

SB

64

<TARGET><BILL>SB 64</BILL><SUBJECT>SB
64</SUBJECT><COMM>HJUD28</COMM></TARGET>

HOUSE COMMITTEE REPORT

4.10.14

(7)

Date Referred to Committee: March 17, 2014

FURTHER REFERRALS: Finance

Date of Committee Action: 4/9/14

The JUDICIARY 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 CS SB 64 (Jud)
 For Senate Bills with new title: Technical Title New Title: HCR Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

Pending
Introduction

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

<u>NEW FISCAL NOTES</u>				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
20	LAW			✓

<u>PREVIOUS FISCAL NOTES</u>				
FN#	List by Dept(s):	Fiscal	Indet.	Zero
19	CRT			✓
18	CRT~JC	✓		
17	COR	✓		
16	COR	✓		
15	DHS	✓		
14	DHS	✓		
13	GOV			✓
10	ADM~OPA			✓
9	ADM			✓
8	ADM~PBA			✓

(3) (1) (1)

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Charles D. O'Neil</i>	LoDout				✓
<i>Prutt</i>	Prutt			X	
<i>Smarsky</i>	Smarsky	✓			
<i>Wink</i>	Wink	X			
Chair: <i>Wes Keller</i>	Keller	X			
Chair:					

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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STATE OF ALASKA

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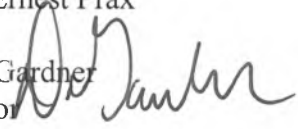
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 6, 2014

SUBJECT: Comments Relating to Draft
HCS CSSB 64(JUD) (Work Order No. 28-LS0116\M)

TO: Representative Wes Keller
Chair of the House Judiciary Committee
Attn: Ernest Prax

FROM: Doug Gardner
Director 

Please find enclosed draft HCS CSSB 64(JUD) (Work Order No. 28-LS0116\M). I have serious concerns about the language in amendment 28-LS0116\L.9, which was designated by the Chair of the House Judiciary Committee as Amendment No. 12. Amendment No. 12 affected sec. 3 of the bill.

The primary concern that I have with the language of this amendment is that it creates an offense with three mental states regarding the conduct of the offender. The three mental states that must be proven by the state are: (1) the offender has to know that at the time the representations are made to a lawful custodian they have no legal right to take and keep a child or incompetent person; (2) the offender has to have the specific intent to take and keep the child or incompetent person at the time of the representations; and (3) the offender has to knowingly represent to a lawful custodian that they have the right to take or keep the child or incompetent person.¹

In criminal law, for a criminal offense to occur, the person must engage in prohibited conduct, while acting with the requisite mental state. Providing for three different mental states all (or at least somewhat) relating to the same conduct, seems to me to create serious concerns about the efficacy of the statute.

I have reorganized sec. 3 to incorporate Amendment No. 12 into the draft CS(JUD), to attempt to make some sense of the three mental states. I am unsure how often this

¹ The mental state of "knowingly" exists with regards to the representations to the lawful custodian as it relates to conduct of the defendant. AS 11.81.610(b) requires that the mental state of "knowingly" be proven with regard to conduct when no mental state is provided in AS 11.

Representative Wes Keller

April 6, 2014

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provision will be used, as a successful prosecution will seem to be difficult, if not impossible.²

I would also like to draw your attention to sec. 38 of the draft CS(JUD), page 28, line 24. On line 24, the phrase "need to confine offenders. . ." was modified by adding, the "need to confine violent offenders." Article 1, sec. 12, Constitution of the State of Alaska provides the factors on which criminal administration is based in Alaska. These factors, including the need for protecting the public and community condemnation of the offender do not limit confinement to only violent offenders. See also AS 12.55.005. The insertion of "violent" in the instructions to the commission as a factor the commission is to base its recommendations on, may be inconsistent with art. I, sec. 12, Constitution of the State of Alaska.

DDG:med
14-041.med

Enclosure

² I am also concerned about possible overlap between this offense and the crime of kidnapping, which may cause this offense to become a lesser included offense for kidnapping in at least some prosecutions.

28-LS0116\M
Gardner
4/6/14

HOUSE CS FOR CS FOR SENATE BILL NO. 64(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY 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; allowing a reduction of**
5 **penalties for offenders successfully completing court-ordered treatment programs for**
6 **persons convicted of driving while under the influence; relating to termination of a**
7 **revocation of a person's driver's license; relating to limitation of drivers' licenses;**
8 **relating to restoration of a driver's license; relating to the crime of custodial**
9 **interference; relating to the duties of the Alaska Judicial Council; relating to jail-time**
10 **credit for offenders in court-ordered treatment programs; relating to conditions of**
11 **release, probation, and parole; relating to a mitigating factor for a person suffering from**
12 **combat-related post-traumatic stress disorder or combat-related traumatic brain**

1 injury; relating to duties of the commissioner of corrections and board of parole;
 2 establishing a fund for reducing recidivism in the Department of Health and Social
 3 Services; requiring the commissioner of health and social services to establish programs
 4 for persons on conditions of release or probation that require testing for controlled
 5 substances and alcoholic beverages; requiring the board of parole to establish programs
 6 for persons on parole that require testing for controlled substances and alcoholic
 7 beverages; relating to the duties of the Department of Health and Social Services;
 8 relating to the confidentiality of certain records of criminal cases; and providing for an
 9 effective date."

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

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

13 LEGISLATIVE INTENT FOR SEC. 28 OF THIS ACT. It is the intent of the
 14 legislature in sec. 28 of this Act that, to the extent practicable, the Alaska Court System hold
 15 confidential records of criminal cases that were disposed of before the effective date of sec.
 16 28 of this Act by acquittal of all charges, by dismissal of all charges, or by acquittal of some
 17 charges and dismissal of the remaining charges, to the same extent that records are held
 18 confidential under AS 22.35.030, enacted by sec. 28 of this Act.

19 * **Sec. 2.** AS 11.41.320(a) is amended to read:

20 (a) A person commits the crime of custodial interference in the first degree if
 21 the person violates AS 11.41.330(a)(1) [AS 11.41.330] and causes the child or
 22 incompetent person to be

- 23 (1) removed from the state; or
- 24 (2) kept outside the state.

25 * **Sec. 3.** AS 11.41.330(a) is amended to read:

26 (a) A person commits the crime of custodial interference in the second degree
 27 if

- 28 (1) [,] being a relative of a child under 18 years of age or a relative of

1 an incompetent person and knowing that the person has no legal right to do so, the
2 person takes, entices, or keeps that child or incompetent person from a lawful
3 custodian with intent to hold the child or incompetent person for a protracted period;

4 or

5 (2) not being a relative of a child under 18 years of age or a
6 relative of an incompetent person, knowing that the person has no legal right to
7 do so and with the intent to take or keep the child or incompetent person, the
8 person represents to the lawful custodian that the person has a legal right to take
9 or keep the child or incompetent person.

10 * Sec. 4. AS 11.41.330(b) is amended to read:

11 (b) The affirmative defense of necessity under AS 11.81.320 does not apply to
12 a prosecution for custodial interference under (a)(1) [(a)] of this section if the
13 protracted period for which the person held the child or incompetent person exceeded
14 the shorter of the following:

15 (1) 24 hours; or

16 (2) the time necessary to report to a peace officer or social service
17 agency that the child or incompetent person has been abused, neglected, or is in
18 imminent physical danger.

19 * Sec. 5. AS 11.46.130(a) is amended to read:

20 (a) A person commits the crime of theft in the second degree if the person
21 commits theft as defined in AS 11.46.100 and

22 (1) the value of the property or services is \$750 [\$500] or more but less
23 than \$25,000;

24 (2) the property is a firearm or explosive;

25 (3) the property is taken from the person of another;

26 (4) the property is taken from a vessel and is vessel safety or survival
27 equipment;

28 (5) the property is taken from an aircraft and the property is aircraft
29 safety or survival equipment;

30 (6) the value of the property is \$250 [\$50] or more but less than \$750
31 [\$500] and, within the preceding five years, the person has been convicted and

1 sentenced on two or more separate occasions in this or another jurisdiction of

2 (A) an offense under AS 11.46.120, or an offense under
3 another law or ordinance with similar elements;

4 (B) a crime set out in this subsection or an offense under
5 another law or ordinance with similar elements;

6 (C) an offense under AS 11.46.140(a)(1), or an offense under
7 another law or ordinance with similar elements; or

8 (D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an
9 offense under another law or ordinance with similar elements; or

10 (7) the property is an access device.

11 * **Sec. 6.** AS 11.46.140(a) is amended to read:

12 (a) A person commits the crime of theft in the third degree if the person
13 commits theft as defined in AS 11.46.100 and

14 (1) the value of the property or services is \$250 [\$50] or more but less
15 than \$750 [\$500]; or

16 (2) [REPEALED]

17 (3) the value of the property is less than \$250 [\$50] and, within the
18 past five years, the person has been convicted and sentenced on two or more separate
19 occasions in this or another jurisdiction of theft or concealment of merchandise, or an
20 offense under another law or ordinance with similar elements.

21 * **Sec. 7.** AS 11.46.150(a) is amended to read:

22 (a) A person commits the crime of theft in the fourth degree if the person
23 commits theft as defined in AS 11.46.100 and the value of the property or services is
24 less than \$250 [\$50].

25 * **Sec. 8.** AS 11.46.220(c) is amended to read:

26 (c) Concealment of merchandise is

27 (1) a class C felony if

28 (A) the merchandise is a firearm;

29 (B) the value of the merchandise is \$750 [\$500] or more; or

30 (C) the value of the merchandise is \$250 [\$50] or more but less
31 than \$750 [\$500] and, within the preceding five years, the person has been

1 convicted and sentenced on two or more separate occasions in this or another
2 jurisdiction of

3 (i) the offense of concealment of merchandise under
4 this paragraph or (2)(A) of this subsection, or an offense under another
5 law or ordinance with similar elements; or

6 (ii) an offense under AS 11.46.120, 11.46.130, or
7 11.46.140(a)(1), or an offense under another law or ordinance with
8 similar elements;

9 (2) a class A misdemeanor if

10 (A) the value of the merchandise is \$250 [\$50] or more but less
11 than \$750 [\$500]; or

12 (B) the value of the merchandise is less than \$250 [\$50] and,
13 within the preceding five years, the person has been convicted and sentenced
14 on two or more separate occasions of the offense of concealment of
15 merchandise or theft in any degree, or an offense under another law or
16 ordinance with similar elements;

17 (3) a class B misdemeanor if the value of the merchandise is less than
18 \$250 [\$50].

19 * **Sec. 9.** AS 11.46.260(b) is amended to read:

20 (b) Removal of identification marks is

21 (1) a class C felony if the value of the property on which the serial
22 number or identification mark appeared is \$750 [\$500] or more;

23 (2) a class A misdemeanor if the value of the property on which the
24 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750
25 [\$500];

26 (3) a class B misdemeanor if the value of the property on which the
27 serial number or identification mark appeared is less than \$250 [\$50].

28 * **Sec. 10.** AS 11.46.270(b) is amended to read:

29 (b) Unlawful possession is

30 (1) a class C felony if the value of the property on which the serial
31 number or identification mark appeared is \$750 [\$500] or more;

1 (2) a class A misdemeanor if the value of the property on which the
 2 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750
 3 [\$500];

4 (3) a class B misdemeanor if the value of the property on which the
 5 serial number or identification mark appeared is less than \$250 [\$50].

6 * **Sec. 11.** AS 11.46.280(d) is amended to read:

7 (d) Issuing a bad check is

8 (1) a class B felony if the face amount of the check is \$25,000 or more;

9 (2) a class C felony if the face amount of the check is \$750 [\$500] or
 10 more but less than \$25,000;

11 (3) a class A misdemeanor if the face amount of the check is \$250
 12 [\$50] or more but less than \$750 [\$500];

13 (4) a class B misdemeanor if the face amount of the check is less than
 14 \$250 [\$50].

15 * **Sec. 12.** AS 11.46.285(b) is amended to read:

16 (b) Fraudulent use of an access device is

17 (1) a class B felony if the value of the property or services obtained is
 18 \$25,000 or more;

19 (2) a class C felony if the value of the property or services obtained is
 20 \$750 [\$50] or more but less than \$25,000;

21 (3) a class A misdemeanor if the value of the property or services
 22 obtained is less than \$750 [\$50].

23 * **Sec. 13.** AS 11.46.295 is amended to read:

24 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior
 25 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or
 26 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under
 27 AS 11.46.220(c),

28 (1) a conviction for an offense under another law or ordinance with
 29 similar elements is a conviction of an offense having elements similar to those of an
 30 offense defined as such under Alaska law at the time the offense was committed;

31 (2) a conviction for an offense under Alaska law where the value of

1 the property or services for the offense was lower than the value of property or
2 services for the offense under current Alaska law, is a prior conviction for that
3 offense; and

4 (3) the [. THE] court shall consider the date of a prior conviction as
5 occurring on the date that sentence is imposed for the prior offense.

6 * Sec. 14. AS 11.46.360(a) is amended to read:

7 (a) A person commits the crime of vehicle theft in the first degree if, having
8 no right to do so or any reasonable ground to believe the person has such a right, the
9 person drives, tows away, or takes

10 (1) the car, truck, motorcycle, motor home, bus, aircraft, or watercraft
11 of another;

12 (2) the propelled vehicle of another and

13 (A) the vehicle or any other property of another is damaged in a
14 total amount of \$750 [\$500] or more;

15 (B) the owner incurs reasonable expenses as a result of the loss
16 of use of the vehicle, in a total amount of \$750 [\$500] or more; or

17 (C) the owner is deprived of the use of the vehicle for seven
18 days or more;

19 (3) the propelled vehicle of another and the vehicle is marked as a
20 police or emergency vehicle; or

21 (4) the propelled vehicle of another and, within the preceding seven
22 years, the person was convicted under

23 (A) this section or AS 11.46.365;

24 (B) former AS 11.46.482(a)(4) or (5);

25 (C) former AS 11.46.484(a)(2);

26 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft
27 of a propelled vehicle; or

28 (E) a law or ordinance of this or another jurisdiction with
29 elements substantially similar to those of an offense described in (A) - (D) of
30 this paragraph.

31 * Sec. 15. AS 11.46.482(a) is amended to read:

1 (a) A person commits the crime of criminal mischief in the third degree if,
2 having no right to do so or any reasonable ground to believe the person has such a
3 right,

4 (1) with intent to damage property of another, the person damages
5 property of another in an amount of \$750 [\$500] or more;

6 (2) the person recklessly creates a risk of damage in an amount
7 exceeding \$100,000 to property of another by the use of widely dangerous means; or

8 (3) the person knowingly

9 (A) defaces, damages, or desecrates a cemetery or the contents
10 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,
11 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or
12 memorial appears to be abandoned, lost, or neglected;

13 (B) removes human remains or associated burial artifacts from
14 a cemetery, tomb, grave, or memorial regardless of whether the cemetery,
15 tomb, grave, or memorial appears to be abandoned, lost, or neglected.

16 * Sec. 16. AS 11.46.484(a) is amended to read:

17 (a) A person commits the crime of criminal mischief in the fourth degree if,
18 having no right to do so or any reasonable ground to believe the person has such a
19 right

20 (1) with intent to damage property of another, the person damages
21 property of another in an amount of \$250 [\$50] or more but less than \$750 [\$500];

22 (2) the person tampers with a fire protection device in a building that is
23 a public place;

24 (3) the person knowingly accesses a computer, computer system,
25 computer program, computer network, or part of a computer system or network;

26 (4) the person uses a device to descramble an electronic signal that has
27 been scrambled to prevent unauthorized receipt or viewing of the signal unless the
28 device is used only to descramble signals received directly from a satellite or unless
29 the person owned the device before September 18, 1984; or

30 (5) the person knowingly removes, relocates, defaces, alters, obscures,
31 shoots at, destroys, or otherwise tampers with an official traffic control device or

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damages the work upon a highway under construction.

