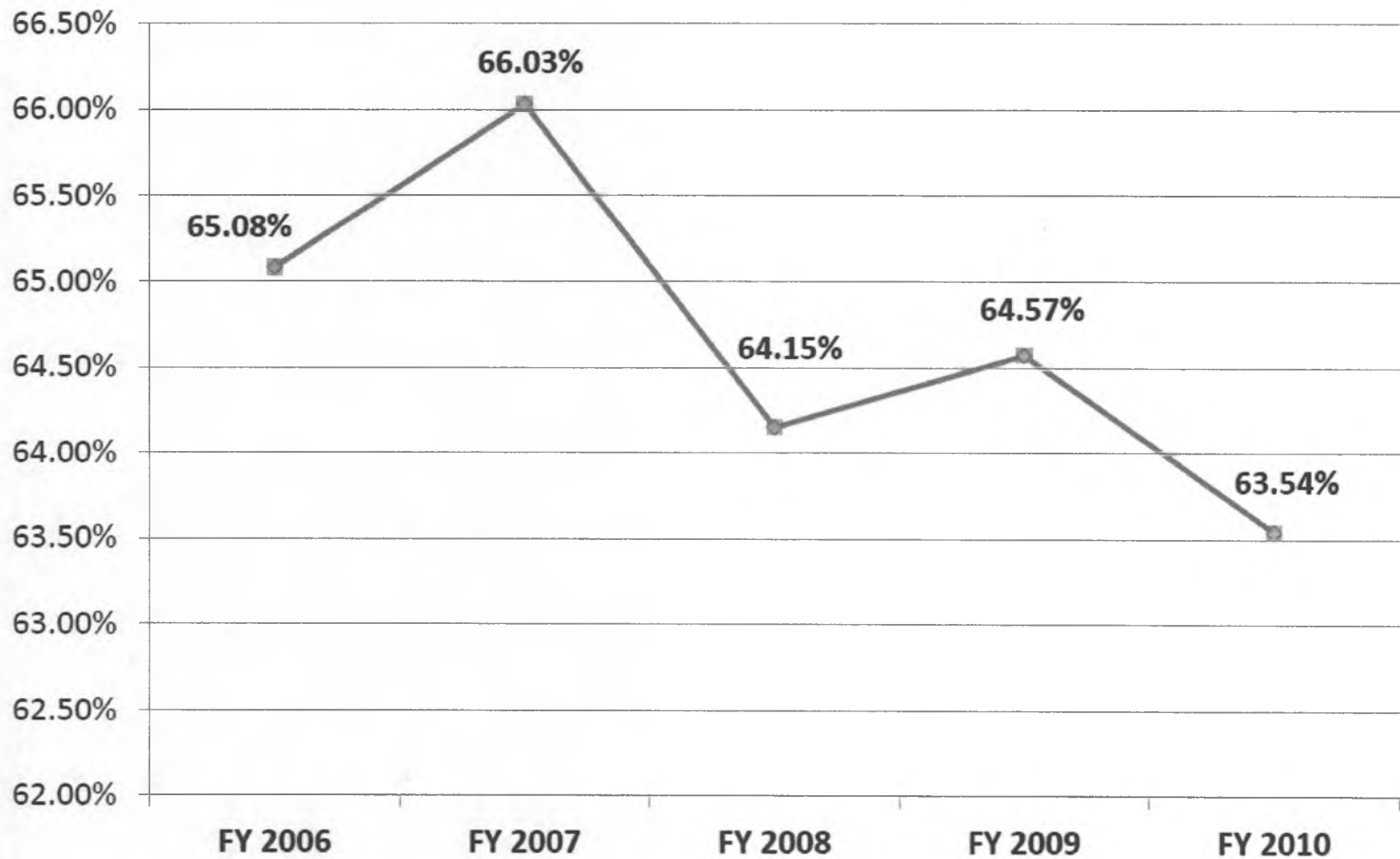
### Positions by Performance Indicator



### Funding by Performance Indicator



# 1.5% drop in Recidivism



# Bill Components

- 24/7 Sobriety
- Alaska Criminal Justice Commission
- Probation Reform (P.A.C.E.)
- More Risk-Needs Assessments
- Recidivism Reduction Fund
- Limited Licenses
- Stricter penalties for attempted abduction
- Adjusting the Felony Theft Threshold
- Incentivizing Residential Treatment
- PTSD Mitigating Factor
- Confidentiality of Criminal Records



Sections 2-4

# **CUSTODIAL INTERFERENCE**

# Custodial Interference

- In some cases, when an attempted child abduction occurs, it does not quite reach the level required to charge “attempted kidnapping”
- Currently, if a non-relative represents themselves as the custodian of a child with the intent to abduct that child, the person can only be charged with criminal mischief.
- Sections 2-4 establish it as a crime of custodial interference in the 2<sup>nd</sup> degree – a more severe crime than the only currently available option, which is criminal mischief.



Sections 5-20

# FELONY THEFT THRESHOLD

Five hundred dollars in 1978 is equal  
to \$1800 today.

\$500

\$1800

36 years

of inflation

1978

2014

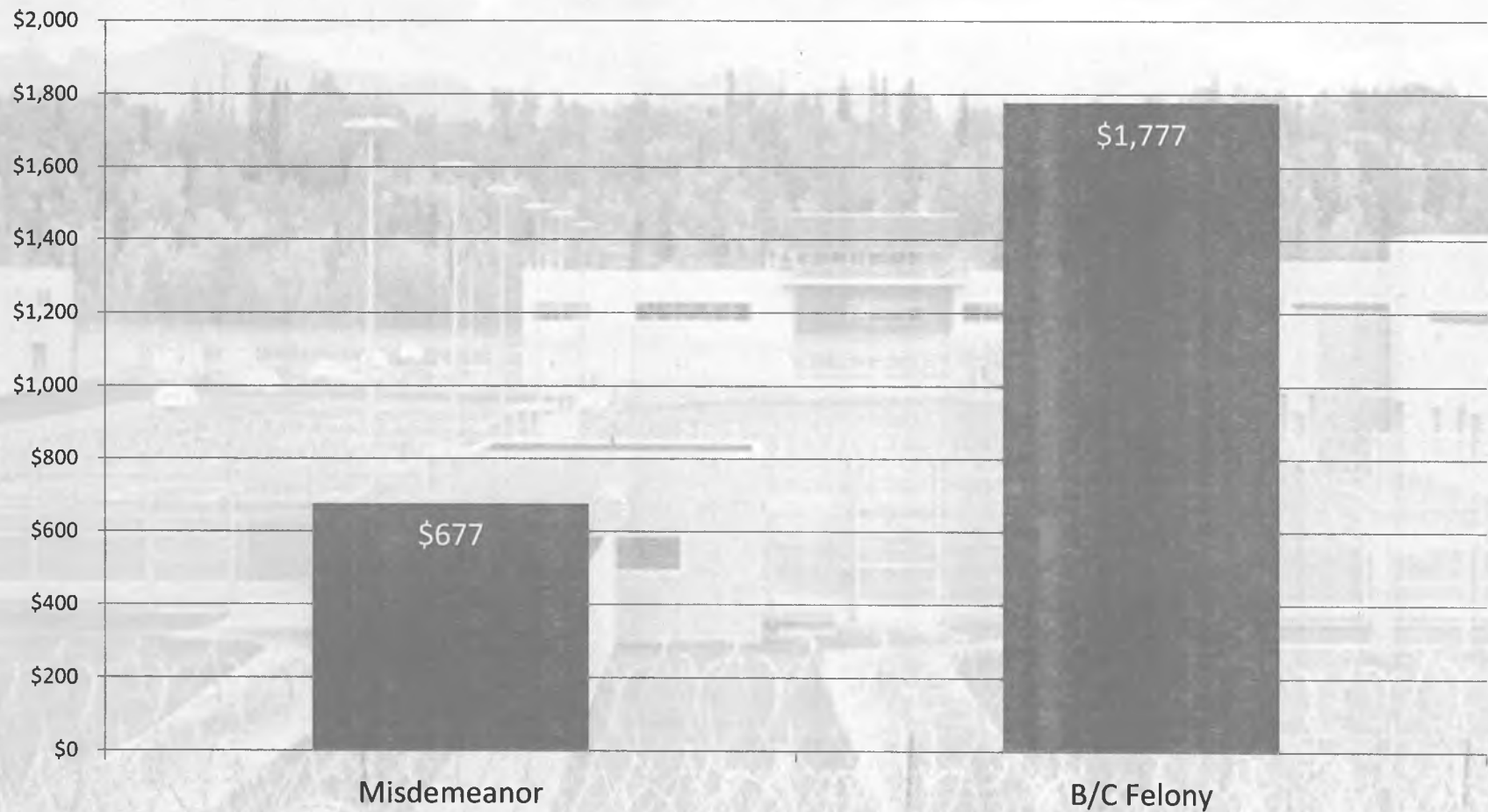
# Raises the Threshold for all property crimes:

- Theft 2<sup>nd</sup> degree
- Theft 3<sup>rd</sup> degree
- Theft 4<sup>th</sup> degree
- Concealment of merchandise
- Removal of identification marks
- Unlawful possession
- Issuing a bad check
- Fraudulent use of an access device
- Vehicle theft in 1<sup>st</sup> degree
- Criminal mischief 3<sup>rd</sup> degree
- Criminal mischief 4<sup>th</sup> degree
- Criminal mischief 5<sup>th</sup> degree
- Criminal simulation
- Misapplication of property
- Defrauding creditors

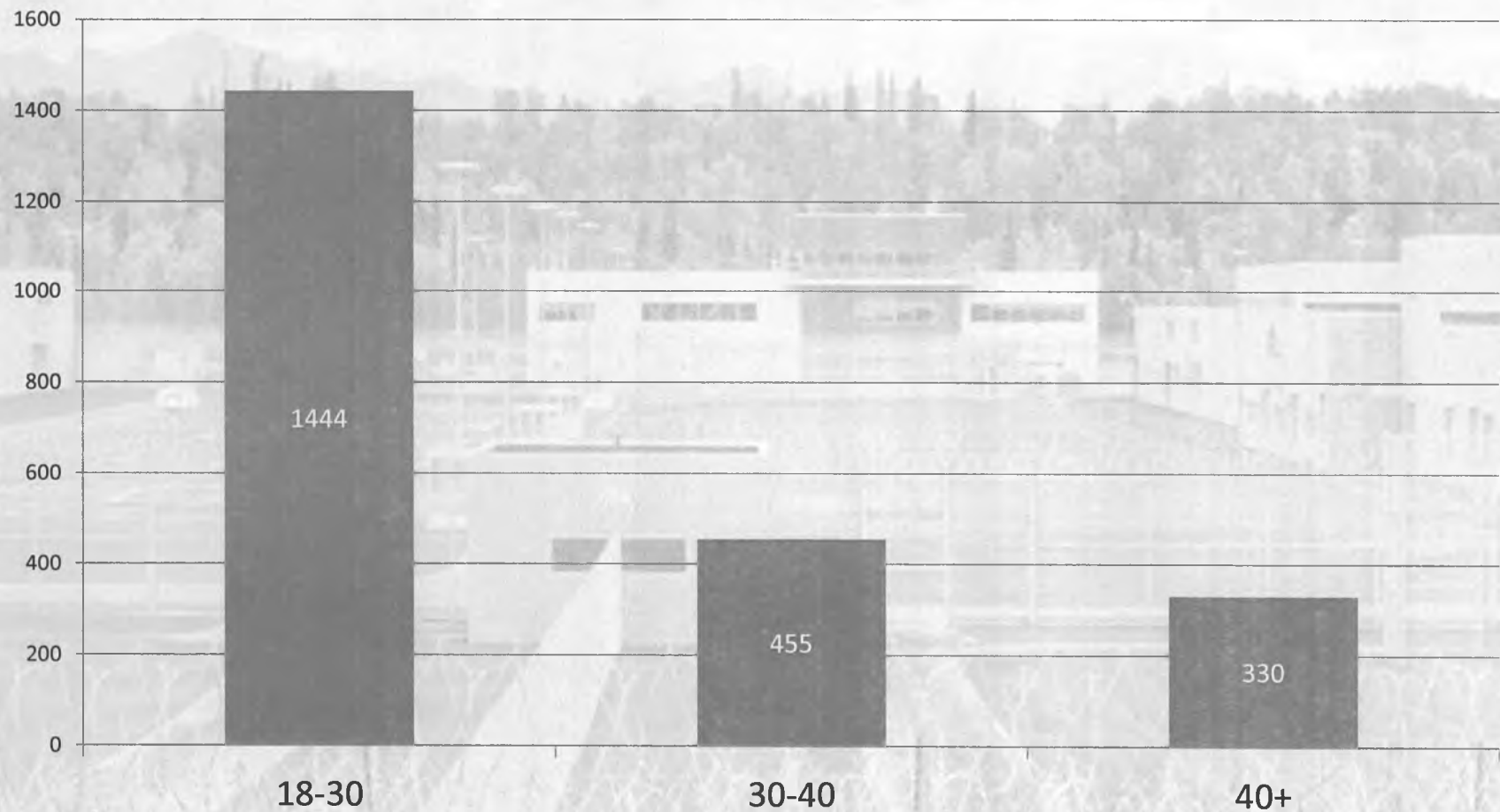
# Nationally

- Alaska is among the last states to adjust for inflation.
- **34 states** have a higher threshold (average = \$1,234)

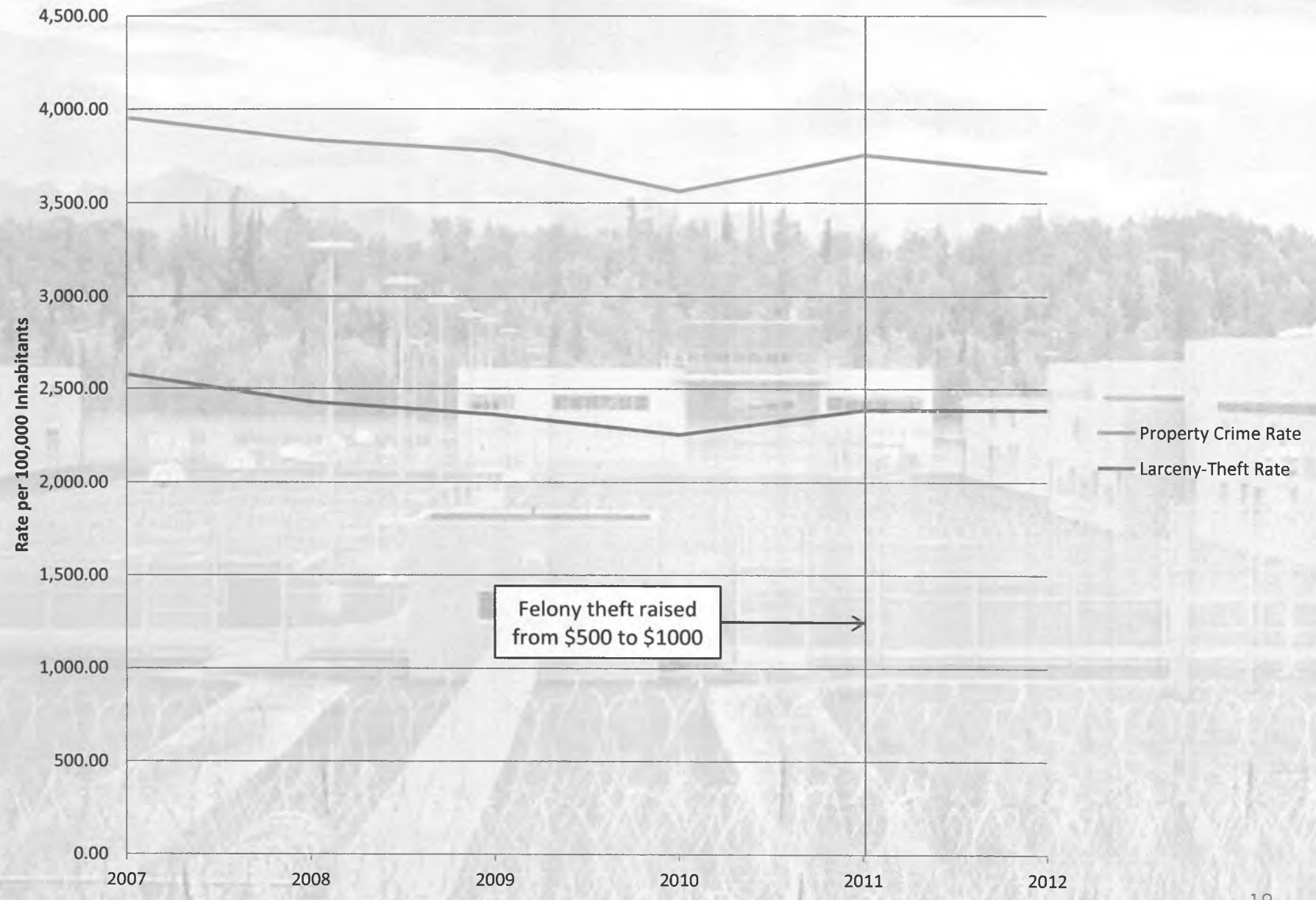
# Public Defender Agency (PDA) Cost Per Criminal Case



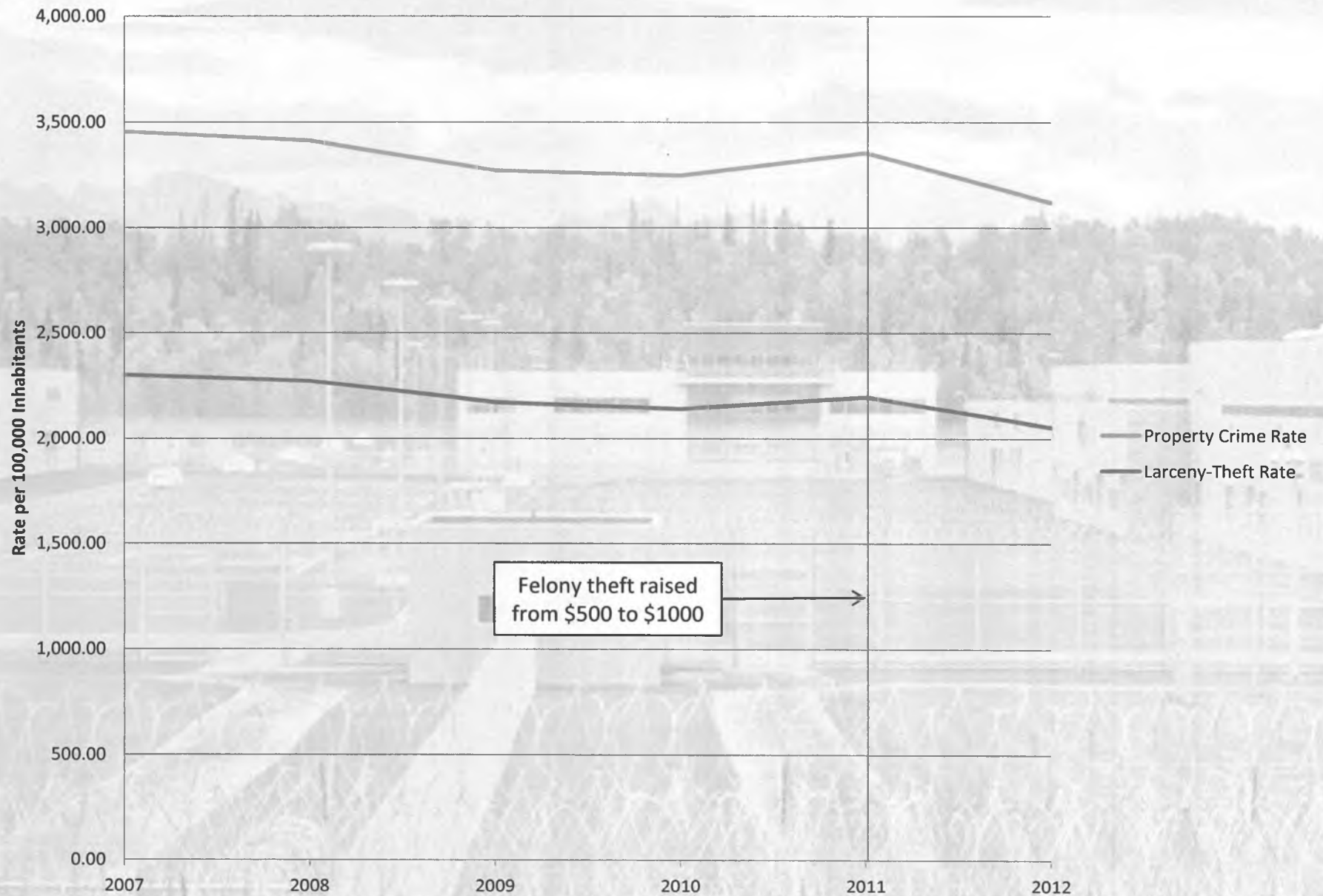
# Number of Felony Property Crimes by Age



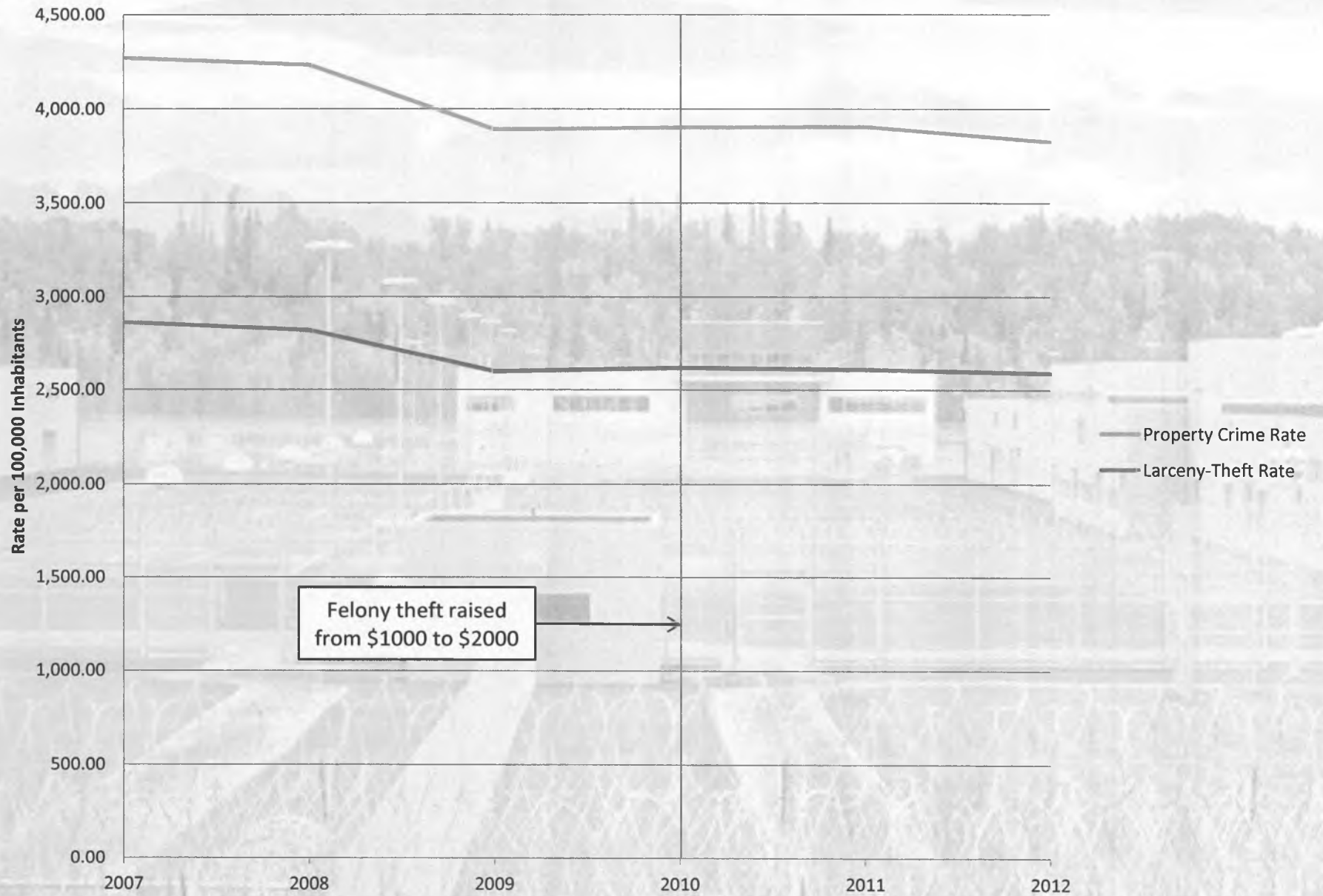
# Property Crime in Arkansas



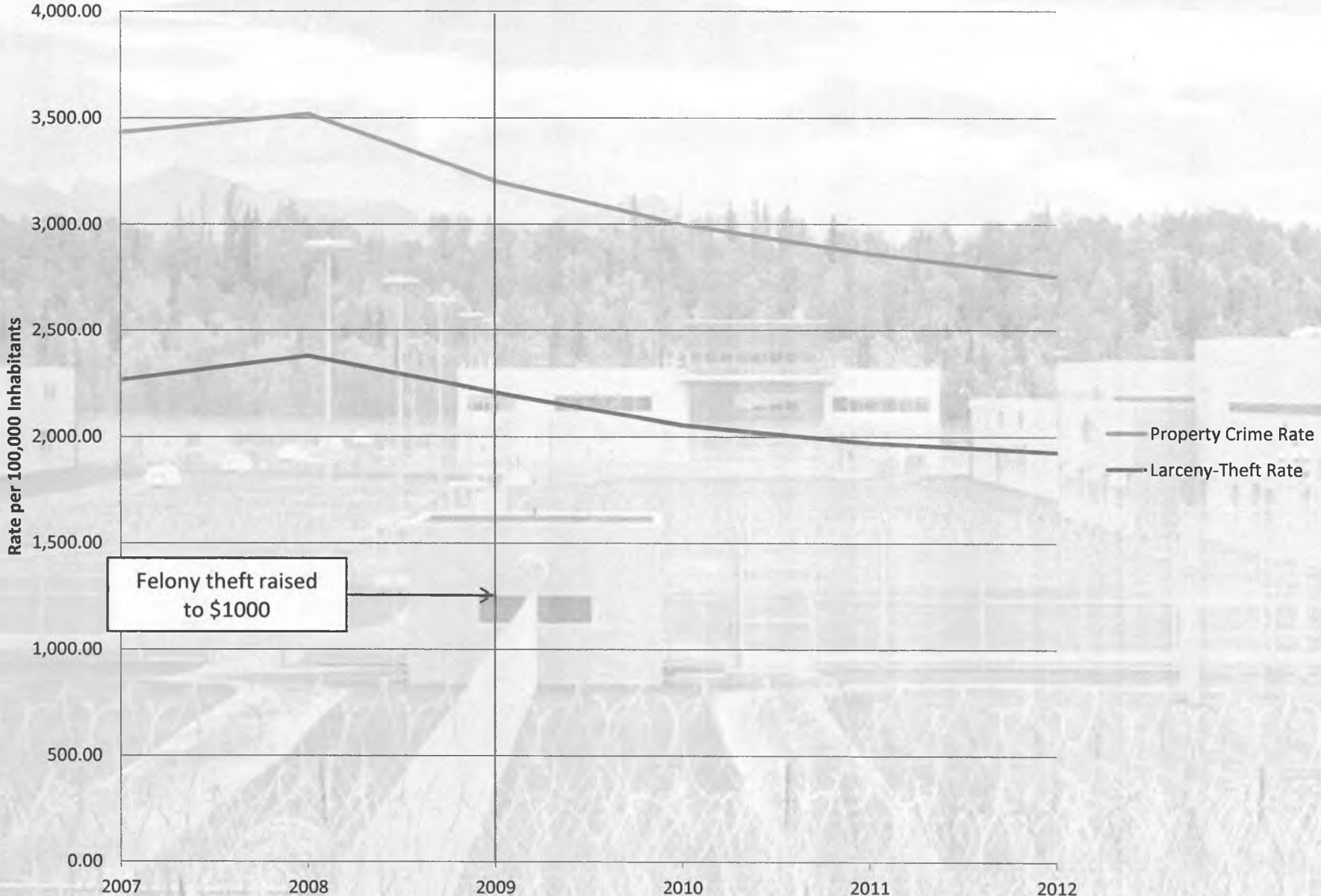
## Property Crime in Ohio



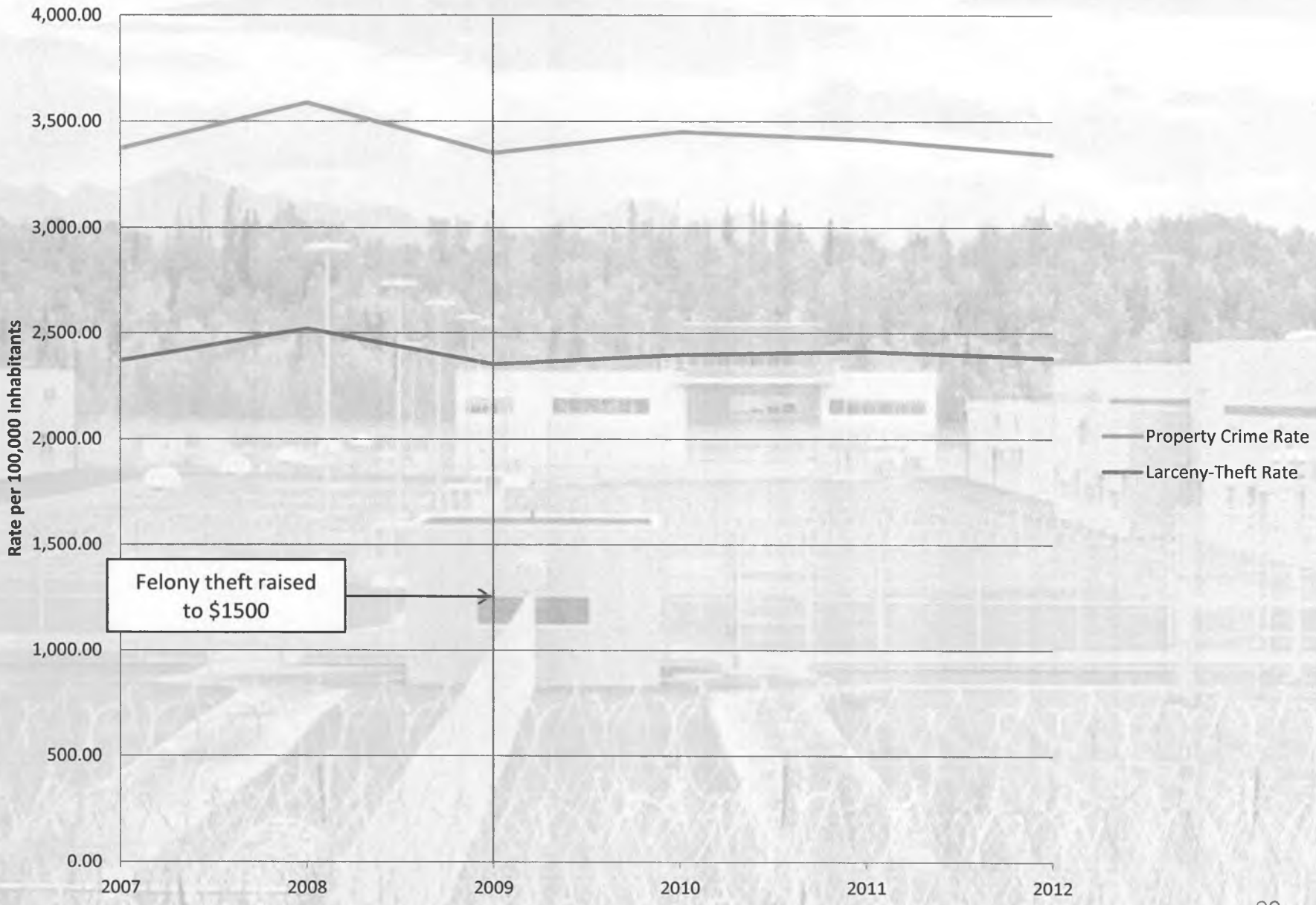
## Property Crime in South Carolina



# Property Crime in Maryland

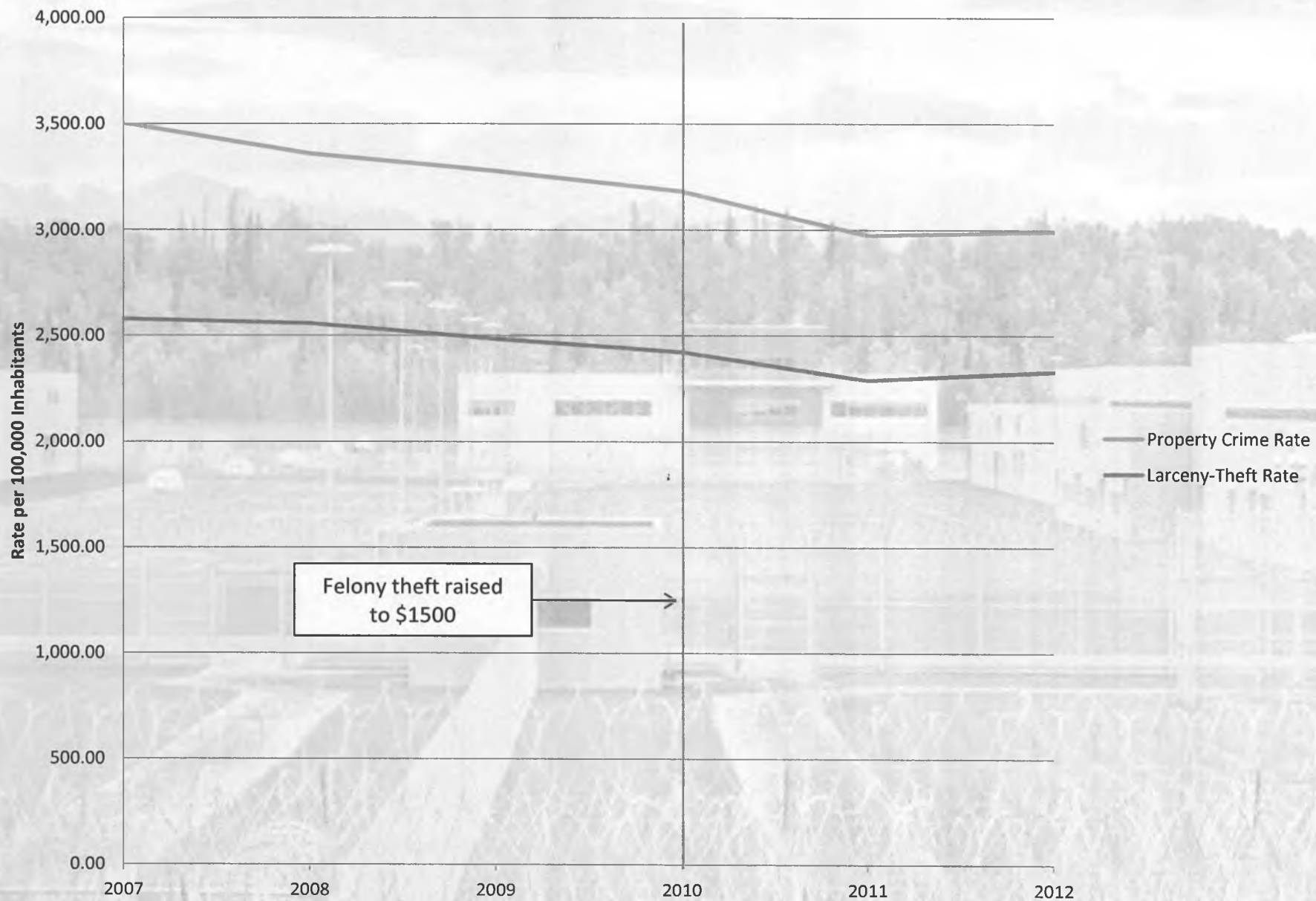



# Property Crime in Delaware



Felony theft raised to \$1500

## Property Crime in Utah





Sections 21-23 & 25 & 40

# **24/7 SOBRIETY**

# Applicability

**24/7 Sobriety can be court-ordered in the following situations where alcohol is a factor:**

- Unclassified Felonies
- Class A Felonies
- Sexual Felonies
- Misd./Felony Domestic Violence
- DUI/Refusal
- Misconduct Involving a Controlled Substances