* Sec. 17. AS 11.46.486(a) is amended to read:

(a) A person commits the crime of criminal mischief in the fifth degree if, having no right to do so or any reasonable ground to believe the person has such a right,

(1) with reckless disregard for the risk of harm to or loss of the property or with intent to cause substantial inconvenience to another, the person tampers with property of another;

(2) with intent to damage property of another, the person damages property of another in an amount less than \$250 [\$50]; or

(3) the person rides in a propelled vehicle knowing it has been stolen or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

* Sec. 18. AS 11.46.530(b) is amended to read:

(b) Criminal simulation is

(1) a class C felony if the value of what the object purports to represent is \$750 [\$500] or more;

(2) a class A misdemeanor if the value of what the object purports to represent is \$250 [\$50] or more but less than \$750 [\$500];

(3) a class B misdemeanor if the value of what the object purports to represent is less than \$250 [\$50].

* Sec. 19. AS 11.46.620(d) is amended to read:

(d) Misapplication of property is

(1) a class C felony if the value of the property misapplied is \$750 [\$500] or more;

(2) a class A misdemeanor if the value of the property misapplied is less than \$750 [\$500].

* Sec. 20. AS 11.46.730(c) is amended to read:

(c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss of \$750 [\$500] or more as a result to the defendant's conduct, in which case defrauding secured creditors is

(1) a class B felony if the loss is \$25,000 or more;

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1 (2) a class C felony if the loss is \$750 [\$500] or more but less than
2 \$25,000.

3 * Sec. 21. AS 12.30.011(b) is amended to read:

4 (b) If a judicial officer determines that the release under (a) of this section will
5 not reasonably assure the appearance of the person or will pose a danger to the victim,
6 other persons, or the community, the officer shall impose the least restrictive condition
7 or conditions that will reasonably assure the person's appearance and protect the
8 victim, other persons, and the community. In addition to conditions under (a) of this
9 section, the judicial officer may, singly or in combination,

10 (1) require the execution of an appearance bond in a specified amount
11 of cash to be deposited into the registry of the court, in a sum not to exceed 10 percent
12 of the amount of the bond;

13 (2) require the execution of a bail bond with sufficient solvent sureties
14 or the deposit of cash;

15 (3) require the execution of a performance bond in a specified amount
16 of cash to be deposited in the registry of the court;

17 (4) place restrictions on the person's travel, association, or residence;

18 (5) order the person to refrain from possessing a deadly weapon on the
19 person or in the person's vehicle or residence;

20 (6) require the person to maintain employment or, if unemployed,
21 actively seek employment;

22 (7) require the person to notify the person's lawyer and the prosecuting
23 authority within two business days after any change in employment;

24 (8) require the person to avoid all contact with a victim, a potential
25 witness, or a codefendant;

26 (9) require the person to refrain from the consumption and possession
27 of alcoholic beverages;

28 (10) require the person to refrain from the use of a controlled substance
29 as defined by AS 11.71, unless prescribed by a licensed health care provider with
30 prescriptive authority;

31 (11) require the person to be physically inside the person's residence,

1 or in the residence of the person's third-party custodian, at time periods set by the
2 court;

3 (12) require the person to keep regular contact with a law enforcement
4 officer or agency;

5 (13) order the person to refrain from entering or remaining in premises
6 licensed under AS 04;

7 (14) place the person in the custody of an individual who agrees to
8 serve as a third-party custodian of the person as provided in AS 12.30.021;

9 (15) if the person is under the treatment of a licensed health care
10 provider, order the person to follow the provider's treatment recommendations;

11 (16) order the person to take medication that has been prescribed for
12 the person by a licensed health care provider with prescriptive authority;

13 (17) order the person to comply with any other condition that is
14 reasonably necessary to assure the appearance of the person and to assure the safety of
15 the victim, other persons, and the community;

16 **(18) require the person to comply with a program established**
17 **under AS 47.38.020 if the person has been charged with an alcohol-related or**
18 **substance abuse-related offense that is an unclassified felony, a class A felony, a**
19 **sexual felony, or a crime involving domestic violence.**

20 * Sec. 22. AS 12.30.016(b) is amended to read:

21 (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,
22 AS 28.35.030, or 28.35.032, a judicial officer may order the person

23 (1) to refrain from

24 (A) consuming alcoholic beverages; or

25 (B) possessing on the person, in the person's residence, or in
26 any vehicle or other property over which the person has control, alcoholic
27 beverages;

28 (2) to submit to a search without a warrant of the person, the person's
29 personal property, the person's residence, or any vehicle or other property over which
30 the person has control, for the presence of alcoholic beverages by a peace officer who
31 has reasonable suspicion that the person is violating the conditions of the person's

1 release by possessing alcoholic beverages;

2 (3) to submit to a breath test when requested by a law enforcement
3 officer;

4 (4) to provide a sample for a urinalysis or blood test when requested by
5 a law enforcement officer;

6 (5) to take a drug or combination of drugs intended to prevent
7 substance abuse;

8 (6) to follow any treatment plan imposed by the court under
9 AS 28.35.028;

10 **(7) to comply with a program established under AS 47.38.020.**

11 * **Sec. 23.** AS 12.30.016(c) is amended to read:

12 (c) In a prosecution charging a violation of AS 11.71 or AS 11.73, a judicial
13 officer may order the person

14 (1) to refrain from

15 (A) consuming a controlled substance; or

16 (B) possessing on the person, in the person's residence, or in
17 any vehicle or other property over which the person has control, a controlled
18 substance or drug paraphernalia;

19 (2) to submit to a search without a warrant of the person, the person's
20 personal property, the person's residence, or any vehicle or other property over which
21 the person has control, for the presence of a controlled substance or drug paraphernalia
22 by a peace officer who has reasonable suspicion that the person is violating the terms
23 of the person's release by possessing controlled substances or drug paraphernalia;

24 (3) to enroll in a random drug testing program, at the person's expense,
25 to detect the presence of a controlled substance, with testing to occur not less than
26 once a week, and with the results being submitted to the court and the prosecuting
27 authority;

28 (4) to refrain from entering or remaining in a place where a controlled
29 substance is being used, manufactured, grown, or distributed;

30 (5) to refrain from being physically present at, within a two-block area
31 of, or within a designated area near, the location where the alleged offense occurred or

1 at other designated places, unless the person actually resides within that area; or

2 (6) to refrain from the use or possession of an inhalant;

3 (7) to comply with a program established under AS 47.38.020.

4 * Sec. 24. AS 12.55.027(c) is amended to read:

5 (c) To qualify for credit against a sentence of imprisonment for a day [TIME]
6 spent in a treatment program, the treatment program and the facility of the treatment
7 program must impose substantial restrictions on a person's liberty on that day that are
8 equivalent to incarceration, including the requirement that a participant in the program

9 (1) must live in a residential facility operated by the program;

10 (2) must be confined at all times to the grounds of the facility or be in
11 the physical custody of an employee of the facility, except for

12 (A) court appearances;

13 (B) [,] meetings with counsel;

14 (C) employment, vocational training, or community
15 volunteer [, AND] work required by the treatment program [AND
16 APPROVED IN ADVANCE BY THE COURT]; and

17 (D) periods during which the resident is permitted to leave
18 the facility for rehabilitative purposes directly related to the person's
19 treatment, so long as the periods during which the resident is permitted to
20 leave the facility are expressly limited as to both time and purpose by the
21 treatment program;

22 (3) is subject to disciplinary sanctions by the program if the participant
23 violates rules of the program and facility; sanctions must be in writing and available
24 for court review; and

25 (4) is subject to immediate arrest, without warrant, if the participant
26 leaves the facility without permission.

27 * Sec. 25. AS 12.55.100(a) is amended to read:

28 (a) While on probation and among the conditions of probation, the defendant
29 may be required

30 (1) to pay a fine in one or several sums;

31 (2) to make restitution or reparation to aggrieved parties for actual

1 damages or loss caused by the crime for which conviction was had, including
2 compensation to a victim that is a nonprofit organization for the value of labor or
3 goods provided by volunteers if the labor or goods were necessary to alleviate or
4 mitigate the effects of the defendant's crime;

5 (3) to provide for the support of any persons for whose support the
6 defendant is legally responsible;

7 (4) to perform community work in accordance with AS 12.55.055;

8 (5) to participate in or comply with the treatment plan of an inpatient
9 or outpatient rehabilitation program specified by either the court or the defendant's
10 probation officer that is related to the defendant's offense or to the defendant's
11 rehabilitation; and

12 (6) to satisfy the screening, evaluation, referral, and program
13 requirements of an agency authorized by the court to make referrals for rehabilitative
14 treatment or to provide rehabilitative treatment;

15 **(7) to comply with a program established under AS 47.38.020.**

16 * Sec. 26. AS 12.55.155(d) is amended to read:

17 (d) The following factors shall be considered by the sentencing court if proven
18 in accordance with this section, and may allow imposition of a sentence below the
19 presumptive range set out in AS 12.55.125:

20 (1) the offense was principally accomplished by another person, and
21 the defendant manifested extreme caution or sincere concern for the safety or well-
22 being of the victim;

23 (2) the defendant, although an accomplice, played only a minor role in
24 the commission of the offense;

25 (3) the defendant committed the offense under some degree of duress,
26 coercion, threat, or compulsion insufficient to constitute a complete defense, but that
27 significantly affected the defendant's conduct;

28 (4) the conduct of a youthful defendant was substantially influenced by
29 another person more mature than the defendant;

30 (5) the conduct of an aged defendant was substantially a product of
31 physical or mental infirmities resulting from the defendant's age;

1 (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the
2 defendant acted with serious provocation from the victim;

3 (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,
4 the victim provoked the crime to a significant degree;

5 (8) before the defendant knew that the criminal conduct had been
6 discovered, the defendant fully compensated or made a good faith effort to fully
7 compensate the victim of the defendant's criminal conduct for any damage or injury
8 sustained;

9 (9) the conduct constituting the offense was among the least serious
10 conduct included in the definition of the offense;

11 (10) the defendant was motivated to commit the offense solely by an
12 overwhelming compulsion to provide for emergency necessities for the defendant's
13 immediate family;

14 (11) after commission of the offense for which the defendant is being
15 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other
16 persons who committed an offense;

17 (12) the facts surrounding the commission of the offense and any
18 previous offenses by the defendant establish that the harm caused by the defendant's
19 conduct is consistently minor and inconsistent with the imposition of a substantial
20 period of imprisonment;

21 (13) the defendant is convicted of an offense specified in AS 11.71 and
22 the offense involved small quantities of a controlled substance;

23 (14) the defendant is convicted of an offense specified in AS 11.71 and
24 the offense involved the distribution of a controlled substance, other than a schedule
25 IA controlled substance, to a personal acquaintance who is 19 years of age or older for
26 no profit;

27 (15) the defendant is convicted of an offense specified in AS 11.71 and
28 the offense involved the possession of a small amount of a controlled substance for
29 personal use in the defendant's home;

30 (16) in a conviction for assault or attempted assault or for homicide or
31 attempted homicide, the defendant acted in response to domestic violence perpetrated

1 by the victim against the defendant and the domestic violence consisted of aggravated
2 or repeated instances of assaultive behavior;

3 (17) except in the case of an offense defined by AS 11.41 or
4 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the
5 time of sentencing, has successfully completed a court-ordered treatment program as
6 defined in AS 28.35.028 that was begun after the offense was committed;

7 (18) except in the case of an offense defined under AS 11.41 or
8 AS 11.46.400 or a defendant who has previously been convicted of a felony, the
9 defendant committed the offense while suffering from a mental disease or defect as
10 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that
11 significantly affected the defendant's conduct;

12 (19) the defendant is convicted of an offense under AS 11.71, and the
13 defendant sought medical assistance for another person who was experiencing a drug
14 overdose contemporaneously with the commission of the offense;

15 (20) except in the case of an offense defined under AS 11.41 or
16 AS 11.46.400, the defendant committed the offense while suffering from a condition
17 diagnosed

18 (A) as a fetal alcohol spectrum disorder, the fetal alcohol
19 spectrum disorder substantially impaired the defendant's judgment, behavior,
20 capacity to recognize reality, or ability to cope with the ordinary demands of
21 life, and the fetal alcohol spectrum disorder, though insufficient to constitute a
22 complete defense, significantly affected the defendant's conduct; in this
23 paragraph, "fetal alcohol spectrum disorder" means a condition of impaired
24 brain function in the range of permanent birth defects caused by maternal
25 consumption of alcohol during pregnancy; or

26 (B) as combat-related post-traumatic stress disorder or
27 combat-related traumatic brain injury, the combat-related post-traumatic
28 stress disorder or combat-related traumatic brain injury substantially
29 impaired the defendant's judgment, behavior, capacity to recognize
30 reality, or ability to cope with the ordinary demands of life, and the
31 combat-related post-traumatic stress disorder or combat-related

1 traumatic brain injury, though insufficient to constitute a complete
2 defense, significantly affected the defendant's conduct; in this paragraph,
3 "combat-related post-traumatic stress disorder or combat-related
4 traumatic brain injury" means post-traumatic stress disorder or
5 traumatic brain injury resulting from combat with an enemy of the
6 United States in the line of duty while on active duty as a member of the
7 armed forces of the United States; nothing in this paragraph is intended to
8 limit the application of (18) of this subsection.

9 * **Sec. 27.** AS 22.20 is amended by adding a new section to article 4 to read:

10 **Sec. 22.20.210. Alaska Criminal Justice Commission.** The judicial council
11 shall provide staff and administrative support to the Alaska Criminal Justice
12 Commission established in AS 44.19.641.

13 * **Sec. 28.** AS 22.35 is amended by adding a new section to read:

14 **Sec. 22.35.030. Records concerning criminal cases resulting in acquittal or**
15 **dismissal confidential.** (a) A court record of a criminal case is confidential if 120
16 days have elapsed from the date of acquittal or dismissal and

17 (1) the defendant was acquitted of all charges filed in the case;

18 (2) all criminal charges against the defendant in the case have been
19 dismissed by the prosecuting authority; or

20 (3) the defendant was acquitted of some of the criminal charges in the
21 case and the remaining charges were dismissed.

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

24 (1) employees of the Department of Health and Social Services who
25 are responsible for the health, safety, welfare, or placement of a child, a person with a
26 physical or intellectual disability, or a person with a mental illness;

27 (2) the public guardian under AS 13.26.370 or a guardian ad litem
28 supervised by the office of public advocacy;

29 (3) a person who is authorized to have access to the criminal justice
30 information network maintained by the Department of Public Safety under AS 12.62.

31 (c) The Department of Health and Social Services shall adopt regulations to

1 administer (b)(1) of this section.

2 * **Sec. 29.** AS 28.15.181(f) is amended to read:

3 (f) The court may terminate a revocation for an offense described in (a)(5) or
4 (8) of this section if

5 (1) **either**

6 (A) the person's license, privilege to drive, or privilege to
7 obtain a license has been revoked for the minimum periods set out in (c) of this
8 section; **or**

9 (B) **the person**

10 (i) **has successfully completed a court-ordered**
11 **treatment program under AS 28.35.028;**

12 (ii) **has not been convicted of a violation of**
13 **AS 28.35.030 or 28.35.032, or a similar law or ordinance of this or**
14 **another jurisdiction since completing the program; and**

15 (iii) **has been granted limited license privileges under**
16 **AS 28.15.201(g) and has successfully driven for two years under**
17 **that limited license without having the limited license privileges**
18 **revoked;** and

19 (2) the person complies with the provisions of AS 28.15.211(d) and
20 (e).

21 * **Sec. 30.** AS 28.15.201 is amended by adding new subsections to read:

22 (g) Notwithstanding (d) of this section, a court revoking a driver's license,
23 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the
24 department when revoking a driver's license, privilege to drive, or privilege to obtain a
25 license under AS 28.15.165(c), may grant limited license privileges if

26 (1) the revocation was for a felony conviction under AS 28.35.030;

27 (2) the person has successfully participated for at least six months in,
28 or has successfully completed, a court-ordered treatment program under
29 AS 28.35.028;

30 (3) the person provides proof of insurance as required by AS 28.20.230
31 and 28.20.240;

1 (4) the court requires the person to use an ignition interlock device
2 during the period of the limited license whenever the person operates a motor vehicle
3 in a community not included in the list published by the department under
4 AS 28.22.011(b) and, when applicable,

5 (A) the person provides proof of installation of the ignition
6 interlock device on every vehicle the person operates;

7 (B) the person signs an affidavit acknowledging that

8 (i) operation by the person of a vehicle that is not
9 equipped with an ignition interlock device is subject to penalties for
10 driving with a revoked license;

11 (ii) circumventing or tampering with the ignition
12 interlock device is a class A misdemeanor; and

13 (iii) the person is required to maintain the ignition
14 interlock device throughout the period of the limited license, to keep
15 up-to-date records in each vehicle showing that any required service
16 and calibration is current, and to produce those records immediately on
17 request;

18 (5) the person is enrolled in and is in compliance with or has
19 successfully completed the alcoholism screening, evaluation, referral, and program
20 requirements of the Department of Health and Social Services under AS 28.35.030(h);

21 (6) the person has not previously been granted a limited license under
22 this subsection and had the license revoked under (h) of this section;

23 (7) the person complies with a program established under
24 AS 47.38.020 for a minimum of 120 days from the date a limited license is granted
25 under this section.

26 (h) The court or the department may immediately revoke a limited license
27 granted under (g) of this section if the person is convicted of a violation of
28 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction.

29 * **Sec. 31.** AS 28.35.028(b) is amended to read:

30 (b) Once the court elects to proceed under this section, the defendant shall
31 enter a no contest or guilty plea to the offense or shall admit to a probation violation,

1 as appropriate. The state and the defendant may enter into a plea agreement to
2 determine the offense or offenses to which the defendant is required to plead. If the
3 court accepts the agreement, the court shall enforce the terms of the agreement. The
4 court shall enter a judgment of conviction for the offense or offenses for which the
5 defendant has pleaded or an order finding that the defendant has violated probation, as
6 appropriate. A judgment of conviction or an order finding a probation violation must
7 set a schedule for payment of restitution owed by the defendant. In a judgment of
8 conviction and on probation conditions that the court considers appropriate, the court
9 may withhold pronouncement of a period of imprisonment or a fine to provide an
10 incentive for the defendant to complete recommended treatment successfully.
11 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any
12 mandatory minimum or other sentencing provision applicable to the offense.
13 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any
14 other provision of law, the court, at any time after the period when a reduction of
15 sentence is normally available, may consider and reduce the defendant's sentence,
16 including imprisonment, fine, or license revocation, based on the defendant's
17 compliance with the treatment plan; when reducing a sentence, the court (1) may not
18 reduce the sentence below the mandatory minimum sentence for the offense unless the
19 court finds that the defendant has successfully complied with and completed the
20 treatment plan and that the treatment plan approximated the severity of the minimum
21 period of imprisonment, and (2) may consider the defendant's compliance with the
22 treatment plan as a mitigating factor allowing a reduction of a sentence under
23 AS 12.55.155(a). A court entering an order finding the defendant has violated
24 probation may withhold pronouncement of disposition to provide an incentive for the
25 defendant to complete the recommended treatment successfully.

26 * Sec. 32. AS 28.35.030(k) is amended to read:

27 (k) Imprisonment required under (b)(1)(A) of this section shall be served by
28 electronic monitoring, or at a community residential center. If electronic
29 monitoring or [OR, IF] a community residential center is not available,
30 imprisonment required under (b)(1)(A) of this section may be served at another
31 appropriate place determined by the commissioner of corrections. Imprisonment

1 required under (b)(1)(B) - (F) of this section may be served at a community residential
2 center or at a private residence if approved by the commissioner of corrections.
3 Imprisonment served at a private residence must include electronic monitoring. The
4 cost of imprisonment resulting from the sentence imposed under (b)(1) of this section
5 shall be paid to the state by the person being sentenced provided, however, that the
6 cost of imprisonment required to be paid under this subsection may not exceed \$2,000.
7 Upon the person's conviction, the court shall include the costs of imprisonment as a
8 part of the judgment of conviction. Except for reimbursement from a permanent fund
9 dividend as provided in this subsection, payment of the cost of imprisonment is not
10 required if the court determines the person is indigent. For costs of imprisonment that
11 are not paid by the person as required by this subsection, the state shall seek
12 reimbursement from the person's permanent fund dividend as provided under
13 AS 43.23.065. While at the community residential center or other appropriate place, a
14 person sentenced under (b)(1)(A) of this section shall perform at least 24 hours of
15 community service work. A person sentenced under (b)(1)(B) of this section shall
16 perform at least 160 hours of community service work, as required by the director of
17 the community residential center or other appropriate place, or as required by the
18 commissioner of corrections if the sentence is being served at a private residence. In
19 this subsection, "appropriate place" means a facility with 24-hour on-site staff
20 supervision that is specifically adapted to provide a residence, and includes a
21 correctional center, residential treatment facility, hospital, halfway house, group home,
22 work farm, work camp, or other place that provides varying levels of restriction.

23 * **Sec. 33.** AS 28.35.030(o) is amended to read:

24 (o) Upon request, the department shall review a driver's license revocation
25 imposed under (n)(3) of this section and

26 (1) may restore the driver's license if

27 (A) [(1)] the license has been revoked for a period of at least 10
28 years;

29 (B) [(2)] the person has not been convicted of a criminal
30 offense since the license was revoked; and

31 (C) [(3)] the person provides proof of financial responsibility;

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(2) shall restore the driver's license if

(A) the person has been granted limited license privileges under AS 28.15.201(g) and has successfully driven under that limited license for two years without having the limited license privileges revoked;

(B) the person has successfully completed a court-ordered treatment program under AS 28.35.028;

(C) the court previously terminated the person's revocation as provided in AS 28.15.181(f)(1)(B);

(D) the person has not been convicted of a violation of AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction since the license was revoked;

(E) the person's privilege to drive may be restored as provided in AS 28.15.211; and

(F) the person provides proof of financial responsibility.

* Sec. 34. AS 33.05.020 is amended by adding a new subsection to read:

(f) The commissioner shall establish a program for offenders on probation for a felony offense who have conditions of probation that include not consuming controlled substances or alcoholic beverages and who have been identified as being at moderate to high risk as identified by a risk-needs assessment. The commissioner shall adopt regulations to implement the program. The program shall

(1) include random testing for controlled substances and alcoholic beverage use;

(2) require that the probation officer file a petition with the court seeking appropriate sanctions by the close of the next business day if a probationer

(A) fails to appear for an appointment as directed by the probation officer; or

(B) tests positive for the use of controlled substances, inhalants, or alcoholic beverages; and

(3) include a means to notify the court, by the close of the next business day, that a petition to revoke probation has been filed on a probationer placed in the program by the commissioner so that the court may review the petition,

1 schedule a prompt hearing, address a request for a warrant provided by the probation
2 officer, or take other action the court considers appropriate.

3 * **Sec. 35.** AS 33.16.060 is amended by adding a new subsection to read:

4 (c) The board shall establish a program for a parolee who has conditions of
5 parole that include not consuming controlled substances or alcoholic beverages and
6 who has been identified as being at moderate to high risk as identified by a risk-needs
7 assessment. The program must

8 (1) include random testing for controlled substance and alcoholic
9 beverage use;

10 (2) require that a parole officer file a parole violation report by the
11 close of the next business day if a parolee

12 (A) fails to appear for an appointment as directed by the parole
13 officer; or

14 (B) tests positive for the use of controlled substances or
15 alcoholic beverages; and

16 (3) include a means to notify the board by the close of the next
17 business day that a parole violation report has been filed on a parolee placed in the
18 program by the board.

19 * **Sec. 36.** AS 33.16.150(b) is amended to read:

20 (b) The board may require as a condition of special medical, discretionary, or
21 mandatory parole, or a member of the board acting for the board under (e) of this
22 section may require as a condition of mandatory parole, that a prisoner released on
23 parole

24 (1) not possess or control a defensive weapon, a deadly weapon other
25 than an ordinary pocket knife with a blade three inches or less in length, or
26 ammunition for a firearm, or reside in a residence where there is a firearm capable of
27 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
28 weapon," "defensive weapon," and "firearm" have the meanings given in
29 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

30 (2) refrain from possessing or consuming alcoholic beverages;

31 (3) submit to reasonable searches and seizures by a parole officer, or a

1 peace officer acting under the direction of a parole officer;

2 (4) submit to appropriate medical, mental health, or controlled
3 substance or alcohol examination, treatment, or counseling;

4 (5) submit to periodic examinations designed to detect the use of
5 alcohol or controlled substances; the periodic examinations may include testing
6 under the program established under AS 33.16.060(c);

7 (6) make restitution ordered by the court according to a schedule
8 established by the board;

9 (7) refrain from opening, maintaining, or using a checking account or
10 charge account;

11 (8) refrain from entering into a contract other than a prenuptial contract
12 or a marriage contract;

13 (9) refrain from operating a motor vehicle;

14 (10) refrain from entering an establishment where alcoholic beverages
15 are served, sold, or otherwise dispensed;

16 (11) refrain from participating in any other activity or conduct
17 reasonably related to the parolee's offense, prior record, behavior or prior behavior,
18 current circumstances, or perceived risk to the community, or from associating with
19 any other person that the board determines is reasonably likely to diminish the
20 rehabilitative goals of parole, or that may endanger the public; in the case of special
21 medical parole, for a prisoner diagnosed with a communicable disease, comply with
22 conditions set by the board designed to prevent the transmission of the disease.

23 * **Sec. 37.** AS 33.30.011 is amended to read:

24 **Sec. 33.30.011. Duties of commissioner.** The commissioner shall

25 (1) establish, maintain, operate, and control correctional facilities
26 suitable for the custody, care, and discipline of persons charged or convicted of
27 offenses against the state or held under authority of state law; each correctional facility
28 operated by the state shall be established, maintained, operated, and controlled in a
29 manner that is consistent with AS 33.30.015;

30 (2) classify prisoners;

31 (3) for persons committed to the custody of the commissioner,

1 establish programs, including furlough programs that are reasonably calculated to

2 (A) protect the public and the victims of crimes committed by
3 prisoners;

4 (B) maintain health;

5 (C) create or improve occupational skills;

6 (D) enhance educational qualifications;

7 (E) support court-ordered restitution; and

8 (F) otherwise provide for the rehabilitation and reformation of
9 prisoners, facilitating their reintegration into society;

10 (4) provide necessary

11 (A) medical services for prisoners in correctional facilities or
12 who are committed by a court to the custody of the commissioner, including
13 examinations for communicable and infectious diseases;

14 (B) psychological or psychiatric treatment if a physician or
15 other health care provider, exercising ordinary skill and care at the time of
16 observation, concludes that

17 (i) a prisoner exhibits symptoms of a serious disease or
18 injury that is curable or may be substantially alleviated; and

19 (ii) the potential for harm to the prisoner by reason of
20 delay or denial of care is substantial; **and**

21 **(C) assessment or screening of the risks and needs of**
22 **offenders who may be vulnerable to harm, exploitation, or recidivism as a**
23 **result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or**
24 **another brain-based disorder;**

25 (5) establish minimum standards for sex offender treatment programs
26 offered to persons who are committed to the custody of the commissioner; [AND]

27 (6) provide for fingerprinting in correctional facilities in accordance
28 with AS 12.80.060; **and**

29 **(7) establish a program to conduct assessments of the risks and**
30 **needs of offenders sentenced to serve a term of incarceration of 30 days or more**
31 **and provide to the legislature, by January 15, 2017, and thereafter by January 15**

1 of the first regular session of each legislature, a report summarizing the findings
2 and results of the program.

3 * **Sec. 38.** AS 44.19 is amended by adding new sections to read:

4 **Article 6. Alaska Criminal Justice Commission.**

5 **Sec. 44.19.641. Creation of commission.** The Alaska Criminal Justice
6 Commission is established in the Office of the Governor.

7 **Sec. 44.19.642. Membership; staff.** (a) The commission consists of 11
8 members as follows:

9 (1) the chief justice of the Alaska Supreme Court or another active or
10 retired justice of the supreme court or an active or retired judge of the court of appeals
11 designated by the chief justice;

12 (2) an active or retired superior court judge designated by the chief
13 justice for a three-year term;

14 (3) an active or retired district court judge designated by the chief
15 justice for a three-year term;

16 (4) a member of the Alaska Native community designated by the
17 Alaska Native Justice Center for a three-year term;

18 (5) the attorney general or a designee of the attorney general;

19 (6) the public defender or a designee of the public defender;

20 (7) a private attorney appointed by the governor for a three-year term;

21 (8) a chief of a municipal law enforcement agency appointed by the
22 governor for a three-year term;

23 (9) one victims' rights advocate appointed by the governor for a three-
24 year term;

25 (10) one nonvoting member, serving ex officio, who is a member of
26 the senate appointed by the president of the senate; and

27 (11) one nonvoting member, serving ex officio, who is a member of
28 the house of representatives appointed by the speaker of the house of representatives.

29 (b) A member appointed under (a)(7) - (9) of this section serves at the pleasure
30 of the governor and may be reappointed.

31 (c) The commission shall, by majority vote of the membership, elect a chair

1 and other officers it considers necessary from among its membership to serve on a
2 yearly basis.

3 (d) The Alaska Judicial Council shall provide staff and administrative support
4 to the commission.

5 **Sec. 44.19.643. Compensation.** Members of the commission serve without
6 compensation but are entitled to per diem and travel expenses authorized for boards
7 and commissions under AS 39.20.180.

8 **Sec. 44.19.644. Meetings.** A majority of the members constitutes a quorum for
9 conducting business and exercising the powers of the commission. The commission
10 shall meet at least quarterly, at the call of the chair, at the request of the majority of the
11 members, or at a regularly scheduled time as determined by a majority of the
12 members. The commission shall keep a record of its proceedings and make these
13 records available for public inspection.

14 **Sec. 44.19.645. Powers and duties of the commission.** (a) The commission
15 shall evaluate the effect of sentencing laws and criminal justice practices on the
16 criminal justice system to evaluate whether those sentencing laws and criminal justice
17 practices provide for protection of the public, community condemnation of the
18 offender, the rights of victims of crimes, the rights of the accused and the person
19 convicted, restitution from the offender, and the principle of reformation. The
20 commission shall make recommendations for improving criminal sentencing practices
21 and criminal justice practices, including rehabilitation and restitution. In formulating
22 its recommendations, the commission shall consider

23 (1) statutes, court rules, and court decisions relevant to sentencing of
24 criminal defendants in misdemeanor and felony cases;

25 (2) sentencing practices of the judiciary, including use of presumptive
26 sentences;

27 (3) means of promoting uniformity, proportionality, and accountability
28 in sentencing;

29 (4) alternatives to traditional forms of incarceration;

30 (5) the efficacy of parole and probation in reducing recidivism,
31 achieving rehabilitation, and ensuring public safety;

1 (6) the adequacy, availability, and effectiveness of treatment and
2 rehabilitation programs;

3 (7) crime and incarceration rates, including the rate of violent crime, in
4 this state compared to other states, and best practices adopted by other states that have
5 proven to be successful in reducing recidivism;

6 (8) the relationship between sentencing priorities and correctional
7 resources; and

8 (9) the effectiveness of the state's current methodologies for the
9 collection, dissemination, and extrapolation of criminal justice data.

10 (b) The commission may

11 (1) recommend legislative and administrative action on criminal justice
12 practices; and

13 (2) select and retain the services of consultants as necessary.