1. Release Before Trial
2. Post conviction
  - Probation
  - Parole

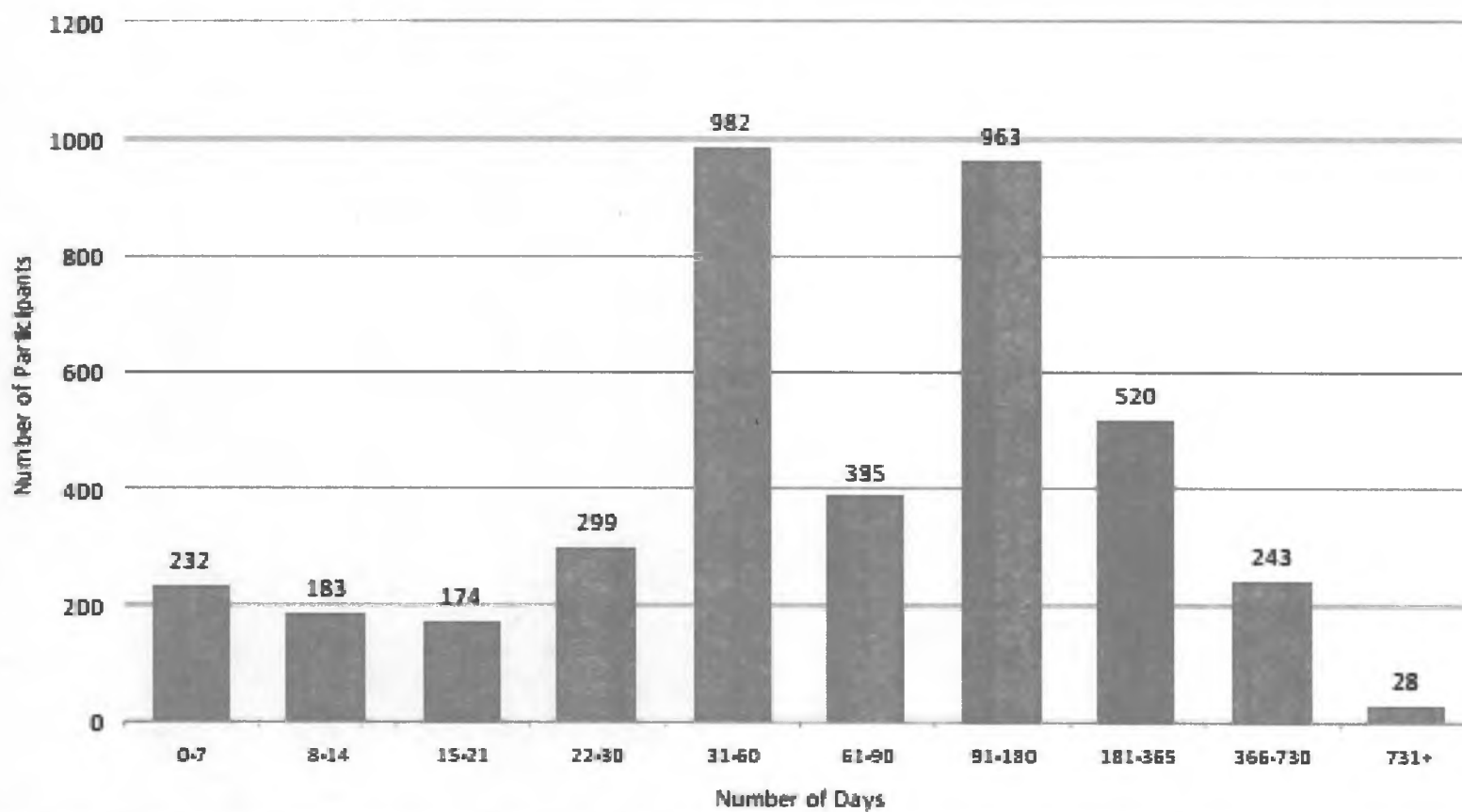
# Main Tenets

- 2x day breathalyzer
  - EM or in-person
- Funded by testing fees (paid by offender)

# Testing Methods



**Figure 7: Number of Days from First Test Date to Last Test Date (n = 4,009)**



# Number of Failed Tests

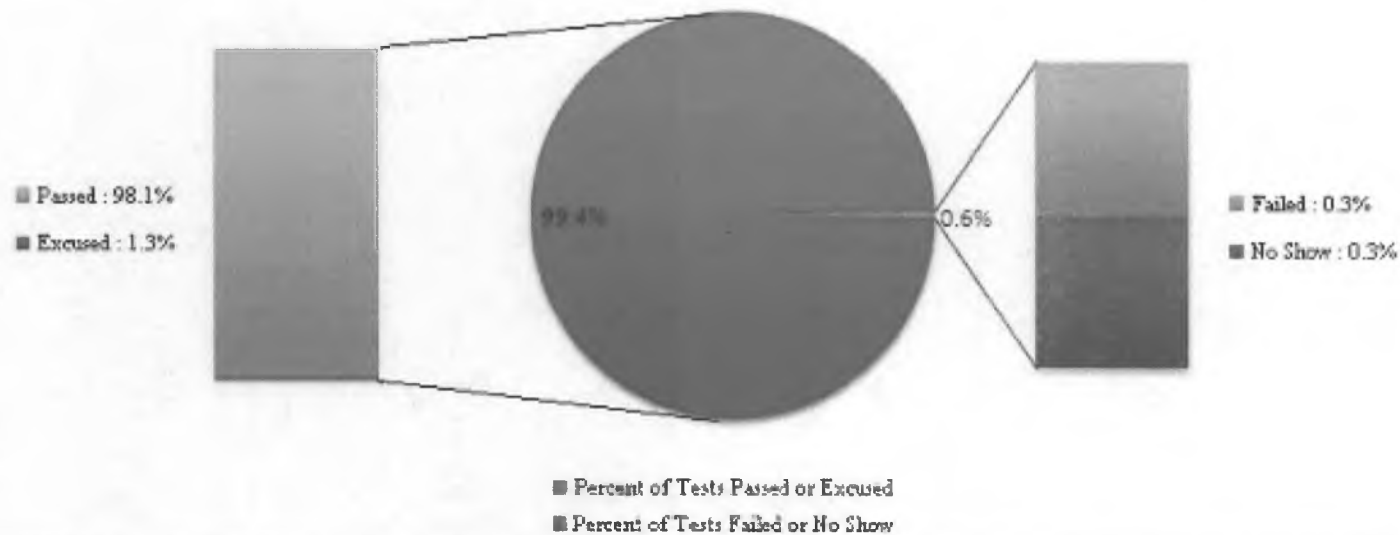
⇒ 55% never fail a test

⇒ 16.7% fail only once

⇒ 12.5% fail only twice

⇒ 16.9% fail three or more times

**Figure 8: Summary of 24/7 Database Recording of Test Results (n = 4,009 participants and 817,926 test records)**

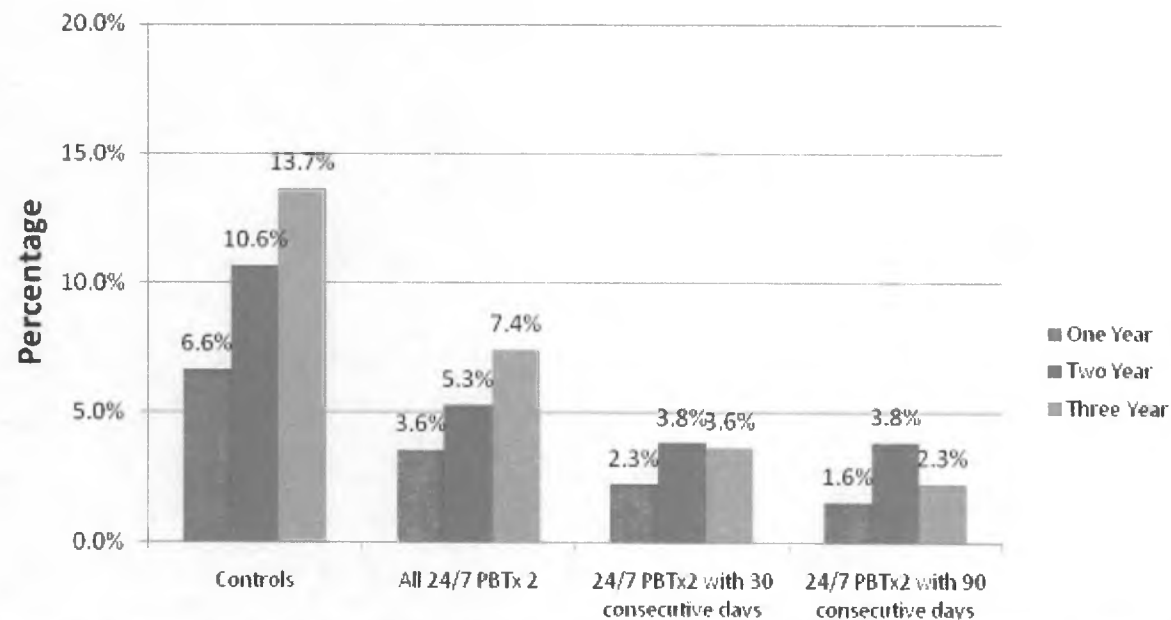


# Effects on Recidivism

For instance, 24/7 Sobriety Program participants with at least 30 consecutive days of testing when compared to controls documented the following differences in future DUI arrest rates after three years of the arrest that resulted in placement in the program:

- DUI 2<sup>nd</sup> – 74% reduction in recidivism (13.7% to 3.6%)
- DUI 3<sup>rd</sup> – 44% reduction in recidivism (15.3% to 8.6%)
- DUI 4<sup>th</sup> – 31% reduction in recidivism (15.5% to 10.7%)

Figure 11: 24/7 Participants Compared to Controls – DUI 2nd to next DUI Offense





Section 24

# **CREDIT FOR TIME SERVED IN A TREATMENT FACILITY**



**Nygren Credit**

Clarifies and improves the language so that people can get credit for time served in treatment programs.

Less cumbersome than existing language (“work required by the treatment program and approved in advance by the court”).



Section 26

# PTSD MITIGATING FACTOR

# Mitigating Factor for PTSD in Sentencing

- Establishes a mitigating factor to allow a judge to take combat-related PTSD & TBI into consideration in sentencing.
- FASD was made a mitigator in 2012.



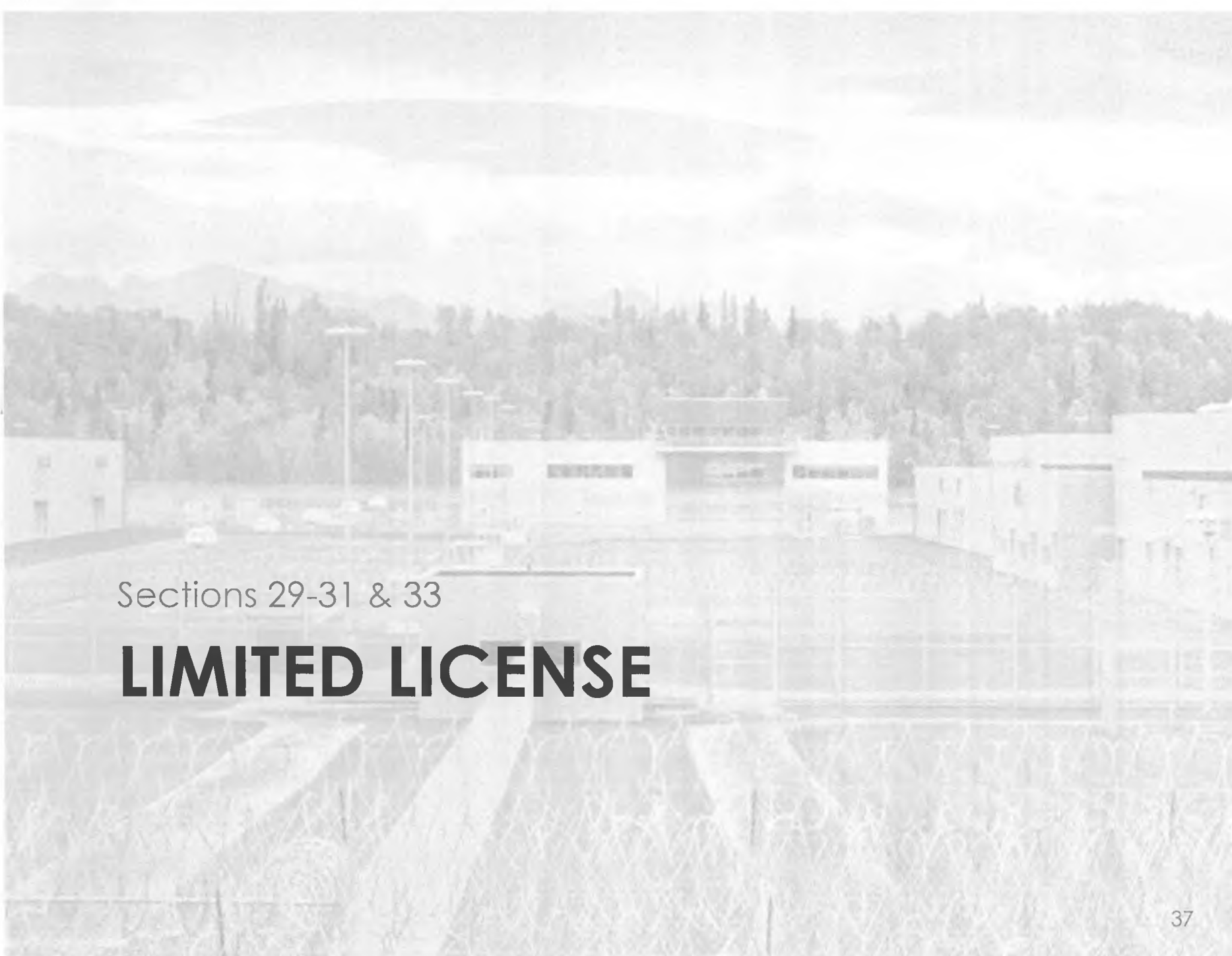
Section 28

# **CONFIDENTIALITY OF CRIMINAL RECORDS**



Makes criminal records confidential if:

- 120 days have passed since:
  - The person was acquitted of all charges
  - All charges were dismissed
  - Or a combination of both
- Formally Senate Bill 108



Sections 29-31 & 33

**LIMITED LICENSE**

# Section 30

## **A court may grant a limited license for felony DUI if:**

- The person is participating in a court-ordered treatment program
- Provides proof of insurance
- Has an ignition interlock installed on their vehicle
- Enrolled in the ASAP program.
- Participating in 24/7 Sobriety
- Has not been granted a limited license before

# Section 30 (cont.)

**The court may revoke a limited license if the person:**

- Is convicted of DUI or refusal
- Is not in compliance with a court-ordered treatment program

# Sections 29 & 33

**The court can terminate a revocation and DMV shall restore the driver's license if:**

The person completes treatment and drives successfully on the limited license for three years without being convicted of DUI or refusal.



Section 32

# **ELECTRONIC MONITORING – FIRST-TIME DUI**

Year	First Time Anchorage Ordinance DWI Convictions Resulting in Being Placed on Anchorage Electronic Monitoring	Median Length of Stay
2011	612	5
2012	497	5
2013	368	5

**Data Notes:**

If an offender has a prior DWI conviction but was never incarcerated, DOC would have no record of the DWI conviction

**Convicted of first DUI (statewide):**

**2012 = 3,565**

**2011 = 3,946**

**2010 = 4,134**



**Summary:** allow first-time DUI offenders to serve their 72-hour sentence on EM.

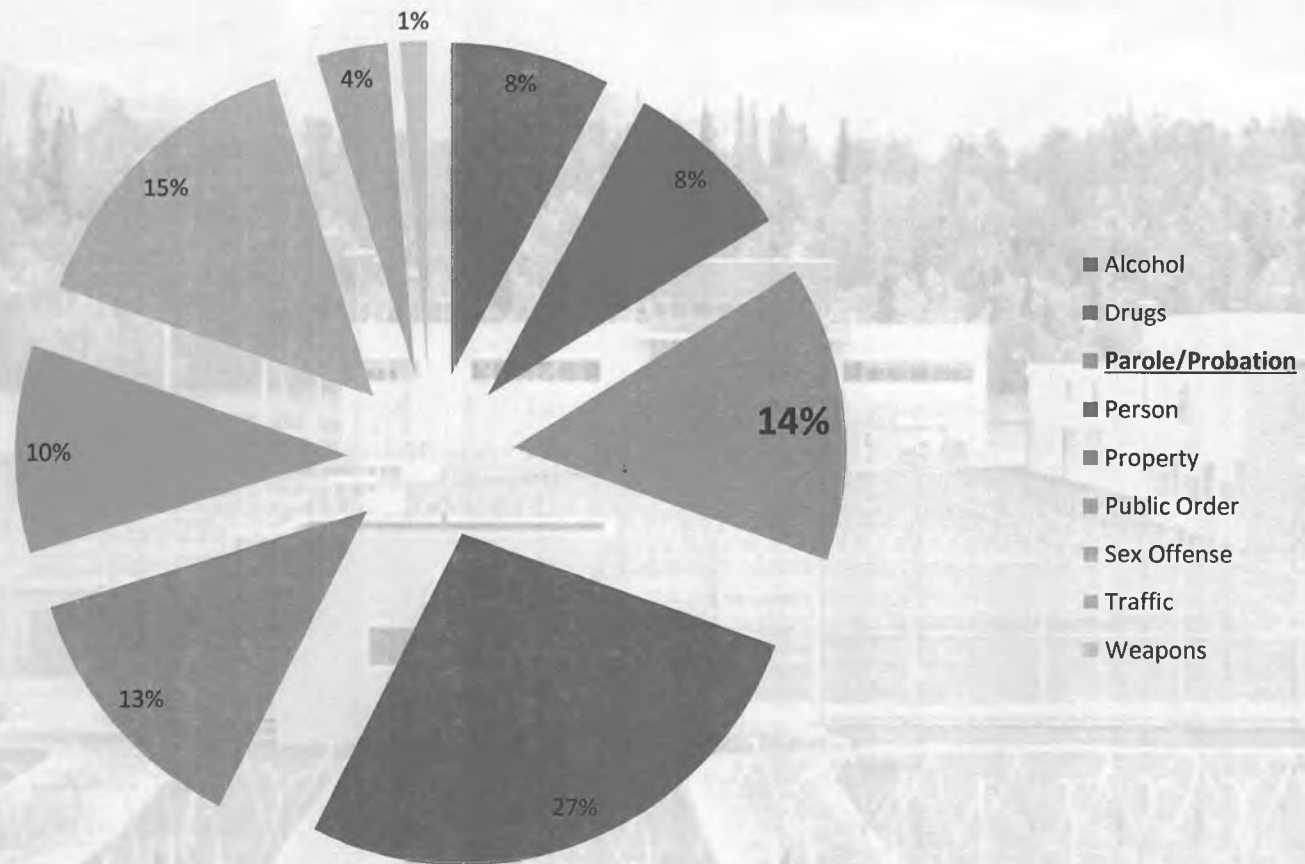
- Electronic monitoring is \$21/day vs. \$159/day for regular incarceration.
- Legislative research report indicating this change could potentially save the state almost a million a year. (**\$857,837** in FY'12 and **\$921,267** in FY'11.)



Sections 34-36

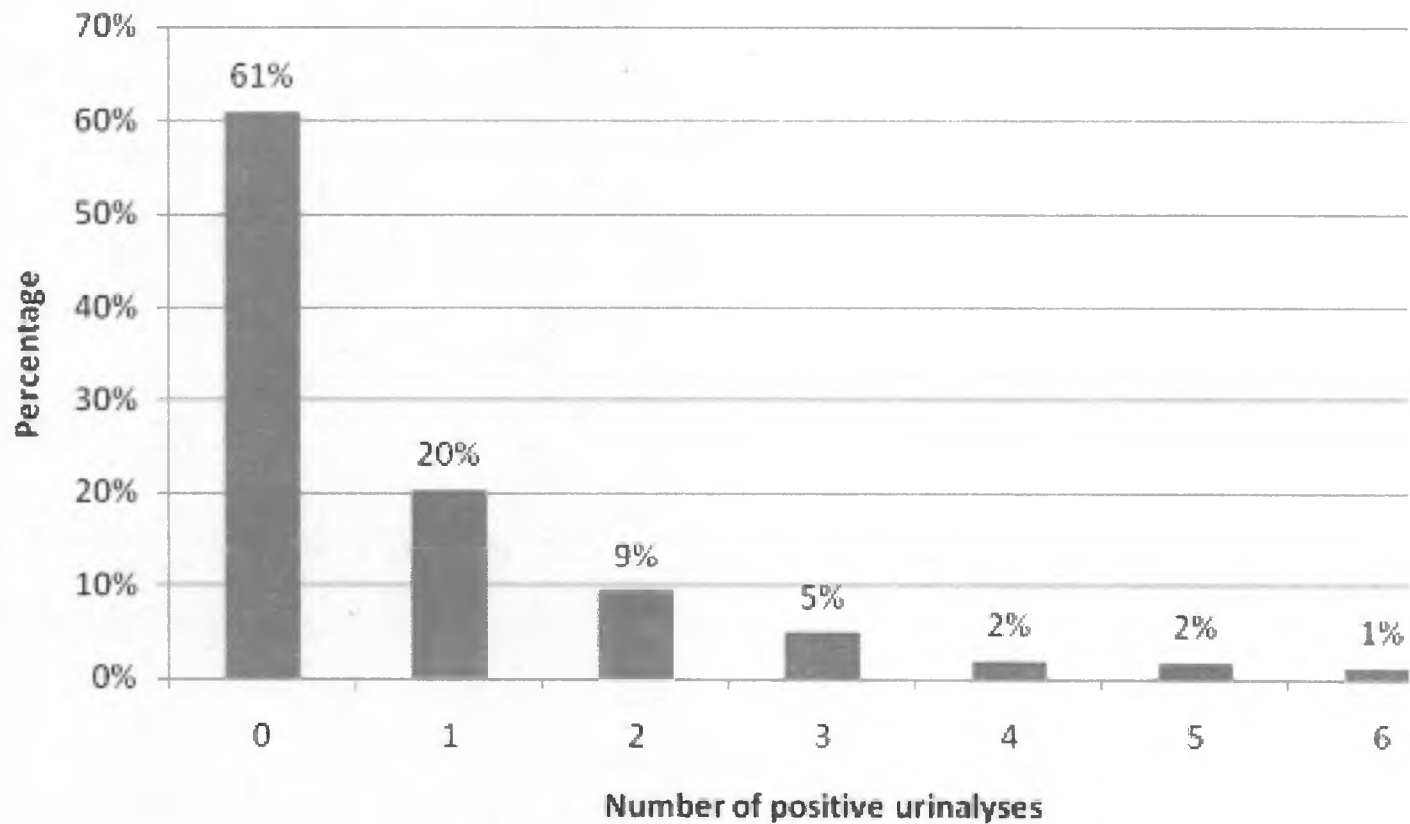
**PROBATIONER ACCOUNTABILITY  
AND CERTAIN ENFORCEMENT  
(PACE)**

## Counts of Offenses for Offenders in Institutions

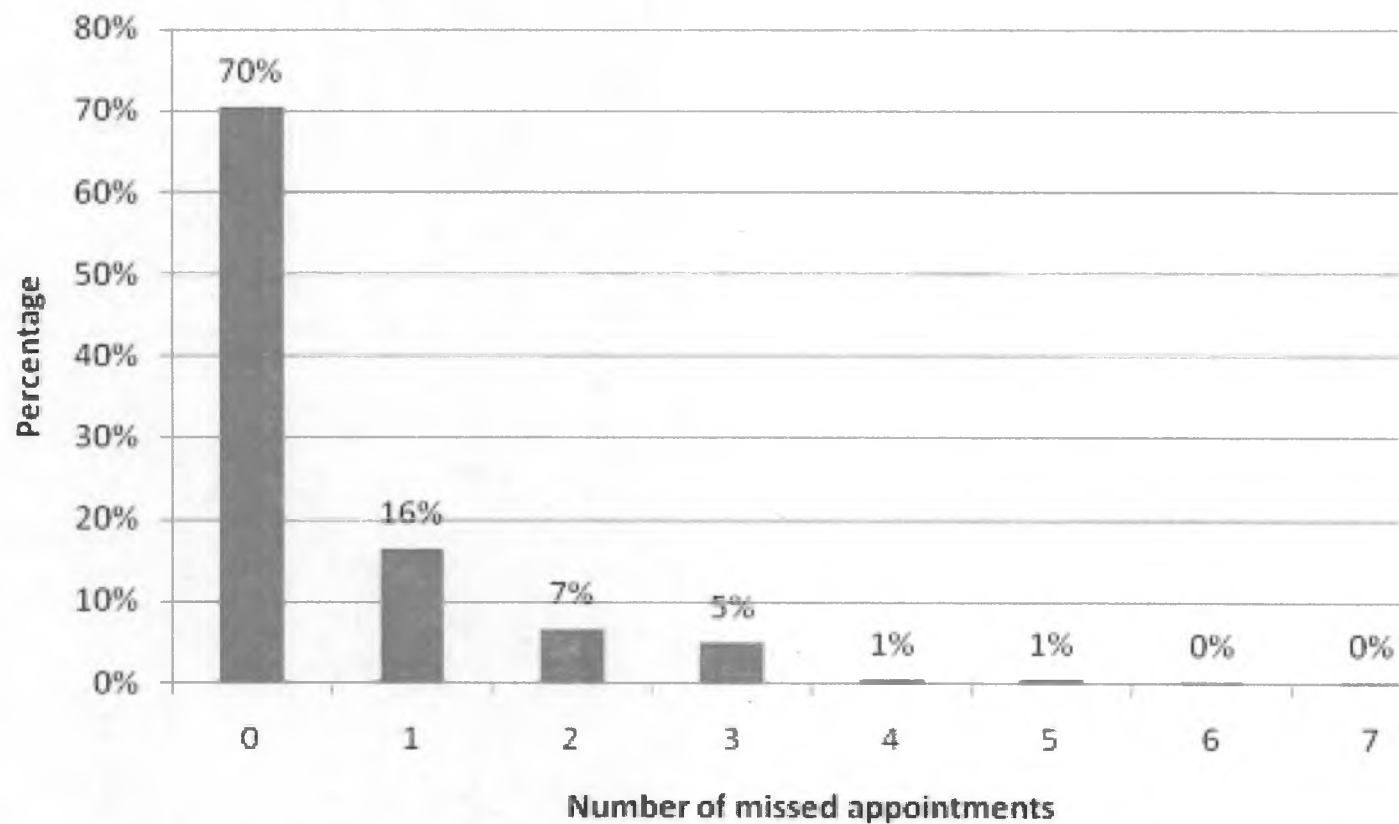


2012 DOC Offender Profile

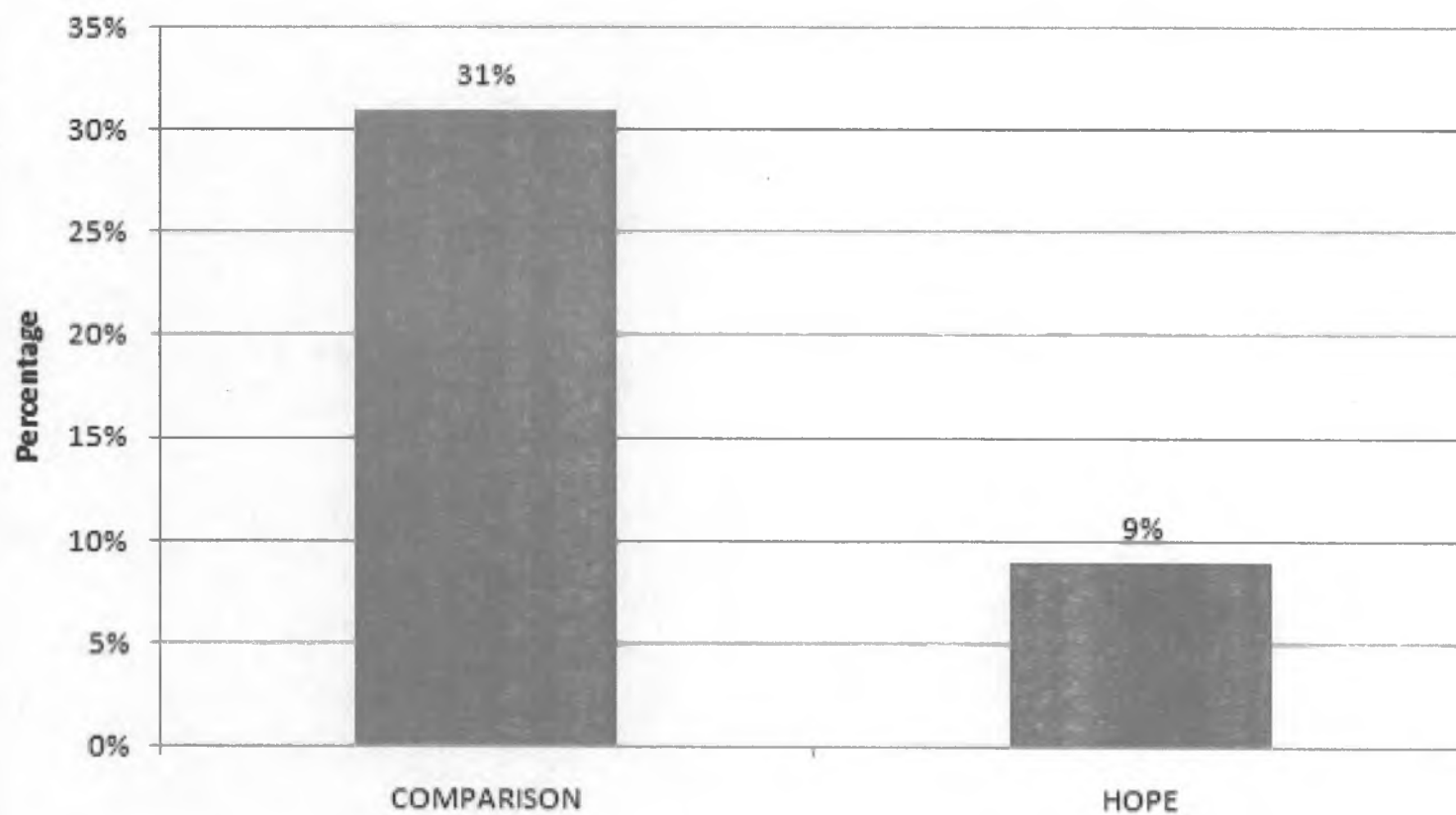
**Figure 2. HOPE Probationers - Number of Positive Urinalyses in 12-months**



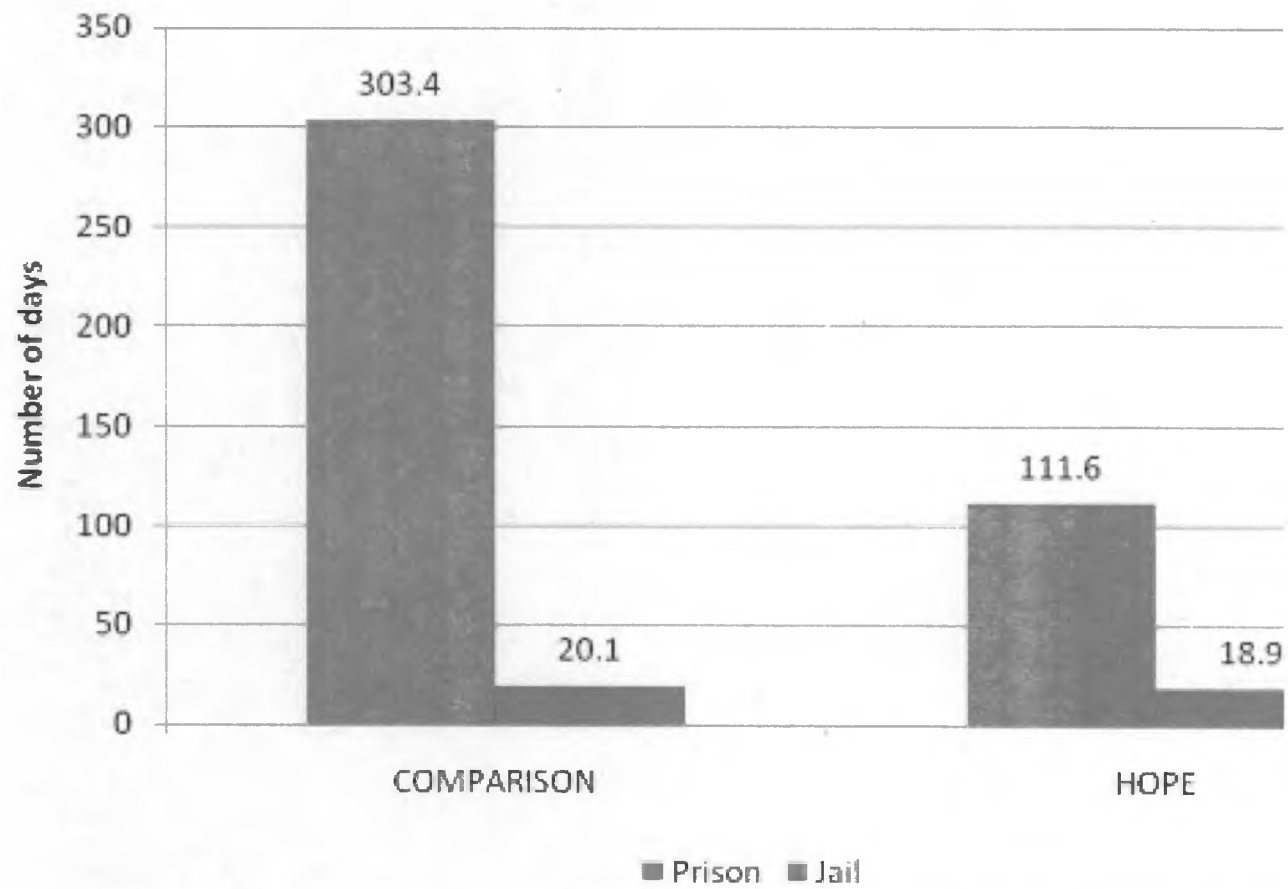
**Figure 4. HOPE Probationers - Number of Missed Appointments in 12-months**



**Figure 5. Probation revocation: HOPE versus Comparison Probationers**



**Figure 6. Incarceration: HOPE versus Comparison Probationers**





Section 37

# ASSESSMENTS

# Central Eight Criminogenic Needs

Antisocial Attitudes

HX Antisocial Behavior /Low Self-control

Antisocial Peers

Criminal Personality Makeup

Disfunctional Family Relations

Substance Abuse

School/Work

Leisure/Recreation



The Department shall:

Establish a program to conduct risk-needs assessments on offenders sentenced to serve 30 days or more in prison.