14 **Sec. 44.19.646. Methodology.** In making recommendations, the commission
15 shall

16 (1) solicit and consider information and views from a variety of
17 constituencies to represent the broad spectrum of views that exist with respect to
18 possible approaches to sentencing and administration of justice in the state; and

19 (2) base recommendations on the following factors:

20 (A) the seriousness of each offense in relation to other offenses;

21 (B) the effect of an offender's prior criminal history on
22 sentencing;

23 (C) the need to rehabilitate criminal offenders;

24 (D) the need to confine violent offenders to prevent harm to the
25 public;

26 (E) the extent to which criminal offenses harm victims and
27 endanger the public safety and order;

28 (F) the effect of sentencing in deterring an offender or other
29 members of society from future criminal conduct;

30 (G) the effect of sentencing as a community condemnation of
31 criminal acts and as a reaffirmation of societal norms;

1 (H) the elimination of unjustified disparity in sentences;

2 (I) the sufficiency of state agency resources to administer the
3 criminal justice system of the state;

4 (J) the effect of criminal justice laws and practices on reducing
5 the rate of recidivism in the state;

6 (K) peer reviewed and data-driven research;

7 (L) the effect of over-classification of prisoners; and

8 (M) the effects of evidence-based restorative justice initiatives
9 on persons convicted of criminal violations and offenses, the victim, and the
10 community.

11 **Sec. 44.19.647. Annual report and recommendations.** The commission shall
12 submit to the governor and the legislature an annual report of its proceedings for the
13 previous calendar year and may submit recommendations for legislative and
14 administrative action. Reports and recommendations provided under this section shall
15 be submitted not later than February 1 of each year.

16 **Sec. 44.19.649. Definition.** In AS 44.19.641 - 44.19.649, "commission" means
17 the Alaska Criminal Justice Commission.

18 * **Sec. 39.** AS 44.66.010(a) is amended by adding a new paragraph to read:

19 (10) Alaska Criminal Justice Commission (AS 44.19.642) - January 1,
20 2018.

21 * **Sec. 40.** AS 47 is amended by adding a new chapter to read:

22 **Chapter 38. Alcohol and Substance Abuse Accountability.**

23 **Article 1. Alcohol and Substance Abuse Monitoring and Treatment for Persons Released**
24 **on Bail or on Probation.**

25 **Sec. 47.38.010. Cooperation with the Department of Corrections.** The
26 department shall cooperate with the Department of Corrections in establishing and
27 conducting programs to provide treatment for alcoholics, intoxicated persons, drug
28 abusers, and inhalant abusers who are on conditions of release as provided in
29 AS 12.30 or on probation.

30 **Sec. 47.38.020. Alcohol and substance abuse monitoring program.** (a) The
31 commissioner, in cooperation with the commissioner of corrections, shall establish a

1 program for certain persons with release conditions ordered as provided under
2 AS 12.30, or offenders with conditions of probation, that include not consuming
3 controlled substances or alcoholic beverages.

4 (b) The commissioner shall adopt regulations to implement the program.

5 (c) The commissioner shall include in the program

6 (1) a requirement for twice-a-day testing, in person if practicable, for
7 alcoholic beverage use and random testing for controlled substances;

8 (2) a means to provide the probation officer, prosecutor's office, or
9 local law enforcement agency with notice within 24 hours, so that a complaint may be
10 filed alleging a violation of AS 11.56.757, a petition may be filed with the court
11 seeking appropriate sanctions and may be scheduled by the court for a prompt hearing,
12 or an arrest warrant may be issued for the person on release or offender with
13 conditions of probation provided in this subsection, if the person or offender

14 (A) fails to appear for an appointment as required by the
15 program requirements; or

16 (B) tests positive for the use of controlled substances or
17 alcoholic beverages; and

18 (3) a requirement that the person or offender pay, based on the person's
19 or offender's ability under financial guidelines established by the commissioner, for
20 the cost of participating in the program.

21 (d) The department shall provide or conduct the testing required under (c) of
22 this section.

23 **Article 2. Recidivism Reduction Grant Program.**

24 **Sec. 47.38.100. Recidivism reduction grant program and fund.** (a) The
25 recidivism reduction fund is established in the general fund to promote the
26 rehabilitation through transitional re-entry programs of persons incarcerated for
27 offenses and recently released from correctional facilities. The fund consists of money
28 appropriated to the fund.

29 (b) Appropriations to the fund do not lapse.

30 (c) The commissioner, in cooperation with the commissioner of corrections,
31 may make grants from the fund for programs that the commissioner of corrections

1 determines have, as a primary focus, rehabilitation and reduction of recidivism
2 through transitional re-entry for persons incarcerated for offenses and recently
3 released from correctional facilities. To qualify for a grant under this section, a
4 program shall

- 5 (1) include case management;
- 6 (2) require sober living;
- 7 (3) provide, on-site or by referral, treatment for substance abuse or
8 mental health treatment;
- 9 (4) require employment, educational programming, vocational
10 training, or community volunteer work as approved by the director of the treatment
11 program; and
- 12 (5) limit residential placements in the program to a maximum of one
13 year.

14 (d) The commissioner and the commissioner of corrections shall prepare a
15 joint annual report on the fund and grant program, and notify the legislature on or
16 before January 15 of each year that the report is available. The report must include the
17 balance of the fund, a summary of the grants provided from the fund, and the effects
18 on recidivism for program participants.

19 **Article 3. General Provisions.**

20 **Sec. 47.38.199. Definitions.** In this chapter,

- 21 (1) "commissioner" means the commissioner of health and social
22 services;
- 23 (2) "department" means the Department of Health and Social Services.

24 * **Sec. 41.** AS 22.20.210 is repealed January 1, 2018.

25 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **APPLICABILITY.** (a) AS 11.41.320(a), as amended by sec. 2 of this Act,
28 AS 11.41.330(a), as amended by sec. 3 of this Act, AS 11.41.330(b), as amended by sec. 4 of
29 this Act, AS 11.46.130(a), as amended by sec. 5 of this Act, AS 11.46.140(a), as amended by
30 sec. 6 of this Act, AS 11.46.150(a), as amended by sec. 7 of this Act, AS 11.46.220(c), as
31 amended by sec. 8 of this Act, AS 11.46.260(b), as amended by sec. 9 of this Act,

1 AS 11.46.270(b), as amended by sec. 10 of this Act, AS 11.46.280(d), as amended by sec. 11
2 of this Act, AS 11.46.285(b), as amended by sec. 12 of this Act, AS 11.46.295, as amended
3 by sec. 13 of this Act, AS 11.46.360(a), as amended by sec. 14 of this Act, AS 11.46.482(a),
4 as amended by sec. 15 of this Act, AS 11.46.484(a), as amended by sec. 16 of this Act,
5 AS 11.46.486(a), as amended by sec. 17 of this Act, AS 11.46.530(b), as amended by sec. 18
6 of this Act, AS 11.46.620(d), as amended by sec. 19 of this Act, AS 11.46.730(c), as amended
7 by sec. 20 of this Act, AS 12.30.011(b), as amended by sec. 21 of this Act, AS 12.30.016(b),
8 as amended by sec. 22 of this Act, AS 12.30.016(c), as amended by sec. 23 of this Act,
9 AS 12.55.027(c), as amended by sec. 24 of this Act, and AS 12.55.100(a), as amended by sec.
10 25 of this Act, apply to offenses occurring on or after the effective date of secs. 1 - 27, 29 -
11 36, and 38 - 44 of this Act.

12 (b) The changes made to AS 28.15.181(f), as amended by sec. 29 of this Act,
13 AS 28.15.201(g) and (h), enacted by sec. 30 of this Act, AS 28.35.028(b), as amended by sec.
14 31 of this Act, AS 28.35.030(k), as amended by sec. 32 of this Act, AS 28.35.030(o), as
15 amended by sec. 33 of this Act, AS 33.05.020, as amended by sec. 34 of this Act,
16 AS 33.16.060, as amended by sec. 35 of this Act, and AS 33.16.150(b), as amended by sec.
17 36 of this Act, and AS 47.38.020, as enacted by sec. 40 of this Act, apply to convictions
18 occurring before, on, or after the effective date of secs. 1 - 27, 29 - 36, and 38 - 44 of this Act
19 for offenses occurring before, on, or after the effective date of secs. 1 - 27, 29 - 36, and 38 -
20 44 of this Act.

21 (c) AS 12.55.155(d)(20), as amended by sec. 26 of this Act, applies to prosecutions
22 occurring on or after the effective date of sec. 26 of this Act for offenses occurring before, on,
23 or after the effective date of sec. 26 of this Act.

24 (d) AS 22.35.030, enacted by sec. 28 of this Act, applies to criminal charges
25 concluded on or after the effective date of sec. 28 of this Act, by dismissal or by acquittal of
26 the defendant.

27 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 SPECIAL REPORT OF ALASKA CRIMINAL JUSTICE COMMISSION. The
30 Alaska Criminal Justice Commission shall submit to the governor and the legislature a special
31 report, not later than July 1, 2016, regarding alcohol-related offenses in AS 28. The report

1 must include recommendations on

2 (1) whether a revision of the alcohol-related offenses in AS 28 is necessary;

3 (2) maintaining both the administrative and court license revocation processes;

4 (3) the effectiveness of ignition interlock devices in reducing the offenses of
5 driving while under the influence of an alcoholic beverage, inhalant, or controlled substance
6 and refusal to submit to a chemical test, and reducing recidivism;

7 (4) whether the punishment, fines, and associated driver's license revocation
8 periods for the offenses of driving while under the influence of an alcoholic beverage,
9 inhalant, or controlled substance and refusal to submit to a chemical test should be decreased
10 or increased;

11 (5) the effectiveness of programs that promote offender accountability,
12 emphasize swift and certain, yet measured, punishment, reduce recidivism, and maximize the
13 offender's ability to remain productive in society;

14 (6) whether limited licenses should be available for persons charged with or
15 convicted of the offenses of driving while under the influence of an alcoholic beverage,
16 inhalant, or controlled substance or refusal to submit to a chemical test, while providing for
17 public safety.

18 * **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 TRANSITIONAL PROVISIONS. The initial designations and appointments to the
21 Alaska Criminal Justice Commission under AS 44.19.642, added by sec. 38 of this Act, shall
22 be made and the first meeting of the commission shall be held not later than September 30,
23 2014. Notwithstanding AS 44.19.647, added by sec. 38 of this Act, the commission shall
24 submit its first report to the governor and the legislature not later than February 1, 2016.

25 * **Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITIONAL PROVISIONS: REGULATIONS. (a) The Department of
28 Corrections may adopt regulations necessary to implement AS 33.05.020(f), added by sec. 34
29 of this Act.

30 (b) The board of parole may adopt regulations necessary to implement
31 AS 33.16.060(c), added by sec. 35 of this Act, and AS 33.16.150(b), as amended by sec. 36 of

1 this Act.

2 (c) The Department of Health and Social Services may adopt regulations necessary to
3 implement AS 47.38.010 - 47.38.199, added by sec. 40 of this Act.

4 (d) The regulations adopted under (a) - (c) of this section take effect under AS 44.62
5 (Administrative Procedure Act), but not before July 1, 2014.

6 * **Sec. 46.** Section 28 of this Act takes effect October 1, 2014.

7 * **Sec. 47.** Section 37 of this Act takes effect January 1, 2016.

8 * **Sec. 48.** Section 45 of this Act takes effect immediately under AS 01.10.070(c).

9 * **Sec. 49.** Sections 1 - 27, 29 - 36, and 38 - 44 of this Act take effect July 1, 2014.

Alaska State Legislature

SENATOR
JOHN COGHILL
SENATE MAJORITY LEADER

Judiciary Committee
Chairman
In-State Energy Committee
Co-Chair
State Affairs Committee
Joint Armed Services Committee
Legislative Council
Rules Committee



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TO: Representative Wes Keller, Chair
House Judiciary Committee

FROM: Senator John Coghill, Chair
Senate Judiciary Committee

A handwritten signature in black ink, appearing to read "JCO", written over the "FROM:" line.

DATE: March 20, 2014

SUBJECT: Request to Hear SB 64

I respectfully request a hearing for Senate Bill 64, "Omnibus Crime/Corrections Bill," at your convenience.

Attached to this memorandum:

- Current Version of the Bill
- Past Versions of the Bill
- Sponsor Statement
- Sectional Analysis
- Fiscal Notes
- Summary of Changes
- Supporting Documents
- List of Individuals/Organizations to Testify

If you have any questions, please contact me or my staff Jordan Shilling at 465-3719.

28th Alaska State Legislature

Senator John Coghill, Chairman
State Capitol Building
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(907) 465-3717



Senator Lesil McGuire
Vice-Chair
State Capitol Building
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Senate Judiciary Committee

SPONSOR STATEMENT Omnibus Crime/Corrections/Recidivism Bill Version L

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 reduces recidivism and keeps 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 punishments 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 fund is established to stimulate the creation of 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 \$1200

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. 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 to analyze and evaluate the effect of laws and practices within the state’s criminal justice system.

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.

Expanding Assessments by requiring 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.

28th Alaska State Legislature

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Senate Judiciary Committee

SECTIONAL ANALYSIS

Senate Bill 64

*Omnibus Crime/Corrections/Recidivism Bill
Version L*

Section 1:

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 2:

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 legal right 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 3:

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 that was the amount of time necessary to report that the child has been neglected, abused, or is in physical danger.

Section 4:

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 5:

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 6:

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 7:

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 8:

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 9:

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

Section 10:

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

Section 11:

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 12:

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

Section 13:

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

Section 14:

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 15:

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 16:

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 17:

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 18:

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 19:

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 20:

This section establishes a 24/7 Sobriety program that would be available to 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 21:

This section establishes a 24/7 Sobriety program that would be available to 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 22:

This section establishes a 24/7 Sobriety program that would be available to 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 23:

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 24:

This section establishes a 24/7 Sobriety program as a condition of probation that can be 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 25:

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

Section 26:

The commissioner shall establish the 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. Subsection (g) also contains the program requirements for 24/7 Sobriety.

Section 27:

This section directs the parole board to establish the 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 28:

The parole board may require, as a condition of special medical or mandatory parole, a parolee must submit to the P.A.C.E. program.

Section 29:

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 assessment or screening of offenders with fetal alcohol syndrome or another brain-based disorder.

Section 30:

The Alaska Criminal Justice Commission is established in the Office of the Governor. The commission consists of 10 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) a private attorney appointed by the governor*
- (7) a chief of a municipal law enforcement agency appointed by the governor*
- (8) the public defender*
- (9) one member of the senate appointed by the president of the senate*
- (10) one 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 compile information concerning sentencing practices.
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 resources available to agencies in the criminal justice system*
- (J) The effect of sentencing on reducing the rate of recidivism in the state*

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

Section 31:

This section establishes a sunset of June 30, 2018 for the Alaska Criminal Justice Commission.

Section 32:

This section 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 33:

Staffing for the Alaska Criminal Justice Commission expires when the commission expires (June 30, 2018).

Section 34:

APPLICABILITY

Section 35:

TRANSITIONAL PROVISIONS

Section 36:

This section clarifies that 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 37:

This section establishes a delayed effective date for Section 29.

Section 38:

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

Section 39:

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

28th Alaska State Legislature

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Senate Judiciary Committee

CS SB 64 OMNIBUS CRIME/CORRECTIONS 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.