# Emphasis on FASD

The commissioner shall:

Provide assessment or screening of offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based disorder.



Section 38-39

# **ALASKA CRIMINAL JUSTICE COMMISSION**

# Commission Structure

## Previous CS (STA)

- (3) Senators
- (3) Representatives
- (1) Supreme Court Chief Justice
- (1) Superior Court Judge
- (1) District Court Judge
- (1) Member of Alaska Native Community
- (1) Attorney General
- (1) Commissioner of Corrections
- (1) Commissioner of Public Safety
- (1) Commissioner of Health and Social Svcs
- (1) Director of Public Defender Agency
- (1) Director of Office of Public Advocacy
- (1) Victims' Rights Advocate

**17 members**  
**No Sunset**

## Current CS

- (1) Senator
- (1) Representative
- (1) Supreme Court Chief Justice
- (1) Superior Court Judge
- (1) District Court Judge
- (1) Member of Alaska Native Community
- (1) Attorney General
- (1) Private Attorney
- (1) Chief of Municipal Law Enforcement
- (1) Public Defender
- (1) Victims' Rights Advocate

**11 members**  
**3-year Sunset**

# Commission

## Powers & Duties

The commission shall evaluate the criminal justice system to provide for:

- 1) Protection of the Public
- 2) Community Condemnation of the Offender
- 3) Rights of Victims
- 4) Restitution from the Offender
- 5) The Principle of Reformation

Staffed by Alaska Judicial Council

No compensation

Meets at least quarterly

Annual report and recommendations submitted to the legislature no later than January 1 each year.

### **Section 12. Criminal Administration**

**Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Criminal administration shall be based upon the following: the need for protecting the public, community condemnation of the offender, the rights of victims of crime, restitution from the offender, and the principle of reformation.**

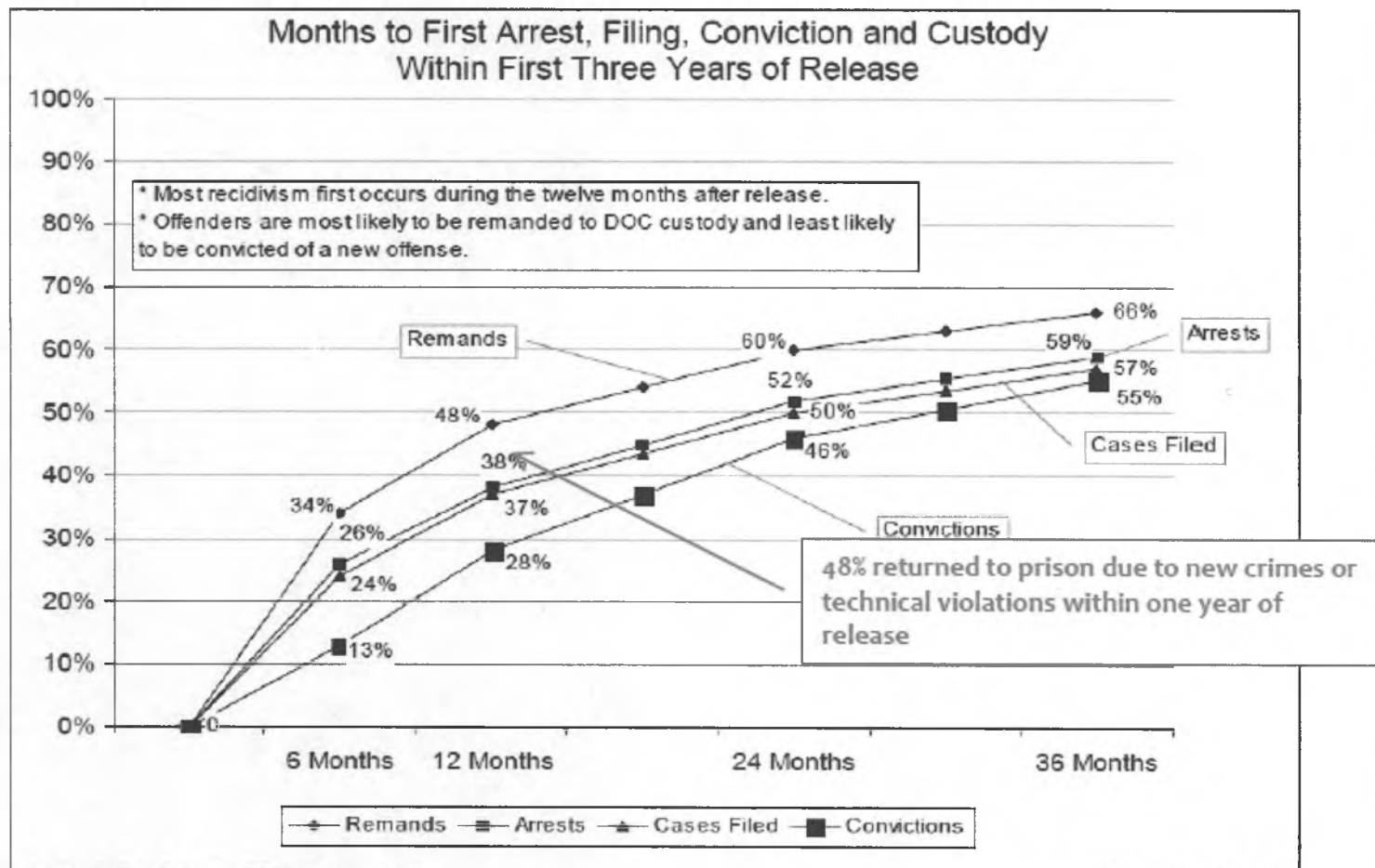


Section 40

# RECIDIVISM REDUCTION FUND

# 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.



**4. FY10 Performance Measures (2years out):**

	Count	Returned	Recidivism Rate*
FY2010 Control Group	2077	1203	57.92%
Participated in and Completed Program	334	122	36.53%

*\*Percent of offenders returning to incarceration within two years of discharge*

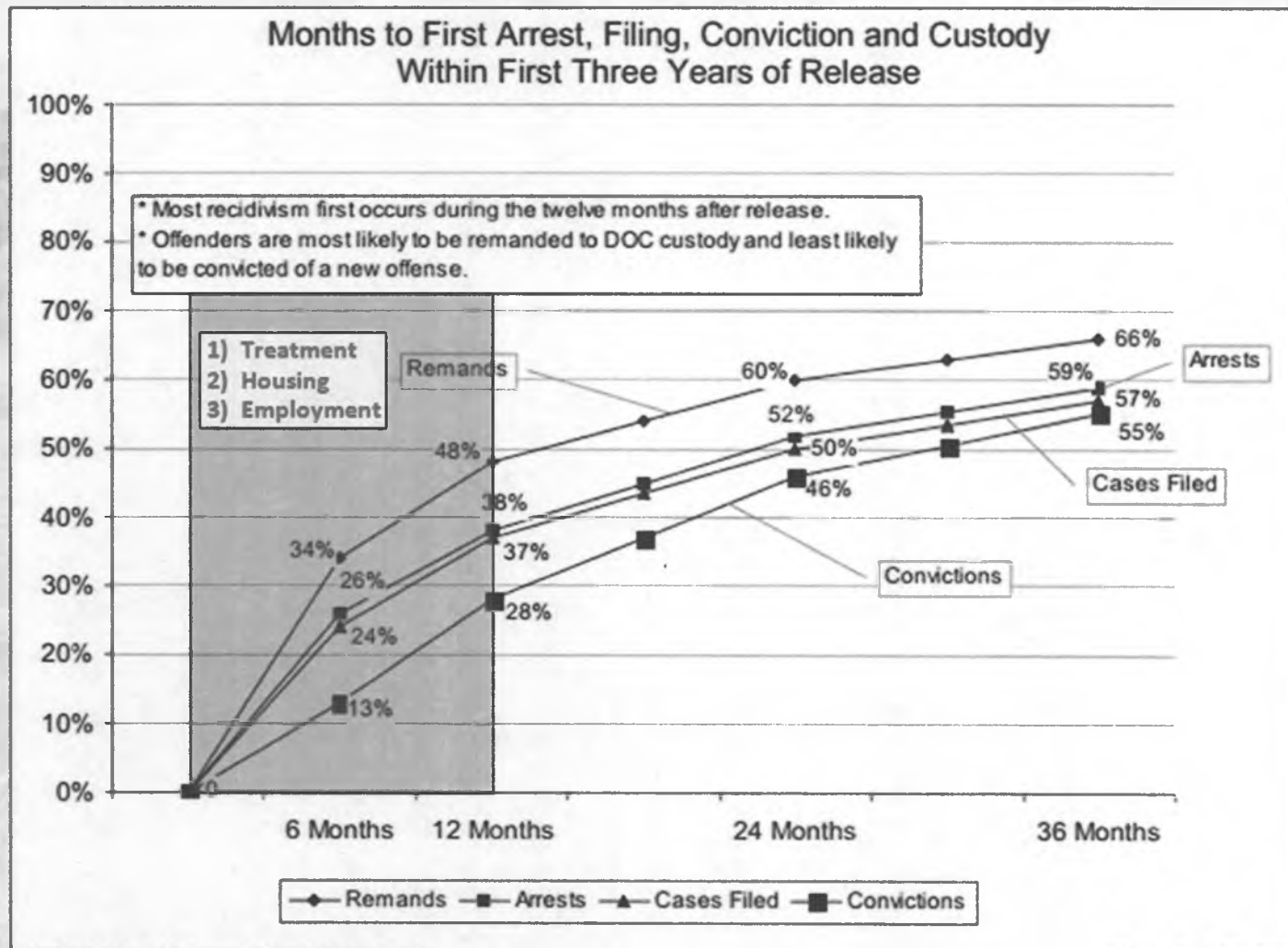
**5. FY11 Performance Measures (1 year out):**

	Count	Returned	Recidivism Rate*
FY2011 Control Group	1877	692	36.87%
Participated in and Completed Program	421	38	9.09%**

*\*Percent of offenders returning to incarceration within one year of discharge.*

*\*\*The majority of these individuals have been out of custody for one year or less. The recidivism rate will rise. Given these results, it appears the state is on the road to match or exceed the 9 to 12% national average for recidivism reduction.*

# Most Recidivism Occurs During the Six Months After Release



# Recidivism Reduction Fund

To promote rehabilitation through transitional re-entry programs for persons recently released from correctional facilities.

## Program Requirements:

- 1) Case Management
- 2) Sober Living
- 3) Treatment for Substance Abuse
- 4) Require Employment, Vocational Ed, or Volunteer
- 5) Limit Residential Placements in the Program to a year.

The commissioner shall prepare an annual report on the fund.



Sections 42-49

# **APPLICABILITY, TRANSITIONAL PROVISIONS, & EFFECTIVE DATES**

# Sections 42-49

- **Section 42:** changes apply to offenses occurring on or after the effective date of this act.
- **Section 43:** tasks the commission to prepare a special report to the legislature about Alaska Statute Title 28.
- **Section 44:** the first meeting of the commission shall be held no later than Sep. 30 2014.
- **Sections 45:** the Department of Corrections and Department of Health and Social Services may begin working on regulations immediately upon passage of the bill.
- **Section 46:** establishes an effective date for section 28.
- **Section 47:** establishes a delayed effective date for Section 37 of the bill.
- **Section 48:** establishes an immediate effective date for section 45.
- **Section 49:** establishes an overall effective date for the bill of July 1, 2014.



**STATE OF ALASKA  
OFFICE OF VICTIMS' RIGHTS**

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

April 7, 2014

RE: Opposition to SB 108 (now within SB 64)– Limit Public Access to Criminal Records;

Dear Representative Stoltze:

As the Director of the Alaska Office of Victims' Rights (OVR), I write this letter to express our opposition to and grave concerns about SB 108, Limit Public Access to Criminal Records, introduced on January 22, 2014. The bill is scheduled for a hearing before the House Judiciary Committee on Wednesday, April 9, 2014, before being heard by your committee. As I understand SB 108 has been rolled into the omnibus crime bill, SB 64.

While the content of this letter is lengthy, I feel compelled to provide a further explanation of this opposition within the bolded points presented below. SB 108, if passed, will rewrite history. It will forever remove the factual record of events for many criminal cases from public view. It would have the effect of saying to our citizens that they do not have a right to know what its government and its institutions are doing. It would also send the message to our citizens that their government believes they are intellectually incapable of understanding that a dismissal or a "not guilty" verdict is not the same as a conviction.

The bill will negatively impact more citizens than it benefits. SB 108 will affect the ability of our citizens and businesses to protect themselves, will curtail the abilities of journalists to research and accurately report; will preclude academic research and will potentially aid in the creation of more crime victims in our state. This bill will significantly impede the ability of citizens to access information which could help them protect themselves, their children, their loved ones, their homes and their businesses. The effect of this bill is far-reaching and will have significant negative consequences for a vast number of Alaskans, while merely providing relief to a significantly small number of Alaskans.

OVR recognizes that the criminal justice system is imperfect and public records can and do contain information suggesting a person committed a crime when, in fact, that person was

served as an Alaskan state prosecutor for 13 years. During my tenure, I predominantly handled cases of rape, sexual abuse of minors and domestic violence assaults. I have a deep and clear understanding of the criminal justice process and its principles. Having reviewed thousands of cases over my career and having made many tough decisions regarding whether or not to charge a case, I understand the importance of charging people only when there is evidence to support the charge. I, however, also understand there is a vast difference between being innocent and having a case disposed of via a dismissal or a "not guilty" verdict. It is a noble goal to try to address this wrong through legislative action, but the action to date the Legislature has not addressed the negative consequences that riddle this bill.

Legislation should be written as narrowly as possible to address the concern but which minimizes the negative effects on citizens. SB 108, as is currently written, is so broad that its application in law would result in many more negative consequences for citizens than benefits. While the OVR strongly opposes SB 108, as written, OVR does not oppose the concept of fashioning a statute which attempts to alleviate the problem this bill tries to address. The OVR believes the bill could be amended to offer relief to some Alaskans who have been wrongfully accused, including Senator Dyson's constituent who, in part, prompted the introduction of the bill. It is paramount that a thoughtful and thorough examination of the bill's consequences and an intellectual discussion on how best to minimize the harm takes place. Below, OVR offers language which would address the issue but not be so broad as to cause the host of negative consequences discussed in the section, Points of Opposition to Current SB 108.

**Proposed Amended Language:**

"An Act relating to the confidentiality of certain records of criminal cases; and providing for an effective date."

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

\*Section 1. The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that, to the extent practicable, the Alaska Court System hold confidential records of criminal cases in cases where no charging document is filed by a prosecutor, or no probable cause to support the criminal charge is found by a judicial officer, or when a grand jury returns a "no true bill" on all counts presented to the grand jury to the to the same extent that records are held confidential under AS 22.35.030, enacted by sec. 2 of this Act.

\* Sec. 2. AS 22.35 is amended by adding a new section to read:

Sec. 22.35.030. Records concerning criminal cases resulting in acquittal or dismissal confidential.

(a) A court record of a criminal case is confidential if 120 days have elapsed from the date

- (1) no charging document is filed by a prosecutor;
- (2) no probable cause to support the criminal charge is found by a judicial officer during an initial proceeding or as a result of a preliminary hearing; or

(3) when a grand jury returns a "no true bill" on all counts presented to the grand jury.

(b) Notwithstanding (a) of this section, the following persons may have access to records made confidential under this section:

- (1) employees of the Department of Health and Social Services who are responsible for the health, safety, welfare, or placement of a child, a person with a physical or intellectual disability, or a person with a mental illness;
- (2) the public guardian under AS 13.26.370 or a guardian ad litem supervised by the office of public advocacy;
- (3) a person who is authorized to have access to the criminal justice information network maintained by the Department of Public Safety under AS 12.62.

(c) The Department of Health and Social Services shall adopt regulations to administer (b)(1) of this section.

\* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 22.35.030, enacted by sec. 2 of this Act, applies to criminal cases initiated on or after the effective date of this Act where there is no filing of a charging document, no finding of probable cause or by a finding of no true bill by the grand jury on all counts presented to the grand jury.

\* Sec. 4. This Act takes effect October 1, 2014.

#### **Points in Opposition to Current SB 108:**

- **The bill is contrary to and significantly undermines a victim's constitutional right to be treated with dignity, fairness and respect.**

In Alaska, victims have a constitutional right to be treated with dignity, fairness and respect. The removal of a case from the public eye is more like a spit in the victim's eye than respect, dignity or fairness. These words in our constitution should not be hollow words.

One well-known example of a case that would be purged from public view because of SB 108 are the cases of *State v. Mechele Linehan*, 3AN-06-10140CR and *State v. John Carlin*, 3AN-06-1-139CR, for the murder of Kent Leppink. Mr. Leppink left a note telling his parents that, if he was found dead, Mechele Linehan should be considered a prime suspect. He changed his life insurance beneficiary so that Mechele Linehan would not benefit from his death. After a criminal investigation, Mechele Linehan and John Carlin were charged with murder. The case garnered national media attention. Both were tried by jury and both were convicted and found guilty beyond a reasonable doubt.

Linehan's case was reversed on appeal and eventually dismissed. Carlin died in prison while his appeal was pending. The court, relying on an old common law doctrine, called *abatement ab initio*, cancelled or voided the conviction due to Carlin's death before a final appeal decision was issued. The Office of Victims' Rights had the

privilege to work with Kent Leppink's parents, the crime victims, during the criminal justice process. The Leppinks, in their 80s now, were heartbroken that justice was not done for their murdered son. They took some comfort, for a while along the way, that the State Office of Special Prosecutions & Appeals, the Office of Victims' Rights, and the National Crime Victim Law Institute fought in the appellate courts for the court to end the *abatement ab initio* doctrine in Alaska. The Alaska Supreme Court decided, for the first time, to formally recognize the importance of crime victims' legal rights. The court specifically noted that crime victims have a state constitutional right to be treated with "dignity, respect, and fairness during all phases of the criminal justice process." And this constitutional guarantee was the reason that the *abatement ab initio* doctrine was unfair and must be abandoned. *Carlin v. State*, 249 P.3d 752 (Alaska 2001); Alaska Const., art. I, § 24. It was a great victory for crime victims, for the Alaska Office of Victims' Rights, and for the national crime victims' rights movement. Carlin's appeal was reinstated and continued through his estate, so no final disposition has occurred to date.

Under SB 108, as written, if Carlin's case is ultimately dismissed, all trial court records of both the Linehan case and the Carlin case will be removed from public view. Respectfully, this result would create a new, separate violation of the crime victim's constitutional right to be treated with dignity, respect, and fairness by taking all official court records, except the appeal decisions themselves—and essentially erasing them. What a slap in the face to Mr. & Mrs. Leppink after they spent their sunset years hoping and waiting for justice. They would be told by the State of Alaska that the rights of the accused are so important that nearly every trace of the criminal process, of history, must be hidden as if it never occurred.

- **The bill contradicts the efforts around the state to end domestic violence and sexual offenses.**

Attending a recent Choose Respect rally highlighted some of the ways that this bill contradicts efforts to stem the tide of interpersonal violence, which is at epidemic levels, in our state. Alaska has one of the highest per capita rates for sexual offenses and domestic violence in the country. The Green Dot Violence Prevention Strategy has been launched as an effort to help reduce this type of violence. One key component of this effort is to encourage every citizen to be involved not just be aware of the problem but to actively try to prevent an incident however possible. The Green Dot Violence Prevention Strategy promotes violence prevention by providing citizens with the skills needed to stop violence before it occurs. There are a hundred different ways to intervene and being able to have access to court records dovetails with the Green Dot initiative.

Alaskans all have a role to play The availability of criminal court records is one tool which can and is used to prevent someone from being a victim of a violent crime. Maybe it is just a friend telling another friend that the man she is seeing has a pattern of violence as seen in his court records. That caution alone could save a life. Perhaps it plays out when a mother checks Courtview to see if a new child care provider has any

concerning history. If her diligence to gather information and follow-through helps prevent her child from being abused or molested, that itself should be enough to say the information should remain open and accessible. The goal should be to keep people as safe as possible. If there is a choice is between whether someone should be kept safe from physical violence versus being made more marketable for employment, it seems like the choice is easy and obvious that the greater societal benefit is keeping a person, especially when it involves our most vulnerable citizens, safe. The bill works against preventing violence, as well as discouraging victims from reporting and participating in the criminal justice process.

- **A dismissal does not equate to an offender being “innocent” of the crime charged.**

As demonstrated with the earlier example of the Linehan and Carlin cases and as discussed more below, dismissals occur for a large variety of reasons, which don't in and of themselves negate the dangerousness of the person nor erase their actions. I will highlight a few examples:

**1) Concurrent jurisdictions:** In the case of concurrent jurisdiction, where the federal, state and/or military justice systems may all have jurisdiction over a criminal matter, the state may defer prosecution to another jurisdiction. Such an action does not show the state did not have sufficient evidence to prosecute. It often is a decision based on in which jurisdiction prosecution will be most effective or which jurisdiction will offer the greatest judicial efficiency. In a case in which the state charged a defendant then agreed to a federal prosecution of that defendant instead, the state dismissal would cause this record to be removed from the public's eye. One could foresee a case similar to Joshua Wade where the defendant could be charged in either jurisdiction and the discretionary decision later by the state to have it pursued federally would pull that state record from the public. How would this be defended as appropriate or an accurate reflection of the history of what happened? If California had the same rule, none of the OJ Simpson case would be available to citizens, the media, those victims' families or researchers.

**2) Global plea agreements:** Global plea agreements are common in our state and frankly a necessary component in our criminal justice system due to the strain of the volume of cases in the system. This type of plea agreement occurs when a defendant has more than one pending criminal case. The offer, for example, would allow the defendant to plead out in one case and the other cases would be dismissed. Such plea agreements benefit the criminal justice system as a whole because they provide an effective way for the defendants, courts and prosecutors to resolve a number of cases at the same time and lighten the burden on the criminal justice system. These are seen most frequently in cases involving as burglary, robbery or thefts but also can occur in cases involving domestic violence or sexual offenses. The fact that a defendant pleads to one case, does not mean he was innocent or false accused of the charges in the other pending cases. The prosecutor may have used the other cases to enhance his sentence in the plea case or to support aggravating factors for sentencing purposes. The current version of SB 108 only

preserves dismissals within the same case if a defendant pleads to or is found guilty of other counts in that case. In situations where a defendant has more than one pending criminal case, a plea in one case could result in all the other cases being dismissed and under SB 108 erased from the public's knowledge.

The prosecutor holds the power to dismiss cases. Victims cannot prevent a prosecutor from dismissing a case or cases, nor can the public prevent the dismissal. This is true regardless of the strength of the evidence. While we would hope it would not happen, the discretion to charge, prosecute, negotiate and dismiss lies with the prosecution not the victim, even in cases with confessions by the defendant. SB 108 gives a defendant an extra "reward" for his criminal behavior far beyond the benefits of the global plea agreement which already reduces his liability. With SB 108, the defendant will get to hide the facts of his other criminal acts from the public. At the same time the victim will be left empty, unacknowledged, unsupported and demoralized by the system. There will be no acknowledgement of what they went through emotional, financial or physically. The criminal justice system provides little restoration for the victim and, if SB 108 becomes law even the smallest, yet significant to victims, showing of their victimization will be removed from the public eye.

**3) Deceased, recanting or missing key witnesses.**

**4) Judges decisions to suppress key evidence such as admissions or confessions to the crime(s).**

These are all considerations in the prosecution of a case which could lead to a dismissal, but which do not mean the offender is innocent.

- **The bill demoralizes victims and sends the message once again that consequences to an offender far outweigh the harm to a victim, and that victims don't matter.**

For all the good laws put on the books to help victims, the reality is that victims often are forgotten, ignored, or worse vilified in the criminal justice system. False accusations happen, but those cases represent a very small percentage of all the cases entering the criminal justice system. While there are those who are falsely accused, the general idea that "victims lie" is a stereotype victims are confronted with daily whether it's a victim reporting a domestic violence assault or a rape, or a child victim reporting a sexual molestation. This bill perpetuates that myth. During my years as a prosecutor, and handling primarily sexual offense and domestic violence cases, I saw very few cases of where I had any evidence of a false accusation. Passage of this bill into law would send the message that you, as our legislators, don't support victims, and that you too believe that "victims lie." It also sends a message that consequences to an individual defendant related to a public record of charges filed is of more concern to you than the fact of the victim's suffering or the acknowledgement that a victim reported the harm perpetrated against them. To add insult to injury, with this bill, a crime victim of the reported crime who testified at trial would be barred access to her own testimony provided during what had been a public trial.

- **The bill prohibits citizens from having information which can help them protect their children, themselves, their homes and their businesses.**

The government cannot protect its citizens day to day. The public should be empowered with access to information it can use for its own protection. For the most part, it is up to citizens to do what they can to prevent themselves from becoming victims of crime. While the government can make laws and implement policies to assist in the prevention, the most effective prevention requires citizen involvement or citizen policing. In general, the criminal justice system reacts to criminal events rather than prevents those acts.

This bill takes a very paternalistic position that the government knows better than citizens about how to use information. It is lawmakers saying to the citizens that they are too stupid or too unsophisticated to understand the information. Every Alaskan should be empowered with the ability to have information available to them which could help protect them and others from harm and keep them from becoming one of Alaska's embarrassing statistics.

- **The bill violates the spirit of the First Amendment and the Freedom of Information Act.**

Historically, courtrooms and related court records have been open to the public. Courts have recognized a presumed right of access to both criminal and civil court records. Where decisions have been made to curtail public access to court records it is done on a case-by-case basis in light of facts and circumstances of that particular case, and rarely, if ever, results in the removal of the entire case from public view.

The U.S. Supreme Court established a two-part test to determine whether the press and public have a First Amendment right of access to criminal proceedings. The first test is whether the place and process have been historically open to the press and public. The second test is whether public access plays a significant positive role in the functioning of the process in question. The answer to both these questions is "yes" in Alaska. Since the two-part test was established, courts have extended this test to establish a constitutional right of access to criminal and civil court proceedings and records. When the First Amendment right of access applies, the Supreme Court has held that a presumption of disclosure requires courts to grant access unless specific, on-the-record findings demonstrate that closure is "necessitated by a compelling governmental interest, and is narrowly tailored to serve that interest." Our state's own public records act says that every person has the right to inspect a public record, except in a few limited circumstances. The public has a right that is exercised now. With this bill, the public's right will be snatched away because of SB 108. How schizophrenic is it to say on the one hand "yes" the public has a right to access a court record while pending, however long that is, whether it be 2 weeks or 6 years, but on the other hand that access must be terminated after a dismissal or acquittal. It makes no sense why it is allowed to be seen for a period then banned from the public's eye.

The argument has been made that a presumed innocent is presumed innocent until proven guilty so if not proved guilty it should be removed. If this logic were really applied then no court record would be open to the public or press until after a person is found guilty. The court and its records have been open for the public to see the process. It is as important for the public, whether that means a victim, a journalist, a researcher or anyone else, to see, reflect upon and understand the whole process. Dismissals and acquittals are a component on the criminal justice process and the entire process should be open to public scrutiny.

- **The bill fails to acknowledge the significant difference between being “innocent” and being found “not guilty.”**

Verdict forms provided to jurors specifically use the phrase “not guilty” because the jury is not finding the person is innocent of the charge(s); only that the government failed to prove beyond a reasonable doubt each element of an offense charged. A verdict of “not guilty” does not mean a person is “innocent” of a crime, just that it wasn’t proven to the jury beyond a reasonable doubt. Such a verdict may be because of the suppression of key evidence by a judge, jury nullification, witness intimidation, loss of witnesses due to death or relocation, or jury confusion. I have talked to jurors who rendered “hung” and “not guilty” verdicts, who have said that they believed the defendant did the crime but they didn’t feel the evidence presented proved it to the high degree of beyond a reasonable doubt. “Not Guilty” at trial does not mean innocent of criminal wrongdoing.

Regardless of how the jury comes to its decision, this bill would forever preclude the public, whether a victim, researcher or reporter, from reviewing the case that had been open to the public yet now is cloaked in secrecy.

- **The bill ignores safeguards currently within the criminal justice system and signals to the public that they cannot trust the process because our own law makers neither trust the process nor the public they serve.**

The criminal justice process has numerous safeguards in place to ensure that there must be evidence to support criminal charges against a person. This bill ignores that well-established process. Those safeguards include: 1) an evaluation by an officer, based on specific facts and circumstances, that he has evidence that would lead a reasonable person to believe that the suspect has committed a crime, thus supporting probable cause; 2) a review by a judicial officer to determine if there is probable cause; 3) a review by a prosecutor who is ethically bound not to prosecute a charge not supported by probable cause; 4) a review of the sufficiency of the evidence supporting charge(s) by a grand jury made up of citizens in all felony matters; 5) a requirement that prosecutors must present any evidence which tends to negate guilt to the grand jury; 6) additional judicial review provided by the opportunity for the defendant to file motions with the court based of a lack of sufficient evidence to warrant the charge(s); 7) a trial where the prosecutor must present evidence which will show beyond a reasonable doubt that the defendant committed all the elements of the crime(s); 8) an opportunity at trial for the defendant to

cross-examine state witnesses and present his/her own evidence; and 9) an opportunity for the defendant to ask the judge having heard all the evidence to acquit the defendant prior to the jury receiving the case for deliberations. These aspects of the criminal justice system provide the safeguards to protect against baseless unsubstantiated charges. This bill, in essence, says to the crime victim and the community at large that process is inconsequential, irrelevant, and has no probative value.

- **The bill will make Alaska's children more vulnerable by blocking access to information, within the criminal justice system, that may be of great importance to citizens in their civil actions, especially family law matters or tort claims.**

As it stands now a citizen can request information from the court system about any criminal case. That information may significantly aid them in evaluating whether or not to pursue a civil action or whether there is enough information to pursue the case. Blocking access to some criminal court records for victims, citizens, or their counsel could harm their ability to develop their case and locate valuable information, which could be key to their civil action.

- **The bills fails to recognize that Courtview presents information in an objective format.**

Courtview reflects the charges, amendments to charges, hearing and litigation history, bail information and the disposition of a case – in other words just facts. The court system has gone a step further, than just reporting to facts, to emphasize a charge does not mean a person is “guilty” of a crime. Clearly a charge alone does not mean a person is guilty beyond a reasonable doubt but the information contained in the court record and reflected in Courtview is a factual history of the criminal case and provides the only public source where accurate information can be found about that case. It is imperative to have a source where facts can be reviewed, researched and relied upon instead resorting to relying on memory, rumor or the media. Availability of court records is critical to the ability to fact check. That opportunity will be eradicated by this bill.

- **The bill is contrary to the general policy goal of transparency of government institutions.**

Transparency allows citizens of a democracy to check their government by holding their government accountable, as well as reducing government corruption, bribery and other malfeasance. This is based on the concept that citizens will be more trusting of their government if they can see what the government is doing; that the government exists for the good of the populous, and in a free country the government cannot operate in the shadows. A free and independent press is one a strong guarantor of transparency and perhaps stronger than any legislative checks and balances. With SB 108, not only will our citizens be denied this access and transparency, but so will the press. This bill proposes to hide government functions, which affect the many not just the few.

- **The bill rolls back in time to a place where we will be worse off as a community off.**

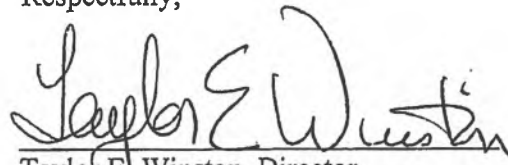
In decades past, communities were smaller. People connected face to face. They knew their neighbors' names at a minimum. This type of interpersonal association and communication allow people to "know" who was around them and to protect themselves. Those days are mostly gone. We are a more mobile society so the connections once easily forged in communities is now frayed by citizens on the move from village to village, village to the city and to other states. Instead of being dependent on our neighbors, families and fellow citizens for information, we are reliant upon the media and electronically available data. Our communities are frayed and many connections severed so that traditional methods of gathering information are all but gone. Now this bill threatens the access we once had and should have. It will leave people worse off than before the age of court technology. Our citizens should be given the freedom to collect information to better their lives and, in the case of court records, to allow them to be proactive in their own safety. SB 108 would be an unprecedented denial of public access to criminal records at our courthouses by the Alaska Legislature.

SB 108's consequences are far too broad and it should be abandoned as written. If the legislature wishes to provide a remedy for those falsely accused of a crime, it should draft a more narrowly-defined bill. OVR has offered amendment which would answer many of the concerns SB 108 attempts to cure but which would significantly decrease the ill effects. For those defendants not eligible for their criminal records being made confidential under OVR's suggested amendments to SB 108, A.S. 12.62.180, the statute which provides a process by which defendants can pursue sealing their criminal justice information, still exists. OVR, however, would encourage discussion and possible amendments to A.S. 12.62.180. While there is a process, it is not clearly defined and there is little likelihood of success as currently designed.

If the Legislature passes this bill as is, it is saying those defendants are innocent and any victims in those cases are not actual victims. The government, when considering reducing a citizen's freedom of information, should do so, if at all, in the most limited fashion possible to remedy the harm the law seeks to prevent, not rewrite history.

If you support freedom of information; the First Amendment; transparency of government, keeping our communities as safe as possible and the fair, dignified and respectful treatment of victims, then you cannot support SB 108 as currently written.

Respectfully,

  
Taylor E. Winston, Director  
Alaska Office of Victims' Rights

# 28<sup>th</sup> Alaska State Legislature

SENATOR  
JOHN COGHILL  
CHAIRMAN

State Capitol, Room 119  
Juneau, Alaska 99801-1182  
(907) 465-3719



SENATOR  
LESIL MCGUIRE  
VICE-CHAIR

State Capitol, Room 103  
Juneau, Alaska 99801-1182  
(907) 465-2995

## Senate Judiciary Committee

### SPONSOR STATEMENT Omnibus Crime/Corrections/Recidivism Bill Version M

Senate Bill 64 implements proven-practices to reduce recidivism and cut the cost of corrections while maintaining public safety.

**24/7 Sobriety Program** is an evidence-based program that is proven to reduce recidivism and keep the public safe. 24/7 Sobriety is court-ordered for certain offenders during pre-trial or probation. Hallmarks of the program include twice-a-day alcohol testing and swift and certain sanctions if alcohol is consumed. 24/7 Sobriety is modeled after programs in South Dakota, North Dakota, and Montana that have proven to reduce domestic violence and drunk driving.

**Probation and Parole Accountability with Certain Enforcement (P.A.C.E.)** is an intensive form of probation/parole for felons who are at high risk of violating the conditions of their probation/parole. The program relies on swift and certain sanctions to deter a probationer or parolee from using drugs or otherwise violating their probation requirements.