28th Alaska State Legislature

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Senate Judiciary Committee

EXPERT TESTIMONY

Senate Bill 64

Omnibus Crime/Corrections Bill

Carmen Gutierrez
Department of Corrections (retired)

Nancy Meade
Alaska Court System

Ron Taylor
Department of Corrections

Kaci Schroeder
Department of Corrections

Leslie Houston
Department of Corrections

Anne Carpeneti
Department of Law

Quinlan Steiner
Public Defender

Tony Piper
A.S.A.P. (HSS)

Dennis Johnson
Alaska Pre-trial Services

Colonel Tom Butler
Montana Highway Patrol

Doug Gardner
Legislative Legal

Terre Carns
Alaska Judicial Council

Rosalie Nadeau
Akeela

Karen Nugen-Logan
Nugen's Ranch

Jeff Jessee
Alaska Mental Health Trust Authority

AMENDMENT #1a
passed

OFFERED IN THE HOUSE

TO: HCS CSSB 64(JUD), Draft Version "M"

1 Page 3, line 6:

2 Delete "legal"

3

4 Page 3, line 8:

5 Delete "legal"

6

7 Page 19, line 1:

8 Delete "court requires the person"

9 Insert "person is required"

10

11 Page 19, line 23:

12 Delete "complies with"

13 Insert "is participating in"

14

15 Page 19, line 28, following "jurisdiction":

16 Insert "or if the person is not in compliance with a court-ordered treatment program
17 under AS 28.35.028"

18

19 Page 21, line 25, following "under":

20 Insert "(b) or"

21

22 Page 31, line 24:

23 Delete "January 1, 2018"

split the amendment #1
1b → include lines 19-20
passed

1 Insert "June 30, 2017"

2

3 Page 33, line 22:

4 Delete "September 30"

5 Insert "June 30"

HCSCSSB 64 (JUD) ver. M Adopted Conceptual Amendments

#2: pg. 28, line 24: delete “violent.”

#3: pg. 18, line ~~2~~6 and pg. 22, line 4: delete “two” and change to “three.”

AMENDMENT ✓ #7

adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

BY REPRESENTATIVE MILLETT

Pruitt, Keller, Greenberg, Lynn

- 1 Page 3, line 3:
- 2 Delete "\$1.200"
- 3 Insert "\$750"
- 4
- 5 Page 3, line 11:
- 6 Delete "\$1.200"
- 7 Insert "\$750"
- 8
- 9 Page 3, line 27:
- 10 Delete "\$1.200"
- 11 Insert "\$750"
- 12
- 13 Page 4, line 10:
- 14 Delete "\$1.200"
- 15 Insert "\$750"
- 16
- 17 Page 4, line 12:
- 18 Delete "\$1.200"
- 19 Insert "\$750"
- 20
- 21 Page 4, line 23:
- 22 Delete "\$1.200"
- 23 Insert "\$750"

- 1
- 2 Page 5, line 3:
 - 3 Delete "\$1,200"
 - 4 Insert "\$750"
 - 5
- 6 Page 5, line 6:
 - 7 Delete "\$1,200"
 - 8 Insert "\$750"
 - 9
- 10 Page 5, line 12:
 - 11 Delete "\$1,200"
 - 12 Insert "\$750"
 - 13
- 14 Page 5, line 15:
 - 15 Delete "\$1,200"
 - 16 Insert "\$750"
 - 17
- 18 Page 5, line 21:
 - 19 Delete "\$1,200"
 - 20 Insert "\$750"
 - 21
- 22 Page 5, line 24:
 - 23 Delete "\$1,200"
 - 24 Insert "\$750"
 - 25
- 26 Page 6, line 1:
 - 27 Delete "\$1,200"
 - 28 Insert "\$750"
 - 29
- 30 Page 6, line 3:
 - 31 Delete "\$1,200"

- 1 Insert "\$750"
- 2
- 3 Page 6, line 26:
- 4 Delete "\$1,200"
- 5 Insert "\$750"
- 6
- 7 Page 6, line 28:
- 8 Delete "\$1,200"
- 9 Insert "\$750"
- 10
- 11 Page 7, line 17:
- 12 Delete "\$1,200"
- 13 Insert "\$750"
- 14
- 15 Page 8, line 2:
- 16 Delete "\$1,200"
- 17 Insert "\$750"
- 18
- 19 Page 8, line 28:
- 20 Delete "\$1,200"
- 21 Insert "\$750"
- 22
- 23 Page 8, line 30:
- 24 Delete "\$1,200"
- 25 Insert "\$750"
- 26
- 27 Page 9, line 4:
- 28 Delete "\$1,200"
- 29 Insert "\$750"
- 30
- 31 Page 9, line 7:

- 1 Delete "\$1,200"
- 2 Insert "\$750"
- 3
- 4 Page 9, line 10:
- 5 Delete "\$1,200"
- 6 Insert "\$750"
- 7
- 8 Page 9, line 13:
- 9 Delete "\$1,200"
- 10 Insert "\$750"

AMENDMENT

✓
#3
adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

- 1 Page 12, line 29:
- 2 Delete "residents are"
- 3 Insert "the resident is"
- 4
- 5 Page 12, line 31:
- 6 Delete "residents are"
- 7 Insert "resident is"

AMENDMENT ✓ #4 adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

1 Page 1, line 3, following "date;":

2 Insert "relating to electronic monitoring for certain persons convicted of driving
3 while under the influence;"

4

5 Page 13, following line 31:

6 Insert a new bill section to read:

7 **** Sec. 26.** AS 28.35.030(k) is amended to read:

8 (k) Imprisonment required under (b)(1)(A) of this section shall be served by
9 electronic monitoring, or at a community residential center. If electronic
10 monitoring or [OR, IF] a community residential center is not available,
11 imprisonment required under (b)(1)(A) of this section may be served at another
12 appropriate place determined by the commissioner of corrections. Imprisonment
13 required under (b)(1)(B) - (F) of this section may be served at a community residential
14 center or at a private residence if approved by the commissioner of corrections.
15 Imprisonment served at a private residence must include electronic monitoring. The
16 cost of imprisonment resulting from the sentence imposed under (b)(1) of this section
17 shall be paid to the state by the person being sentenced provided, however, that the
18 cost of imprisonment required to be paid under this subsection may not exceed \$2,000.
19 Upon the person's conviction, the court shall include the costs of imprisonment as a
20 part of the judgment of conviction. Except for reimbursement from a permanent fund
21 dividend as provided in this subsection, payment of the cost of imprisonment is not
22 required if the court determines the person is indigent. For costs of imprisonment that
23 are not paid by the person as required by this subsection, the state shall seek

1 reimbursement from the person's permanent fund dividend as provided under
 2 AS 43.23.065. While at the community residential center or other appropriate place, a
 3 person sentenced under (b)(1)(A) of this section shall perform at least 24 hours of
 4 community service work. A person sentenced under (b)(1)(B) of this section shall
 5 perform at least 160 hours of community service work, as required by the director of
 6 the community residential center or other appropriate place, or as required by the
 7 commissioner of corrections if the sentence is being served at a private residence. In
 8 this subsection, "appropriate place" means a facility with 24-hour on-site staff
 9 supervision that is specifically adapted to provide a residence, and includes a
 10 correctional center, residential treatment facility, hospital, halfway house, group home,
 11 work farm, work camp, or other place that provides varying levels of restriction."
 12

13 Renumber the following bill sections accordingly.
 14

15 Page 23, line 17:

16 Delete "secs. 1 - 28 and 30 - 34"

17 Insert "secs. 1 - 29 and 31 - 35"
 18

19 Page 23, line 18, following "Act,":

20 Insert "AS 28.35.030(k), as amended by sec. 26 of this Act,"
 21

22 Page 23, line 19:

23 Delete "sec. 26"

24 Insert "sec. 27"

25 Delete "sec. 27"

26 Insert "sec. 28"
 27

28 Page 23, line 20:

29 Delete "sec. 28"

30 Insert "sec. 29"
 31

- 1 Page 23, line 21:
 - 2 Delete "sec. 32"
 - 3 Insert "sec. 33"
 - 4
- 5 Page 23, line 22:
 - 6 Delete "secs. 1 - 28 and 30 - 34"
 - 7 Insert "secs. 1 - 29 and 31 - 35"
 - 8
- 9 Page 23, line 23:
 - 10 Delete "secs. 1 - 28 and 30 - 34"
 - 11 Insert "secs. 1 - 29 and 31 - 35"
 - 12
- 13 Page 23, line 27:
 - 14 Delete "sec. 30"
 - 15 Insert "sec. 31"
 - 16
- 17 Page 23, line 29:
 - 18 Delete "sec. 30"
 - 19 Insert "sec. 31"
 - 20
- 21 Page 24, line 3:
 - 22 Delete "sec. 26"
 - 23 Insert "sec. 27"
 - 24
- 25 Page 24, line 6:
 - 26 Delete "sec. 27"
 - 27 Insert "sec. 28"
 - 28 Delete "sec. 28"
 - 29 Insert "sec. 29"
 - 30
- 31 Page 24, line 9:

- 1 Delete "sec. 32"
- 2 Insert "sec. 33"
- 3
- 4 Page 24, line 12:
 - 5 Delete "Section 29"
 - 6 Insert "Section 30"
 - 7
- 8 Page 24, line 13:
 - 9 Delete "Section 36"
 - 10 Insert "Section 37"
 - 11
- 12 Page 24, line 14:
 - 13 Delete "Sections 1 - 28 and 30 - 34"
 - 14 Insert "Sections 1 - 29 and 31 - 35"

AMENDMENT

✓
#5 adopted

conceptual amendment #1
adopted
2017

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

- 1 Page 17, line 16, following "more":
- 2 Insert "and provide to the legislature, by January 15, during the first regular
- 3 session of each legislature, a report summarizing the findings and results of the
- 4 program"

AMENDMENT

✓ #6 adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

- 1 Page 20, line 26:
- 2 Delete "June 30"
- 3 Insert "January 1"

AMENDMENT #11 ✓ adopted

OFFERED IN THE HOUSE

TO: CSSB 64(FIN)

- 1 Page 18, line 27, following "and":
- 2 Insert "criminal justice"
- 3
- 4 Page 18, line 28:
- 5 Delete "sentences"
- 6 Insert "those sentencing laws and criminal justice practices"
- 7
- 8 Page 18, line 29, following "crimes,":
- 9 Insert "the rights of the accused and the person convicted,"
- 10
- 11 Page 18, line 31, following "practices":
- 12 Insert "and criminal justice practices, including rehabilitation and restitution"
- 13
- 14 Page 19, line 2:
- 15 Delete "and court rules related"
- 16 Insert ", court rules, and court decisions relevant"
- 17
- 18 Page 19, line 6:
- 19 Delete "and proportionality"
- 20 Insert "proportionality, and accountability"
- 21
- 22 Page 19, line 8:
- 23 Delete "use"

1 Insert "efficacy"

2

3 Page 19, lines 8 - 9:

4 Delete "sentencing criminal defendants and to ensure"

5 Insert "reducing recidivism, achieving rehabilitation, and ensuring"

6

7 Page 19, line 16, following "resources;":

8 Insert "and"

9

10 Page 19, line 17:

11 Delete all material.

12

13 Renumber the following paragraph accordingly.

14

15 Page 19, line 19:

16 Delete "collection and dissemination"

17 Insert "collection, dissemination, and extrapolation"

18

19 Page 19, lines 21 - 26:

20 Delete all material and insert:

21 "(1) recommend legislative and administrative action on criminal
22 justice practices; and

23 (2) select and retain the services of consultants as necessary."

24

25 Page 19, line 31:

26 Delete "criminals"

27 Insert "and administering justice"

28

29 Page 20, line 6, following "confine":

30 Insert "violent"

31

1 Page 20, lines 14 - 15:

2 Delete "the resources available to agencies in the criminal justice system; and"

3 Insert "the sufficiency of state agency resources to administer the state's criminal
4 justice system;"

Proposed conceptual amendment

5
6 Page 20, line 16:

7 Delete "sentencing"

8 Insert "criminal justice laws and practices"

9
10 Page 20, line 17, following "state":

11 Insert ";

12 (K) peer reviewed and data-driven research;

13 (L) the effect of over-classification of prisoners; and

14 (M) the effects of evidence-based restorative justice initiatives

15 on persons convicted of criminal violations and offenses, the victim, and the

16 community"

AMENDMENT

✓ #12 adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

- 1 Page 2, line 20, following "person":
- 2 Insert ", with the intent to take or keep the child or incompetent person"

OK MG

AMENDMENT

✓ adopted
#10/4
Y - - N

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

1 Page 1, line 6, following "and parole;":

2 Insert "**relating to a mitigating factor for a person suffering from combat-related**
3 **post-traumatic stress disorder or combat-related traumatic brain injury**"

4

5 Page 13, following line 27:

6 Insert a new bill section to read:

7 "*** Sec. 25.** AS 12.55.155(d) is amended to read:

8 (d) The following factors shall be considered by the sentencing court if proven
9 in accordance with this section, and may allow imposition of a sentence below the
10 presumptive range set out in AS 12.55.125:

11 (1) the offense was principally accomplished by another person, and
12 the defendant manifested extreme caution or sincere concern for the safety or well-
13 being of the victim;

14 (2) the defendant, although an accomplice, played only a minor role in
15 the commission of the offense;

16 (3) the defendant committed the offense under some degree of duress,
17 coercion, threat, or compulsion insufficient to constitute a complete defense, but that
18 significantly affected the defendant's conduct;

19 (4) the conduct of a youthful defendant was substantially influenced by
20 another person more mature than the defendant;

21 (5) the conduct of an aged defendant was substantially a product of
22 physical or mental infirmities resulting from the defendant's age;

23 (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the

1 defendant acted with serious provocation from the victim;

2 (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,
3 the victim provoked the crime to a significant degree;

4 (8) before the defendant knew that the criminal conduct had been
5 discovered, the defendant fully compensated or made a good faith effort to fully
6 compensate the victim of the defendant's criminal conduct for any damage or injury
7 sustained;

8 (9) the conduct constituting the offense was among the least serious
9 conduct included in the definition of the offense;

10 (10) the defendant was motivated to commit the offense solely by an
11 overwhelming compulsion to provide for emergency necessities for the defendant's
12 immediate family;

13 (11) after commission of the offense for which the defendant is being
14 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other
15 persons who committed an offense;

16 (12) the facts surrounding the commission of the offense and any
17 previous offenses by the defendant establish that the harm caused by the defendant's
18 conduct is consistently minor and inconsistent with the imposition of a substantial
19 period of imprisonment;

20 (13) the defendant is convicted of an offense specified in AS 11.71 and
21 the offense involved small quantities of a controlled substance;

22 (14) the defendant is convicted of an offense specified in AS 11.71 and
23 the offense involved the distribution of a controlled substance, other than a schedule
24 IA controlled substance, to a personal acquaintance who is 19 years of age or older for
25 no profit;

26 (15) the defendant is convicted of an offense specified in AS 11.71 and
27 the offense involved the possession of a small amount of a controlled substance for
28 personal use in the defendant's home;

29 (16) in a conviction for assault or attempted assault or for homicide or
30 attempted homicide, the defendant acted in response to domestic violence perpetrated
31 by the victim against the defendant and the domestic violence consisted of aggravated

1 or repeated instances of assaultive behavior;

2 (17) except in the case of an offense defined by AS 11.41 or
3 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the
4 time of sentencing, has successfully completed a court-ordered treatment program as
5 defined in AS 28.35.028 that was begun after the offense was committed;

6 (18) except in the case of an offense defined under AS 11.41 or
7 AS 11.46.400 or a defendant who has previously been convicted of a felony, the
8 defendant committed the offense while suffering from a mental disease or defect as
9 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that
10 significantly affected the defendant's conduct;

11 (19) the defendant is convicted of an offense under AS 11.71, and the
12 defendant sought medical assistance for another person who was experiencing a drug
13 overdose contemporaneously with the commission of the offense;

14 (20) except in the case of an offense defined under AS 11.41 or
15 AS 11.46.400, the defendant committed the offense while suffering from a condition
16 diagnosed

17 (A) as a fetal alcohol spectrum disorder, the fetal alcohol
18 spectrum disorder substantially impaired the defendant's judgment, behavior,
19 capacity to recognize reality, or ability to cope with the ordinary demands of
20 life, and the fetal alcohol spectrum disorder, though insufficient to constitute a
21 complete defense, significantly affected the defendant's conduct; in this
22 paragraph, "fetal alcohol spectrum disorder" means a condition of impaired
23 brain function in the range of permanent birth defects caused by maternal
24 consumption of alcohol during pregnancy; or

25 (B) as combat-related post-traumatic stress disorder or
26 combat-related traumatic brain injury, the combat-related post-traumatic
27 stress disorder or combat-related traumatic brain injury substantially
28 impaired the defendant's judgment, behavior, capacity to recognize
29 reality, or ability to cope with the ordinary demands of life, and the
30 combat-related post-traumatic stress disorder or combat-related
31 traumatic brain injury, though insufficient to constitute a complete

1 defense, significantly affected the defendant's conduct; in this paragraph,
2 "combat-related post-traumatic stress disorder or combat-related
3 traumatic brain injury" means post-traumatic stress disorder or
4 traumatic brain injury resulting from combat with an enemy of the
5 United States in the line of duty while on active duty as a member of the
6 armed forces of the United States; nothing in this paragraph is intended to
7 limit the application of (18) of this subsection."
8

9 Renumber the following bill sections accordingly.

10
11 Page 23, line 17:

12 Delete "secs. 1 - 28 and 30 - 34"

13 Insert "secs. 1 - 29 and 31 - 35"

14
15 Page 23, line 19:

16 Delete "sec. 26"

17 Insert "sec. 27"

18 Delete "sec. 27"

19 Insert "sec. 28"

20
21 Page 23, line 20:

22 Delete "sec. 28"

23 Insert "sec. 29"

24
25 Page 23, line 21:

26 Delete "sec. 32"

27 Insert "sec. 33"

28
29 Page 23, line 22:

30 Delete "secs. 1 - 28 and 30 - 34"

31 Insert "secs. 1 - 29 and 31 - 35"

1

2 Page 23, line 23:

3 Delete "secs. 1 - 28 and 30 - 34"

4 Insert "secs. 1 - 29 and 31 - 35"

5

6 Page 23, following line 23:

7 Insert a new subsection to read:

8 "(c) AS 12.55.155(d)(20), as amended by sec. 25 of this Act, applies to
9 prosecutions occurring on or after the effective date of sec. 25 of this Act for offenses
10 occurring before, on, or after the effective date of sec. 25 of this Act."