Offenders on P.A.C.E. are 55% less likely to be arrested for a new crime, 72% less likely to use drugs, 61% less likely to skip appointments, and ultimately 53% less likely to have their probation revoked. P.A.C.E. leads to 48% fewer days in prison. SB 64 expands the program statewide.

**Recidivism Reduction Fund:**  $\frac{2}{3}$  of offenders return to prison within 3 years. To address Alaska's high rate of recidivism, recently-released individuals must have access to a structured and sober environment, treatment, and employment opportunities. This section is established to fund transitional re-entry programs for those recently released from prison.

**Felony Theft Threshold** was established at \$500 in 1978. The threshold has never been adjusted for inflation, despite \$500 being equal to \$1800 today. SB 64 increases the threshold from \$500 to \$750.

**Custodial Interference:** SB 64 creates a criminal offense of custodial interference in the second degree when a non-relative attempts to take a child from a lawful custodian without permission. This section closes a statutory “loophole” and creates a more serious criminal offense for impersonating a parent or attempted child abduction.

**Alaska Criminal Justice Commission** is established to analyze and evaluate the effect of laws and practices within the state’s criminal justice system. This would effectively restore the Alaska Sentencing Commission that existed in the early 1990’s.

**Credit for Time Served in Residential Treatment** incentivizes people to seek and pay for their own treatment. A person will receive credit against a sentence for time spent in a residential treatment facility, but must remain on the grounds of the facility unless given permission to leave for purposes directly related to their treatment.

**Assessments of Prisoners:** This section requires the Department of Corrections to conduct a risk-needs assessment on all offenders incarcerated 30 days or longer. This will help the department better understand the offender population and link inmates to treatment within the facilities.

**PTSD Mitigating Factor:** SB 64 creates a new mitigating factor allowing a judge to take into consideration whether the offense was related to combat-related PTSD or traumatic brain injury. If a nexus is found between the mental disorder and the crime, it could result in a lesser sentence. The offender would have the burden of proving that he or she suffers from combat-related PTSD or combat-related traumatic brain injury. This mitigator is not available for crimes of serious injury such as assault or sexual crimes.

**Limited Licenses** allow felony DUI offenders the privilege to drive, if they agree to an ignition interlock device, 24/7 Sobriety, and obtaining insurance. This limited license encourages those with lifetime revocations to seek treatment and participate in alcohol monitoring, rather than driving without a license and endangering the public.

**Confidentiality of Criminal Records:** CourtView indefinitely shows arrest and charging records for persons who were never convicted or incarcerated. SB 108 was incorporated into SB 64, which makes certain court records confidential. A person is not a criminal if acquitted at trial or if their case is dismissed. In American jurisprudence, we are all to be considered innocent until proven guilty. This section reinforces that presumption of innocence by making court records confidential for those not found guilty.

**Electronic Monitoring** is an effective and inexpensive approach to offender supervision. This section gives the Department of Corrections the ability to place first-time DUI offenders on electronic monitoring for the 72-hour mandatory minimum. This is an option that currently exists for municipalities like Anchorage, but is not available to the rest of the state in Alaska statute. E.M. costs \$21/day, compared to \$158/day for a hard prison bed.

# 28<sup>th</sup> Alaska State Legislature

SENATOR  
JOHN COGHILL  
CHAIRMAN

State Capitol, Room 119  
Juneau, Alaska 99801-1182  
(907) 465-3719



SENATOR  
LESIL MCGUIRE  
VICE-CHAIR

State Capitol, Room 103  
Juneau, Alaska 99801-1182  
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## Senate Judiciary Committee

### **SECTIONAL ANALYSIS**

#### **Senate Bill 64**

*Omnibus Crime/Corrections/Recidivism Bill  
Version V*

#### **Section 1:**

*This section provides legislative intent directing the court to treat, confidentially, records of criminal cases disposed of before the effective date of the Act by acquittal of all charges, dismissal of all charges, or acquittal of some charges and dismissal of remaining charges, to the same extent that records are held confidential by this bill under AS 22.35.030.*

#### **Section 2:**

*This section clarifies that a person commits the crime of custodial interference in the first degree if that person is a relative of the child and removes that child from the state and keeps the child from its legal custodian, despite not having a legal right to do so.*

#### **Section 3:**

*This section makes it a crime of custodial interference in the second degree if a non-relative of a child knowingly and unlawfully represents themselves as having a right, and has the intent to, take or keep a child. This section establishes a class A misdemeanor for an attempted child abduction, rather than the lesser crime of criminal mischief.*

#### **Section 4:**

*This section clarifies that an affirmative defense of necessity does not apply to a prosecution for custodial interference if the period for which the person held the child exceeded 24 hours if 24 hours is the amount of time necessary to report that the child has been neglected, abused, or is in physical danger.*

#### **Section 5:**

*This section will increase the minimum amount of property or services for the crime of theft in the second degree. Theft in the second degree is a class C felony and carries a maximum sentence of up to five years in prison and a fine of up to \$50,000.*

**Section 6:**

*This section will increase the minimum amount of property or services for the crime of theft in the third degree. Theft in the third degree is a class A misdemeanor and carries a term of imprisonment of not more than one year and a fine of up to \$10,000.*

**Section 7:**

*This section will increase the minimum amount of property or services for the crime of theft in the fourth degree. Theft in the fourth degree is a class B misdemeanor and is punishable by imprisonment of not more than 90 days and a fine of not more than \$2,000.*

**Section 8:**

*This section will increase the minimum amount of merchandise for the crime of concealment of merchandise for a class C felony, and class A and B misdemeanors.*

**Section 9:**

*This section will increase the minimum amount of property that identification marks are removed from for a class C felony and class A and B misdemeanors.*

**Section 10:**

*This section will increase the minimum amount of unlawful possession of property for a class C felony and class A and B misdemeanors.*

**Section 11:**

*This section will increase the minimum amount of a bad check for a class C felony and class A and B misdemeanors.*

**Section 12:**

*This section will increase the minimum amount of the fraudulent use of an access device for a class C felony and class A misdemeanor.*

**Section 13:**

*Clarifies that if the property crime felony threshold is adjusted, the new threshold does not retroactively apply to prior offenses.*

**Section 14:**

*This section will increase the minimum amount of property damage and expenses as a result of the loss of use of a vehicle.*

**Section 15:**

*This section will increase the minimum amount of property damage for the crime of criminal mischief in the third degree. Criminal mischief in the third degree is a class C felony.*

**Section 16:**

*This section will increase the minimum amount of property damage for the crime of criminal mischief in the fourth degree. Criminal mischief in the fourth degree is a class A misdemeanor.*

**Section 17:**

*This section will increase the minimum amount of property damage for the crime of criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a class B misdemeanor.*

**Section 18:**

*This section will increase the minimum amount of property damage for the crime of criminal simulation for a class C felony and class A and B misdemeanors.*

**Section 19:**

*This section will increase the amount of the value of the property for the crime of misapplication of the value of property for a class C felony and class A misdemeanor.*

**Section 20:**

*This section will increase the minimum amount for the crime of defrauding creditors under certain conditions for a class A misdemeanor, and class C felony.*

**Section 21:**

*This section establishes a 24/7 Sobriety program that can be court-ordered for defendants out on bail who have been charged with alcohol-related or substance abuse-related offenses that are unclassified felonies, class A felonies, sexual felonies, or crimes involving domestic violence. The program requires twice-a-day alcohol monitoring and establishes a means to provide notification of a violation to the probation officer, prosecutor's office, or local law enforcement agency within 24 hours.*

**Section 22:**

*This section establishes a 24/7 Sobriety program that can be court-ordered for defendants out on bail who have been charged with DUI or refusal. The program requires twice-a-day alcohol monitoring and establishes a means to provide notification of a violation to the probation officer, prosecutor's office, or local law enforcement agency within 24 hours.*

**Section 23:**

*This section establishes a 24/7 Sobriety program that can be court-ordered for defendants out on bail who have been charged with crimes involving controlled substances or imitation controlled substances. The program requires twice-a-day alcohol monitoring and establishes a means to provide notification of a violation to the probation officer, prosecutor's office, or local law enforcement agency within 24 hours.*

**Section 24:**

*An incarcerated person shall receive credit against a sentence of imprisonment for each day spent in a residential treatment facility, provided the person is confined at all times to the grounds of the facility, other than for employment, vocational training, community volunteer, or purposes directly related to the person's treatment, so long as the periods they are permitted to leave the facility are expressly limited as to both time and purpose by the treatment program.*

**Section 25:**

*This section establishes a 24/7 Sobriety program as a condition of probation that can be court-ordered, which includes twice-a-day alcohol monitoring and establishes a means to provide notification of a violation to the probation officer, prosecutor's office, or local law enforcement agency within 24 hours.*

**Section 26:**

*This section establishes a new mitigating factor that allows a judge to take into consideration whether the offense was related to combat-related Post-Traumatic Stress Disorder (PTSD) or combat-related Traumatic Brain Injury (TBI). The offender has the burden of proving that he or she suffers from combat-related PTSD or TBI prior to it being considered for the purposes of sentencing. This mitigating factor is not applicable to arson or crimes against the person, such as murder and sexual offenses.*

**Section 27:**

*The judicial council shall provide staff and administrative support to the Alaska Criminal Justice Commission.*

**Section 28:**

*This section establishes that a court record of a criminal case is confidential if 120 days have elapsed from the date of acquittal or dismissal and (1) the person was acquitted of all charges filed in the case; (2) all charges against the person have been dismissed by the prosecuting authority; or (3) the person was acquitted of some of the charges in the case, and the remaining charges were dismissed.*

*This section also provides exceptions for access to information made confidential for state agency employees responsible for health, safety, welfare, or placement of a child, a person with a physical or intellectual disability, or a person with a mental illness; employees that protect other vulnerable citizens, and state criminal justice information network users. The Department of Health and Social Services will adopt regulations to administer these exceptions.*

**Section 29:**

*The court may terminate a license revocation for DUI or refusal if the person has successfully completed a court-ordered treatment program, has not been convicted of a DUI or refusal since completing the program, and has been granted a limited license and successfully driven under that limited license for three years without having those privileges revoked.*

**Section 30:**

*The court or department may grant limited license privileges if the revocation is for DUI, and the person has successfully participated (for 6 months), or has successfully completed, a court-ordered treatment program, provides proof of insurance, is using an ignition interlock device, enrolls in alcohol screening, and participates in 24/7 Sobriety for a minimum of 120 days. The court or department may immediately revoke the limited license if the person is convicted of a DUI or refusal or is not in compliance with the court-ordered treatment program.*

**Section 31:**

*Once the court elects to proceed with this limited license procedure, the defendant shall enter a plea of "no contest" or "guilty." The state and the defendant may enter into a plea agreement and the court shall enter a judgment of conviction. In a judgment of conviction, the court may withhold pronouncement of a period of imprisonment or a fine to provide an incentive for the defendant to complete recommended treatment successfully.*

**Section 32:**

*Imprisonment for a first-time DUI offense shall be served by either electronic monitoring, a community residential center, or another appropriate place determined by the commissioner of corrections.*

**Section 33:**

*Upon request, the department shall review a driver's license revocation for felony DUI and shall restore the driver's license if the person has been granted limited license privileges and has successfully driven under that limited license for three years without having those privileges revoked, the person has successfully complete a court-ordered treatment program, the person has not been convicted of a DUI or refusal since the license was revoked, and the person provides proof of insurance.*

**Section 34:**

*The commissioner shall establish the Probationer Accountability and Certain Enforcement (P.A.C.E.) program for felons with conditions of probation that include not consuming drugs or alcohol and who have been identified as being at moderate to high risk by a risk-needs assessment. The program shall include random drug and alcohol testing and requires a probation officer to file a petition to revoke probation by the next business day if the probationer fails to appear for an appointment or tests positive for drugs or alcohol.*

**Section 35:**

*This section directs the parole board to establish the Probationer Accountability and Certain Enforcement (P.A.C.E.) program for parolees with conditions of parole that include not consuming drugs or alcohol and who have been identified as being at moderate to high risk by a risk-needs assessment. The program shall include random drug and alcohol testing and requires a parole officer to file a parole violation report by the next business day if the parolee fails to appear for an appointment or tests positive for drugs or alcohol.*

**Section 36:**

*The parole board may require, as a condition of special medical or mandatory parole, a parolee must submit to the Probationer Accountability and Certain Enforcement (P.A.C.E.) program.*

**Section 37:**

*The commissioner shall establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more. The commissioner shall also provide an assessment or screening of offenders with fetal alcohol syndrome or another brain-based disorder. The department must provide a report summarizing the findings and results of the program.*

**Section 38:**

*The Alaska Criminal Justice Commission is established in the Office of the Governor. The commission consists of 11 members as follows:*

- (1) the chief justice of the Alaska Supreme Court or another active or retired justice of the supreme court or court of appeals*
- (2) an active or retired superior court judge designated by the chief justice*
- (3) an active or retired district court judge designated by the chief justice*
- (4) a member of the Alaska Native community designated by the Alaska Native Justice Center*
- (5) the attorney general or designee*
- (6) the public defender*
- (7) a private attorney appointed by the governor*
- (8) a chief of a municipal law enforcement agency appointed by the governor*
- (9) a victims' rights advocate appointed by the governor*
- (10) one non-voting member of the senate appointed by the president of the senate*
- (11) one non-voting member of the house of representatives appointed by the speaker of the house of representatives*

*The commission shall elect a chair and the Alaska Judicial Council shall provide staff and administrative support to the commission.*

*Members of the commission serve without compensation but are entitled to per diem and travel expenses authorized for boards and commissions.*

*A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission.*

*The commission shall meet at least quarterly and shall keep a record of its proceedings and make these records available for public inspection.*

**Sec. 44.19.645. Powers and duties of the commission.**

*The commission shall evaluate the effect of sentencing laws and practices on the criminal justice system. In formulating its recommendations, the commission shall consider:*

- (1) statutes and court rules*
- (2) sentencing practices*
- (3) uniformity and proportionality in sentencing*
- (4) alternatives to traditional incarceration*
- (5) the use of parole and probation*
- (6) the effectiveness and availability of rehabilitation programs*
- (7) crime and incarceration rates*
- (8) the relationship between sentencing priorities and correctional resources*

*(9) the effectiveness of the state's current methodologies for the collection and of data*

*The commission may retain the services of consultants to assist the commission. The commission may recommend legislative and administrative action.*

**Sec. 44.19.646. Methodology.**

*The commission shall solicit and consider information and views from a variety of constituencies and base recommendations on the following factors:*

- (A) the seriousness of each offense in relation to other offenses*
- (B) the effect of an offender's prior criminal history*
- (C) The need to rehabilitate criminal offenders*
- (D) The need to confine offenders to prevent harm to the public*
- (E) The extent to which criminal offenses harm victims and endanger public safety*
- (F) The effect of sentencing in deterring an offender or other members of society from future criminal conduct*
- (G) The effect of sentencing as a community condemnation and as an affirmation of societal norms*
- (H) The elimination of unjustified disparity in sentences*
- (I) The sufficiency of resources to administer the criminal justice system*
- (J) The effect of sentencing on reducing the rate of recidivism in the state*
- (K) Peer reviewed and data-driven research*
- (L) The effect of over-classification of prisoners*
- (M) The effects of evidence-based restorative justice initiatives*

*The commission shall submit to the governor and the legislature an annual report and recommendations by January 1 of each year.*

**Section 39:**

*This section establishes a sunset of June 30, 2017 for the Alaska Criminal Justice Commission.*

**Section 40:**

*The commissioner of health and social services, in cooperation with the commissioner of corrections, shall establish a program that includes not consuming controlled substances or alcohol beverages. The program requires twice-a-day testing, in person if practicable, and establishes a means to provide the probation officer, prosecutor's office, or local law enforcement a notice within 24 hours if an appointment is missed or a positive test occurs, so that a swift and certain sanction can be applied. The commissioner will establish financial guidelines that require the offender pay for the testing, based on financial ability.*

*Article 2 establishes the Recidivism Reduction Grant Fund within the Department of Health and Social Services. The commissioner shall work in cooperation with the Department of Corrections to make grants from the fund to programs that have, as a primary focus, rehabilitation and reduction of recidivism through transitional re-entry for persons recently released from correctional facilities. To qualify for a grant under this section, a program shall include case management, sober living, treatment, employment, and a cap on residential placements of 1 year. The commissioner shall prepare an annual report for the legislature by January 15 of each year.*

**Section 41:**

*Staffing for the Alaska Criminal Justice Commission expires when the commission expires (June 30, 2017).*

**Section 42:**

*APPLICABILITY*

**Section 43:**

*This section requires the Alaska Criminal Justice Commission to issue a special report to the governor and the legislature regarding AS Title 28. The report must include recommendations to improve policy and practices relating to the revision of AS 28, license revocations, ignition interlock devices, and treatment programs.*

**Section 44:**

*TRANSITIONAL PROVISIONS*

**Section 45:**

*This section clarifies that the Department of Corrections, the parole board, and the Department of Health and Social Services may begin adopting regulations to implement P.A.C.E. and 24/7 Sobriety immediately upon passage of this bill.*

**Section 46:**

*This section establishes an effective date for Section 28 (October 1, 2014).*

**Section 47:**

*This section establishes a delayed effective date for Section 29 (January 1, 2016).*

**Section 48:**

*This section clarifies that the Department of Health and Social Services, the parole board, and the Department of Corrections may begin adopting regulations to implement P.A.C.E. and 24/7 Sobriety immediately upon passage of this bill.*

**Section 49:**

*This section establishes an effective date of July 1, 2014 for the remaining sections of the bill.*

(11)

Date Referred to Committee: April 10, 2014

FURTHER REFERRALS:

Date of Committee Action: 4/19/14

The FINANCE Committee considered:

CSSB 64(FIN)

**CS FOR SENATE BILL NO. 64(FIN)**

"An Act relating to theft and property offenses; relating to the definition of 'prior convictions' for certain theft offenses; establishing the Alaska Criminal Justice Commission and providing an expiration date; relating to the crime of custodial interference; relating to the duties of the Alaska Judicial Council; relating to jail-time credit for offenders in court-ordered treatment programs; relating to conditions of release, probation, and parole; relating to duties of the commissioner of corrections and board of parole; establishing a fund for reducing recidivism in the Department of Health and Social Services; requiring the commissioner of health and social services to establish programs for persons on conditions of release or probation that require testing for controlled substances and alcoholic beverages; requiring the board of parole to establish programs for persons on parole that require testing for controlled substances and alcoholic beverages; relating to the duties of the Department of Health and Social Services; and providing for an effective date."

**SB 64 OMNIBUS CRIME/CORRECTIONS/RECIDIVISM BILL**

Recommends it be replaced with  HCS or  CS for CSSB 64 ( FIN )  
 For Senate Bills with new title:  Technical Title  New Title: HCR 27  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

- List of Abbrev for Depts.:
- ADM
  - CEC
  - COR
  - CRT
  - EED
  - DEC
  - DFG
  - GOV
  - DHS
  - LWF
  - LAW
  - LEG
  - MVA
  - DNR
  - DPS
  - REV
  - DOT
  - UA

NEW FISCAL NOTES				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
	GRT			✓
	LAW		✓	
	CRT	✓		
	COR	✓		
	HPDN/DHS	✓		

PREVIOUS FISCAL NOTES				
FN#	List by Dept(s):	Fiscal	Indet.	Zero
8	ADM			✓
10	ADM			✓
13	GOV			✓
14	DHS	✓		
16	COR	✓		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	GATTUSO	✓			
	THOMPSON	✓			
	Holmes	X			
	Munoz	✓			
	NEUMAN			✓	
	Edgmon	✓			
	T. Wilson			✓	
	CASTELLO			✓	
Chair:	STOLTZ			X	
Chair:	AUSTERMANN			X	

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064-DHSS-ASAP-04-19-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
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 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>								
Personal Services	96.5		96.5	96.5	96.5	96.5	96.5	96.5
Travel	6.6		6.6	6.6	6.6	6.6	6.6	6.6
Services	396.9		396.9	396.9	396.9	396.9	396.9	396.9
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>500.0</b>	<b>0.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	403.5		403.5	403.5	403.5	403.5	403.5	403.5
1007 I/A Rcpts	96.5		96.5	96.5	96.5	96.5	96.5	96.5
<b>Total</b>	<b>500.0</b>	<b>0.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>	<b>500.0</b>

**Positions**

Full-time	1.0		1.0	1.0	1.0	1.0	1.0	1.0
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:**

House Finance reduced GF by (\$378.2) on the Services line . The inter-agency receipts included in this fiscal note are backed with GF from the Department of Corrections/Recidivism Reduction Grants appropriation to fund the Program Coordinator responsible for writing the requests for Recidivism Reduction grant proposals.

Prepared By: Co-Chair Representative Austerman  
House Finance Committee  
Co-Chair Representative Stoltze  
House Finance Committee

Phone: (907)465-6258  
Date: 04/19/2014

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB064(FIN)

### Analysis

AS 47.38.020 requires the Commissioner of the Department of Health & Social Services (DHSS), in cooperation with the Commissioner of Corrections (DOC) to establish a program for defendants with release conditions, and offenders with conditions of probation or parole, to monitor and report any use of controlled substances or alcoholic beverages by participants of this program.

The Division of Behavioral Health anticipates impact from this provision due to the approval and monitoring duties by the Alcohol Safety Action Program of services provided through testing agencies.

A portion of the individuals who are referred to this program are or have been involved with the Alcohol Safety Action Program (ASAP) so therefore should have only a minimal impact on the current service levels or needs. Those misdemeanor offenders that are affected by the latest version (S) of this bill are most likely already participating in the Alcohol Safety Action Program so there would only be an additional monitoring assignment to the testing agency which would result in a minor increase in workload for ASAP personnel, whose role is limited to receiving notifications when program participants do not adhere to program requirements and responding with notifications to the court system of such.

While treatment programming will/may be a component of this testing process, it does not appear to significantly increase the need for new treatment programs.

As SB64(S) is currently drafted, the 24/7 Sobriety monitoring program would be available to defendants who are out on bail and have been charged with an alcohol or controlled substance related offense which is an unclassified felony, class "A" felony, or a sexual felony. The program would also be available for defendants who have been charged with DUI or refusal and other alcohol related offenses, or with a crime involving domestic violence. The 24/7 Sobriety monitoring program may also be ordered as a condition of probation. According to the Department of Corrections in FY2013 there were 2,432 offenders identified that met the criteria outlined in SB64(S). It is estimated that a third of those offenders would also qualify as indigent and unable to afford to participate in the program without financial assistance. The fees that can be collected from offenders with an ability to pay will be paid directly by the offender to the private testing agency.

Sec. 47.38.100 includes the development, implementation, and monitoring of the Recidivism Reduction grant program and fund, by the Department of Health and Social Services. This addition will require a minimum of one additional ASAP Program Coordinator (to monitor and manage both the Recidivism grant program and the identified private testing programs) and one additional Grants Manager within the DHSS section of Grants & Contracts.

#### Assumptions

##### 24/7 Sobriety:

- Total eligible in FY13: 2,432
- Estimated rural: 75
- Estimated urban: 2,357
- Estimated indigent: 1/3 of the total eligible
- Daily cost for rural: \$10/day + \$20 initial fee
- Daily cost for urban: \$5/day + \$20 initial fee
- Recommended duration: 180 days (6 months)

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB064(FIN)

**Analysis Continued**

**Recidivism Reduction Grant Program:**

- Grant funding will not be appropriated to DHSS. The proposed legislation establishes the new grant fund within the general fund and allows the commissioner to make grants from the fund directly, without a direct appropriation to the department.
- Grants administration tasks are the responsibility of DHSS Department Support Services. One Grants Administrator II position and associated costs are included in a separate Administrative Support Services fiscal note.
- Grant management tasks are the responsibility of DHSS Behavioral Health. One ASAP Program Coordinator I position will be required to manage the grants.
- Six new grant sites are assumed.

Costs

**- Personal Services: \$96,467**

One FTE Program Coordinator I (R18/B) Based in Anchorage, this position would be responsible for writing the requests for proposals for the Recidivism Reduction grants and monitoring effectiveness.

**- Contractual: \$775,120**

- 24/7 fees to testing agencies for indigent population: \$768,620
  - Urban: 786 client count (2,357/3) multiplied by \$5/day multiplied by 180 days + \$20 multiplied by 786 client count = \$723,120*
  - Rural: 25 (75/3) client count multiplied by \$10/day multiplied by 180 days + \$20 multiplied by 25 client count = \$45,500*

- Ancillary costs to support one 1 FTE: \$6,500

**- Travel: \$6,640**

Travel to 6 grant agencies and 2 testing sites outside the Anchorage bowl for program monitoring

- Airfare: \$500 x 8 trips = \$4,000
- Car rental: \$35/day x 1 day x 8 trips = \$280
- Hotel: \$175/night x 1 night x 8 trips = \$1,400
- Per Diem: \$60/day x 2 days x 8 trips = \$960

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HCSCSB064(FIN)-ACS-TRC-04-19-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: House Finance

Department: Alaska Court System  
Appropriation: Alaska Court System  
Allocation: Trial Courts  
OMB Component Number: 768

**Expenditures/Revenues**

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

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

**Fund Source (Operating Only)**

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

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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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 to reflect changes made in the House Finance Committee in new CS

Prepared By: <u>Nancy Meade, General Counsel</u>	Phone: <u>(907)463-4736</u>
Division: <u>Alaska Court System</u>	Date: <u>04/19/2014 05:30 PM</u>
Approved By: <u>Nancy Meade for Christine Johnson, Administrative Director</u>	Date: <u>04/19/2014</u>
Agency: <u>Alaska Court System</u>	

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCSCSSB064(FIN)

### Analysis

The CS for Senate Bill 64(FIN) would make numerous changes to Alaska's criminal and corrections statutes. Sections 1-3 expand the definitions of the **crime of custodial interference** and the defenses available for charges of that crime. The number of cases that this will impact is expected to be small; the changes will not have any fiscal impact on the court system.

Sections 4-19 amend the definitions for the various **theft/property crimes** to raise the dollar threshold amount; Section 12 also clarifies how prior theft convictions will be counted. The increases in dollar amounts that have the potential to impact the court system are those that raise from \$500 to \$750 the value of property that must be stolen or damaged before a theft or property crime is categorized as a felony. This will have the effect of recharacterizing theft of property that is valued between \$500 and \$750, which is a Class C felony under current law, into a Class A misdemeanor instead. These changes could impact the court if they result in a significant number of cases moving from the superior court, where felonies are handled and the relative cost per case is higher, to the district court, where misdemeanors are handled and the cost per case is lower. However, a review of available information shows that, because of the way cases in this category are prosecuted and processed, the majority of property crimes impacted by this bill are already resolved in the district court, or are dismissed or resolved early in the life of the case, or are otherwise handled in a way that does not impact the court significantly. In addition, it is expected that the actual number of cases in this category is quite low. Because of these factors, sections 4-19 of the bill will not have a measurable fiscal impact on the court system.

Sections 20-22 of HCSCSSB 64(FIN) allow a judicial officer to impose an additional specific **condition on defendants who are released on bail** if they are charged with serious crimes that are alcohol or drug-related, crimes involving domestic violence, drug crimes, or crimes of driving under the influence or refusal to take a chemical breath test. The condition would require the defendant to comply with a program established by the Department of Health and Human Services (Section 34, new AS 47.38.010-.020) for daily testing of the person for alcohol or substance abuse (sometimes referred to as a "24/7 program"). Similarly, Section 24 allows a new condition of probation that would require the defendant to comply with the DHSS's 24/7 testing program. Imposing this as a bail condition or condition of probation for appropriate defendants would not have a fiscal impact on the court system.

Section 23 of HCSCSSB 64(FIN) clarifies the test for determining whether certain treatment programs qualify for **credit against a sentence of imprisonment**. The courts can apply the revised test without fiscal impact.

Section 25 adds a **mitigating factor** for the court to consider at sentencing if proven by the defendant: that a combat-related post-traumatic stress disorder or traumatic brain injury impaired the defendant's judgment and significantly affected the conduct. The court can apply this factor in appropriate cases without fiscal impact.

Section 28 states that the Department of Corrections will establish a program for probationers to be more closely monitored and to be reported to the probation officer if they violate the terms of their probation. The court then would review the petition, schedule a prompt hearing, and take other appropriate action (referred to as a "**PACE program**"). This is expected to result in a higher number of court hearings in all courts statewide on petitions to revoke probation. The court is unable to predict the number of increased court hearings that will result from this change, but at this time anticipates that it can absorb the increase in the number of hearings and associated workload without a fiscal impact.

Sections 32-33 establishes the **Alaska Criminal Justice Commission**; it will include a Justice and two judges, but the court can participate without fiscal impact.

In addition to requiring DHSS to establish the "24/7" program, Section 29 also establishes a **recidivism reduction program** to be administered by the DHSS. This will not have a fiscal impact on the court system.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064HCSCS(FIN)-LAW-CRIM-04-19-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
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 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>								
Personal Services			***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

**Fund Source (Operating Only)**

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

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**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:**

The new version removes the provision in the bill that allow a person convicted of felony drunk driving to regain driving privileges earlier than allowed under current law.

Prepared By:	<u>Loretta Withington, Division Operations Manager</u>	Phone:	(907)465-5427
Division:	<u>Department of Law</u>	Date:	04/19/2014 12:00 AM
Approved By:	<u>Michael C. Geraghty, Attorney General</u>	Date:	04/19/14
Agency:	<u>Department of Law</u>		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCS CSSB 64 (FIN)

Analysis

HCS CSSB 64(FIN) raises the threshold amounts for theft in the second, third, and fourth degree. Under current law, for example, theft in the second degree prohibits theft of property valued at \$500 or more; the bill raises this to property valued at \$750 or more.

The bill would prohibit a person who is not a relative of a child or incompetent person and who has no right to do so to represent to the lawful custodian that the person has the right to take or keep the child or incompetent person.

HCS CSSB 64(FIN) requires the Department of Health and Social Services to establish a program for persons being considered for bail release or as a condition of probation for unclassified felonies, class A felonies, sexual felonies, and crimes involving domestic violence that involved drugs or alcohol to be tested twice a day for use of alcohol or drugs. The program requires notice to the law enforcement within 24 hours if the person fails to appear for an appointment required by the program or tests positive for alcohol or drugs. This 24/7 program may also be used for bail conditions for persons charged with other types of crime. A similar program by the Department of Corrections and the Parole Board would be established for probationers and parolees.

The bill clarifies the law regarding when a person in a treatment program may get credit against a term of incarceration for time spent in the treatment program.

The bill adds a new mitigating factor for sentencing persons convicted of a felony. It would allow a mitigator if the defendant was affected by a combat-related post-traumatic stress disorder or combat-related traumatic brain injury that substantially affected the defendant's behavior. It would not apply to a defendant convicted of a crime against a person (AS 11.41) or arson in the first degree (AS 11.46.400).

HCS CSSB 64(FIN) creates the Alaska Criminal Justice Commission to evaluate the sentencing laws and practices of the state. The commission would conduct this evaluation by July 1, 2017. It would be staffed by the judicial council.

The fiscal impact for the Department of Law is indeterminate because it will require expert testimony on the issue of whether the person suffers from combat-related PTSD and if so, did it substantially affect his or her behavior.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064CS(FIN)-ACS-AJC-4-19-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: Senate Judiciary Committee

Department: Alaska Court System  
Appropriation: Judicial Council  
Allocation: Judicial Council  
OMB Component Number: 771

**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
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services	126.3		126.3	126.3			
Travel	27.5		27.5	27.5			
Services	38.4		38.4	38.4			
Commodities	5.0		1.6	1.6			
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>197.2</b>	<b>0.0</b>	<b>193.8</b>	<b>193.8</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	197.2		193.8	193.8			
<b>Total</b>	<b>197.2</b>	<b>0.0</b>	<b>193.8</b>	<b>193.8</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

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

<b>Change in Revenues</b>							
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**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 to reflect changes in a new CS that increases the number of members of the Criminal Justice Commission to thirteen.

Prepared By: Susanne DiPietro, Executive Director  
Division: Alaska Judicial Council  
Approved By: Susanne DiPietro, Executive Director  
Agency: Alaska Judicial Council

Phone: (907)279-2526  
Date: 04/19/2014 05:30 PM  
Date: 04/19/14

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCS CSSB064(FIN)

### Analysis

CSSB64 creates a Criminal Justice Commission of thirteen members and requires the Alaska Judicial Council to staff it for three years.

Section 32 of the CS creates a thirteen-member Alaska Criminal Justice Commission, and Sections 26 and 32 require the Alaska Judicial Council to provide staff and administrative support to the Commission. For this task, the Alaska Judicial Council will need to hire a half-time research analyst at range 18A, and an attorney to work 30 hours per week at range 20A. A 30 hour/week attorney is need to be a stable and consistent liaison to the commissioners, policy makers, and the public, to guide the work and research agenda of the Commission, and to provide information to state policy makers as requested. The research analyst will work with the attorney and the Commissioners to define the scope and direction of the necessary research, including identification of reliable data sources, database design, data collection, and statistical analysis.

The Council will need to rent office space and provide parking for the Commission staff (\$38,400/year). This note assumes that the Council will be able to locate office space adjacent to its current offices, so that the Commission will use many of the Judicial Council's existing office resources (for example, the AJC server and the copier). The Council also will need to purchase supplies and equipment for the two Commission staff (PCs, printer, and phones in the first year, and general office supplies in subsequent years).

This note includes a travel budget for Commission members to attend an estimated four in-person meetings per year. The Council would arrange and pay for travel costs of Commission members as authorized for boards and commissions under AS39.20.180. The travel budget also includes a small amount (\$1500/year) for staff travel in anticipation that one meeting per year will be held in Juneau.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064HCSCS(JUD)-DOC-OC-04-11-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: 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)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services	1,241.5		1,741.0	2,240.4	2,240.4	2,240.4	2,240.4
Travel	23.0		23.0	23.0	23.0	23.0	23.0
Services	366.3		393.8	421.3	421.3	421.3	421.3
Commodities	98.0		116.6	135.2	135.2	135.2	135.2
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>1,728.8</b>	<b>0.0</b>	<b>2,274.4</b>	<b>2,819.9</b>	<b>2,819.9</b>	<b>2,819.9</b>	<b>2,819.9</b>

## Fund Source (Operating Only)

1004 Gen Fund	1,622.5		2,168.1	2,713.6	2,713.6	2,713.6	2,713.6
1005 GF/Prgm	106.3		106.3	106.3	106.3	106.3	106.3
<b>Total</b>	<b>1,728.8</b>	<b>0.0</b>	<b>2,274.4</b>	<b>2,819.9</b>	<b>2,819.9</b>	<b>2,819.9</b>	<b>2,819.9</b>

## Positions

Full-time	14.0		25.0	25.0	25.0	25.0	25.0
Part-time							
Temporary							

## Change in Revenues

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**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? Yes  
if yes, by what date are the regulations to be adopted, amended or repealed? 07/01/15

## Why this fiscal note differs from previous version:

This fiscal note reflects the changes made in the House Judiciary Committee. This version allows first time DUI offenders to serve their terms of imprisonment on electronic monitoring. Additional analysis added to the electronic monitoring section.

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: 04/11/2014 02:30 PM  
Date: 04/11/14

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCSCSSB64(JUD)

### Analysis

#### Custodial Interference

This section broadens the definition of custodial interference in the second degree by including instances where a person represents to a lawful custodian of a child or incompetent person that that person has a legal right to take or keep the child or incompetent person. This crime requires that the person not be a relative of the child and for them to know that they do not have a legal right to the child or incompetent person. Custodial interference in the second degree is a class A misdemeanor and punishable by a term of imprisonment of not more than one year.

The instances which would fall under this new section are relatively few; therefore, there would be no fiscal impact to the Department.

#### Theft

This section updates the thresholds for certain property crimes which have not been updated since 1978. Due to the rising costs in goods, it is relatively easy to commit a theft crime in which the valuation exceeds \$500; a class C felony. SB 64 raises these thresholds to be more aligned with current cost. This section will potentially reduce some felony level crimes to misdemeanors which may result in shorter sentence lengths. It is possible that the Department may see a reduction in mandays if this legislation should pass.

The Department will closely monitor the future fiscal impacts of this legislation.

#### Electronic Monitoring for first time DUI offenders

This section amends current imprisonment for first time DUI offenders to be served by electronic monitoring or a community residential center if available.

Available data show an annual average of approximately 1,668 first time DUI offenders are placed under the Department of Corrections custody to service the required sentence under this section. The majority of these offenders serve the required sentence within a community residential center (CRC) at an average daily rate of \$85.15 per bed per day. This proposed legislation will allow the department to place these offenders onto the Electronic Monitoring Program at an average daily rate of \$25.00 per day per offender allowing the CRC beds to be used for releasing offenders from a correctional center.

The anticipated annual costs to implement this section would be approximately \$125.1 of which \$106.3 is requested as general fund program receipts and \$18.8 is requested as general funds to meet the anticipated waivers for indigent offenders. This funding is being requested in FY2015.

#### PACE for Probation and Parole

The bill also codifies the PACE program. Alaska PACE is an evidence based practice (EBP) project for probation and parole, aimed at long-term discretionary parolees and moderate to high-risk offenders. PACE notifies offenders that violations will have consequences; requires frequent randomized drug and/or alcohol tests; and responds to violations with swift, certain and short terms of incarceration.

The Department currently has a model for the PACE program and is comfortable with expanding the program statewide. However, statewide implementation of this program would require the addition of 14 new positions consisting of 8 Adult Probation Officers, 5 Criminal Justice Technicians, and 1-Office Assistant. The personnel associated with this expansion would be stationed in Anchorage, Fairbanks, Bethel, Juneau, Kenai, Ketchikan, and Palmer and would be able to serve the surrounding areas.

The anticipated positions and annual costs for statewide implementation is being requested in FY2015 and are:

\$1,241.5 Personal Services  
\$ 23.0 Travel  
\$ 241.2 Contractual Services  
\$ 98.0 Commodities  
\$1,603.7 Annual Total

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCSCSSB64(JUD)

**Analysis Continued**

**Risk-Needs Assessments**

This legislation requires the Department to perform a risk-needs assessment on all offenders who have been sentenced to 30 days or more. Currently, the Department is increasing the number of offenders who receive as risk-needs assessments, however, it is anticipated that 11 new Adult Probation Officer positions would be needed to support the additional assessment requirements of this section. These positions would be added within 10 of the institutional facilities located in Anchorage, Bethel, Eagle River, Fairbanks, Juneau, Kenai, Ketchikan, Nome, Palmer, and Sutton and one position added to the Central Classification and Furlough Unit in Anchorage.

The anticipated annual costs for statewide implementation is:

\$ 998.9 Personal Services  
\$ 0.0 Travel  
\$ 55.0 Contractual Services  
\$ 37.2 Commodities  
\$1,091.1 Annual Total

This section of the bill has a delayed effective date of January 1, 2016. This will allow the Department time to prepare for this new requirement of this section, funding to support this legislation is split with 50% being requested in FY2016 and the remaining 50% requested in FY2017.

**24/7 Sobriety**

This version will transfer the development and administration of the 24/7 Sobriety program to the Department of Health and Social Services (H&SS). With H&SS administering this program there should be no impact to the Department of Corrections.

**Recidivism Reduction Grant Fund**

This version will establish the Recidivism Reduction Grant Fund under the Department of Health and Social Services (H&SS). With H&SS administering this program there should be no impact to the Department of Corrections.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064HCSCS(JUD)-LAW-CRIM-04-12-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: (H) JUD

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

**Fund Source (Operating Only)**

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

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**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:**

The new version adds a new mitigating factor for sentencing persons convicted of a felony. It would require the automatic removal of court records regarding a criminal case within 120 days after the defendant has been acquitted of all charges or all charges have been dismissed. It adds new provisions for restoration driving privileges for drunk drivers and persons who refuse the breath test. It reduces to three years the period in which a person convicted of felony drunk driving must drive on a limited license before having complete driving privileges restored from five to three years.

Prepared By:	Loretta Withington, Division Operations Manager	Phone:	(907)465-5427
Division:	Department of Law	Date:	04/12/2014 12:00 AM
Approved By:	Michael C. Geraghty, Attorney General	Date:	04/12/14
Agency:	Department of Law		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCS CSSB 64 (JUD)

### Analysis

HCS CSSB 64(JUD) raises the threshold amounts for theft in the second, third, and fourth degree. Under current law, for example, theft in the second degree prohibits theft of property valued at \$500 or more; the bill raises this to property valued at \$750 or more.

The bill would prohibit a person who is not a relative of a child or incompetent person and who has no right to do so to represent to the lawful custodian that the person has the right to take or keep the child or incompetent person. HCS CSSB 64(JUD) requires the Department of Health and Social Services to establish a program for persons being considered for bail release or as a condition of probation for unclassified felonies, class A felonies, sexual felonies, and crimes involving domestic violence that involved drugs or alcohol to be tested twice a day for use of alcohol or drugs. The program requires notice to the law enforcement within 24 hours if the person fails to appear for an appointment required by the program or tests positive for alcohol or drugs. This 24/7 program may also be used for bail conditions for persons charged with other types of crime. A similar program by the Department of Corrections and the Parole Board would be established for probationers and parolees.

The bill clarifies the law regarding when a person in a treatment program may get credit against a term of incarceration for time spent in the treatment program.

Adds a new mitigating factor for sentencing persons convicted of a felony. It would allow a mitigator if the defendant was affected by a combat-related post-traumatic stress disorder or combat-related traumatic brain injury that substantially affected the defendant's behavior. It would not apply to a defendant convicted of a crime against a person (AS 11.41) or arson in the first degree (AS 11.46.400).

It would require the automatic removal of court records regarding a criminal case within 120 days after the defendant has been acquitted of all charges or all charges have been dismissed. There are exceptions for employees of the Department of Health and Social Services and similar positions who work with children or persons with disabilities to obtain this information.

It adds new provisions for restoration driving privileges for drunk drivers and persons who refuse the breath test. It reduces to three years the period in which a person convicted of felony drunk driving must drive on a limited license before having complete driving privileges restored from five to three years.

HCS CSSB 64(JUD) creates the Alaska Criminal Justice Commission to evaluate the sentencing laws and practices of the state. The commission would conduct this evaluation until January 1, 2018. It would be staffed by the judicial council.

The fiscal impact for the Department of Law is indeterminate because it will require expert testimony on the issue of whether the person suffers from combat-related PTSD and if so, did it substantially affect his or her behavior.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064HCSCS(JUD)-DOA-DMV-04-10-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: HJUD

Department: Department of Administration  
Appropriation: Motor Vehicles  
Allocation: Motor Vehicles  
OMB Component Number: 2348

**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
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	***	0.0	***	***	***	***	***

**Fund Source (Operating Only)**

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

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**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? yes  
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/16

**Why this fiscal note differs from previous version:**

Updated to reflect changes to limited licenses, revocations for misdemeanor offenses and creation of an Alaskan Criminal Justice Commission.

Prepared By:	Amy Erickson, Director	Phone:	(907)269-5559
Division:	Division of Motor Vehicles	Date:	04/10/2014 08:00 AM
Approved By:	Curtis Thayer, Commissioner	Date:	04/10/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCSCSSB 64 (JUD)

**Analysis**

This bill will allow eligible participants in the wellness court to obtain a limited license and have their conviction terminated. DMV will also be required to conduct termination of revocations for misdemeanor offenses.

Additionally, an Alaska Criminal Justice Commission will be created to conduct an audit of Title 28. The findings and recommendations of this audit could have significant impacts on DMV and require new regulations.

DMV is unable to quantify the impact of the Title 28 audit, and has therefore submitted an indeterminate fiscal note.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064HCSCS(JUD)-DHSS-CSM-04-10-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: HJUD

Department: Department of Health and Social Services  
Appropriation: Children's Services  
Allocation: Children's Services Management  
OMB Component Number: 2666

**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
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

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

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**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? **Yes**  
If yes, by what date are the regulations to be adopted, amended or repealed? **10/01/14**

**Why this fiscal note differs from previous version:**

This fiscal note is to conform with SB 64 version M, which was amended to add section 1 to include legislative intent and section 28, which would make confidential records of criminal charges that have been acquitted and/or dismissed in their entirety, if 120 days have elapsed from the date of acquittal or dismissal.

Prepared By:	Christy Lawton	Phone:	(907)451-2096
Division:	Office of Children's Services	Date:	04/10/2014 12:00 PM
Approved By:	Sarah Woods, Deputy Director, Finance & Management Services	Date:	04/10/14
Agency:	Health & Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCSSB064(JUD)

**Analysis**

SB 64, section 1 and Section 28, require DHSS to adopt regulations to administer access by appropriate DHSS staff to records made confidential under proposed section 28, AS 22.35.020, *Records concerning criminal cases resulting in acquittal or dismissal confidential*. The section would make confidential records of criminal charges that have been acquitted and/or dismissed in their entirety, if 120 days have elapsed from the date of acquittal or dismissal.

Currently, all records of dismissed and acquitted charges are available online in the publicly accessible database, CourtView. This bill would provide a protection of privacy to the public, by limiting access to confidential records pertaining to criminal charges, in which all charges are dismissed and/or acquitted; access would be granted only to essential employees in the Department of Health and Social Services, the Department of Public Safety, the Office of Public Advocacy, and prosecutors. Access to such records is essential for employees who are responsible for the health, safety, welfare, or placement of a child, a person with a physical or intellectual disability or a person with mental illness. As written, this bill would provide for the State of Alaska's ability to assess for and provide for safety of children and vulnerable populations.

This bill would not remove information from CourtView, the National Crime Information Center (NCIC), or the Alaska Public Safety Information Network (APSIN) databases.

This bill also identifies the legislative intent which would, to the extent possible, make confidential records of criminal cases in which all charges were dismissed and/or acquitted in their entirety, that were disposed before the effective date of this bill.

SB64 has no fiscal impact on the Office of Children's Services. It does, however, continue to have a fiscal impact to other areas of DHSS.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HCSCSSB064(JUD)-ACS-TRC-04-09-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: House Finance

Department: Alaska Court System  
Appropriation: Alaska Court System  
Allocation: Trial Courts  
OMB Component Number: 768

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services	25.5		3.5	3.5	3.5	3.5	3.5	3.5
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>25.5</b>	<b>0.0</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>

**Fund Source (Operating Only)**

1004 Gen Fund	25.5		3.5	3.5	3.5	3.5	3.5	3.5
<b>Total</b>	<b>25.5</b>	<b>0.0</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**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:**

Revised to address changes in new CS adopted by the House Judiciary Committee.

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

Phone: (907)463-4736  
Date: 04/09/2014 06:00 PM  
Date: 04/09/14

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCSCSSB064(JUD)

### Analysis

The House Judiciary CS for Senate Bill 64(JUD) would make numerous changes to Alaska's criminal and corrections statutes. The changes are not expected to have a fiscal impact on the Alaska Court System, which submits this zero fiscal note.

Section 1 of HCSCSSB64(JUD) provides legislative intent regarding the **confidentiality of certain court records**. This is discussed with Section 28 below.

Sections 2-4 expand the definitions of the **crime of custodial interference** and the defenses available for charges of that crime. The number of cases that this will impact is expected to be small; the changes will not have any fiscal impact on the court system.

Sections 5-20 amend the definitions for the various **theft/property crimes** to raise the dollar threshold amount; Section 13 also clarifies how prior theft convictions will be counted. The increases in dollar amounts that have the potential to impact the court system are those that raise from \$500 to \$750 the value of property that must be stolen or damaged before a theft or property crime is categorized as a felony. This will have the effect of recharacterizing theft of property that is valued between \$500 and \$750, which is a Class C felony under current law, into a Class A misdemeanor instead.

These changes could impact the court if they result in cases moving from the superior court, where felonies are handled and the relative cost per case is higher, to the district court, where misdemeanors are handled and the cost per case is lower. However, a review of available information shows that, because of the way cases in this category are prosecuted and processed, the majority of property crimes impacted by this bill are already resolved in the district court, or are dismissed or resolved early in the life of the case, or are otherwise handled in a way that does not impact the court significantly. In addition, it is expected that the actual number of cases in this category is quite low. Because of these factors, sections 5-20 of the bill will not have a measurable fiscal impact on the court system.

Sections 21-23 of HCSCSSB 64(JUD) allow a judicial officer to impose an additional specific **condition on defendants who are released on bail** if they are charged with serious crimes that are alcohol or drug-related, crimes involving domestic violence, drug crimes, or crimes of driving under the influence or refusal to take a chemical breath test. The condition would require the defendant to comply with a program established by the Department of Health and Human Services (Section 40, new AS 47.38.010-.020) for daily testing of the person for alcohol or substance abuse (sometimes referred to as a "**24/7 program**"). Similarly, Section 25 allows a new condition of probation that would require the defendant to comply with the DHSS's 24/7 testing program. Imposing this as a bail condition or condition of probation for appropriate defendants would not have a fiscal impact on the court system.

Section 24 of HCSCSSB 64 (JUD) clarifies the test for determining whether certain treatment programs qualify for **credit against a sentence of imprisonment**. The courts can apply the revised test without fiscal impact.

Section 26 provides a **new mitigating factor** that, if proven, would allow a court to impose a sentence below the presumptive range. The factor applies if a defendant can prove that combat-related post-traumatic stress disorder or brain injury substantially impaired the defendant and significantly affected his or her conduct. The court can apply this factor in appropriate cases without fiscal impact.

Section 27 requires the Judicial Council to staff the **Criminal Justice Commission** established in Section 38, and described below.

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HCSCSSB064(JUD)

### Analysis Continued

Section 28 makes certain **criminal case records confidential**, and therefore not accessible to the general public. Specifically, criminal cases that are fully disposed via dismissal, acquittal, or a combination of dismissal and acquittal would be deemed confidential 90 days after the case is closed. Section 1 of the bill provides the legislature's intent that the court make these same files confidential, even retroactively, to the extent practicable.

When a court case is confidential, the court system provides access to the case file only to the parties, the attorneys of record in the case, individuals with a written order from the court authorizing access, and court personnel for case processing purposes only, in accordance with Administrative Rule 37.5(c)(4). Cases that become confidential remain listed on the court's website in its case management system (CourtView), but the names of any party are removed, so that it is anonymous. Under Section 28, for any criminal case that is fully disposed via dismissal, acquittal, or a combination, the Court System would have 120 days to remove the names of the parties in the case from CourtView to make it anonymous, and would make the paper case file confidential.

The Court System can make these cases generally confidential without a fiscal impact, but the exceptions (in subsection (b)) create specific access for agencies, which does carry a cost. The court system would need to create a unique portal, working with the CourtView vendor, and maintain that portal with security features. **Creating the portal will cost an initial one-time fee of \$22,000; each year the portal is in existence, we would have a cost of \$3,000 for maintenance plus \$500 for a SSL (security) fee.**

Section 29 allows the court to terminate a driver's license revocation for those who have completed therapeutic court and drove under a limited license granted under Section 30. Section 30 allows the court or the Division of Motor Vehicles to grant **limited driver's license privileges** for those convicted of felony DUI who are participants in or have completed therapeutic court, if they use an ignition interlock device, comply with a 24/7 testing program, and meet other requirements. Section 33 then requires the DMV to restore a driver's license if the person had a limited license for three years, completed therapeutic courts, and meets other requirements. Section 31 makes a minor conforming change to the therapeutic court statute to allow the court to take action on the defendant's driver's license. The court can implement these limited license provisions into its therapeutic courts program without fiscal impact.

Under Section 34, the Department of Corrections will establish a program for probationers to be more closely monitored and to be reported to the probation officer if they violate the terms of their probation. The court then would review the petition, schedule a prompt hearing, and take other appropriate action (referred to as a "**PACE program**"). This is expected to result in a higher number of court hearings in all courts statewide on petitions to revoke probation. The court is unable to predict the number of increased court hearings that will result from this change, but at this time anticipates that it can absorb the increase in the number of hearings and associated workload without a fiscal impact.

Sections 35-36 concern **parole conditions** for prisoners, Section 37 requires DOC to conduct certain **testing and assessments of prisoners**, and Section 32 concerns **electronic monitoring for first-time DUI offenders**. These will not have a fiscal impact on the court system.

Section 38-39 creates the **Alaska Criminal Justice Commission** to study and make recommendations about Alaska's sentencing laws and practices. It will include an appellate judge, a superior court judge, and a district court judge, among other members, and will be staffed by the Judicial Council. The Commission is required to prepare a special study on DUI laws and policies in Section 43. The court will participate in the Commission with no fiscal impact.

Section 40 requires DHSS to establish the "**24/7**" program, and also establishes a **recidivism reduction grant program** to be

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: SB 64  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB064CS(FIN)-ACS-AJC-4-9-14  
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM  
BILL  
Sponsor: JUDICIARY  
Requester: Senate Judiciary Committee

Department: Alaska Court System  
Appropriation: Judicial Council  
Allocation: Judicial Council  
OMB Component Number: 771

**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
<b>OPERATING EXPENDITURES</b>								
Personal Services	126.3		126.3	126.3	126.3			
Travel	23.5		23.5	23.5	23.5			
Services	38.4		38.4	38.4	38.4			
Commodities	5.0		1.6	1.6	1.6			
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>193.2</b>	<b>0.0</b>	<b>189.8</b>	<b>189.8</b>	<b>189.8</b>		<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	193.2		189.8	189.8	189.8			
<b>Total</b>	<b>193.2</b>	<b>0.0</b>	<b>189.8</b>	<b>189.8</b>	<b>189.8</b>		<b>0.0</b>	<b>0.0</b>

**Positions**

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

**Change in Revenues**

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**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 to reflect changes in a new CS to SB064 that increases the number of members of the Criminal Justice Commission to eleven, and adds a new requirement of a "Special Report of Alaska Criminal Justice Commission."

Prepared By: Susanne DiPietro, Executive Director  
Division: Alaska Judicial Council  
Approved By: Susanne DiPietro, Executive Director  
Agency: Alaska Judicial Council

Phone: (907)279-2526  
Date: 04/09/2014 09:30 PM  
Date: 04/09/14

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB064

Analysis

CSSB64 creates a Criminal Justice Commission of eleven members and requires the Alaska Judicial Council to staff it for four years.

Section 38 of the CS creates an eleven-member Alaska Criminal Justice Commission, and Section 27 requires the Alaska Judicial Council to provide staff and administrative support to the Commission. For this task, the Alaska Judicial Council will need to hire a half-time research analyst at range 18A, and an attorney to work 30 hours per week at range 20A. A 30 hour/week attorney is need to be a stable and consistent liaison to the commissioners, policy makers, and the public, to guide the work and research agenda of the Commission, and to provide information to state policy makers as requested. The research analyst will work with the attorney and the Commissioners to define the scope and direction of the necessary research, including identification of reliable data sources, database design, data collection, and statistical analysis.

The Council will need to rent office space and provide parking for the Commission staff (\$38,400/year). This note assumes that the Council will be able to locate office space adjacent to its current offices, so that the Commission will use many of the Judicial Council's existing office resources (for example, the AJC server and the copier). The Council also will need to purchase supplies and equipment for the two Commission staff (PCs, printer, and phones in the first year, and general office supplies in subsequent years).

This note includes a travel budget for Commission members to attend an estimated four in-person meetings per year. The Council would arrange and pay for travel costs of Commission members as authorized for boards and commissions under AS39.20.180. The travel budget also includes a small amount (\$1500/year) for staff travel in anticipation that one meeting per year will be held in Juneau.

HOUSE CS FOR CS FOR SENATE BILL NO. 64(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to theft and property offenses; relating to the definition of 'prior  
2 convictions' for certain theft offenses; establishing the Alaska Criminal Justice  
3 Commission and providing an expiration date; relating to electronic monitoring for  
4 certain persons convicted of driving while under the influence; relating to the crime of  
5 custodial interference; relating to the duties of the Alaska Judicial Council; relating to  
6 jail-time credit for offenders in court-ordered treatment programs; relating to  
7 conditions of release, probation, and parole; relating to a mitigating factor for a person  
8 suffering from combat-related post-traumatic stress disorder or combat-related  
9 traumatic brain injury; relating to duties of the commissioner of corrections and board  
10 of parole; establishing a program for reducing recidivism in the Department of Health  
11 and Social Services; requiring the commissioner of health and social services to establish  
12 programs for persons on conditions of release or probation that require testing for

1 controlled substances and alcoholic beverages; requiring the board of parole to establish  
 2 programs for persons on parole that require testing for controlled substances and  
 3 alcoholic beverages; relating to the duties of the Department of Health and Social  
 4 Services; and providing for an effective date."

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

6 \* **Section 1.** AS 11.41.320(a) is amended to read:

7 (a) A person commits the crime of custodial interference in the first degree if  
 8 the person violates AS 11.41.330(a)(1) [AS 11.41.330] and causes the child or  
 9 incompetent person to be

10 (1) removed from the state; or

11 (2) kept outside the state.

12 \* **Sec. 2.** AS 11.41.330(a) is amended to read:

13 (a) A person commits the crime of custodial interference in the second degree  
 14 if

15 (1) [,] being a relative of a child under 18 years of age or a relative of  
 16 an incompetent person and knowing that the person has no legal right to do so, the  
 17 person takes, entices, or keeps that child or incompetent person from a lawful  
 18 custodian with intent to hold the child or incompetent person for a protracted period;  
 19 or

20 (2) not being a relative of a child under 18 years of age or a  
 21 relative of an incompetent person, knowing that the person has no right to do so  
 22 and with the intent to take or keep the child or incompetent person, the person  
 23 represents to the lawful custodian that the person has a right to take or keep the  
 24 child or incompetent person.

25 \* **Sec. 3.** AS 11.41.330(b) is amended to read:

26 (b) The affirmative defense of necessity under AS 11.81.320 does not apply to  
 27 a prosecution for custodial interference under (a)(1) [(a)] of this section if the  
 28 protracted period for which the person held the child or incompetent person exceeded  
 29 the shorter of the following:

1 (1) 24 hours; or

2 (2) the time necessary to report to a peace officer or social service  
3 agency that the child or incompetent person has been abused, neglected, or is in  
4 imminent physical danger.

5 \* **Sec. 4.** AS 11.46.130(a) is amended to read:

6 (a) A person commits the crime of theft in the second degree if the person  
7 commits theft as defined in AS 11.46.100 and

8 (1) the value of the property or services is \$750 [\$500] or more but less  
9 than \$25,000;

10 (2) the property is a firearm or explosive;

11 (3) the property is taken from the person of another;

12 (4) the property is taken from a vessel and is vessel safety or survival  
13 equipment;

14 (5) the property is taken from an aircraft and the property is aircraft  
15 safety or survival equipment;

16 (6) the value of the property is \$250 [\$50] or more but less than \$750  
17 [\$500] and, within the preceding five years, the person has been convicted and  
18 sentenced on two or more separate occasions in this or another jurisdiction of

19 (A) an offense under AS 11.46.120, or an offense under  
20 another law or ordinance with similar elements;

21 (B) a crime set out in this subsection or an offense under  
22 another law or ordinance with similar elements;

23 (C) an offense under AS 11.46.140(a)(1), or an offense under  
24 another law or ordinance with similar elements; or

25 (D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an  
26 offense under another law or ordinance with similar elements; or

27 (7) the property is an access device.

28 \* **Sec. 5.** AS 11.46.140(a) is amended to read:

29 (a) A person commits the crime of theft in the third degree if the person  
30 commits theft as defined in AS 11.46.100 and

31 (1) the value of the property or services is \$250 [\$50] or more but less

1 than \$750 [\$500]; **or**

2 (2) [REPEALED]

3 (3) the value of the property is less than \$250 [\$50] and, within the  
4 past five years, the person has been convicted and sentenced on two or more separate  
5 occasions in this or another jurisdiction of theft or concealment of merchandise, or an  
6 offense under another law or ordinance with similar elements.

7 \* **Sec. 6.** AS 11.46.150(a) is amended to read:

8 (a) A person commits the crime of theft in the fourth degree if the person  
9 commits theft as defined in AS 11.46.100 and the value of the property or services is  
10 less than \$250 [\$50].

11 \* **Sec. 7.** AS 11.46.220(c) is amended to read:

12 (c) Concealment of merchandise is

13 (1) a class C felony if

14 (A) the merchandise is a firearm;

15 (B) the value of the merchandise is \$750 [\$500] or more; or

16 (C) the value of the merchandise is \$250 [\$50] or more but less  
17 than \$750 [\$500] and, within the preceding five years, the person has been  
18 convicted and sentenced on two or more separate occasions in this or another  
19 jurisdiction of

20 (i) the offense of concealment of merchandise under  
21 this paragraph or (2)(A) of this subsection, or an offense under another  
22 law or ordinance with similar elements; or

23 (ii) an offense under AS 11.46.120, 11.46.130, or  
24 11.46.140(a)(1), or an offense under another law or ordinance with  
25 similar elements;

26 (2) a class A misdemeanor if

27 (A) the value of the merchandise is \$250 [\$50] or more but less  
28 than \$750 [\$500]; or

29 (B) the value of the merchandise is less than \$250 [\$50] and,  
30 within the preceding five years, the person has been convicted and sentenced  
31 on two or more separate occasions of the offense of concealment of

1 merchandise or theft in any degree, or an offense under another law or  
2 ordinance with similar elements;

3 (3) a class B misdemeanor if the value of the merchandise is less than  
4 \$250 [\$50].

5 \* **Sec. 8.** AS 11.46.260(b) is amended to read:

6 (b) Removal of identification marks is

7 (1) a class C felony if the value of the property on which the serial  
8 number or identification mark appeared is \$750 [\$500] or more;

9 (2) a class A misdemeanor if the value of the property on which the  
10 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750  
11 [\$500];

12 (3) a class B misdemeanor if the value of the property on which the  
13 serial number or identification mark appeared is less than \$250 [\$50].

14 \* **Sec. 9.** AS 11.46.270(b) is amended to read:

15 (b) Unlawful possession is

16 (1) a class C felony if the value of the property on which the serial  
17 number or identification mark appeared is \$750 [\$500] or more;

18 (2) a class A misdemeanor if the value of the property on which the  
19 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750  
20 [\$500];

21 (3) a class B misdemeanor if the value of the property on which the  
22 serial number or identification mark appeared is less than \$250 [\$50].

23 \* **Sec. 10.** AS 11.46.280(d) is amended to read:

24 (d) Issuing a bad check is

25 (1) a class B felony if the face amount of the check is \$25,000 or more;

26 (2) a class C felony if the face amount of the check is \$750 [\$500] or  
27 more but less than \$25,000;

28 (3) a class A misdemeanor if the face amount of the check is \$250  
29 [\$50] or more but less than \$750 [\$500];

30 (4) a class B misdemeanor if the face amount of the check is less than  
31 \$250 [\$50].

1 \* **Sec. 11.** AS 11.46.285(b) is amended to read:

2 (b) Fraudulent use of an access device is

3 (1) a class B felony if the value of the property or services obtained is  
4 \$25,000 or more;

5 (2) a class C felony if the value of the property or services obtained is  
6 **\$750** [\$50] or more but less than \$25,000;

7 (3) a class A misdemeanor if the value of the property or services  
8 obtained is less than **\$750** [\$50].

9 \* **Sec. 12.** AS 11.46.295 is amended to read:

10 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior  
11 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or  
12 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under  
13 AS 11.46.220(c),

14 (1) a conviction for an offense under another law or ordinance with  
15 similar elements is a conviction of an offense having elements similar to those of an  
16 offense defined as such under Alaska law at the time the offense was committed;

17 (2) **a conviction for an offense under Alaska law where the value of**  
18 **the property or services for the offense was lower than the value of property or**  
19 **services for the offense under current Alaska law, is a prior conviction for that**  
20 **offense; and**

21 (3) **the** [ THE] court shall consider the date of a prior conviction as  
22 occurring on the date that sentence is imposed for the prior offense.

23 \* **Sec. 13.** AS 11.46.360(a) is amended to read:

24 (a) A person commits the crime of vehicle theft in the first degree if, having  
25 no right to do so or any reasonable ground to believe the person has such a right, the  
26 person drives, tows away, or takes

27 (1) the car, truck, motorcycle, motor home, bus, aircraft, or watercraft  
28 of another;

29 (2) the propelled vehicle of another and

30 (A) the vehicle or any other property of another is damaged in a  
31 total amount of **\$750** [\$500] or more;

1 (B) the owner incurs reasonable expenses as a result of the loss  
2 of use of the vehicle, in a total amount of \$750 [\$500] or more; or

3 (C) the owner is deprived of the use of the vehicle for seven  
4 days or more;

5 (3) the propelled vehicle of another and the vehicle is marked as a  
6 police or emergency vehicle; or

7 (4) the propelled vehicle of another and, within the preceding seven  
8 years, the person was convicted under

9 (A) this section or AS 11.46.365;

10 (B) former AS 11.46.482(a)(4) or (5);

11 (C) former AS 11.46.484(a)(2);

12 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft  
13 of a propelled vehicle; or

14 (E) a law or ordinance of this or another jurisdiction with  
15 elements substantially similar to those of an offense described in (A) - (D) of  
16 this paragraph.

17 \* Sec. 14. AS 11.46.482(a) is amended to read:

18 (a) A person commits the crime of criminal mischief in the third degree if,  
19 having no right to do so or any reasonable ground to believe the person has such a  
20 right,

21 (1) with intent to damage property of another, the person damages  
22 property of another in an amount of \$750 [\$500] or more;

23 (2) the person recklessly creates a risk of damage in an amount  
24 exceeding \$100,000 to property of another by the use of widely dangerous means; or

25 (3) the person knowingly

26 (A) defaces, damages, or desecrates a cemetery or the contents  
27 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,  
28 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or  
29 memorial appears to be abandoned, lost, or neglected;

30 (B) removes human remains or associated burial artifacts from  
31 a cemetery, tomb, grave, or memorial regardless of whether the cemetery,

1 tomb, grave, or memorial appears to be abandoned, lost, or neglected.

2 \* **Sec. 15.** AS 11.46.484(a) is amended to read:

3 (a) A person commits the crime of criminal mischief in the fourth degree if,  
4 having no right to do so or any reasonable ground to believe the person has such a  
5 right

6 (1) with intent to damage property of another, the person damages  
7 property of another in an amount of \$250 [\$50] or more but less than \$750 [\$500];

8 (2) the person tampers with a fire protection device in a building that is  
9 a public place;

10 (3) the person knowingly accesses a computer, computer system,  
11 computer program, computer network, or part of a computer system or network;

12 (4) the person uses a device to descramble an electronic signal that has  
13 been scrambled to prevent unauthorized receipt or viewing of the signal unless the  
14 device is used only to descramble signals received directly from a satellite or unless  
15 the person owned the device before September 18, 1984; or

16 (5) the person knowingly removes, relocates, defaces, alters, obscures,  
17 shoots at, destroys, or otherwise tampers with an official traffic control device or  
18 damages the work upon a highway under construction.

19 \* **Sec. 16.** AS 11.46.486(a) is amended to read:

20 (a) A person commits the crime of criminal mischief in the fifth degree if,  
21 having no right to do so or any reasonable ground to believe the person has such a  
22 right,

23 (1) with reckless disregard for the risk of harm to or loss of the  
24 property or with intent to cause substantial inconvenience to another, the person  
25 tampers with property of another;

26 (2) with intent to damage property of another, the person damages  
27 property of another in an amount less than \$250 [\$50]; or

28 (3) the person rides in a propelled vehicle knowing it has been stolen  
29 or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

30 \* **Sec. 17.** AS 11.46.530(b) is amended to read:

31 (b) Criminal simulation is

1 (1) a class C felony if the value of what the object purports to represent  
2 is \$750 [\$500] or more;

3 (2) a class A misdemeanor if the value of what the object purports to  
4 represent is \$250 [\$50] or more but less than \$750 [\$500];

5 (3) a class B misdemeanor if the value of what the object purports to  
6 represent is less than \$250 [\$50].

7 \* **Sec. 18.** AS 11.46.620(d) is amended to read:

8 (d) Misapplication of property is

9 (1) a class C felony if the value of the property misapplied is \$750  
10 [\$500] or more;

11 (2) a class A misdemeanor if the value of the property misapplied is  
12 less than \$750 [\$500].

13 \* **Sec. 19.** AS 11.46.730(c) is amended to read:

14 (c) Defrauding creditors is a class A misdemeanor unless that secured party,  
15 judgment creditor, or creditor incurs a pecuniary loss of \$750 [\$500] or more as a  
16 result to the defendant's conduct, in which case defrauding secured creditors is

17 (1) a class B felony if the loss is \$25,000 or more;

18 (2) a class C felony if the loss is \$750 [\$500] or more but less than  
19 \$25,000.

20 \* **Sec. 20.** AS 12.30.011(b) is amended to read:

21 (b) If a judicial officer determines that the release under (a) of this section will  
22 not reasonably assure the appearance of the person or will pose a danger to the victim,  
23 other persons, or the community, the officer shall impose the least restrictive condition  
24 or conditions that will reasonably assure the person's appearance and protect the  
25 victim, other persons, and the community. In addition to conditions under (a) of this  
26 section, the judicial officer may, singly or in combination,

27 (1) require the execution of an appearance bond in a specified amount  
28 of cash to be deposited into the registry of the court, in a sum not to exceed 10 percent  
29 of the amount of the bond;

30 (2) require the execution of a bail bond with sufficient solvent sureties  
31 or the deposit of cash;

1 (3) require the execution of a performance bond in a specified amount  
2 of cash to be deposited in the registry of the court;

3 (4) place restrictions on the person's travel, association, or residence;

4 (5) order the person to refrain from possessing a deadly weapon on the  
5 person or in the person's vehicle or residence;

6 (6) require the person to maintain employment or, if unemployed,  
7 actively seek employment;

8 (7) require the person to notify the person's lawyer and the prosecuting  
9 authority within two business days after any change in employment;

10 (8) require the person to avoid all contact with a victim, a potential  
11 witness, or a codefendant;

12 (9) require the person to refrain from the consumption and possession  
13 of alcoholic beverages;

14 (10) require the person to refrain from the use of a controlled substance  
15 as defined by AS 11.71, unless prescribed by a licensed health care provider with  
16 prescriptive authority;

17 (11) require the person to be physically inside the person's residence,  
18 or in the residence of the person's third-party custodian, at time periods set by the  
19 court;

20 (12) require the person to keep regular contact with a law enforcement  
21 officer or agency;

22 (13) order the person to refrain from entering or remaining in premises  
23 licensed under AS 04;

24 (14) place the person in the custody of an individual who agrees to  
25 serve as a third-party custodian of the person as provided in AS 12.30.021;

26 (15) if the person is under the treatment of a licensed health care  
27 provider, order the person to follow the provider's treatment recommendations;

28 (16) order the person to take medication that has been prescribed for  
29 the person by a licensed health care provider with prescriptive authority;

30 (17) order the person to comply with any other condition that is  
31 reasonably necessary to assure the appearance of the person and to assure the safety of

1 the victim, other persons, and the community;

2 (18) require the person to comply with a program established  
 3 under AS 47.38.020 if the person has been charged with an alcohol-related or  
 4 substance abuse-related offense that is an unclassified felony, a class A felony, a  
 5 sexual felony, or a crime involving domestic violence.