11

12 Page 23, line 27:

13 Delete "sec. 30"

14 Insert "sec. 31"

15

16 Page 23, line 29:

17 Delete "sec. 30"

18 Insert "sec. 31"

19

20 Page 24, line 3:

21 Delete "sec. 26"

22 Insert "sec. 27"

23

24 Page 24, line 6:

25 Delete "sec. 27"

26 Insert "sec. 28"

27 Delete "sec. 28"

28 Insert "sec. 29"

29

30 Page 24, line 9:

31 Delete "sec. 32"

1 Insert "sec. 33"

2

3 Page 24, line 12:

4 Delete "Section 29"

5 Insert "Section 30"

6

7 Page 24, line 13:

8 Delete "Section 36"

9 Insert "Section 37"

10

11 Page 24, line 14:

12 Delete "Sections 1 - 28 and 30 - 34"

13 Insert "Sections 1 - 29 and 31 - 35"

AMENDMENT #15 ✓
adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

1 Page 17, line 21:

2 Delete "10"

3 Insert "12"

4

5 Page 18, following line 5:

6 Insert new paragraphs to read:

7 "(9) one victims' rights advocate appointed by the governor for a three-
8 year term;

9 (10) the chief executive officer of the Alaska Mental Health Trust
10 Authority or a designee of the chief executive officer;"

11

12 Renumber the following paragraphs accordingly.

13

14 Page 18, line 10:

15 Delete "(a)(7) or (8)"

16 Insert "(a)(7) - (9)"

*conceptual
amendment #1
delete line 9 & 10
Passed*

AMENDMENT

#16
adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

1 Page 1, line 3, following "date;":

2 Insert "allowing a reduction of penalties for offenders successfully completing
3 court-ordered treatment programs for persons convicted of driving while under the
4 influence; relating to termination of a revocation of a person's driver's license; relating
5 to limitation of drivers' licenses; relating to restoration of a driver's license;"

6

7 Page 13, following line 31:

8 Insert new bill sections to read:

9 "* **Sec. 26.** AS 28.15.181(f) is amended to read:

10 (f) The court may terminate a revocation for an offense described in (a)(5) or
11 (8) of this section if

12 (1) either

13 (A) the person's license, privilege to drive, or privilege to
14 obtain a license has been revoked for the minimum periods set out in (c) of this
15 section; or

16 (B) the person

17 (i) has successfully completed a court-ordered
18 treatment program under AS 28.35.028;

19 (ii) has not been convicted of a violation of
20 AS 28.35.030 or 28.35.032, or a similar law or ordinance of this or
21 another jurisdiction since completing the program; and

22 (iii) has been granted limited license privileges under
23 AS 28.15.201(g) and has successfully driven for two years under

1 that limited license without having the limited license privileges
2 revoked; and

3 (2) the person complies with the provisions of AS 28.15.211(d) and
4 (e).

5 * **Sec. 27.** AS 28.15.201 is amended by adding new subsections to read:

6 (g) Notwithstanding (d) of this section, a court revoking a driver's license,
7 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the
8 department when revoking a driver's license, privilege to drive, or privilege to obtain a
9 license under AS 28.15.165(c), may grant limited license privileges if

10 (1) the revocation was for a felony conviction under AS 28.35.030;

11 (2) the person has successfully participated for at least six months in,
12 or has successfully completed, a court-ordered treatment program under
13 AS 28.35.028;

14 (3) the person provides proof of insurance as required by AS 28.20.230
15 and 28.20.240;

16 (4) the court requires the person to use an ignition interlock device
17 during the period of the limited license whenever the person operates a motor vehicle
18 in a community not included in the list published by the department under
19 AS 28.22.011(b) and, when applicable,

20 (A) the person provides proof of installation of the ignition
21 interlock device on every vehicle the person operates;

22 (B) the person signs an affidavit acknowledging that

23 (i) operation by the person of a vehicle that is not
24 equipped with an ignition interlock device is subject to penalties for
25 driving with a revoked license;

26 (ii) circumventing or tampering with the ignition
27 interlock device is a class A misdemeanor; and

28 (iii) the person is required to maintain the ignition
29 interlock device throughout the period of the limited license, to keep
30 up-to-date records in each vehicle showing that any required service
31 and calibration is current, and to produce those records immediately on

1 request;

2 (5) the person is enrolled in and is in compliance with or has
3 successfully completed the alcoholism screening, evaluation, referral, and program
4 requirements of the Department of Health and Social Services under AS 28.35.030(h);

5 (6) the person has not previously been granted a limited license under
6 this subsection and had the license revoked under (h) of this section;

7 (7) the person complies with a program established under
8 AS 47.38.020 for a minimum of 120 days from the date a limited license is granted
9 under this section.

10 (h) The court or the department may immediately revoke a limited license
11 granted under (g) of this section if the person is convicted of a violation of
12 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction.

13 * **Sec. 28.** AS 28.35.028(b) is amended to read:

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

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

10 * **Sec. 29.** AS 28.35.030(o) is amended to read:

11 (o) Upon request, the department shall review a driver's license revocation
 12 imposed under (n)(3) of this section and

13 **(1) may restore the driver's license if**

14 **(A) [(1)] the license has been revoked for a period of at least 10**
 15 **years;**

16 **(B) [(2)] the person has not been convicted of a criminal**
 17 **offense since the license was revoked; and**

18 **(C) [(3)] the person provides proof of financial responsibility;**

19 **(2) shall restore the driver's license if**

20 **(A) the person has been granted limited license privileges**
 21 **under AS 28.15.201(g) and has successfully driven under that limited**
 22 **license for two years without having the limited license privileges revoked;**

23 **(B) the person has successfully completed a court-ordered**
 24 **treatment program under AS 28.35.028;**

25 **(C) the court previously terminated the person's revocation**
 26 **as provided in AS 28.15.181(f)(1)(B);**

27 **(D) the person has not been convicted of a violation of**
 28 **AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another**
 29 **jurisdiction since the license was revoked;**

30 **(E) the person's privilege to drive may be restored as**
 31 **provided in AS 28.15.211; and**

(F) the person provides proof of financial responsibility.

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Renumber the following bill sections accordingly.

Page 23, line 17:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 32 and 34 - 38"

Page 23, line 18, following "Act,":

Insert "AS 28.15.181(f), as amended by sec. 26 of this Act, AS 28.15.201(g) and (h), enacted by sec. 27 of this Act, AS 28.35.028(b), as amended by sec. 28 of this Act, AS 28.35.030(o), as amended by sec. 29 of this Act,"

Page 23, line 19:

Delete "sec. 26"

Insert "sec. 30"

Delete "sec. 27"

Insert "sec. 31"

Page 23, line 20:

Delete "sec. 28"

Insert "sec. 32"

Page 23, line 21:

Delete "sec. 32"

Insert "sec. 36"

Page 23, line 22:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 32 and 34 - 38"

1 Page 23, line 23:

2 Delete "secs. 1 - 28 and 30 - 34"

3 Insert "secs. 1 - 32 and 34 - 38"

4

5 Page 23, line 27:

6 Delete "sec. 30"

7 Insert "sec. 34"

8

9 Page 23, line 29:

10 Delete "sec. 30"

11 Insert "sec. 34"

12

13 Page 24, line 3:

14 Delete "sec. 26"

15 Insert "sec. 30"

16

17 Page 24, line 6:

18 Delete "sec. 27"

19 Insert "sec. 31"

20 Delete "sec. 28"

21 Insert "sec. 32"

22

23 Page 24, line 9:

24 Delete "sec. 32"

25 Insert "sec. 36"

26

27 Page 24, line 12:

28 Delete "Section 29"

29 Insert "Section 33"

30

31 Page 24, line 13:

- 1 Delete "Section 36"
- 2 Insert "Section 40"
- 3
- 4 Page 24, line 14:
- 5 Delete "Sections 1 - 28 and 30 - 34"
- 6 Insert "Sections 1 - 32 and 34 - 38"

AMENDMENT #17

adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

1 Page 2, line 1, following "Services;":

2 Insert "relating to the confidentiality of certain records of criminal cases;"

3

4 Page 2, following line 2:

5 Insert a new bill section to read:

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

8 LEGISLATIVE INTENT FOR SEC. 27 OF THIS ACT. It is the intent of the
9 legislature in sec. 27 of this Act that, to the extent practicable, the Alaska Court System hold
10 confidential records of criminal cases that were disposed of before the effective date of sec.
11 27 of this Act by acquittal of all charges, by dismissal of all charges, or by acquittal of some
12 charges and dismissal of the remaining charges, to the same extent that records are held
13 confidential under AS 22.35.030, enacted by sec. 27 of this Act."

14

15 Page 2, line 3:

16 Delete "Section 1"

17 Insert "Sec. 2"

18

19 Renumber the following bill sections accordingly.

20

21 Page 13, following line 31:

22 Insert a new bill section to read:

23 **"* Sec. 27.** AS 22.35 is amended by adding a new section to read:

1 **Sec. 22.35.030. Records concerning criminal cases resulting in acquittal or**
2 **dismissal confidential.** (a) A court record of a criminal case is confidential if 120
3 days have elapsed from the date of acquittal or dismissal and

4 (1) the defendant was acquitted of all charges filed in the case;

5 (2) all criminal charges against the defendant in the case have been
6 dismissed by the prosecuting authority; or

7 (3) the defendant was acquitted of some of the criminal charges in the
8 case and the remaining charges were dismissed.

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

11 (1) employees of the Department of Health and Social Services who
12 are responsible for the health, safety, welfare, or placement of a child, a person with a
13 physical or intellectual disability, or a person with a mental illness;

14 (2) the public guardian under AS 13.26.370 or a guardian ad litem
15 supervised by the office of public advocacy;

16 (3) a person who is authorized to have access to the criminal justice
17 information network maintained by the Department of Public Safety under AS 12.62.

18 (c) The Department of Health and Social Services shall adopt regulations to
19 administer (b)(1) of this section."
20

21 Renumber the following bill sections accordingly.

22

23 Page 23, line 3:

24 Delete "sec. 1"

25 Insert "sec. 2"

26

27 Page 23, line 4:

28 Delete "sec. 2"

29 Insert "sec. 3"

30 Delete "sec. 3"

31 Insert "sec. 4"

1

2 Page 23, line 5:

3 Delete "sec. 4"

4 Insert "sec. 5"

5

6 Page 23, line 6:

7 Delete "sec. 5"

8 Insert "sec. 6"

9 Delete "sec. 6"

10 Insert "sec. 7"

11

12 Page 23, line 7:

13 Delete "sec. 7"

14 Insert "sec. 8"

15 Delete "sec. 8"

16 Insert "sec. 9"

17

18 Page 23, line 8:

19 Delete "sec. 9"

20 Insert "sec. 10"

21 Delete "sec. 10"

22 Insert "sec. 11"

23

24 Page 23, line 9:

25 Delete "sec. 11"

26 Insert "sec. 12"

27

28 Page 23, line 10:

29 Delete "sec. 12"

30 Insert "sec. 13"

31 Delete "sec. 13"

- 1 Insert "sec. 14"
- 2
- 3 Page 23, line 11:
- 4 Delete "sec. 14"
- 5 Insert "sec. 15"
- 6 Delete "sec. 15"
- 7 Insert "sec. 16"
- 8
- 9 Page 23, line 12:
- 10 Delete "sec. 16"
- 11 Insert "sec. 17"
- 12 Delete "sec. 17"
- 13 Insert "sec. 18"
- 14
- 15 Page 23, line 13:
- 16 Delete "sec. 18"
- 17 Insert "sec. 19"
- 18
- 19 Page 23, line 14:
- 20 Delete "sec. 19"
- 21 Insert "sec. 20"
- 22 Delete "sec. 20"
- 23 Insert "sec. 21"
- 24
- 25 Page 23, line 15:
- 26 Delete "sec. 21"
- 27 Insert "sec. 22"
- 28 Delete "sec. 22"
- 29 Insert "sec. 23"
- 30
- 31 Page 23, line 16:

- 1 Delete "sec. 23"
- 2 Insert "sec. 24"
- 3
- 4 Page 23, line 17:
 - 5 Delete "secs. 1 - 28 and 30 - 34"
 - 6 Insert "secs. 1 - 26, 28 - 30, and 32 - 36"
 - 7
- 8 Page 23, line 18:
 - 9 Delete "sec. 24"
 - 10 Insert "sec. 25"
 - 11
- 12 Page 23, line 19:
 - 13 Delete "sec. 26"
 - 14 Insert "sec. 28"
 - 15 Delete "sec. 27"
 - 16 Insert "sec. 29"
 - 17
- 18 Page 23, line 20:
 - 19 Delete "sec. 28"
 - 20 Insert "sec. 30"
 - 21
- 22 Page 23, line 21:
 - 23 Delete "sec. 32"
 - 24 Insert "sec. 34"
 - 25
- 26 Page 23, line 22:
 - 27 Delete "secs. 1 - 28 and 30 - 34"
 - 28 Insert "secs. 1 - 26, 28 - 30, and 32 - 36"
 - 29
- 30 Page 23, line 23:
 - 31 Delete "secs. 1 - 28 and 30 - 34"

1 Insert "secs. 1 - 26, 28 - 30, and 32 - 36"

2

3 Page 23, following line 23:

4 Insert a new subsection to read:

5 "(c) AS 22.35.030, enacted by sec. 27 of this Act, applies to criminal charges
6 concluded on or after the effective date of sec. 27 of this Act, by dismissal or by acquittal of
7 the defendant."