6 \* Sec. 21. AS 12.30.016(b) is amended to read:

7 (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,  
 8 AS 28.35.030, or 28.35.032, a judicial officer may order the person

9 (1) to refrain from

10 (A) consuming alcoholic beverages; or

11 (B) possessing on the person, in the person's residence, or in  
 12 any vehicle or other property over which the person has control, alcoholic  
 13 beverages;

14 (2) to submit to a search without a warrant of the person, the person's  
 15 personal property, the person's residence, or any vehicle or other property over which  
 16 the person has control, for the presence of alcoholic beverages by a peace officer who  
 17 has reasonable suspicion that the person is violating the conditions of the person's  
 18 release by possessing alcoholic beverages;

19 (3) to submit to a breath test when requested by a law enforcement  
 20 officer;

21 (4) to provide a sample for a urinalysis or blood test when requested by  
 22 a law enforcement officer;

23 (5) to take a drug or combination of drugs intended to prevent  
 24 substance abuse;

25 (6) to follow any treatment plan imposed by the court under  
 26 AS 28.35.028;

27 (7) to comply with a program established under AS 47.38.020.

28 \* Sec. 22. AS 12.30.016(c) is amended to read:

29 (c) In a prosecution charging a violation of AS 11.71 or AS 11.73, a judicial  
 30 officer may order the person

31 (1) to refrain from

1 (A) consuming a controlled substance; or

2 (B) possessing on the person, in the person's residence, or in  
3 any vehicle or other property over which the person has control, a controlled  
4 substance or drug paraphernalia;

5 (2) to submit to a search without a warrant of the person, the person's  
6 personal property, the person's residence, or any vehicle or other property over which  
7 the person has control, for the presence of a controlled substance or drug paraphernalia  
8 by a peace officer who has reasonable suspicion that the person is violating the terms  
9 of the person's release by possessing controlled substances or drug paraphernalia;

10 (3) to enroll in a random drug testing program, at the person's expense,  
11 to detect the presence of a controlled substance, with testing to occur not less than  
12 once a week, and with the results being submitted to the court and the prosecuting  
13 authority;

14 (4) to refrain from entering or remaining in a place where a controlled  
15 substance is being used, manufactured, grown, or distributed;

16 (5) to refrain from being physically present at, within a two-block area  
17 of, or within a designated area near, the location where the alleged offense occurred or  
18 at other designated places, unless the person actually resides within that area; or

19 (6) to refrain from the use or possession of an inhalant;

20 **(7) to comply with a program established under AS 47.38.020.**

21 \* **Sec. 23.** AS 12.55.027(c) is amended to read:

22 (c) To qualify for credit against a sentence of imprisonment for **a day** [TIME]  
23 spent in a treatment program, the treatment program and the facility of the treatment  
24 program must impose substantial restrictions on a person's liberty **on that day** that are  
25 equivalent to incarceration, including the requirement that a participant in the program

26 (1) must live in a residential facility operated by the program;

27 (2) must be confined at all times to the grounds of the facility or be in  
28 the physical custody of an employee of the facility, except for

29 **(A) court appearances;**

30 **(B) [,] meetings with counsel;**

31 **(C) employment, vocational training, or community**

1 volunteer [, AND] work required by the treatment program [AND  
2 APPROVED IN ADVANCE BY THE COURT]; and

3 (D) periods during which the resident is permitted to leave  
4 the facility for rehabilitative purposes directly related to the person's  
5 treatment, so long as the periods during which the resident is permitted to  
6 leave the facility are expressly limited as to both time and purpose by the  
7 treatment program;

8 (3) is subject to disciplinary sanctions by the program if the participant  
9 violates rules of the program and facility; sanctions must be in writing and available  
10 for court review; and

11 (4) is subject to immediate arrest, without warrant, if the participant  
12 leaves the facility without permission.

13 \* Sec. 24. AS 12.55.100(a) is amended to read:

14 (a) While on probation and among the conditions of probation, the defendant  
15 may be required

16 (1) to pay a fine in one or several sums;

17 (2) to make restitution or reparation to aggrieved parties for actual  
18 damages or loss caused by the crime for which conviction was had, including  
19 compensation to a victim that is a nonprofit organization for the value of labor or  
20 goods provided by volunteers if the labor or goods were necessary to alleviate or  
21 mitigate the effects of the defendant's crime;

22 (3) to provide for the support of any persons for whose support the  
23 defendant is legally responsible;

24 (4) to perform community work in accordance with AS 12.55.055;

25 (5) to participate in or comply with the treatment plan of an inpatient  
26 or outpatient rehabilitation program specified by either the court or the defendant's  
27 probation officer that is related to the defendant's offense or to the defendant's  
28 rehabilitation; and

29 (6) to satisfy the screening, evaluation, referral, and program  
30 requirements of an agency authorized by the court to make referrals for rehabilitative  
31 treatment or to provide rehabilitative treatment;

1                                    (7) to comply with a program established under AS 47.38.020.

2       \* **Sec. 25.** AS 12.55.155(d) is amended to read:

3                    (d) The following factors shall be considered by the sentencing court if proven  
4                    in accordance with this section, and may allow imposition of a sentence below the  
5                    presumptive range set out in AS 12.55.125:

6                    (1) the offense was principally accomplished by another person, and  
7                    the defendant manifested extreme caution or sincere concern for the safety or well-  
8                    being of the victim;

9                    (2) the defendant, although an accomplice, played only a minor role in  
10                   the commission of the offense;

11                   (3) the defendant committed the offense under some degree of duress,  
12                   coercion, threat, or compulsion insufficient to constitute a complete defense, but that  
13                   significantly affected the defendant's conduct;

14                   (4) the conduct of a youthful defendant was substantially influenced by  
15                   another person more mature than the defendant;

16                   (5) the conduct of an aged defendant was substantially a product of  
17                   physical or mental infirmities resulting from the defendant's age;

18                   (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the  
19                   defendant acted with serious provocation from the victim;

20                   (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,  
21                   the victim provoked the crime to a significant degree;

22                   (8) before the defendant knew that the criminal conduct had been  
23                   discovered, the defendant fully compensated or made a good faith effort to fully  
24                   compensate the victim of the defendant's criminal conduct for any damage or injury  
25                   sustained;

26                   (9) the conduct constituting the offense was among the least serious  
27                   conduct included in the definition of the offense;

28                   (10) the defendant was motivated to commit the offense solely by an  
29                   overwhelming compulsion to provide for emergency necessities for the defendant's  
30                   immediate family;

31                   (11) after commission of the offense for which the defendant is being

1 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other  
2 persons who committed an offense;

3 (12) the facts surrounding the commission of the offense and any  
4 previous offenses by the defendant establish that the harm caused by the defendant's  
5 conduct is consistently minor and inconsistent with the imposition of a substantial  
6 period of imprisonment;

7 (13) the defendant is convicted of an offense specified in AS 11.71 and  
8 the offense involved small quantities of a controlled substance;

9 (14) the defendant is convicted of an offense specified in AS 11.71 and  
10 the offense involved the distribution of a controlled substance, other than a schedule  
11 IA controlled substance, to a personal acquaintance who is 19 years of age or older for  
12 no profit;

13 (15) the defendant is convicted of an offense specified in AS 11.71 and  
14 the offense involved the possession of a small amount of a controlled substance for  
15 personal use in the defendant's home;

16 (16) in a conviction for assault or attempted assault or for homicide or  
17 attempted homicide, the defendant acted in response to domestic violence perpetrated  
18 by the victim against the defendant and the domestic violence consisted of aggravated  
19 or repeated instances of assaultive behavior;

20 (17) except in the case of an offense defined by AS 11.41 or  
21 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the  
22 time of sentencing, has successfully completed a court-ordered treatment program as  
23 defined in AS 28.35.028 that was begun after the offense was committed;

24 (18) except in the case of an offense defined under AS 11.41 or  
25 AS 11.46.400 or a defendant who has previously been convicted of a felony, the  
26 defendant committed the offense while suffering from a mental disease or defect as  
27 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that  
28 significantly affected the defendant's conduct;

29 (19) the defendant is convicted of an offense under AS 11.71, and the  
30 defendant sought medical assistance for another person who was experiencing a drug  
31 overdose contemporaneously with the commission of the offense;

1 (20) except in the case of an offense defined under AS 11.41 or  
 2 AS 11.46.400, the defendant committed the offense while suffering from a condition  
 3 diagnosed

4 (A) as a fetal alcohol spectrum disorder, the fetal alcohol  
 5 spectrum disorder substantially impaired the defendant's judgment, behavior,  
 6 capacity to recognize reality, or ability to cope with the ordinary demands of  
 7 life, and the fetal alcohol spectrum disorder, though insufficient to constitute a  
 8 complete defense, significantly affected the defendant's conduct; in this  
 9 paragraph, "fetal alcohol spectrum disorder" means a condition of impaired  
 10 brain function in the range of permanent birth defects caused by maternal  
 11 consumption of alcohol during pregnancy; or

12 (B) as combat-related post-traumatic stress disorder or  
 13 combat-related traumatic brain injury, the combat-related post-traumatic  
 14 stress disorder or combat-related traumatic brain injury substantially  
 15 impaired the defendant's judgment, behavior, capacity to recognize  
 16 reality, or ability to cope with the ordinary demands of life, and the  
 17 combat-related post-traumatic stress disorder or combat-related  
 18 traumatic brain injury, though insufficient to constitute a complete  
 19 defense, significantly affected the defendant's conduct; in this paragraph,  
 20 "combat-related post-traumatic stress disorder or combat-related  
 21 traumatic brain injury" means post-traumatic stress disorder or  
 22 traumatic brain injury resulting from combat with an enemy of the  
 23 United States in the line of duty while on active duty as a member of the  
 24 armed forces of the United States; nothing in this paragraph is intended to  
 25 limit the application of (18) of this subsection.

26 \* Sec. 26. AS 22.20 is amended by adding a new section to article 4 to read:

27 **Sec. 22.20.210. Alaska Criminal Justice Commission.** The judicial council  
 28 shall provide staff and administrative support to the Alaska Criminal Justice  
 29 Commission established in AS 44.19.641.

30 \* Sec. 27. AS 28.35.030(k) is amended to read:

31 (k) Imprisonment required under (b)(1)(A) of this section shall be served at a

1 community residential center or by electronic monitoring at a private residence. If  
2 [, IF] a community residential center or electronic monitoring at a private residence  
3 is not available, imprisonment required under (b)(1)(A) of this section may be  
4 served at another appropriate place determined by the commissioner of corrections.  
5 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a  
6 community residential center or at a private residence if approved by the  
7 commissioner of corrections. Imprisonment served at a private residence must include  
8 electronic monitoring. The cost of imprisonment resulting from the sentence imposed  
9 under (b)(1) of this section shall be paid to the state by the person being sentenced  
10 provided, however, that the cost of imprisonment required to be paid under this  
11 subsection may not exceed \$2,000. Upon the person's conviction, the court shall  
12 include the costs of imprisonment as a part of the judgment of conviction. Except for  
13 reimbursement from a permanent fund dividend as provided in this subsection,  
14 payment of the cost of imprisonment is not required if the court determines the person  
15 is indigent. For costs of imprisonment that are not paid by the person as required by  
16 this subsection, the state shall seek reimbursement from the person's permanent fund  
17 dividend as provided under AS 43.23.065. While at the community residential center  
18 or other appropriate place, a person sentenced under (b)(1)(A) of this section shall  
19 perform at least 24 hours of community service work. A person sentenced under  
20 (b)(1)(B) of this section shall perform at least 160 hours of community service work,  
21 as required by the director of the community residential center or other appropriate  
22 place, or as required by the commissioner of corrections if the sentence is being served  
23 at a private residence. In this subsection, "appropriate place" means a facility with 24-  
24 hour on-site staff supervision that is specifically adapted to provide a residence, and  
25 includes a correctional center, residential treatment facility, hospital, halfway house,  
26 group home, work farm, work camp, or other place that provides varying levels of  
27 restriction.

28 \* **Sec. 28.** AS 33.05.020 is amended by adding a new subsection to read:

29 (f) The commissioner shall establish a program for offenders on probation for  
30 a felony offense who have conditions of probation that include not consuming  
31 controlled substances or alcoholic beverages and who have been identified as being at

1 moderate to high risk as identified by a risk-needs assessment. The commissioner shall  
 2 adopt regulations to implement the program. The program shall

3 (1) include random testing for controlled substances and alcoholic  
 4 beverage use;

5 (2) require that the probation officer file a petition with the court  
 6 seeking appropriate sanctions by the close of the next business day if a probationer

7 (A) fails to appear for an appointment as directed by the  
 8 probation officer; or

9 (B) tests positive for the use of controlled substances, inhalants,  
 10 or alcoholic beverages; and

11 (3) include a means to notify the court, by the close of the next  
 12 business day, that a petition to revoke probation has been filed on a probationer placed  
 13 in the program by the commissioner so that the court may review the petition,  
 14 schedule a prompt hearing, address a request for a warrant provided by the probation  
 15 officer, or take other action the court considers appropriate.

16 \* **Sec. 29.** AS 33.16.060 is amended by adding a new subsection to read:

17 (c) The board shall establish a program for a parolee who has conditions of  
 18 parole that include not consuming controlled substances or alcoholic beverages and  
 19 who has been identified as being at moderate to high risk as identified by a risk-needs  
 20 assessment. The program must

21 (1) include random testing for controlled substance and alcoholic  
 22 beverage use;

23 (2) require that a parole officer file a parole violation report by the  
 24 close of the next business day if a parolee

25 (A) fails to appear for an appointment as directed by the parole  
 26 officer; or

27 (B) tests positive for the use of controlled substances or  
 28 alcoholic beverages; and

29 (3) include a means to notify the board by the close of the next  
 30 business day that a parole violation report has been filed on a parolee placed in the  
 31 program by the board.

1 \* **Sec. 30.** AS 33.16.150(b) is amended to read:

2 (b) The board may require as a condition of special medical, discretionary, or  
3 mandatory parole, or a member of the board acting for the board under (e) of this  
4 section may require as a condition of mandatory parole, that a prisoner released on  
5 parole

6 (1) not possess or control a defensive weapon, a deadly weapon other  
7 than an ordinary pocket knife with a blade three inches or less in length, or  
8 ammunition for a firearm, or reside in a residence where there is a firearm capable of  
9 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly  
10 weapon," "defensive weapon," and "firearm" have the meanings given in  
11 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

12 (2) refrain from possessing or consuming alcoholic beverages;

13 (3) submit to reasonable searches and seizures by a parole officer, or a  
14 peace officer acting under the direction of a parole officer;

15 (4) submit to appropriate medical, mental health, or controlled  
16 substance or alcohol examination, treatment, or counseling;

17 (5) submit to periodic examinations designed to detect the use of  
18 alcohol or controlled substances; **the periodic examinations may include testing**  
19 **under the program established under AS 33.16.060(c);**

20 (6) make restitution ordered by the court according to a schedule  
21 established by the board;

22 (7) refrain from opening, maintaining, or using a checking account or  
23 charge account;

24 (8) refrain from entering into a contract other than a prenuptial contract  
25 or a marriage contract;

26 (9) refrain from operating a motor vehicle;

27 (10) refrain from entering an establishment where alcoholic beverages  
28 are served, sold, or otherwise dispensed;

29 (11) refrain from participating in any other activity or conduct  
30 reasonably related to the parolee's offense, prior record, behavior or prior behavior,  
31 current circumstances, or perceived risk to the community, or from associating with

1 any other person that the board determines is reasonably likely to diminish the  
 2 rehabilitative goals of parole, or that may endanger the public; in the case of special  
 3 medical parole, for a prisoner diagnosed with a communicable disease, comply with  
 4 conditions set by the board designed to prevent the transmission of the disease.

5 \* **Sec. 31.** AS 33.30.011 is amended to read:

6 **Sec. 33.30.011. Duties of commissioner.** The commissioner shall

7 (1) establish, maintain, operate, and control correctional facilities  
 8 suitable for the custody, care, and discipline of persons charged or convicted of  
 9 offenses against the state or held under authority of state law; each correctional facility  
 10 operated by the state shall be established, maintained, operated, and controlled in a  
 11 manner that is consistent with AS 33.30.015;

12 (2) classify prisoners;

13 (3) for persons committed to the custody of the commissioner,  
 14 establish programs, including furlough programs that are reasonably calculated to

15 (A) protect the public and the victims of crimes committed by  
 16 prisoners;

17 (B) maintain health;

18 (C) create or improve occupational skills;

19 (D) enhance educational qualifications;

20 (E) support court-ordered restitution; and

21 (F) otherwise provide for the rehabilitation and reformation of  
 22 prisoners, facilitating their reintegration into society;

23 (4) provide necessary

24 (A) medical services for prisoners in correctional facilities or  
 25 who are committed by a court to the custody of the commissioner, including  
 26 examinations for communicable and infectious diseases;

27 (B) psychological or psychiatric treatment if a physician or  
 28 other health care provider, exercising ordinary skill and care at the time of  
 29 observation, concludes that

30 (i) a prisoner exhibits symptoms of a serious disease or  
 31 injury that is curable or may be substantially alleviated; and

(ii) the potential for harm to the prisoner by reason of delay or denial of care is substantial; and

(C) assessment or screening of the risks and needs of offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based disorder;

(5) establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner; [AND]

(6) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; and

(7) establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more and provide to the legislature, by electronic means, by January 15, 2017, and thereafter by January 15, preceding the first regular session of each legislature, a report summarizing the findings and results of the program.

\* Sec. 32. AS 44.19 is amended by adding new sections to read:

**Article 6. Alaska Criminal Justice Commission.**

**Sec. 44.19.641. Creation of commission.** The Alaska Criminal Justice Commission is established in the Office of the Governor.

**Sec. 44.19.642. Membership; staff.** (a) The commission consists of 13 members as follows:

(1) the chief justice of the Alaska Supreme Court or another active or retired justice of the supreme court or an active or retired judge of the court of appeals designated by the chief justice;

(2) an active or retired superior court judge designated by the chief justice for a three-year term;

(3) an active or retired district court judge designated by the chief justice for a three-year term;

(4) a member of the Alaska Native community designated by the Alaska Native Justice Center for a three-year term;

(5) the attorney general or a designee of the attorney general;

- 1 (6) the public defender or a designee of the public defender;  
 2 (7) the commissioner of corrections or the commissioner's designee;  
 3 (8) the commissioner of public safety or the commissioner's designee;  
 4 (9) an active duty member of a municipal law enforcement agency  
 5 appointed by the governor for a three-year term;  
 6 (10) a chief of a municipal law enforcement agency appointed by the  
 7 governor for a three-year term;  
 8 (11) one victims' rights advocate appointed by the governor for a three-  
 9 year term;  
 10 (12) one nonvoting member, serving ex officio, who is a member of  
 11 the senate appointed by the president of the senate; and  
 12 (13) one nonvoting member, serving ex officio, who is a member of  
 13 the house of representatives appointed by the speaker of the house of representatives.

14 (b) A member appointed under (a)(9) - (11) of this section serves at the  
 15 pleasure of the governor and may be reappointed.

16 (c) The commission shall, by majority vote of the membership, elect a chair  
 17 and other officers it considers necessary from among its membership to serve on a  
 18 yearly basis.

19 (d) The Alaska Judicial Council shall provide staff and administrative support  
 20 to the commission.

21 **Sec. 44.19.643. Compensation.** Members of the commission serve without  
 22 compensation but are entitled to per diem and travel expenses authorized for boards  
 23 and commissions under AS 39.20.180.

24 **Sec. 44.19.644. Meetings.** A majority of the members constitutes a quorum for  
 25 conducting business and exercising the powers of the commission. The commission  
 26 shall meet at least quarterly, at the call of the chair, at the request of the majority of the  
 27 members, or at a regularly scheduled time as determined by a majority of the  
 28 members. The commission shall keep a record of its proceedings and make these  
 29 records available for public inspection.

30 **Sec. 44.19.645. Powers and duties of the commission.** (a) The commission  
 31 shall evaluate the effect of sentencing laws and criminal justice practices on the

1 criminal justice system to evaluate whether those sentencing laws and criminal justice  
2 practices provide for protection of the public, community condemnation of the  
3 offender, the rights of victims of crimes, the rights of the accused and the person  
4 convicted, restitution from the offender, and the principle of reformation. The  
5 commission shall make recommendations for improving criminal sentencing practices  
6 and criminal justice practices, including rehabilitation and restitution. In formulating  
7 its recommendations, the commission shall consider

8 (1) statutes, court rules, and court decisions relevant to sentencing of  
9 criminal defendants in misdemeanor and felony cases;

10 (2) sentencing practices of the judiciary, including use of presumptive  
11 sentences;

12 (3) means of promoting uniformity, proportionality, and accountability  
13 in sentencing;

14 (4) alternatives to traditional forms of incarceration;

15 (5) the efficacy of parole and probation in ensuring public safety,  
16 achieving rehabilitation, and reducing recidivism;

17 (6) the adequacy, availability, and effectiveness of treatment and  
18 rehabilitation programs;

19 (7) crime and incarceration rates, including the rate of violent crime  
20 and the abuse of controlled substances, in this state compared to other states, and best  
21 practices adopted by other states that have proven to be successful in reducing  
22 recidivism;

23 (8) the relationship between sentencing priorities and correctional  
24 resources;

25 (9) the effectiveness of the state's current methodologies for the  
26 collection and dissemination of criminal justice data; and

27 (10) whether the schedules for controlled substances in AS 11.71.140 -  
28 11.71.190 are reasonable and appropriate, considering the criteria established in  
29 AS 11.71.120(c).

30 (b) The commission may

31 (1) recommend legislative and administrative action on criminal justice

1 practices; and

2 (2) select and retain the services of consultants as necessary.

3 **Sec. 44.19.646. Methodology.** In making recommendations, the commission  
4 shall

5 (1) solicit and consider information and views from a variety of  
6 constituencies to represent the broad spectrum of views that exist with respect to  
7 possible approaches to sentencing and administration of justice in the state; and

8 (2) base recommendations on the following factors:

9 (A) the seriousness of each offense in relation to other offenses;

10 (B) the effect of an offender's prior criminal history on  
11 sentencing;

12 (C) the need to rehabilitate criminal offenders;

13 (D) the need to confine offenders to prevent harm to the public;

14 (E) the extent to which criminal offenses harm victims and  
15 endanger the public safety and order;

16 (F) the effect of sentencing in deterring an offender or other  
17 members of society from future criminal conduct;

18 (G) the effect of sentencing as a community condemnation of  
19 criminal acts and as a reaffirmation of societal norms;

20 (H) the elimination of unjustified disparity in sentences;

21 (I) the sufficiency of state agency resources to administer the  
22 criminal justice system of the state;

23 (J) the effect of criminal justice laws and practices on reducing  
24 the rate of recidivism in the state;

25 (K) peer reviewed and data-driven research; and

26 (L) the efficacy of evidence-based restorative justice initiatives  
27 on persons convicted of criminal violations and offenses, the victim, and the  
28 community.

29 **Sec. 44.19.647. Annual report and recommendations.** The commission shall  
30 submit to the governor and the legislature an annual report of its proceedings for the  
31 previous calendar year and may submit recommendations for legislative and

1 administrative action. Reports and recommendations provided under this section shall  
2 be submitted not later than February 1 of each year.

3 **Sec. 44.19.649. Definition.** In AS 44.19.641 - 44.19.649, "commission" means  
4 the Alaska Criminal Justice Commission.

5 \* **Sec. 33.** AS 44.66.010(a) is amended by adding a new paragraph to read:

6 (10) Alaska Criminal Justice Commission (AS 44.19.642) - June 30,  
7 2017.

8 \* **Sec. 34.** AS 47 is amended by adding a new chapter to read:

9 **Chapter 38. Alcohol and Substance Abuse Accountability.**

10 **Article 1. Alcohol and Substance Abuse Monitoring and Treatment for Persons Released**  
11 **on Bail or on Probation.**

12 **Sec. 47.38.010. Cooperation with the Department of Corrections.** The  
13 department shall cooperate with the Department of Corrections in establishing and  
14 conducting programs to provide treatment for alcoholics, intoxicated persons, drug  
15 abusers, and inhalant abusers who are on conditions of release as provided in  
16 AS 12.30 or on probation.

17 **Sec. 47.38.020. Alcohol and substance abuse monitoring program.** (a) The  
18 commissioner, in cooperation with the commissioner of corrections, shall establish a  
19 program for certain persons with release conditions ordered as provided under  
20 AS 12.30, or offenders with conditions of probation, that include not consuming  
21 controlled substances or alcoholic beverages.

22 (b) The commissioner shall adopt regulations to implement the program.

23 (c) The commissioner shall include in the program

24 (1) a requirement for twice-a-day testing, in person if practicable, for  
25 alcoholic beverage use and random testing for controlled substances;

26 (2) a means to provide the probation officer, prosecutor's office, or  
27 local law enforcement agency with notice within 24 hours, so that a complaint may be  
28 filed alleging a violation of AS 11.56.757, a petition may be filed with the court  
29 seeking appropriate sanctions and may be scheduled by the court for a prompt hearing,  
30 or an arrest warrant may be issued for the person on release or offender with  
31 conditions of probation provided in this subsection, if the person or offender

1 (A) fails to appear for an appointment as required by the  
2 program requirements; or

3 (B) tests positive for the use of controlled substances or  
4 alcoholic beverages; and

5 (3) a requirement that the person or offender pay, based on the person's  
6 or offender's ability under financial guidelines established by the commissioner, for  
7 the cost of participating in the program.

8 (d) The department shall provide or conduct the testing required under (c) of  
9 this section.

## 10 **Article 2. Recidivism Reduction Program.**

11 **Sec. 47.38.100. Recidivism reduction program.** (a) The recidivism reduction  
12 program is established to promote the rehabilitation through transitional re-entry  
13 programs of persons incarcerated for offenses and recently released from correctional  
14 facilities.

15 (b) The commissioner, in cooperation with the commissioner of corrections,  
16 may provide for programs that have, as a primary focus, rehabilitation and reduction  
17 of recidivism through transitional re-entry for persons incarcerated for offenses and  
18 recently released from correctional facilities. The commissioner may enter into  
19 contracts to provide for programs under this section. A program under this section  
20 must

21 (1) include case management;

22 (2) require sober living;

23 (3) provide, on-site or by referral, treatment for substance abuse or  
24 mental health treatment;

25 (4) require employment, educational programming, vocational  
26 training, or community volunteer work as approved by the director of the treatment  
27 program; and

28 (5) limit residential placements in the program to a maximum of one  
29 year.

30 (c) The commissioner and the commissioner of corrections shall prepare a  
31 joint annual report on the program provided under (c) of this section, and notify the

1 legislature on or before January 15 of each year that the report is available. The report  
 2 must include an analysis of the program's effects on recidivism for program  
 3 participants.

4 **Article 3. General Provisions.**

5 **Sec. 47.38.199. Definitions.** In this chapter,

6 (1) "commissioner" means the commissioner of health and social  
 7 services;

8 (2) "department" means the Department of Health and Social Services.

9 \* **Sec. 35.** AS 22.20.210 is repealed June 30, 2017.

10 \* **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to  
 11 read:

12 **APPLICABILITY.** (a) AS 11.41.320(a), as amended by sec. 1 of this Act,  
 13 AS 11.41.330(a), as amended by sec. 2 of this Act, AS 11.41.330(b), as amended by sec. 3 of  
 14 this Act, AS 11.46.130(a), as amended by sec. 4 of this Act, AS 11.46.140(a), as amended by  
 15 sec. 5 of this Act, AS 11.46.150(a), as amended by sec. 6 of this Act, AS 11.46.220(c), as  
 16 amended by sec. 7 of this Act, AS 11.46.260(b), as amended by sec. 8 of this Act,  
 17 AS 11.46.270(b), as amended by sec. 9 of this Act, AS 11.46.280(d), as amended by sec. 10  
 18 of this Act, AS 11.46.285(b), as amended by sec. 11 of this Act, AS 11.46.295, as amended  
 19 by sec. 12 of this Act, AS 11.46.360(a), as amended by sec. 13 of this Act, AS 11.46.482(a),  
 20 as amended by sec. 14 of this Act, AS 11.46.484(a), as amended by sec. 15 of this Act,  
 21 AS 11.46.486(a), as amended by sec. 16 of this Act, AS 11.46.530(b), as amended by sec. 17  
 22 of this Act, AS 11.46.620(d), as amended by sec. 18 of this Act, AS 11.46.730(c), as amended  
 23 by sec. 19 of this Act, AS 12.30.011(b), as amended by sec. 20 of this Act, AS 12.30.016(b),  
 24 as amended by sec. 21 of this Act, AS 12.30.016(c), as amended by sec. 22 of this Act,  
 25 AS 12.55.027(c), as amended by sec. 23 of this Act, and AS 12.55.100(a), as amended by sec.  
 26 24 of this Act, apply to offenses occurring on or after the effective date of secs. 1 - 30 and 32 -  
 27 38 of this Act.

28 (b) The changes made to AS 28.35.030(k), as amended by sec. 27 of this Act,  
 29 AS 33.05.020, as amended by sec. 28 of this Act, AS 33.16.060, as amended by sec. 29 of this  
 30 Act, AS 33.16.150(b), as amended by sec. 30 of this Act, and AS 47.38.020, as enacted by  
 31 sec. 34 of this Act, apply to convictions occurring before, on, or after the effective date of

1 secs. 1 - 30 and 32 - 38 of this Act for offenses occurring before, on, or after the effective date  
2 of secs. 1 - 30 and 32 - 38 of this Act.

3 (c) AS 12.55.155(d)(20), as amended by sec. 25 of this Act, applies to prosecutions  
4 occurring on or after the effective date of sec. 25 of this Act for offenses occurring before, on,  
5 or after the effective date of sec. 25 of this Act.

6 \* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 **SPECIAL REPORT OF ALASKA CRIMINAL JUSTICE COMMISSION.** The  
9 Alaska Criminal Justice Commission shall submit to the governor and the legislature a special  
10 report, not later than July 1, 2017, regarding alcohol-related offenses in AS 28. The report  
11 must include recommendations on

12 (1) whether a revision of the alcohol-related offenses in AS 28 is necessary;

13 (2) maintaining both the administrative and court license revocation processes;

14 (3) the effectiveness of ignition interlock devices in reducing the offenses of  
15 driving while under the influence of an alcoholic beverage, inhalant, or controlled substance  
16 and refusal to submit to a chemical test, and reducing recidivism;

17 (4) whether the punishment, fines, and associated driver's license revocation  
18 periods for the offenses of driving while under the influence of an alcoholic beverage,  
19 inhalant, or controlled substance and refusal to submit to a chemical test should be decreased  
20 or increased;

21 (5) the effectiveness of programs that promote offender accountability,  
22 emphasize swift and certain, yet measured, punishment, reduce recidivism, and maximize the  
23 offender's ability to remain productive in society;

24 (6) whether limited licenses should be available for persons charged with or  
25 convicted of the offenses of driving while under the influence of an alcoholic beverage,  
26 inhalant, or controlled substance or refusal to submit to a chemical test, while providing for  
27 public safety.

28 \* **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 **TRANSITIONAL PROVISIONS.** The initial designations and appointments to the  
31 Alaska Criminal Justice Commission under AS 44.19.642, added by sec. 32 of this Act, shall

1 be made not later than June 30, 2014. Notwithstanding AS 44.19.647, added by sec. 32 of this  
2 Act, the commission shall submit its first report to the governor and the legislature not later  
3 than February 1, 2016.

4 \* **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 TRANSITIONAL PROVISIONS: REGULATIONS. (a) The Department of  
7 Corrections may adopt regulations necessary to implement AS 33.05.020(f), added by sec. 28  
8 of this Act.

9 (b) The board of parole may adopt regulations necessary to implement  
10 AS 33.16.060(c), added by sec. 29 of this Act, and AS 33.16.150(b), as amended by sec. 30 of  
11 this Act.

12 (c) The Department of Health and Social Services may adopt regulations necessary to  
13 implement AS 47.38.010 - 47.38.199, added by sec. 34 of this Act.

14 (d) The regulations adopted under (a) - (c) of this section take effect under AS 44.62  
15 (Administrative Procedure Act), but not before July 1, 2014.

16 \* **Sec. 40.** Section 31 of this Act takes effect January 1, 2016.

17 \* **Sec. 41.** Section 39 of this Act takes effect immediately under AS 01.10.070(c).

18 \* **Sec. 42.** Sections 1 - 30 and 32 - 38 of this Act take effect July 1, 2014.

Adopted  
A/19/14

28-LS0116\Q.7  
Gardner  
4/19/14

#2

AMENDMENT

Rep STOLTZE  
by Request of  
the Governor

OFFERED IN THE HOUSE <sup>FIN</sup>  
TO: HCS CSSB 64(~~JUD~~), Draft Version "Q"

- 1 Page 16, line 31, through page 17, line 3:
- 2 Delete "by electronic monitoring at a private residence, or at a community
- 3 residential center. If electronic monitoring at a private residence or [OR, IF] a community
- 4 residential center"
- 5 Insert "at a community residential center or by electronic monitoring at a private
- 6 residence. If [, IF] a community residential center or electronic monitoring at a private
- 7 residence"

*Adopted 2/19/14*

28-LS0116\Q  
Gardner  
4/19/14

**HOUSE CS FOR CS FOR SENATE BILL NO. 64(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE JUDICIARY COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to theft and property offenses; relating to the definition of 'prior**  
2 **convictions' for certain theft offenses; establishing the Alaska Criminal Justice**  
3 **Commission and providing an expiration date; relating to electronic monitoring for**  
4 **certain persons convicted of driving while under the influence; relating to the crime of**  
5 **custodial interference; relating to the duties of the Alaska Judicial Council; relating to**  
6 **jail-time credit for offenders in court-ordered treatment programs; relating to**  
7 **conditions of release, probation, and parole; relating to a mitigating factor for a person**  
8 **suffering from combat-related post-traumatic stress disorder or combat-related**  
9 **traumatic brain injury; relating to duties of the commissioner of corrections and board**  
10 **of parole; establishing a program for reducing recidivism in the Department of Health**  
11 **and Social Services; requiring the commissioner of health and social services to establish**  
12 **programs for persons on conditions of release or probation that require testing for**

1 **controlled substances and alcoholic beverages; requiring the board of parole to establish**  
 2 **programs for persons on parole that require testing for controlled substances and**  
 3 **alcoholic beverages; relating to the duties of the Department of Health and Social**  
 4 **Services; and providing for an effective date."**

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

6 \* **Section 1.** AS 11.41.320(a) is amended to read:

7 (a) A person commits the crime of custodial interference in the first degree if  
 8 the person violates **AS 11.41.330(a)(1)** [AS 11.41.330] and causes the child or  
 9 incompetent person to be

10 (1) removed from the state; or

11 (2) kept outside the state.