8

9 Page 23, line 27:

10 Delete "sec. 30"

11 Insert "sec. 32"

12

13 Page 23, line 29:

14 Delete "sec. 30"

15 Insert "sec. 32"

16

17 Page 24, line 3:

18 Delete "sec. 26"

19 Insert "sec. 28"

20

21 Page 24, line 6:

22 Delete "sec. 27"

23 Insert "sec. 29"

24 Delete "sec. 28"

25 Insert "sec. 30"

26

27 Page 24, line 9:

28 Delete "sec. 32"

29 Insert "sec. 34"

30

31 Page 24, following line 11:

1 Insert a new bill section to read:

2 **"* Sec. 39. Section 27 of this Act takes effect October 1, 2014."**

3

4 Renumber the following bill sections accordingly.

5

6 Page 24, line 12:

7 Delete "Section 29"

8 Insert "Section 31"

9

10 Page 24, line 13:

11 Delete "Section 36"

12 Insert "Section 38"

13

14 Page 24, line 14:

15 Delete "Sections 1 - 28 and 30 - 34"

16 Insert "Sections 1 - 26, 28 - 30, and 32 - 36"

AMENDMENT

#18
adopted

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

1 Page 23, following line 23:

2 Insert a new bill section to read:

3 **** Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 SPECIAL REPORT OF ALASKA CRIMINAL JUSTICE COMMISSION. The
6 Alaska Criminal Justice Commission shall submit to the governor and the legislature a special
7 report, not later than July 1, 2016, regarding alcohol-related offenses in AS 28. The report
8 must include recommendations on

9 (1) whether a revision of the alcohol-related offenses in AS 28 is necessary;

10 (2) maintaining both the administrative and court license revocation processes;

11 (3) the effectiveness of ignition interlock devices in reducing the offenses of
12 driving while under the influence of an alcoholic beverage, inhalant, or controlled substance
13 and refusal to submit to a chemical test, and reducing recidivism;

14 (4) whether the punishment, fines, and associated driver's license revocation
15 periods for the offenses of driving while under the influence of an alcoholic beverage,
16 inhalant, or controlled substance and refusal to submit to a chemical test should be decreased
17 or increased;

18 (5) the effectiveness of programs that promote offender accountability,
19 emphasize swift and certain, yet measured, punishment, reduce recidivism, and maximize the
20 offender's ability to remain productive in society;

21 (6) whether limited licenses should be available for persons charged with or
22 convicted of the offenses of driving while under the influence of an alcoholic beverage,
23 inhalant, or controlled substance or refusal to submit to a chemical test, while providing for

1 public safety."

2

3 Renumber the following bill sections accordingly.

4

5 Page 24, line 13:

6 Delete "Section 36"

7 Insert "Section 37"

not offering

AMENDMENT #2

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

BY REPRESENTATIVE GRUENBERG

1 Page 2, line 1, following "Services,":

2 Insert "relating to a report on social impact financing as a means to reduce
3 recidivism;"

4
5 Page 22, following line 31:

6 Insert a new bill section to read:

7 "* Sec. 34. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 SOCIAL IMPACT FINANCING STUDY AND REPORT ON RECIDIVISM
10 REDUCTION. (a) The Board of Trustees of the Alaska Mental Health Trust Authority, in
11 cooperation with the commissioner of health and social services and the commissioner of
12 corrections, shall study whether social impact financing may be used for the purpose of
13 funding programs that reduce recidivism for persons charged with violations or offenses
14 under state law, including grant programs under AS 47.38.100(c) and contracts for services.
15 The board and the commissioners shall prepare a report for the governor and the legislature
16 with findings and recommendations.

17 (b) The study and report prepared under (a) of this section shall include an evaluation
18 of whether social impact financing can be used to reduce recidivism rates by identifying and
19 evaluating

20 (1) grant programs, contracts, and services of the Department of Health and
21 Social Services and the Department of Corrections that may be suitable for social impact
22 financing;

23 (2) private sector investors providing social impact financing;

1 (3) guarantors that provide guarantees for funds invested by private sector
2 investors;

3 (4) programs operated by nonprofit corporations that could be funded through
4 a social impact financing mechanism;

5 (5) independent evaluators that could determine whether performance targets
6 for a nonprofit corporation funded by social impact financing are met at the end of an agreed
7 on time frame;

8 (6) whether federal funding is available for independent evaluators
9 participating in social impact financing; and

10 (7) the cost savings to the state from reductions in recidivism.

11 (c) The report shall be submitted to the governor and the legislature not later than
12 February 15, 2015."

13

14 Renumber the following bill sections accordingly.

15

16 Page 23, line 17:

17 Delete "30 - 34"

18 Insert "30 - 35"

19

20 Page 23, line 22:

21 Delete "30 - 34"

22 Insert "30 - 35"

23

24 Page 23, line 23:

25 Delete "30 - 34"

26 Insert "30 - 35"

27

28 Page 24, line 13:

29 Delete "Section 36"

30 Insert "Section 37"

31

- 1 Page 24, line 14:
- 2 Delete "30 - 34"
- 3 Insert "30 - 35"

withdrawn

AMENDMENT #7

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

BY REPRESENTATIVE GRUENBERG

1 Page 1, line 2, following "offenses;":

2 Insert "relating to the crime of unlawful evasion;"

3

4 Page 9, following line 14:

5 Insert new bill sections to read:

6 **** Sec. 20. AS 11.56.335(a) is amended to read:**

7 (a) A person commits the crime of unlawful evasion in the first degree if,
8 while charged with or convicted of a felony,

9 (1) the person fails to return to official detention within the time
10 authorized following temporary leave granted for a specific purpose or limited period,
11 including leave granted under AS 33.30.181; [OR]

12 (2) while on furlough under AS 33.30.101 - 33.30.131, the person fails
13 to return to the place of confinement or residence within the time authorized by those
14 having direct supervision over the person; or

15 (3) while assigned to a treatment or residential facility as a
16 condition of probation or parole

17 (A) the person fails to return to the facility within the time
18 authorized by those having direct supervision over the person;

19 (B) the person leaves the facility without permission of
20 those having direct supervision over the person; or

21 (C) the person is in transit to or from the facility, and the
22 person leaves the conveyance without the permission of those having
23 direct supervision over the person.

1 * Sec. 21. AS 11.56.340(a) is amended to read:

2 (a) A person commits the crime of unlawful evasion in the second degree if,
3 while charged with or convicted of a misdemeanor,

4 (1) the person fails to return to official detention within the time
5 authorized following temporary leave granted for a specific purpose or limited period,
6 including leave granted under AS 33.30.181; [OR]

7 (2) while on furlough under AS 33.30.101 - 33.30.131, the person fails
8 to return to the place of confinement or residence within the time authorized by those
9 having direct supervision over the person; or

10 (3) while assigned to a treatment or residential facility as a
11 condition of probation or parole.

12 (A) the person fails to return to the facility within the time
13 authorized by those having direct supervision over the person;

14 (B) the person leaves the facility without permission of
15 those having direct supervision over the person; or

16 (C) the person is in transit to or from the facility, and the
17 person leaves the conveyance without the permission of those having
18 direct supervision over the person."

19

20 Renumber the following bill sections accordingly.

21

22 Page 23, line 14:

23 Following the first occurrence of "Act,":

24 Insert "AS 11.56.335(a) as amended by sec. 20 of this Act, AS 11.56.340(a), as
25 amended by sec. 21 of this Act,"

26 Delete "sec. 20"

27 Insert "sec. 22"

28

29 Page 23, line 15:

30 Delete "sec. 21"

31 Insert "sec. 23"

- 1 Delete "sec. 22"
- 2 Insert "sec. 24"
- 3
- 4 Page 23, line 16:
- 5 Delete "sec. 23"
- 6 Insert "sec. 25"
- 7
- 8 Page 23, line 17:
- 9 Delete "secs. 1 - 28 and 30 - 34"
- 10 Insert "secs. 1 - 30 and 32 - 36"
- 11
- 12 Page 23, line 18:
- 13 Delete "sec. 24"
- 14 Insert "sec. 26"
- 15
- 16 Page 23, line 19:
- 17 Delete "sec. 26"

- 18 Insert "sec. 28"
- 19 Delete "sec. 27"
- 20 Insert "sec. 29"
- 21
- 22 Page 23, line 20:
- 23 Delete "sec. 28"
- 24 Insert "sec. 30"
- 25
- 26 Page 23, line 21:
- 27 Delete "sec. 32"
- 28 Insert "sec. 34"
- 29
- 30 Page 23, line 22:
- 31 Delete "secs. 1 - 28 and 30 - 34"

1 Insert "secs. 1 - 30 and 32 - 36"

2

3 Page 23, line 23:

4 Delete "secs. 1 - 28 and 30 - 34"

5 Insert "secs. 1 - 30 and 32 - 36"

6

7 Page 23, line 27:

8 Delete "sec. 30"

9 Insert "sec. 32"

10

11 Page 23, line 29:

12 Delete "sec. 30"

13 Insert "sec. 32"

14

15 Page 24, line 3:

16 Delete "sec. 26"

17 Insert "sec. 28"

18

19 Page 24, line 6:

20 Delete "sec. 27"

21 Insert "sec. 29"

22 Delete "sec. 28"

23 Insert "sec. 30"

24

25 Page 24, line 9:

26 Delete "sec. 32"

27 Insert "sec. 34"

28

29 Page 24, line 12:

30 Delete "Section 29"

31 Insert "Section 31"

1

2 Page 24, line 13:

3 Delete "Section 36"

4 Insert "Section 38"

5

6 Page 24, line 14:

7 Delete "Sections 1 - 28 and 30 - 34"

8 Insert "Sections 1 - 30 and 32 - 36"

AMENDMENT #8

*withdrawn
won't be offered*

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

1 Page 1, line 1, following "Act":

2 Insert "relating to persons restricted from purchasing alcoholic beverages;"

3

4 Page 2, following line 2:

5 Insert new bill sections to read:

6 **** Section 1.** AS 04.06.090 is amended by adding a new subsection to read:

7 (f) The board shall, on a quarterly basis, provide to licensees the list
8 maintained by the Department of Public Safety under AS 18.65.085(d) of persons who
9 are restricted from purchasing alcoholic beverages under AS 04.16.160. A licensee
10 may not use the information obtained from a list prepared by the Department of Public
11 Safety under AS 18.65.085(d) for a purpose not specified in this title.

12 *** Sec. 2.** AS 04.21.050(a) is amended to read:

13 (a) If a licensee or an agent or employee of the licensee questions or has
14 reason to question whether a person entering licensed premises, or ordering,
15 purchasing, attempting to purchase, or otherwise procuring or attempting to procure
16 alcoholic beverages,

17 (1) has attained the age of 21 years or is entering without consent in
18 violation of AS 04.16.049(a)(3) and has not attained the age of 16 years, that licensee,
19 agent, or employee shall require the person to furnish proof of age acceptable under
20 (b) of this section or proof of consent in a form determined by the board; if the person
21 questioned does not furnish proof of age acceptable under (b) of this section, or if a
22 licensee, agent, or employee questions or has reason to question the validity of the
23 proof of age furnished, the licensee, employee, or agent shall require the person to sign

1 a statement that the person is over the age of 21 or 16 years, as appropriate; this
 2 statement shall be made on a form prepared by and furnished to the licensee by the
 3 board;

4 (2) is restricted from purchasing alcoholic beverages under
 5 AS 04.16.160, the licensee, agent, or employee shall

6 (A) consult the list of restricted persons provided under
 7 AS 04.06.090: and

8 (B) if the person is not on the list, may, but has no duty or
 9 obligation to, require the person to furnish proof acceptable under (b) of this
 10 section that the person is not restricted from purchasing alcoholic beverages or
 11 require the person to sign a statement that the person is not restricted from
 12 purchasing alcoholic beverages under AS 04.16.160; this statement shall be
 13 made on a form prepared by and furnished to the licensee by the board."
 14

15 Page 2, line 3:

16 Delete "Section 1"

17 Insert "Sec. 3"

18
 19 Renumber the following bill sections accordingly.

20
 21 Page 13, following line 27:

22 Insert a new bill section to read:

23 **** Sec. 27.** AS 18.65.085 is amended by adding a new subsection to read:

24 (d) The Department of Public Safety shall, on a quarterly basis, provide to the
 25 Alcohol Beverage Control Board a list of persons who are restricted from purchasing
 26 alcohol under AS 04.16.160, including, if available, each person's name, age, date of
 27 birth, height, weight, and photographic image."
 28

29 Renumber the following bill sections accordingly.

30
 31 Page 13, following line 31:

1 Insert a new bill section to read:

2 **** Sec. 29.** AS 28.15.151 is amended by adding a new subsection to read:

3 (g) Notwithstanding another provision of this title, the department shall, upon
4 request, provide to the Department of Public Safety a person's name, age, date of birth,
5 height, weight, and photographic image for the list maintained under
6 AS 18.65.085(d)."

7

8 Renumber the following bill sections accordingly.

9

10 Page 22, following line 30:

11 Insert a new bill section to read:

12 **** Sec. 37.** AS 04.16.047(c) is repealed."

13

14 Renumber the following bill sections accordingly.

15

16 Page 23, line 3:

17 Delete "sec. 1"

18 Insert "sec. 3"

19

20 Page 23, line 4:

21 Delete "sec. 2"

22 Insert "sec. 4"

23 Delete "sec. 3"

24 Insert "sec. 5"

25

26 Page 23, line 5:

27 Delete "sec. 4"

28 Insert "sec. 6"

29

30 Page 23, line 6:

31 Delete "sec. 5"

1 Insert "sec. 7"

2 Delete "sec. 6"

3 Insert "sec. 8"

4

5 Page 23, line 7:

6 Delete "sec. 7"

7 Insert "sec. 9"

8 Delete "sec. 8"

9 Insert "sec. 10"

10

11 Page 23, line 8:

12 Delete "sec. 9"

13 Insert "sec. 11"

14 Delete "sec. 10"

15 Insert "sec. 12"

16

17 Page 23, line 9:

18 Delete "sec. 11"

19 Insert "sec. 13"

20

21 Page 23, line 10:

22 Delete "sec. 12"

23 Insert "sec. 14"

24 Delete "sec. 13"

25 Insert "sec. 15"

26

27 Page 23, line 11:

28 Delete "sec. 14"

29 Insert "sec. 16"

30 Delete "sec. 15"

31 Insert "sec. 17"

1

2 Page 23, line 12:

3 Delete "sec. 16"

4 Insert "sec. 18"

5 Delete "sec. 17"

6 Insert "sec. 19"

7

8 Page 23, line 13:

9 Delete "sec. 18"

10 Insert "sec. 20"

11

12 Page 23, line 14:

13 Delete "sec. 19"

14 Insert "sec. 21"

15 Delete "sec. 20"

16 Insert "sec. 22"

17

18 Page 23, line 15:

19 Delete "sec. 21"

20 Insert "sec. 23"

21 Delete "sec. 22"

22 Insert "sec. 24"

23

24 Page 23, line 16:

25 Delete "sec. 23"

26 Insert "sec. 25"

27

28 Page 23, line 17:

29 Delete "secs. 1 - 28 and 30 - 34"

30 Insert "secs. 3 - 26, 28, 30 - 32, and 34 - 39"

31

1 Page 23, line 18:

2 Delete "sec. 24"

3 Insert "sec. 26"

4

5 Page 23, line 19:

6 Delete "sec. 26"

7 Insert "sec. 30"

8 Delete "sec. 27"

9 Insert "sec. 31"

10

11 Page 23, line 20:

12 Delete "sec. 28"

13 Insert "sec. 32"

14

15 Page 23, line 21:

16 Delete "sec. 32"

17 Insert "sec. 36"

18

19 Page 23, line 22:

20 Delete "secs. 1 - 28 and 30 - 34"

21 Insert "secs. 3 - 26, 28, 30 - 32, and 34 - 39"

22

23 Page 23, line 23:

24 Delete "secs. 1 - 28 and 30 - 34"

25 Insert "secs. 3 - 26, 28, 30 - 32, and 34 - 39"

26

27 Page 23, line 27:

28 Delete "sec. 30"

29 Insert "sec. 34"

30

31 Page 23, line 29:

1 Delete "sec. 30"

2 Insert "sec. 34"

3

4 Page 24, line 3:

5 Delete "sec. 26"

6 Insert "sec. 30"

7

8 Page 24, line 6:

9 Delete "sec. 27"

10 Insert "sec. 31"

11 Delete "sec. 28"

12 Insert "sec. 32"

13

14 Page 24, line 9:

15 Delete "sec. 32"

16 Insert "sec. 36"

17

18 Page 24, line 12:

19 Delete "Section 29"

20 Insert "Section 33"

21

22 Page 24, line 13:

23 Delete "Section 36"

24 Insert "Sections 1, 2, 27, 29, 37, and 41 of this Act take"

25

26 Page 24, line 14:

27 Delete "Sections 1 - 28 and 30 - 34"

28 Insert "Sections 3 - 26, 28, 30 - 32, 34 - 36, 38, and 39"

working on that

AMENDMENT #9

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

BY REPRESENTATIVE GRUENBERG

1 Page 1, line 6, following "**and parole**";:

2 Insert "**relating to a mitigating factor in sentencing for a person suffering from**
3 **post-traumatic stress disorder or traumatic brain injury**;"