12 \* **Sec. 2.** AS 11.41.330(a) is amended to read:

13 (a) A person commits the crime of custodial interference in the second degree  
 14 if

15 **(1) [,] being a relative of a child under 18 years of age or a relative of**  
 16 **an incompetent person and knowing that the person has no legal right to do so, the**  
 17 **person takes, entices, or keeps that child or incompetent person from a lawful**  
 18 **custodian with intent to hold the child or incompetent person for a protracted period;**

19 **or**

20 **(2) not being a relative of a child under 18 years of age or a**  
 21 **relative of an incompetent person, knowing that the person has no right to do so**  
 22 **and with the intent to take or keep the child or incompetent person, the person**  
 23 **represents to the lawful custodian that the person has a right to take or keep the**  
 24 **child or incompetent person.**

25 \* **Sec. 3.** AS 11.41.330(b) is amended to read:

26 (b) The affirmative defense of necessity under AS 11.81.320 does not apply to  
 27 a prosecution for custodial interference under **(a)(1)** [(a)] of this section if the  
 28 protracted period for which the person held the child or incompetent person exceeded  
 29 the shorter of the following:

- 1 (1) 24 hours; or  
2 (2) the time necessary to report to a peace officer or social service  
3 agency that the child or incompetent person has been abused, neglected, or is in  
4 imminent physical danger.

5 \* **Sec. 4.** AS 11.46.130(a) is amended to read:

6 (a) A person commits the crime of theft in the second degree if the person  
7 commits theft as defined in AS 11.46.100 and

8 (1) the value of the property or services is \$750 [\$500] or more but less  
9 than \$25,000;

10 (2) the property is a firearm or explosive;

11 (3) the property is taken from the person of another;

12 (4) the property is taken from a vessel and is vessel safety or survival  
13 equipment;

14 (5) the property is taken from an aircraft and the property is aircraft  
15 safety or survival equipment;

16 (6) the value of the property is \$250 [\$50] or more but less than \$750  
17 [\$500] and, within the preceding five years, the person has been convicted and  
18 sentenced on two or more separate occasions in this or another jurisdiction of

19 (A) an offense under AS 11.46.120, or an offense under  
20 another law or ordinance with similar elements;

21 (B) a crime set out in this subsection or an offense under  
22 another law or ordinance with similar elements;

23 (C) an offense under AS 11.46.140(a)(1), or an offense under  
24 another law or ordinance with similar elements; or

25 (D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an  
26 offense under another law or ordinance with similar elements; or

27 (7) the property is an access device.

28 \* **Sec. 5.** AS 11.46.140(a) is amended to read:

29 (a) A person commits the crime of theft in the third degree if the person  
30 commits theft as defined in AS 11.46.100 and

31 (1) the value of the property or services is \$250 [\$50] or more but less

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than \$750 [\$500]; or

(2) [REPEALED]

(3) the value of the property is less than \$250 [\$50] and, within the past five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of theft or concealment of merchandise, or an offense under another law or ordinance with similar elements.

\* **Sec. 6.** AS 11.46.150(a) is amended to read:

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is less than \$250 [\$50].

\* **Sec. 7.** AS 11.46.220(c) is amended to read:

(c) Concealment of merchandise is

(1) a class C felony if

(A) the merchandise is a firearm;

(B) the value of the merchandise is \$750 [\$500] or more; or

(C) the value of the merchandise is \$250 [\$50] or more but less than \$750 [\$500] and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of

(i) the offense of concealment of merchandise under this paragraph or (2)(A) of this subsection, or an offense under another law or ordinance with similar elements; or

(ii) an offense under AS 11.46.120, 11.46.130, or 11.46.140(a)(1), or an offense under another law or ordinance with similar elements;

(2) a class A misdemeanor if

(A) the value of the merchandise is \$250 [\$50] or more but less than \$750 [\$500]; or

(B) the value of the merchandise is less than \$250 [\$50] and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions of the offense of concealment of

1 merchandise or theft in any degree, or an offense under another law or  
2 ordinance with similar elements;

3 (3) a class B misdemeanor if the value of the merchandise is less than  
4 \$250 [\$50].

5 \* **Sec. 8.** AS 11.46.260(b) is amended to read:

6 (b) Removal of identification marks is

7 (1) a class C felony if the value of the property on which the serial  
8 number or identification mark appeared is \$750 [\$500] or more;

9 (2) a class A misdemeanor if the value of the property on which the  
10 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750  
11 [\$500];

12 (3) a class B misdemeanor if the value of the property on which the  
13 serial number or identification mark appeared is less than \$250 [\$50].

14 \* **Sec. 9.** AS 11.46.270(b) is amended to read:

15 (b) Unlawful possession is

16 (1) a class C felony if the value of the property on which the serial  
17 number or identification mark appeared is \$750 [\$500] or more;

18 (2) a class A misdemeanor if the value of the property on which the  
19 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750  
20 [\$500];

21 (3) a class B misdemeanor if the value of the property on which the  
22 serial number or identification mark appeared is less than \$250 [\$50].

23 \* **Sec. 10.** AS 11.46.280(d) is amended to read:

24 (d) Issuing a bad check is

25 (1) a class B felony if the face amount of the check is \$25,000 or more;

26 (2) a class C felony if the face amount of the check is \$750 [\$500] or  
27 more but less than \$25,000;

28 (3) a class A misdemeanor if the face amount of the check is \$250  
29 [\$50] or more but less than \$750 [\$500];

30 (4) a class B misdemeanor if the face amount of the check is less than  
31 \$250 [\$50].

1 \* **Sec. 11.** AS 11.46.285(b) is amended to read:

2 (b) Fraudulent use of an access device is

3 (1) a class B felony if the value of the property or services obtained is  
4 \$25,000 or more;

5 (2) a class C felony if the value of the property or services obtained is  
6 \$750 [\$50] or more but less than \$25,000;

7 (3) a class A misdemeanor if the value of the property or services  
8 obtained is less than \$750 [\$50].

9 \* **Sec. 12.** AS 11.46.295 is amended to read:

10 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior  
11 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or  
12 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under  
13 AS 11.46.220(c),

14 (1) a conviction for an offense under another law or ordinance with  
15 similar elements is a conviction of an offense having elements similar to those of an  
16 offense defined as such under Alaska law at the time the offense was committed;

17 (2) a conviction for an offense under Alaska law where the value of  
18 the property or services for the offense was lower than the value of property or  
19 services for the offense under current Alaska law, is a prior conviction for that  
20 offense; and

21 (3) the [. THE] court shall consider the date of a prior conviction as  
22 occurring on the date that sentence is imposed for the prior offense.

23 \* **Sec. 13.** AS 11.46.360(a) is amended to read:

24 (a) A person commits the crime of vehicle theft in the first degree if, having  
25 no right to do so or any reasonable ground to believe the person has such a right, the  
26 person drives, tows away, or takes

27 (1) the car, truck, motorcycle, motor home, bus, aircraft, or watercraft  
28 of another;

29 (2) the propelled vehicle of another and

30 (A) the vehicle or any other property of another is damaged in a  
31 total amount of \$750 [\$500] or more;

1 (B) the owner incurs reasonable expenses as a result of the loss  
2 of use of the vehicle, in a total amount of \$750 [\$500] or more; or

3 (C) the owner is deprived of the use of the vehicle for seven  
4 days or more;

5 (3) the propelled vehicle of another and the vehicle is marked as a  
6 police or emergency vehicle; or

7 (4) the propelled vehicle of another and, within the preceding seven  
8 years, the person was convicted under

9 (A) this section or AS 11.46.365;

10 (B) former AS 11.46.482(a)(4) or (5);

11 (C) former AS 11.46.484(a)(2);

12 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft  
13 of a propelled vehicle; or

14 (E) a law or ordinance of this or another jurisdiction with  
15 elements substantially similar to those of an offense described in (A) - (D) of  
16 this paragraph.

17 \* **Sec. 14.** AS 11.46.482(a) is amended to read:

18 (a) A person commits the crime of criminal mischief in the third degree if,  
19 having no right to do so or any reasonable ground to believe the person has such a  
20 right,

21 (1) with intent to damage property of another, the person damages  
22 property of another in an amount of \$750 [\$500] or more;

23 (2) the person recklessly creates a risk of damage in an amount  
24 exceeding \$100,000 to property of another by the use of widely dangerous means; or

25 (3) the person knowingly

26 (A) defaces, damages, or desecrates a cemetery or the contents  
27 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,  
28 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or  
29 memorial appears to be abandoned, lost, or neglected;

30 (B) removes human remains or associated burial artifacts from  
31 a cemetery, tomb, grave, or memorial regardless of whether the cemetery,

1 tomb, grave, or memorial appears to be abandoned, lost, or neglected.

2 \* **Sec. 15.** AS 11.46.484(a) is amended to read:

3 (a) A person commits the crime of criminal mischief in the fourth degree if,  
4 having no right to do so or any reasonable ground to believe the person has such a  
5 right

6 (1) with intent to damage property of another, the person damages  
7 property of another in an amount of \$250 [\$50] or more but less than \$750 [\$500];

8 (2) the person tampers with a fire protection device in a building that is  
9 a public place;

10 (3) the person knowingly accesses a computer, computer system,  
11 computer program, computer network, or part of a computer system or network;

12 (4) the person uses a device to descramble an electronic signal that has  
13 been scrambled to prevent unauthorized receipt or viewing of the signal unless the  
14 device is used only to descramble signals received directly from a satellite or unless  
15 the person owned the device before September 18, 1984; or

16 (5) the person knowingly removes, relocates, defaces, alters, obscures,  
17 shoots at, destroys, or otherwise tampers with an official traffic control device or  
18 damages the work upon a highway under construction.

19 \* **Sec. 16.** AS 11.46.486(a) is amended to read:

20 (a) A person commits the crime of criminal mischief in the fifth degree if,  
21 having no right to do so or any reasonable ground to believe the person has such a  
22 right,

23 (1) with reckless disregard for the risk of harm to or loss of the  
24 property or with intent to cause substantial inconvenience to another, the person  
25 tampers with property of another;

26 (2) with intent to damage property of another, the person damages  
27 property of another in an amount less than \$250 [\$50]; or

28 (3) the person rides in a propelled vehicle knowing it has been stolen  
29 or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

30 \* **Sec. 17.** AS 11.46.530(b) is amended to read:

31 (b) Criminal simulation is

1 (1) a class C felony if the value of what the object purports to represent  
2 is \$750 [\$500] or more;

3 (2) a class A misdemeanor if the value of what the object purports to  
4 represent is \$250 [\$50] or more but less than \$750 [\$500];

5 (3) a class B misdemeanor if the value of what the object purports to  
6 represent is less than \$250 [\$50].

7 \* **Sec. 18.** AS 11.46.620(d) is amended to read:

8 (d) Misapplication of property is

9 (1) a class C felony if the value of the property misapplied is \$750  
10 [\$500] or more;

11 (2) a class A misdemeanor if the value of the property misapplied is  
12 less than \$750 [\$500].

13 \* **Sec. 19.** AS 11.46.730(c) is amended to read:

14 (c) Defrauding creditors is a class A misdemeanor unless that secured party,  
15 judgment creditor, or creditor incurs a pecuniary loss of \$750 [\$500] or more as a  
16 result to the defendant's conduct, in which case defrauding secured creditors is

17 (1) a class B felony if the loss is \$25,000 or more;

18 (2) a class C felony if the loss is \$750 [\$500] or more but less than  
19 \$25,000.

20 \* **Sec. 20.** AS 12.30.011(b) is amended to read:

21 (b) If a judicial officer determines that the release under (a) of this section will  
22 not reasonably assure the appearance of the person or will pose a danger to the victim,  
23 other persons, or the community, the officer shall impose the least restrictive condition  
24 or conditions that will reasonably assure the person's appearance and protect the  
25 victim, other persons, and the community. In addition to conditions under (a) of this  
26 section, the judicial officer may, singly or in combination,

27 (1) require the execution of an appearance bond in a specified amount  
28 of cash to be deposited into the registry of the court, in a sum not to exceed 10 percent  
29 of the amount of the bond;

30 (2) require the execution of a bail bond with sufficient solvent sureties  
31 or the deposit of cash;

- 1 (3) require the execution of a performance bond in a specified amount
- 2 of cash to be deposited in the registry of the court;
- 3 (4) place restrictions on the person's travel, association, or residence;
- 4 (5) order the person to refrain from possessing a deadly weapon on the
- 5 person or in the person's vehicle or residence;
- 6 (6) require the person to maintain employment or, if unemployed,
- 7 actively seek employment;
- 8 (7) require the person to notify the person's lawyer and the prosecuting
- 9 authority within two business days after any change in employment;
- 10 (8) require the person to avoid all contact with a victim, a potential
- 11 witness, or a codefendant;
- 12 (9) require the person to refrain from the consumption and possession
- 13 of alcoholic beverages;
- 14 (10) require the person to refrain from the use of a controlled substance
- 15 as defined by AS 11.71, unless prescribed by a licensed health care provider with
- 16 prescriptive authority;
- 17 (11) require the person to be physically inside the person's residence,
- 18 or in the residence of the person's third-party custodian, at time periods set by the
- 19 court;
- 20 (12) require the person to keep regular contact with a law enforcement
- 21 officer or agency;
- 22 (13) order the person to refrain from entering or remaining in premises
- 23 licensed under AS 04;
- 24 (14) place the person in the custody of an individual who agrees to
- 25 serve as a third-party custodian of the person as provided in AS 12.30.021;
- 26 (15) if the person is under the treatment of a licensed health care
- 27 provider, order the person to follow the provider's treatment recommendations;
- 28 (16) order the person to take medication that has been prescribed for
- 29 the person by a licensed health care provider with prescriptive authority;
- 30 (17) order the person to comply with any other condition that is
- 31 reasonably necessary to assure the appearance of the person and to assure the safety of

1 the victim, other persons, and the community;

2 (18) require the person to comply with a program established  
3 under AS 47.38.020 if the person has been charged with an alcohol-related or  
4 substance abuse-related offense that is an unclassified felony, a class A felony, a  
5 sexual felony, or a crime involving domestic violence.

6 \* Sec. 21. AS 12.30.016(b) is amended to read:

7 (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,  
8 AS 28.35.030, or 28.35.032, a judicial officer may order the person

9 (1) to refrain from

10 (A) consuming alcoholic beverages; or

11 (B) possessing on the person, in the person's residence, or in  
12 any vehicle or other property over which the person has control, alcoholic  
13 beverages;

14 (2) to submit to a search without a warrant of the person, the person's  
15 personal property, the person's residence, or any vehicle or other property over which  
16 the person has control, for the presence of alcoholic beverages by a peace officer who  
17 has reasonable suspicion that the person is violating the conditions of the person's  
18 release by possessing alcoholic beverages;

19 (3) to submit to a breath test when requested by a law enforcement  
20 officer;

21 (4) to provide a sample for a urinalysis or blood test when requested by  
22 a law enforcement officer;

23 (5) to take a drug or combination of drugs intended to prevent  
24 substance abuse;

25 (6) to follow any treatment plan imposed by the court under  
26 AS 28.35.028;

27 (7) to comply with a program established under AS 47.38.020.

28 \* Sec. 22. AS 12.30.016(c) is amended to read:

29 (c) In a prosecution charging a violation of AS 11.71 or AS 11.73, a judicial  
30 officer may order the person

31 (1) to refrain from

- 1 (A) consuming a controlled substance; or
- 2 (B) possessing on the person, in the person's residence, or in
- 3 any vehicle or other property over which the person has control, a controlled
- 4 substance or drug paraphernalia;
- 5 (2) to submit to a search without a warrant of the person, the person's
- 6 personal property, the person's residence, or any vehicle or other property over which
- 7 the person has control, for the presence of a controlled substance or drug paraphernalia
- 8 by a peace officer who has reasonable suspicion that the person is violating the terms
- 9 of the person's release by possessing controlled substances or drug paraphernalia;
- 10 (3) to enroll in a random drug testing program, at the person's expense,
- 11 to detect the presence of a controlled substance, with testing to occur not less than
- 12 once a week, and with the results being submitted to the court and the prosecuting
- 13 authority;
- 14 (4) to refrain from entering or remaining in a place where a controlled
- 15 substance is being used, manufactured, grown, or distributed;
- 16 (5) to refrain from being physically present at, within a two-block area
- 17 of, or within a designated area near, the location where the alleged offense occurred or
- 18 at other designated places, unless the person actually resides within that area; or
- 19 (6) to refrain from the use or possession of an inhalant;
- 20 **(7) to comply with a program established under AS 47.38.020.**

21 \* **Sec. 23.** AS 12.55.027(c) is amended to read:

22 (c) To qualify for credit against a sentence of imprisonment for **a day** [TIME]  
23 spent in a treatment program, the treatment program and the facility of the treatment  
24 program must impose substantial restrictions on a person's liberty **on that day** that are  
25 equivalent to incarceration, including the requirement that a participant in the program

26 (1) must live in a residential facility operated by the program;

27 (2) must be confined at all times to the grounds of the facility or be in  
28 the physical custody of an employee of the facility, except for

29 **(A)** court appearances;

30 **(B)** [,] meetings with counsel;

31 **(C)** **employment, vocational training, or community**

1 volunteer [, AND] work required by the treatment program [AND  
2 APPROVED IN ADVANCE BY THE COURT]; and

3 (D) periods during which the resident is permitted to leave  
4 the facility for rehabilitative purposes directly related to the person's  
5 treatment, so long as the periods during which the resident is permitted to  
6 leave the facility are expressly limited as to both time and purpose by the  
7 treatment program;

8 (3) is subject to disciplinary sanctions by the program if the participant  
9 violates rules of the program and facility; sanctions must be in writing and available  
10 for court review; and

11 (4) is subject to immediate arrest, without warrant, if the participant  
12 leaves the facility without permission.

13 \* **Sec. 24.** AS 12.55.100(a) is amended to read:

14 (a) While on probation and among the conditions of probation, the defendant  
15 may be required

16 (1) to pay a fine in one or several sums;

17 (2) to make restitution or reparation to aggrieved parties for actual  
18 damages or loss caused by the crime for which conviction was had, including  
19 compensation to a victim that is a nonprofit organization for the value of labor or  
20 goods provided by volunteers if the labor or goods were necessary to alleviate or  
21 mitigate the effects of the defendant's crime;

22 (3) to provide for the support of any persons for whose support the  
23 defendant is legally responsible;

24 (4) to perform community work in accordance with AS 12.55.055;

25 (5) to participate in or comply with the treatment plan of an inpatient  
26 or outpatient rehabilitation program specified by either the court or the defendant's  
27 probation officer that is related to the defendant's offense or to the defendant's  
28 rehabilitation; and

29 (6) to satisfy the screening, evaluation, referral, and program  
30 requirements of an agency authorized by the court to make referrals for rehabilitative  
31 treatment or to provide rehabilitative treatment;

1                                   **(7) to comply with a program established under AS 47.38.020.**

2       \* **Sec. 25.** AS 12.55.155(d) is amended to read:

3                   (d) The following factors shall be considered by the sentencing court if proven  
4                   in accordance with this section, and may allow imposition of a sentence below the  
5                   presumptive range set out in AS 12.55.125:

6                   (1) the offense was principally accomplished by another person, and  
7                   the defendant manifested extreme caution or sincere concern for the safety or well-  
8                   being of the victim;

9                   (2) the defendant, although an accomplice, played only a minor role in  
10                  the commission of the offense;

11                  (3) the defendant committed the offense under some degree of duress,  
12                  coercion, threat, or compulsion insufficient to constitute a complete defense, but that  
13                  significantly affected the defendant's conduct;

14                  (4) the conduct of a youthful defendant was substantially influenced by  
15                  another person more mature than the defendant;

16                  (5) the conduct of an aged defendant was substantially a product of  
17                  physical or mental infirmities resulting from the defendant's age;

18                  (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the  
19                  defendant acted with serious provocation from the victim;

20                  (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,  
21                  the victim provoked the crime to a significant degree;

22                  (8) before the defendant knew that the criminal conduct had been  
23                  discovered, the defendant fully compensated or made a good faith effort to fully  
24                  compensate the victim of the defendant's criminal conduct for any damage or injury  
25                  sustained;

26                  (9) the conduct constituting the offense was among the least serious  
27                  conduct included in the definition of the offense;

28                  (10) the defendant was motivated to commit the offense solely by an  
29                  overwhelming compulsion to provide for emergency necessities for the defendant's  
30                  immediate family;

31                  (11) after commission of the offense for which the defendant is being

1 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other  
2 persons who committed an offense;

3 (12) the facts surrounding the commission of the offense and any  
4 previous offenses by the defendant establish that the harm caused by the defendant's  
5 conduct is consistently minor and inconsistent with the imposition of a substantial  
6 period of imprisonment;

7 (13) the defendant is convicted of an offense specified in AS 11.71 and  
8 the offense involved small quantities of a controlled substance;

9 (14) the defendant is convicted of an offense specified in AS 11.71 and  
10 the offense involved the distribution of a controlled substance, other than a schedule  
11 IA controlled substance, to a personal acquaintance who is 19 years of age or older for  
12 no profit;

13 (15) the defendant is convicted of an offense specified in AS 11.71 and  
14 the offense involved the possession of a small amount of a controlled substance for  
15 personal use in the defendant's home;

16 (16) in a conviction for assault or attempted assault or for homicide or  
17 attempted homicide, the defendant acted in response to domestic violence perpetrated  
18 by the victim against the defendant and the domestic violence consisted of aggravated  
19 or repeated instances of assaultive behavior;

20 (17) except in the case of an offense defined by AS 11.41 or  
21 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the  
22 time of sentencing, has successfully completed a court-ordered treatment program as  
23 defined in AS 28.35.028 that was begun after the offense was committed;

24 (18) except in the case of an offense defined under AS 11.41 or  
25 AS 11.46.400 or a defendant who has previously been convicted of a felony, the  
26 defendant committed the offense while suffering from a mental disease or defect as  
27 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that  
28 significantly affected the defendant's conduct;

29 (19) the defendant is convicted of an offense under AS 11.71, and the  
30 defendant sought medical assistance for another person who was experiencing a drug  
31 overdose contemporaneously with the commission of the offense;

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(20) except in the case of an offense defined under AS 11.41 or AS 11.46.400, the defendant committed the offense while suffering from a condition diagnosed

(A) as a fetal alcohol spectrum disorder, the fetal alcohol spectrum disorder substantially impaired the defendant's judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and the fetal alcohol spectrum disorder, though insufficient to constitute a complete defense, significantly affected the defendant's conduct; in this paragraph, "fetal alcohol spectrum disorder" means a condition of impaired brain function in the range of permanent birth defects caused by maternal consumption of alcohol during pregnancy; or

(B) as combat-related post-traumatic stress disorder or combat-related traumatic brain injury, the combat-related post-traumatic stress disorder or combat-related traumatic brain injury substantially impaired the defendant's judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and the combat-related post-traumatic stress disorder or combat-related traumatic brain injury, though insufficient to constitute a complete defense, significantly affected the defendant's conduct; in this paragraph, "combat-related post-traumatic stress disorder or combat-related traumatic brain injury" means post-traumatic stress disorder or traumatic brain injury resulting from combat with an enemy of the United States in the line of duty while on active duty as a member of the armed forces of the United States; nothing in this paragraph is intended to limit the application of (18) of this subsection.

\* Sec. 26. AS 22.20 is amended by adding a new section to article 4 to read:

**Sec. 22.20.210. Alaska Criminal Justice Commission.** The judicial council shall provide staff and administrative support to the Alaska Criminal Justice Commission established in AS 44.19.641.

\* Sec. 27. AS 28.35.030(k) is amended to read:

(k) Imprisonment required under (b)(1)(A) of this section shall be served by

1 electronic monitoring at a private residence, or at a community residential center,  
2 If electronic monitoring at a private residence or [OR, IF] a community residential  
3 center is not available, imprisonment required under (b)(1)(A) of this section may  
4 be served at another appropriate place determined by the commissioner of corrections.  
5 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a  
6 community residential center or at a private residence if approved by the  
7 commissioner of corrections. Imprisonment served at a private residence must include  
8 electronic monitoring. The cost of imprisonment resulting from the sentence imposed  
9 under (b)(1) of this section shall be paid to the state by the person being sentenced  
10 provided, however, that the cost of imprisonment required to be paid under this  
11 subsection may not exceed \$2,000. Upon the person's conviction, the court shall  
12 include the costs of imprisonment as a part of the judgment of conviction. Except for  
13 reimbursement from a permanent fund dividend as provided in this subsection,  
14 payment of the cost of imprisonment is not required if the court determines the person  
15 is indigent. For costs of imprisonment that are not paid by the person as required by  
16 this subsection, the state shall seek reimbursement from the person's permanent fund  
17 dividend as provided under AS 43.23.065. While at the community residential center  
18 or other appropriate place, a person sentenced under (b)(1)(A) of this section shall  
19 perform at least 24 hours of community service work. A person sentenced under  
20 (b)(1)(B) of this section shall perform at least 160 hours of community service work,  
21 as required by the director of the community residential center or other appropriate  
22 place, or as required by the commissioner of corrections if the sentence is being served  
23 at a private residence. In this subsection, "appropriate place" means a facility with 24-  
24 hour on-site staff supervision that is specifically adapted to provide a residence, and  
25 includes a correctional center, residential treatment facility, hospital, halfway house,  
26 group home, work farm, work camp, or other place that provides varying levels of  
27 restriction.

28 \* **Sec. 28.** AS 33.05.020 is amended by adding a new subsection to read:

29 (f) The commissioner shall establish a program for offenders on probation for  
30 a felony offense who have conditions of probation that include not consuming  
31 controlled substances or alcoholic beverages and who have been identified as being at

1 moderate to high risk as identified by a risk-needs assessment. The commissioner shall  
2 adopt regulations to implement the program. The program shall

3 (1) include random testing for controlled substances and alcoholic  
4 beverage use;

5 (2) require that the probation officer file a petition with the court  
6 seeking appropriate sanctions by the close of the next business day if a probationer

7 (A) fails to appear for an appointment as directed by the  
8 probation officer; or

9 (B) tests positive for the use of controlled substances, inhalants,  
10 or alcoholic beverages; and

11 (3) include a means to notify the court, by the close of the next  
12 business day, that a petition to revoke probation has been filed on a probationer placed  
13 in the program by the commissioner so that the court may review the petition,  
14 schedule a prompt hearing, address a request for a warrant provided by the probation  
15 officer, or take other action the court considers appropriate.

16 \* **Sec. 29.** AS 33.16.060 is amended by adding a new subsection to read:

17 (c) The board shall establish a program for a parolee who has conditions of  
18 parole that include not consuming controlled substances or alcoholic beverages and  
19 who has been identified as being at moderate to high risk as identified by a risk-needs  
20 assessment. The program must

21 (1) include random testing for controlled substance and alcoholic  
22 beverage use;

23 (2) require that a parole officer file a parole violation report by the  
24 close of the next business day if a parolee

25 (A) fails to appear for an appointment as directed by the parole  
26 officer; or

27 (B) tests positive for the use of controlled substances or  
28 alcoholic beverages; and

29 (3) include a means to notify the board by the close of the next  
30 business day that a parole violation report has been filed on a parolee placed in the  
31 program by the board.

1 \* **Sec. 30.** AS 33.16.150(b) is amended to read:

2 (b) The board may require as a condition of special medical, discretionary, or  
3 mandatory parole, or a member of the board acting for the board under (e) of this  
4 section may require as a condition of mandatory parole, that a prisoner released on  
5 parole

6 (1) not possess or control a defensive weapon, a deadly weapon other  
7 than an ordinary pocket knife with a blade three inches or less in length, or  
8 ammunition for a firearm, or reside in a residence where there is a firearm capable of  
9 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly  
10 weapon," "defensive weapon," and "firearm" have the meanings given in  
11 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

12 (2) refrain from possessing or consuming alcoholic beverages;

13 (3) submit to reasonable searches and seizures by a parole officer, or a  
14 peace officer acting under the direction of a parole officer;

15 (4) submit to appropriate medical, mental health, or controlled  
16 substance or alcohol examination, treatment, or counseling;

17 (5) submit to periodic examinations designed to detect the use of  
18 alcohol or controlled substances; **the periodic examinations may include testing**  
19 **under the program established under AS 33.16.060(c);**

20 (6) make restitution ordered by the court according to a schedule  
21 established by the board;

22 (7) refrain from opening, maintaining, or using a checking account or  
23 charge account;

24 (8) refrain from entering into a contract other than a prenuptial contract  
25 or a marriage contract;

26 (9) refrain from operating a motor vehicle;

27 (10) refrain from entering an establishment where alcoholic beverages  
28 are served, sold, or otherwise dispensed;

29 (11) refrain from participating in any other activity or conduct  
30 reasonably related to the parolee's offense, prior record, behavior or prior behavior,  
31 current circumstances, or perceived risk to the community, or from associating with

1 any other person that the board determines is reasonably likely to diminish the  
2 rehabilitative goals of parole, or that may endanger the public; in the case of special  
3 medical parole, for a prisoner diagnosed with a communicable disease, comply with  
4 conditions set by the board designed to prevent the transmission of the disease.

5 \* **Sec. 31.** AS 33.30.011 is amended to read:

6 **Sec. 33.30.011. Duties of commissioner.** The commissioner shall

7 (1) establish, maintain, operate, and control correctional facilities  
8 suitable for the custody, care, and discipline of persons charged or convicted of  
9 offenses against the state or held under authority of state law; each correctional facility  
10 operated by the state shall be established, maintained, operated, and controlled in a  
11 manner that is consistent with AS 33.30.015;

12 (2) classify prisoners;

13 (3) for persons committed to the custody of the commissioner,  
14 establish programs, including furlough programs that are reasonably calculated to

15 (A) protect the public and the victims of crimes committed by  
16 prisoners;

17 (B) maintain health;

18 (C) create or improve occupational skills;

19 (D) enhance educational qualifications;

20 (E) support court-ordered restitution; and

21 (F) otherwise provide for the rehabilitation and reformation of  
22 prisoners, facilitating their reintegration into society;

23 (4) provide necessary

24 (A) medical services for prisoners in correctional facilities or  
25 who are committed by a court to the custody of the commissioner, including  
26 examinations for communicable and infectious diseases;

27 (B) psychological or psychiatric treatment if a physician or  
28 other health care provider, exercising ordinary skill and care at the time of  
29 observation, concludes that

30 (i) a prisoner exhibits symptoms of a serious disease or  
31 injury that is curable or may be substantially alleviated; and

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(ii) the potential for harm to the prisoner by reason of delay or denial of care is substantial; **and**

**(C) assessment or screening of the risks and needs of offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based disorder;**

(5) establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner; [AND]

(6) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; **and**

**(7) establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more and provide to the legislature, by electronic means, by January 15, 2017, and thereafter by January 15, preceding the first regular session of each legislature, a report summarizing the findings and results of the program.**

\* **Sec. 32.** AS 44.19 is amended by adding new sections to read:

**Article 6. Alaska Criminal Justice Commission.**

**Sec. 44.19.641. Creation of commission.** The Alaska Criminal Justice Commission is established in the Office of the Governor.

**Sec. 44.19.642. Membership; staff.** (a) The commission consists of 13 members as follows:

(1) the chief justice of the Alaska Supreme Court or another active or retired justice of the supreme court or an active or retired judge of the court of appeals designated by the chief justice;

(2) an active or retired superior court judge designated by the chief justice for a three-year term;

(3) an active or retired district court judge designated by the chief justice for a three-year term;

(4) a member of the Alaska Native community designated by the Alaska Native Justice Center for a three-year term;

(5) the attorney general or a designee of the attorney general;

- 1 (6) the public defender or a designee of the public defender;
- 2 (7) the commissioner of corrections or the commissioner's designee;
- 3 (8) the commissioner of public safety or the commissioner's designee;
- 4 (9) an active duty member of a municipal law enforcement agency
- 5 appointed by the governor for a three-year term;
- 6 (10) a chief of a municipal law enforcement agency appointed by the
- 7 governor for a three-year term;
- 8 (11) one victims' rights advocate appointed by the governor for a three-
- 9 year term;
- 10 (12) one nonvoting member, serving ex officio, who is a member of
- 11 the senate appointed by the president of the senate; and
- 12 (13) one nonvoting member, serving ex officio, who is a member of
- 13 the house of representatives appointed by the speaker of the house of representatives.
- 14 (b) A member appointed under (a)(9) - (11) of this section serves at the
- 15 pleasure of the governor and may be reappointed.
- 16 (c) The commission shall, by majority vote of the membership, elect a chair
- 17 and other officers it considers necessary from among its membership to serve on a
- 18 yearly basis.
- 19 (d) The Alaska Judicial Council shall provide staff and administrative support
- 20 to the commission.
- 21 **Sec. 44.19.643. Compensation.** Members of the commission serve without
- 22 compensation but are entitled to per diem and travel expenses authorized for boards
- 23 and commissions under AS 39.20.180.
- 24 **Sec. 44.19.644. Meetings.** A majority of the members constitutes a quorum for
- 25 conducting business and exercising the powers of the commission. The commission
- 26 shall meet at least quarterly, at the call of the chair, at the request of the majority of the
- 27 members, or at a regularly scheduled time as determined by a majority of the
- 28 members. The commission shall keep a record of its proceedings and make these
- 29 records available for public inspection.
- 30 **Sec. 44.19.645. Powers and duties of the commission.** (a) The commission
- 31 shall evaluate the effect of sentencing laws and criminal justice practices on the

1 criminal justice system to evaluate whether those sentencing laws and criminal justice  
2 practices provide for protection of the public, community condemnation of the  
3 offender, the rights of victims of crimes, the rights of the accused and the person  
4 convicted, restitution from the offender, and the principle of reformation. The  
5 commission shall make recommendations for improving criminal sentencing practices  
6 and criminal justice practices, including rehabilitation and restitution. In formulating  
7 its recommendations, the commission shall consider

8 (1) statutes, court rules, and court decisions relevant to sentencing of  
9 criminal defendants in misdemeanor and felony cases;

10 (2) sentencing practices of the judiciary, including use of presumptive  
11 sentences;

12 (3) means of promoting uniformity, proportionality, and accountability  
13 in sentencing;

14 (4) alternatives to traditional forms of incarceration;

15 (5) the efficacy of parole and probation in ensuring public safety,  
16 achieving rehabilitation, and reducing recidivism;

17 (6) the adequacy, availability, and effectiveness of treatment and  
18 rehabilitation programs;

19 (7) crime and incarceration rates, including the rate of violent crime  
20 and the abuse of controlled substances, in this state compared to other states, and best  
21 practices adopted by other states that have proven to be successful in reducing  
22 recidivism;

23 (8) the relationship between sentencing priorities and correctional  
24 resources;

25 (9) the effectiveness of the state's current methodologies for the  
26 collection and dissemination of criminal justice data; and

27 (10) whether the schedules for controlled substances in AS 11.71.140 -  
28 11.71.190 are reasonable and appropriate, considering the criteria established in  
29 AS 11.71.120(c).

30 (b) The commission may

31 (1) recommend legislative and administrative action on criminal justice

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practices; and

(2) select and retain the services of consultants as necessary.

**Sec. 44.19.646. Methodology.** In making recommendations, the commission shall

(1) solicit and consider information and views from a variety of constituencies to represent the broad spectrum of views that exist with respect to possible approaches to sentencing and administration of justice in the state; and

(2) base recommendations on the following factors:

- (A) the seriousness of each offense in relation to other offenses;
- (B) the effect of an offender's prior criminal history on sentencing;
- (C) the need to rehabilitate criminal offenders;
- (D) the need to confine offenders to prevent harm to the public;
- (E) the extent to which criminal offenses harm victims and endanger the public safety and order;
- (F) the effect of sentencing in deterring an offender or other members of society from future criminal conduct;
- (G) the effect of sentencing as a community condemnation of criminal acts and as a reaffirmation of societal norms;
- (H) the elimination of unjustified disparity in sentences;
- (I) the sufficiency of state agency resources to administer the criminal justice system of the state;
- (J) the effect of criminal justice laws and practices on reducing the rate of recidivism in the state;
- (K) peer reviewed and data-driven research; and
- (L) the efficacy of evidence-based restorative justice initiatives on persons convicted of criminal violations and offenses, the victim, and the community.

**Sec. 44.19.647. Annual report and recommendations.** The commission shall submit to the governor and the legislature an annual report of its proceedings for the previous calendar year and may submit recommendations for legislative and

1 administrative action. Reports and recommendations provided under this section shall  
2 be submitted not later than February 1 of each year.

3 **Sec. 44.19.649. Definition.** In AS 44.19.641 - 44.19.649, "commission" means  
4 the Alaska Criminal Justice Commission.

5 \* **Sec. 33.** AS 44.66.010(a) is amended by adding a new paragraph to read:

6 (10) Alaska Criminal Justice Commission (AS 44.19.642) - June 30,  
7 2017.

8 \* **Sec. 34.** AS 47 is amended by adding a new chapter to read:

9 **Chapter 38. Alcohol and Substance Abuse Accountability.**

10 **Article 1. Alcohol and Substance Abuse Monitoring and Treatment for Persons Released**  
11 **on Bail or on Probation.**

12 **Sec. 47.38.010. Cooperation with the Department of Corrections.** The  
13 department shall cooperate with the Department of Corrections in establishing and  
14 conducting programs to provide treatment for alcoholics, intoxicated persons, drug  
15 abusers, and inhalant abusers who are on conditions of release as provided in  
16 AS 12.30 or on probation.

17 **Sec. 47.38.020. Alcohol and substance abuse monitoring program.** (a) The  
18 commissioner, in cooperation with the commissioner of corrections, shall establish a  
19 program for certain persons with release conditions ordered as provided under  
20 AS 12.30, or offenders with conditions of probation, that include not consuming  
21 controlled substances or alcoholic beverages.

22 (b) The commissioner shall adopt regulations to implement the program.

23 (c) The commissioner shall include in the program

24 (1) a requirement for twice-a-day testing, in person if practicable, for  
25 alcoholic beverage use and random testing for controlled substances;

26 (2) a means to provide the probation officer, prosecutor's office, or  
27 local law enforcement agency with notice within 24 hours, so that a complaint may be  
28 filed alleging a violation of AS 11.56.757, a petition may be filed with the court  
29 seeking appropriate sanctions and may be scheduled by the court for a prompt hearing,  
30 or an arrest warrant may be issued for the person on release or offender with  
31 conditions of probation provided in this subsection, if the person or offender

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(A) fails to appear for an appointment as required by the program requirements; or

(B) tests positive for the use of controlled substances or alcoholic beverages; and

(3) a requirement that the person or offender pay, based on the person's or offender's ability under financial guidelines established by the commissioner, for the cost of participating in the program.

(d) The department shall provide or conduct the testing required under (c) of this section.

**Article 2. Recidivism Reduction Program.**

**Sec. 47.38.100. Recidivism reduction program.** (a) The recidivism reduction program is established to promote the rehabilitation through transitional re-entry programs of persons incarcerated for offenses and recently released from correctional facilities.

(b) The commissioner, in cooperation with the commissioner of corrections, may provide for programs that have, as a primary focus, rehabilitation and reduction of recidivism through transitional re-entry for persons incarcerated for offenses and recently released from correctional facilities. The commissioner may enter into contracts to provide for programs under this section. A program under this section must

- (1) include case management;
- (2) require sober living;
- (3) provide, on-site or by referral, treatment for substance abuse or mental health treatment;
- (4) require employment, educational programming, vocational training, or community volunteer work as approved by the director of the treatment program; and
- (5) limit residential placements in the program to a maximum of one year.

(c) The commissioner and the commissioner of corrections shall prepare a joint annual report on the program provided under (c) of this section, and notify the

1 legislature on or before January 15 of each year that the report is available. The report  
2 must include an analysis of the program's effects on recidivism for program  
3 participants.

4 **Article 3. General Provisions.**

5 **Sec. 47.38.199. Definitions.** In this chapter,

6 (1) "commissioner" means the commissioner of health and social  
7 services;

8 (2) "department" means the Department of Health and Social Services.

9 \* **Sec. 35.** AS 22.20.210 is repealed June 30, 2017.

10 \* **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **APPLICABILITY.** (a) AS 11.41.320(a), as amended by sec. 1 of this Act,  
13 AS 11.41.330(a), as amended by sec. 2 of this Act, AS 11.41.330(b), as amended by sec. 3 of  
14 this Act, AS 11.46.130(a), as amended by sec. 4 of this Act, AS 11.46.140(a), as amended by  
15 sec. 5 of this Act, AS 11.46.150(a), as amended by sec. 6 of this Act, AS 11.46.220(c), as  
16 amended by sec. 7 of this Act, AS 11.46.260(b), as amended by sec. 8 of this Act,  
17 AS 11.46.270(b), as amended by sec. 9 of this Act, AS 11.46.280(d), as amended by sec. 10  
18 of this Act, AS 11.46.285(b), as amended by sec. 11 of this Act, AS 11.46.295, as amended  
19 by sec. 12 of this Act, AS 11.46.360(a), as amended by sec. 13 of this Act, AS 11.46.482(a),  
20 as amended by sec. 14 of this Act, AS 11.46.484(a), as amended by sec. 15 of this Act,  
21 AS 11.46.486(a), as amended by sec. 16 of this Act, AS 11.46.530(b), as amended by sec. 17  
22 of this Act, AS 11.46.620(d), as amended by sec. 18 of this Act, AS 11.46.730(c), as amended  
23 by sec. 19 of this Act, AS 12.30.011(b), as amended by sec. 20 of this Act, AS 12.30.016(b),  
24 as amended by sec. 21 of this Act, AS 12.30.016(c), as amended by sec. 22 of this Act,  
25 AS 12.55.027(c), as amended by sec. 23 of this Act, and AS 12.55.100(a), as amended by sec.  
26 24 of this Act, apply to offenses occurring on or after the effective date of secs. 1 - 30 and 32 -  
27 38 of this Act.

28 (b) The changes made to AS 28.35.030(k), as amended by sec. 27 of this Act,  
29 AS 33.05.020, as amended by sec. 28 of this Act, AS 33.16.060, as amended by sec. 29 of this  
30 Act, AS 33.16.150(b), as amended by sec. 30 of this Act, and AS 47.38.020, as enacted by  
31 sec. 34 of this Act, apply to convictions occurring before, on, or after the effective date of

1 secs. 1 - 30 and 32 - 38 of this Act for offenses occurring before, on, or after the effective date  
2 of secs. 1 - 30 and 32 - 38 of this Act.

3 (c) AS 12.55.155(d)(20), as amended by sec. 25 of this Act, applies to prosecutions  
4 occurring on or after the effective date of sec. 25 of this Act for offenses occurring before, on,  
5 or after the effective date of sec. 25 of this Act.

6 \* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 **SPECIAL REPORT OF ALASKA CRIMINAL JUSTICE COMMISSION.** The  
9 Alaska Criminal Justice Commission shall submit to the governor and the legislature a special  
10 report, not later than July 1, 2017, regarding alcohol-related offenses in AS 28. The report  
11 must include recommendations on

12 (1) whether a revision of the alcohol-related offenses in AS 28 is necessary;

13 (2) maintaining both the administrative and court license revocation processes;

14 (3) the effectiveness of ignition interlock devices in reducing the offenses of  
15 driving while under the influence of an alcoholic beverage, inhalant, or controlled substance  
16 and refusal to submit to a chemical test, and reducing recidivism;

17 (4) whether the punishment, fines, and associated driver's license revocation  
18 periods for the offenses of driving while under the influence of an alcoholic beverage,  
19 inhalant, or controlled substance and refusal to submit to a chemical test should be decreased  
20 or increased;

21 (5) the effectiveness of programs that promote offender accountability,  
22 emphasize swift and certain, yet measured, punishment, reduce recidivism, and maximize the  
23 offender's ability to remain productive in society;

24 (6) whether limited licenses should be available for persons charged with or  
25 convicted of the offenses of driving while under the influence of an alcoholic beverage,  
26 inhalant, or controlled substance or refusal to submit to a chemical test, while providing for  
27 public safety.

28 \* **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 **TRANSITIONAL PROVISIONS.** The initial designations and appointments to the  
31 Alaska Criminal Justice Commission under AS 44.19.642, added by sec. 32 of this Act, shall

1 be made not later than June 30, 2014. Notwithstanding AS 44.19.647, added by sec. 32 of this  
2 Act, the commission shall submit its first report to the governor and the legislature not later  
3 than February 1, 2016.

4 \* **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 TRANSITIONAL PROVISIONS: REGULATIONS. (a) The Department of  
7 Corrections may adopt regulations necessary to implement AS 33.05.020(f), added by sec. 28  
8 of this Act.

9 (b) The board of parole may adopt regulations necessary to implement  
10 AS 33.16.060(c), added by sec. 29 of this Act, and AS 33.16.150(b), as amended by sec. 30 of  
11 this Act.

12 (c) The Department of Health and Social Services may adopt regulations necessary to  
13 implement AS 47.38.010 - 47.38.199, added by sec. 34 of this Act.

14 (d) The regulations adopted under (a) - (c) of this section take effect under AS 44.62  
15 (Administrative Procedure Act), but not before July 1, 2014.

16 \* **Sec. 40.** Section 31 of this Act takes effect January 1, 2016.

17 \* **Sec. 41.** Section 39 of this Act takes effect immediately under AS 01.10.070(c).

18 \* **Sec. 42.** Sections 1 - 30 and 32 - 38 of this Act take effect July 1, 2014.

Withdrawn  
4/19/14

28-LS0116\V.19  
Gardner  
4/18/14

AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE HOLMES

TO: HCS CSSB 64(JUD)

1 Page 18, following line 20:

2 Insert a new bill section to read:

3 **\*\* Sec. 30.** AS 28.15.201(d) is amended to read:

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

8 (1) the revocation was for a misdemeanor conviction under  
9 AS 28.35.030 or a similar municipal ordinance and not for a violation of  
10 AS 28.35.032;

11 (2) [THE PERSON

12 (A) HAS NOT BEEN PREVIOUSLY CONVICTED AND  
13 THE LIMITED LICENSE IS NOT GRANTED DURING THE FIRST 30  
14 DAYS OF THE PERIOD OF REVOCATION; OR

15 (B) HAS BEEN PREVIOUSLY CONVICTED AND THE  
16 LIMITED LICENSE IS NOT GRANTED DURING THE FIRST 90 DAYS  
17 OF THE PERIOD OF REVOCATION;

18 (3)] the court or department requires that the person either

19 (A) [TO] use an ignition interlock device during the period of  
20 the limited license whenever the person operates a motor vehicle in a  
21 community not included in the list published by the department under  
22 AS 28.22.011(b) and, when applicable, [(A)] the person provides proof of  
23 installation of the ignition interlock device on every vehicle the person

operates; or

(B) submit to daily testing as required under AS 47.38.020 in place of the use of the ignition interlock device; use of daily testing in place of an ignition interlock device under this subparagraph is conditioned upon the person's not violating the requirements of the program established in AS 47.38.020; if the person violates those requirements, the court or the department shall

(i) revoke the person's limited license; or

(ii) require the use of an ignition interlock device as provided in (A) of this paragraph and shall require the person to continue to submit to daily testing as required under AS 47.38.020

[THE PERSON SIGNS AN AFFIDAVIT ACKNOWLEDGING THAT

(i) OPERATION BY THE PERSON OF A VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE IS SUBJECT TO PENALTIES FOR DRIVING WITH A REVOKED LICENSE;

(ii) CIRCUMVENTING OR TAMPERING WITH THE IGNITION INTERLOCK DEVICE IS A CLASS A MISDEMEANOR; AND

(iii) THE PERSON IS REQUIRED TO MAINTAIN THE IGNITION INTERLOCK DEVICE THROUGHOUT THE PERIOD OF THE LIMITED LICENSE, TO KEEP UP-TO-DATE RECORDS IN EACH VEHICLE SHOWING THAT ANY REQUIRED SERVICE AND CALIBRATION IS CURRENT, AND TO PRODUCE THOSE RECORDS IMMEDIATELY ON REQUEST];

(3) [(4)] the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services under AS 28.35.030(h);

(4) [(5)] the person provides proof of insurance as required by

1 AS 28.20.230 and 28.20.240; and

2 (5) [(6)] the person has not previously been convicted of violating the  
3 limitations of an ignition interlock limited license or been convicted of violating the  
4 provisions of AS 28.35.030 or 28.35.032 while on probation for a violation of those  
5 sections."

6  
7 Renumber the following bill sections accordingly.

8  
9 Page 19, following line 30:

10 Insert a new subsection to read:

11 "(i) A person granted a limited license and required to use an ignition interlock  
12 device under (d)(2)(A) of this section shall sign an affidavit acknowledging that

13 (1) operation by the person of a vehicle that is not equipped with an  
14 ignition interlock device is subject to penalties for driving with a revoked license;

15 (2) circumventing or tampering with the ignition interlock device is a  
16 class A misdemeanor; and

17 (3) the person is required to maintain the ignition interlock device  
18 throughout the period of the limited license, to keep up-to-date records in each vehicle  
19 showing that any required service and calibration is current, and to produce those  
20 records immediately on request."

21  
22 Page 22, following line 17:

23 Insert a new bill section to read:

24 **\*\* Sec. 35. AS 28.35.030(t) is amended to read:**

25 (t) Notwithstanding (b) or (n) of this section, the court

26 (1) shall waive the requirement of the use of an ignition interlock  
27 device when a person operates a motor vehicle in a community included on the list  
28 published by the department under AS 28.22.011(b);

29 (2) may waive the requirement of the use of an ignition interlock  
30 device when the person regains the privilege to operate a motor vehicle if the  
31 court requires that a person convicted under this section submit to daily testing

1 as required under AS 47.38.020 in place of the use of the ignition interlock  
2 device; use of daily testing in place of an ignition interlock device under this  
3 subsection is conditioned upon the person's not violating the requirements of the  
4 program established in AS 47.38.020; if the person violates those requirements,  
5 the court shall

6 (i) revoke the person's license, privilege to drive, or  
7 privilege to obtain a license for the remainder of the period the  
8 person is required to use an ignition interlock device as provided in  
9 (b) or (n) of this section; or

10 (ii) require the use of an ignition interlock device as  
11 provided in (A) of this paragraph and shall require the person to  
12 continue to submit to daily testing as required under  
13 AS 47.38.020."

14  
15 Renumber the following bill sections accordingly.

16  
17 Page 30, line 4:

18 Delete "or"

19 Following "probation":

20 Delete ","

21  
22 Page 30, line 5, following "beverages":

23 Insert ", a person granted a limited license as provided by AS 28.15.201(d), or a  
24 person required to comply with this section as provided by AS 28.35.030(t)"

25  
26 Page 30, following line 22:

27 Insert a new subsection to read:

28 "(d) If a person is required to comply with the program provided in this section  
29 as a condition of a limited license under AS 28.15.201(d) or when required by  
30 AS 28.35.030(t), the commissioner shall adopt regulations that provide a means to  
31 ensure that the division of motor vehicles and the court receive notice if the person

1 fails to appear for an appointment as required by the program or tests positive for the  
2 use of controlled substances or alcoholic beverages."

3

4 Reletter the following subsection accordingly.

5

6 Page 32, lines 12 - 13:

7 Delete "29 - 36, and 38 - 44"

8 Insert "29 - 38, and 40 - 46"

9

10 Page 32, line 14, following "Act,":

11 Insert "AS 28.15.201(d), as amended by sec. 30 of this Act,"

12

13 Page 32, line 15:

14 Delete "AS 28.15.201(g) and (h)"

15 Insert "AS 28.15.201(g) - (i)"

16 Delete "sec. 30"

17 Insert "sec. 31"

18

19 Page 32, lines 15 - 16:

20 Delete "sec. 31"

21 Insert "sec. 32"

22

23 Page 32, line 16:

24 Delete "sec. 32"

25 Insert "sec. 33"

26

27 Page 32, line 17:

28 Delete "sec. 33"

29 Insert "sec. 34"

30

31 Page 32, line 17, following the first occurrence of "Act,":

1           Insert "AS 28.35.030(t), as amended by sec. 35 of this Act,"

2

3   Page 32, line 17:

4           Delete "sec. 34"

5           Insert "sec. 36"

6

7   Page 32, line 18:

8           Delete "sec. 35"

9           Insert "sec. 37"

10

11   Page 32, lines 18 - 19:

12           Delete "sec. 36"

13           Insert "sec. 38"

14

15   Page 32, line 19:

16           Delete "sec. 40"

17           Insert "sec. 42"

18

19   Page 32, line 20:

20           Delete "29 - 36, and 38 - 44"

21           Insert "29 - 38, and 40 - 46"

22

23   Page 32, lines 21 - 22:

24           Delete "29 - 36, and 38 - 44"

25           Insert "29 - 38, and 40 - 46"

26

27   Page 33, line 23:

28           Delete "sec. 38"

29           Insert "sec. 40"

30

31   Page 33, line 25:

- 1 Delete "sec. 38"
- 2 Insert "sec. 40"
- 3
- 4 Page 33, line 30:
- 5 Delete "sec. 34"
- 6 Insert "sec. 36"
- 7
- 8 Page 34, line 2:
- 9 Delete "sec. 35"
- 10 Insert "sec. 37"
- 11 Delete "sec. 36"
- 12 Insert "sec. 38"
- 13
- 14 Page 34, line 5:
- 15 Delete "sec. 40"
- 16 Insert "sec. 42"
- 17
- 18 Page 34, line 9:
- 19 Delete "Section 37"
- 20 Insert "Section 39"
- 21
- 22 Page 34, line 10:
- 23 Delete "Section 45"
- 24 Insert "Section 47"
- 25
- 26 Page 34, line 11:
- 27 Delete "29 - 36, and 38 - 44"
- 28 Insert "29 - 38, and 40 - 46"



Mothers Against Drunk Driving  
National Office  
madd.org

1025 Connecticut Ave., NW  
Suite 1210  
Washington, DC 20036

877.ASK.MADD  
877.MADD.HELP victim support  
972.869.2206 Fax

April 11, 2014

The Honorable Alan Austerman  
Co-Chair, House Finance Committee

The Honorable Bill Stoltze  
Co-Chair, House Finance Committee

**Oppose amendments to SB 64 weakening Alaska's drunk driving law**

Dear Co-Chair Austerman, Co-Chair Stoltze and members of the House Finance Committee,

Mothers Against Drunk Driving (MADD) is urging you to protect the public on Alaska roads by opposing amendments to SB 64 which would make the use of ignition interlocks optional for convicted drunk drivers and. This amendment would be detrimental to public safety and compromise the livelihood of Alaska residents.

In 2008, Alaska enacted one of the first laws to require all convicted drunk drivers to use an ignition interlock. Since the law took effect, drunk driving deaths have decreased by 28 percent. Nationally, drunk driving deaths have only decreased by 11 percent. Today, Alaska is one of twenty states to require ignition interlocks for anyone convicted of drunk driving. Last week, Alabama and Mississippi legislatures enacted similar laws so, upon signature by their respective governors, twenty-two states will have these lifesaving laws.

MADD supports all offender ignition interlock laws because ignition interlocks separate drinking and driving. Alcohol ankle bracelets have a place in the adjudication process but are not proven effective in stopping drunk drivers. In fact, ankle bracelets WILL NOT stop a drunk driver from starting his or her vehicle. An ignition interlock will.

Ignition interlocks are a strong deterrent to drunk driving behavior. License suspension alone no longer works as research shows 50 to 75 percent of drunk drivers will continue to drive on a suspended license. According to the Centers for Disease Control and Prevention (CDC), requiring or highly incentivizing interlocks for all convicted drunk drivers reduces drunk driving recidivism by 67 percent. .

"First-time" offenders are rarely first-time drunk drivers. Conservative estimates show that a first-time convicted DUI offender has driven drunk at least 80 times prior to being arrested.

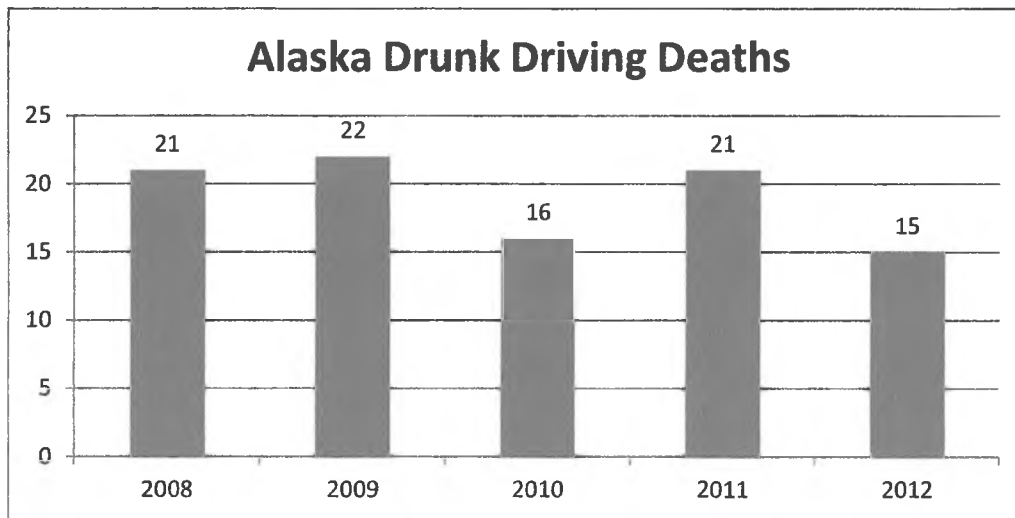
Ignition interlocks are paid for by the convicted drunk driver, at no cost to the public. Interlocks are proven to save lives and protect the public, while giving DUI offenders the opportunity to continue driving. Now is the chance for you to make a difference. If you have any questions or need more information, please contact Frank Harris at [frank.harris@madd.org](mailto:frank.harris@madd.org) or 877.275.6233.

MADD urges you to oppose any amendments to weaken Alaska's ignition interlock law by giving judges the option to order an interlock or an alcohol ankle bracelet. Thank you for your prompt consideration of this request.

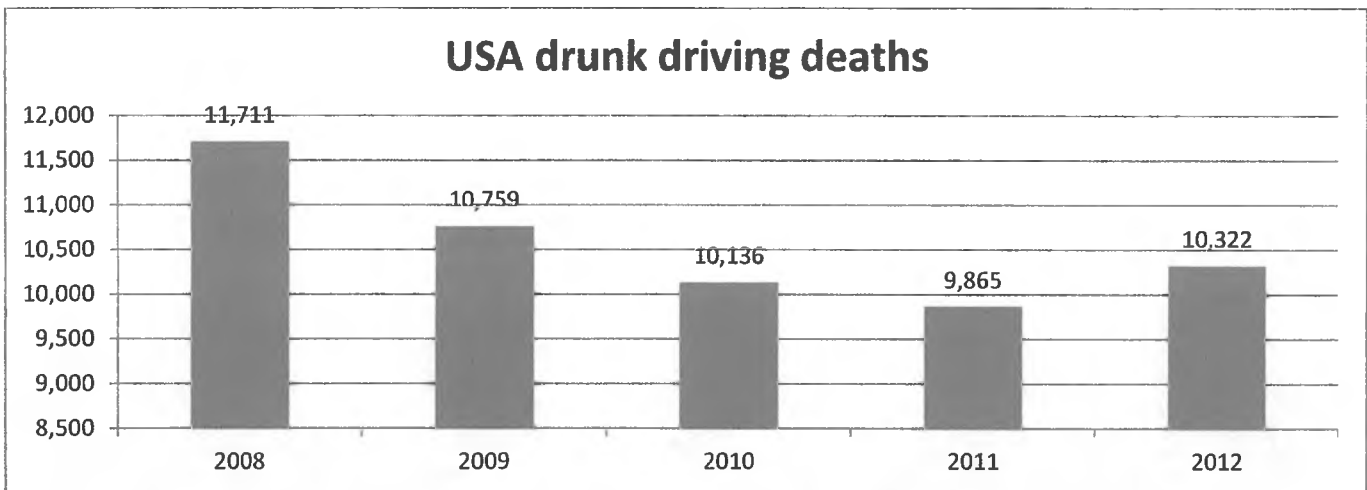
Sincerely,

Jan Withers  
MADD National President

Enclosures



**Since Alaska's ignition interlock law went into effect in 2009, drunk driving deaths have decreased by 28 percent. (NHTSA)**



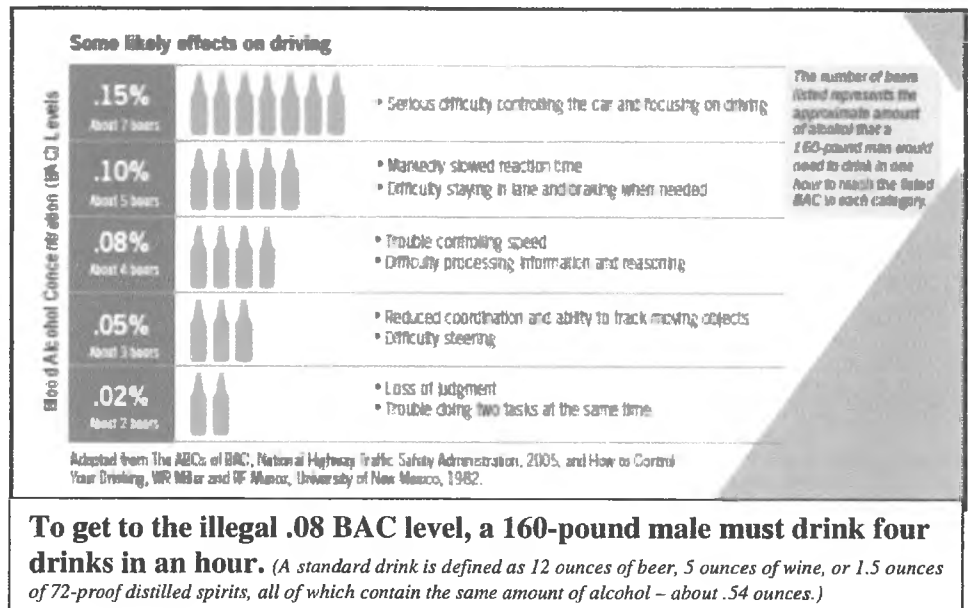
**Compared to a 11 percent decline in drunk driving deaths in the United States during the same time.**



# Ignition Interlocks Save Lives

Ignition interlocks are effective in reducing repeat drunk driving offenses by 67 percent, according to the Centers for Disease Control (CDC). And, all offender interlock laws are found to reduce repeat offenses significantly, when effectively implemented.

First-time offenders are serious offenders. Research from the CDC indicates that first time offenders have driven drunk at least 80 times before they are arrested. Additionally, research has found that first offenders' patterns of recidivism are generally similar to a repeat offender.



## The FACTS

- An interlock is more effective than license suspension alone, as 50 to 75 percent of convicted drunk drivers continue to drive on a suspended license.
- All-offender interlock laws are widespread. Twenty states, plus a California pilot program (covering a population of over 13 million) have laws requiring ignition interlocks for all first-time convicted drunk drivers.
- There are approximately 305,000 interlocks in use in the United States, including 1,922 in Alaska.

**Ignition interlock laws saves lives.** Due in part to laws requiring interlocks for all convicted drunk drivers, states have seen significant reductions in drunk driving deaths:

- |                                 |                                    |                                 |
|---------------------------------|------------------------------------|---------------------------------|
| ✓ <b>Arizona:</b> 43 percent    | ✓ <b>West Virginia:</b> 33 percent | ✓ <b>Kansas:</b> 26 percent     |
| ✓ <b>Oregon:</b> 42 percent     | ✓ <b>Utah:</b> 30 percent          | ✓ <b>Washington:</b> 20 percent |
| ✓ <b>New Mexico:</b> 38 percent | ✓ <b>Alaska:</b> 28 percent        |                                 |
| ✓ <b>Louisiana:</b> 35 percent  | ✓ <b>Colorado:</b> 24 percent      |                                 |

**Public supports interlocks for all convicted drunk drivers.** Three surveys indicate strong public support of ignition interlocks for all convicted drunk drivers.

- 88 percent (Center for Excellence in Rural Safety, 2010)
- 84 percent (Insurance Institute for Highway Safety, 2009)
- 76 percent (American Automobile Association, 2012)

**In addition to MADD, other traffic safety groups support ignition interlocks for all convicted drunk drivers,** including all first offenders with an illegal blood alcohol concentration (BAC) of .08 or greater.

- Advocates for Auto and Highway Safety
- American Automobile Association (AAA)
- Auto Alliance
- Centers for Disease Control and Prevention (CDC)
- Insurance Institute for Highway Safety (IIHS)
- International Association of Chiefs of Police (IACP)
- National Safety Council
- National Transportation Safety Board (NTSB)



## Ignition Interlock FAQs

Please visit [madd.org/interlock](http://madd.org/interlock)



An ignition interlock is a device about the size of a cell phone that is wired into the ignition system of a vehicle. A convicted drunk driver must blow into the device in order to start their vehicle. Interlocks are required to meet federal standards set by the National Highway Traffic Safety Administration (NHTSA).

Per NHTSA standards, if an interlock user has a measurable amount of alcohol in their system, the vehicle will not start. It is a simple and economical way to make sure that offenders can drive to and from work, but that they can't drive drunk.

**Who pays for the device?** Offenders pay for the interlocks, which costs \$2.50 a day to lease from an interlock vendor. In most states, interlock companies provide interlock devices for offenders who can't afford the devices or an indigent fund is set up by the state, which is funded by other interlock users to cover all or a portion of the costs for these offenders.

**Are there ways to bypass the device, like having someone else blow into it?** This is possible, and there should be strict penalties for attempting to bypass the device. Interlocks are required to have anti-circumvention features that prevent such activity. One of these features is the running retest, which requires offenders to blow into the device at random intervals once the vehicle has been allowed to start. The tests are not designed to be done while the car is actually rolling. Interlocks give people a few minutes – enough time to pull over – to retest.

**What if someone else drives the vehicle with the interlock and fails a retest?**

This is possible, but with states requiring the use camera interlocks to verify the user, this is becoming a non-issue. However, when someone commits a crime, he/she is responsible for the consequences of his/her actions. If an interlock is one of these consequences, then the offender is responsible for making sure those driving his/her vehicle do not drive intoxicated.

**Could an interlock stop a person's car in traffic, making a more dangerous hazard?**

Interlocks are hooked up to a vehicle's starter system, not to the engine itself. The interlock does not have the ability to stop the vehicle once it is running for safety reasons. When a driver fails a running retest, the vehicle's horn will honk and/or the lights will flash to alert law enforcement – the vehicle will not stop.

**Are interlocks an inconvenience to family members who share the offender's vehicle?** No, they can drive the vehicle as well and also taught how to use the device; they simply must blow into the device and prove sobriety before the car will start.

**Don't offenders go back to their old behavior after the device is removed?** Studies have shown that interlock devices decrease recidivism by 67 percent while installed on the vehicle. When removed, these rates could go back to normal. As a result, more states are enacting laws including compliance based removal of the interlock where an offender must have a certain period prior to removing the device with no recordable violations such as consecutive running retest failures or multiple positive tests for alcohol.

**Who monitors interlock device users? How are monitoring programs funded?**

Interlock reports are sometimes monitored by the courts or probation departments. Some states require offenders or interlock companies to pay probation costs. Other states have no probation monitoring and instead implement the program through a driver license agency (DMV). These offenders must provide proof of installation from an interlock vendor in order to obtain an interlock license or proof of compliance with the interlock in order to obtain unrestricted driving privileges. States are able to have revenue neutral programs by charging interlock users licensing fees and in some instances a monthly fee of \$30.

### Anti-circumvention Technology.

Interlocks require a deep lung sample and an offender is taught to use the device and must typically blow, suck or hum to prevent circumvention attempts such as having a child or balloon deflate to get around the interlock. Here are other anti-circumvention features.

### Camera to verify user



A camera eliminates the excuse that the interlock violation was by another person. It also ensures the offender is the one using the device. The camera is safely mounted near the dashboard.

### Real time reporting of interlock violations



Some interlocks have GPS and/or cellular ability to report recordable violations to a monitoring agency immediately, as opposed to waiting days for a violation to be reported.

# Status of State Ignition Interlock Laws



Interlock requirement starts on the first conviction			
Mandatory with a BAC of .08 or greater		Mandatory with a BAC of .15 or greater	
Alaska (1/09)	Missouri (3/14)	Alabama (9/12)	New Hampshire .16 BAC (7/07)
Arizona (9/07)	Nebraska (1/09)	Delaware (7/09)	New Jersey (1/10)
Arkansas (4/09)	New Mexico (6/05)	Florida (10/08)	North Carolina (12/07)
California Pilot Program* (7/10)	New York (8/10)	Iowa** .10 BAC (7/95)	Oklahoma (11/11)
Colorado (1/09)	Oregon (1/08)	Maryland (10/11)	Texas (9/05)
Connecticut (1/12)	Tennessee (7/13)	Michigan .17 BAC (10/10)	Wisconsin (7/10)
Hawaii (1/11)	Utah (7/09)	Minnesota .16 BAC (7/11)	Wyoming (7/09)
Illinois (1/09)	Virginia (7/12)	Nevada .18 BAC (7/05)	
Kansas (7/11)	Washington (1/09)		
Louisiana (7/07)	West Virginia (7/08)		
Maine (12/13)			

(month/year listed note effective date)

Mandatory with a second conviction	Not mandatory
Georgia (5/99)	Judicial discretion
Idaho (10/00)	California for any offender
Massachusetts (1/06)	Indiana for any offender
Mississippi (7/14)	Kentucky for any offender
Montana (5/09)	North Dakota for any offender
Ohio (9/08)	Rhode Island for repeat offenders
Pennsylvania (10/03)	Other
South Carolina (1/09)	DC any offender can choose to go an interlock
	South Dakota part of the 24/7 program
	Vermont any offender can choose to go an interlock

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\* California's pilot program covers the counties of Los Angeles, Alameda, Sacramento, and Tulare. These counties combined have a population of over 13 million. \* In Iowa, interlocks are required starting on the first conviction for offenders with a BAC of .10 or greater.