4

5 Page 13, following line 27:

6 Insert a new bill section to read:

7 **"* Sec. 25.** AS 12.55.155(d) is amended to read:

8 (d) The following factors shall be considered by the sentencing court if proven
9 in accordance with this section, and may allow imposition of a sentence below the
10 presumptive range set out in AS 12.55.125:

11 (1) the offense was principally accomplished by another person, and
12 the defendant manifested extreme caution or sincere concern for the safety or well-
13 being of the victim;

14 (2) the defendant, although an accomplice, played only a minor role in
15 the commission of the offense;

16 (3) the defendant committed the offense under some degree of duress,
17 coercion, threat, or compulsion insufficient to constitute a complete defense, but that
18 significantly affected the defendant's conduct;

19 (4) the conduct of a youthful defendant was substantially influenced by
20 another person more mature than the defendant;

21 (5) the conduct of an aged defendant was substantially a product of
22 physical or mental infirmities resulting from the defendant's age;

23 (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the

1 defendant acted with serious provocation from the victim;

2 (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,
3 the victim provoked the crime to a significant degree;

4 (8) before the defendant knew that the criminal conduct had been
5 discovered, the defendant fully compensated or made a good faith effort to fully
6 compensate the victim of the defendant's criminal conduct for any damage or injury
7 sustained;

8 (9) the conduct constituting the offense was among the least serious
9 conduct included in the definition of the offense;

10 (10) the defendant was motivated to commit the offense solely by an
11 overwhelming compulsion to provide for emergency necessities for the defendant's
12 immediate family;

13 (11) after commission of the offense for which the defendant is being
14 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other
15 persons who committed an offense;

16 (12) the facts surrounding the commission of the offense and any
17 previous offenses by the defendant establish that the harm caused by the defendant's
18 conduct is consistently minor and inconsistent with the imposition of a substantial
19 period of imprisonment;

20 (13) the defendant is convicted of an offense specified in AS 11.71 and
21 the offense involved small quantities of a controlled substance;

22 (14) the defendant is convicted of an offense specified in AS 11.71 and
23 the offense involved the distribution of a controlled substance, other than a schedule
24 IA controlled substance, to a personal acquaintance who is 19 years of age or older for
25 no profit;

26 (15) the defendant is convicted of an offense specified in AS 11.71 and
27 the offense involved the possession of a small amount of a controlled substance for
28 personal use in the defendant's home;

29 (16) in a conviction for assault or attempted assault or for homicide or
30 attempted homicide, the defendant acted in response to domestic violence perpetrated
31 by the victim against the defendant and the domestic violence consisted of aggravated

1 or repeated instances of assaultive behavior;

2 (17) except in the case of an offense defined by AS 11.41 or
3 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the
4 time of sentencing, has successfully completed a court-ordered treatment program as
5 defined in AS 28.35.028 that was begun after the offense was committed;

6 (18) except in the case of an offense defined under AS 11.41 or
7 AS 11.46.400 or a defendant who has previously been convicted of a felony, the
8 defendant committed the offense while suffering from a mental disease or defect as
9 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that
10 significantly affected the defendant's conduct;

11 (19) the defendant is convicted of an offense under AS 11.71, and the
12 defendant sought medical assistance for another person who was experiencing a drug
13 overdose contemporaneously with the commission of the offense;

14 (20) except in the case of an offense defined under AS 11.41 or
15 AS 11.46.400, the defendant committed the offense while suffering from a condition
16 diagnosed as a fetal alcohol spectrum disorder, the fetal alcohol spectrum disorder
17 substantially impaired the defendant's judgment, behavior, capacity to recognize
18 reality, or ability to cope with the ordinary demands of life, and the fetal alcohol
19 spectrum disorder, though insufficient to constitute a complete defense, significantly
20 affected the defendant's conduct; in this paragraph, "fetal alcohol spectrum disorder"
21 means a condition of impaired brain function in the range of permanent birth defects
22 caused by maternal consumption of alcohol during pregnancy;

23 **(21) except in the case of an offense defined under AS 11.41 or**
24 **AS 11.46.400, the defendant committed the offense while suffering from a**
25 **condition diagnosed as combat-related post-traumatic stress disorder or combat-**
26 **related traumatic brain injury, the combat-related post-traumatic stress disorder**
27 **or combat-related traumatic brain injury substantially impaired the defendant's**
28 **judgment, behavior, capacity to recognize reality, or ability to cope with the**
29 **ordinary demands of life, and the combat-related post-traumatic stress disorder**
30 **or combat-related traumatic brain injury, though insufficient to constitute a**
31 **complete defense, significantly affected the defendant's conduct; in this**

1 paragraph, "combat-related post-traumatic stress disorder or combat-related
2 traumatic brain injury" means post-traumatic stress disorder or traumatic brain
3 injury resulting from combat with an enemy of the United States in the line of
4 duty while on active duty as a member of the armed forces of the United States;
5 nothing in this paragraph is intended to limit the application of (18) of this
6 subsection."

7

8 Renumber the following bill sections accordingly.

9

10 Page 23, line 17:

11 Delete "secs. 1 - 28 and 30 - 34"

12 Insert "secs. 1 - 29 and 31 - 35"

13

14 Page 23, following line 23:

15 Insert a new subsection to read:

16 "(c) AS 12.55.155(d)(21), added by sec. 25 of this Act, applies to prosecutions
17 occurring on or after the effective date of sec. 25 of this Act for offenses occurring before, on,
18 or after the effective date of sec. 25 of this Act."

19

20 Page 23, line 19:

21 Delete "sec. 26"

22 Insert "sec. 27"

23 Delete "sec. 27"

24 Insert "sec. 28"

25

26 Page 23, line 20:

27 Delete "sec. 28"

28 Insert "sec. 29"

29

30 Page 23, line 21:

31 Delete "sec. 32"

- 1 Insert "sec. 33"
- 2
- 3 Page 23, line 22:
- 4 Delete "secs. 1 - 28 and 30 - 34"
- 5 Insert "secs. 1 - 29 and 31 - 35"
- 6
- 7 Page 23, line 23:
- 8 Delete "secs. 1 - 28 and 30 - 34"
- 9 Insert "secs. 1 - 29 and 31 - 35"
- 10
- 11 Page 23, line 27:
- 12 Delete "sec. 30"
- 13 Insert "sec. 31"
- 14
- 15 Page 23, line 29:
- 16 Delete "sec. 30"
- 17 Insert "sec. 31"
- 18
- 19 Page 24, line 3:
- 20 Delete "sec. 26"
- 21 Insert "sec. 27"
- 22
- 23 Page 24, line 6:
- 24 Delete "sec. 27"
- 25 Insert "sec. 28"
- 26 Delete "sec. 28"
- 27 Insert "sec. 29"
- 28
- 29 Page 24, line 9:
- 30 Delete "sec. 32"
- 31 Insert "sec. 33"

1

2 Page 24, line 12:

3 Delete "Section 29"

4 Insert "Section 30"

5

6 Page 24, line 13:

7 Delete "Section 36"

8 Insert "Section 37"

9

10 Page 24, line 14:

11 Delete "Sections 1 - 28 and 30 - 34"

12 Insert "Sections 1 - 29 and 31 - 35"

AMENDMENT

*#10 adopted
rescinded
and replaced w/ L.21*

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

- 1 Page 18, line 27, following "and":
2 Insert "criminal justice"
3
4 Page 18, line 28:
5 Delete "sentences"
6 Insert "those sentencing laws and criminal justice practices"
7
8 Page 18, line 29, following "crimes,":
9 Insert "the rights of the accused and the person convicted,"
10
11 Page 18, line 31, following "practices":
12 Insert "and criminal justice practices, including rehabilitation and restitution"
13
14 Page 19, line 2:
15 Delete "and court rules related"
16 Insert ", court rules, and court decisions relevant"
17
18 Page 19, line 6:
19 Delete "and proportionality"
20 Insert "proportionality, and accountability"
21
22 Page 19, line 8:
23 Delete "use"

Greenberg potential amendment?

- 1 Insert "efficacy"
- 2 Delete "sentencing criminal defendants and to ensure"
- 3 Insert "reducing recidivism, achieving rehabilitation, and ensuring"
- 4
- 5 Page 19, line 16, following "resources;":
- 6 Insert "and"
- 7
- 8 Page 19, line 17:
- 9 Delete all material.
- 10
- 11 Renumber the following paragraph accordingly.
- 12
- 13 Page 19, line 18:
- 14 Delete "effectiveness"
- 15 Insert "usability"
- 16
- 17 Page 19, line 19:
- 18 Delete "dissemination"
- 19 Insert "extrapolation"
- 20
- 21 Page 19, line 20, following "may":
- 22 Insert "select and retain the services of consultants."
- 23
- 24 Page 19, lines 21 - 26:
- 25 Delete all material.
- 26
- 27 Page 19, line 31:
- 28 Delete "criminals"
- 29 Insert "and administering justice"
- 30
- 31 Page 20, line 6, following "confine":

conceptual amendment #1 passed
reinsert effectiveness

conceptual amendment #2 passed
collection, dissemination, and extrapolation

Greenberg
reinsert (3)

1 Insert "violent"

2

3 Page 20, lines 14 - 15:

4 Delete "the resources available to agencies in the criminal justice system; and"

5 Insert "the sufficiency ^{of} in state agency resources to administer the state's criminal
6 justice system;"

*conceptual amendment #3
adopted*

7

8 Page 20, line 16:

9 Delete "sentencing"

10 Insert "criminal justice laws and practices"

11

12 Page 20, line 17, following "state":

13 Insert ";

14 (K) peer reviewed and data-driven research;

15 (L) the effect of over-classification of prisoners; and

16 (M) the effects of evidence-based restorative justice initiatives
17 on persons convicted of criminal violations and offenses, the victim, and the
18 community"

withheld
AMENDMENT #13

OFFERED IN THE HOUSE
TO: CSSB 64(FIN)

BY REPRESENTATIVE GRUENBERG

1 Page 1, line 2, following "offenses;":

2 Insert "relating to the crime of unlawful evasion;"

3

4 Page 9, following line 14:

5 Insert new bill sections to read:

6 **"* Sec. 20. AS 11.56.335(a) is amended to read:**

7 (a) A person commits the crime of unlawful evasion in the first degree if,
8 while charged with or convicted of a felony,

9 (1) the person fails to return to official detention within the time
10 authorized following temporary leave granted for a specific purpose or limited period,
11 including leave granted under AS 33.30.181; [OR]

12 (2) while on furlough under AS 33.30.101 - 33.30.131, the person fails
13 to return to the place of confinement or residence within the time authorized by those
14 having direct supervision over the person; or

15 (3) while assigned to a treatment or residential facility as a
16 condition of probation or parole

17 (A) the person fails to return to the facility within the time
18 authorized by those having direct supervision over the person;

19 (B) the person leaves the facility without permission of
20 those having direct supervision over the person; or

21 (C) the person is in transit to or from the facility, and the
22 person leaves the conveyance without the permission of those having
23 direct supervision over the person.

1 * Sec. 21. AS 11.56.340(a) is amended to read:

2 (a) A person commits the crime of unlawful evasion in the second degree if,
3 while charged with or convicted of a misdemeanor,

4 (1) the person fails to return to official detention within the time
5 authorized following temporary leave granted for a specific purpose or limited period,
6 including leave granted under AS 33.30.181; [OR]

7 (2) while on furlough under AS 33.30.101 - 33.30.131, the person fails
8 to return to the place of confinement or residence within the time authorized by those
9 having direct supervision over the person; or

10 (3) while assigned to a treatment or residential facility as a
11 condition of probation or parole.

12 (A) the person fails to return to the facility within the time
13 authorized by those having direct supervision over the person;

14 (B) the person leaves the facility without permission of
15 those having direct supervision over the person; or

16 (C) the person is in transit to or from the facility, and the
17 person leaves the conveyance without the permission of those having
18 direct supervision over the person."

19
20 Renumber the following bill sections accordingly.

21
22 Page 23, line 14:

23 Following the first occurrence of "Act,":

24 Insert "AS 11.56.335(a) as amended by sec. 20 of this Act, AS 11.56.340(a), as
25 amended by sec. 21 of this Act,"

26 Delete "sec. 20"

27 Insert "sec. 22"

28
29 Page 23, line 15:

30 Delete "sec. 21"

31 Insert "sec. 23"

- 1 Delete "sec. 22"
- 2 Insert "sec. 24"
- 3
- 4 Page 23, line 16:
 - 5 Delete "sec. 23"
 - 6 Insert "sec. 25"
 - 7
- 8 Page 23, line 17:
 - 9 Delete "secs. 1 - 28 and 30 - 34"
 - 10 Insert "secs. 1 - 30 and 32 - 36"
 - 11
- 12 Page 23, line 18:
 - 13 Delete "sec. 24"
 - 14 Insert "sec. 26"
 - 15
- 16 Page 23, line 19:
 - 17 Delete "sec. 26"

- 18 Insert "sec. 28"
- 19 Delete "sec. 27"
- 20 Insert "sec. 29"
- 21
- 22 Page 23, line 20:
 - 23 Delete "sec. 28"
 - 24 Insert "sec. 30"
 - 25
- 26 Page 23, line 21:
 - 27 Delete "sec. 32"
 - 28 Insert "sec. 34"
 - 29
- 30 Page 23, line 22:
 - 31 Delete "secs. 1 - 28 and 30 - 34"

1 Insert "secs. 1 - 30 and 32 - 36"

2

3 Page 23, line 23:

4 Delete "secs. 1 - 28 and 30 - 34"

5 Insert "secs. 1 - 30 and 32 - 36"

6

7 Page 23, line 27:

8 Delete "sec. 30"

9 Insert "sec. 32"

10

11 Page 23, line 29:

12 Delete "sec. 30"

13 Insert "sec. 32"

14

15 Page 24, line 3:

16 Delete "sec. 26"

17 Insert "sec. 28"

18

19 Page 24, line 6:

20 Delete "sec. 27"

21 Insert "sec. 29"

22 Delete "sec. 28"

23 Insert "sec. 30"

24

25 Page 24, line 9:

26 Delete "sec. 32"

27 Insert "sec. 34"

28

29 Page 24, line 12:

30 Delete "Section 29"

31 Insert "Section 31"

1

2 Page 24, line 13:

3 Delete "Section 36"

4 Insert "Section 38"

5

6 Page 24, line 14:

7 Delete "Sections 1 - 28 and 30 - 34"

8 Insert "Sections 1 - 30 and 32 - 36"

Fiscal Note

State of Alaska
2014 Legislative Session

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

Identifier: SB064CS(FIN)-LAW-CRIM-03-28-14
Title: OMNIBUS CRIME/CORRECTIONS/RECIDIVISM
BILL
Sponsor: JUDICIARY
Requester: (H) JUDICIARY

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

Expenditures/Revenues

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

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

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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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 latest version raises the threshold amount for certain theft offenses to \$1200; changes the department responsible for establishing a testing program from Correction to Health & Social Services; and reflects a change in the evaluation date from 2019 to 2018.

Prepared By:	<u>Loretta Withington, Division Operations Manager</u>	Phone:	<u>(907)465-5427</u>
Division:	<u>Department of Law</u>	Date:	<u>03/28/2014 12:00 AM</u>
Approved By:	<u>Michael C. Geraghty, Attorney General</u>	Date:	<u>03/28/14</u>
Agency:	<u>Department of Law</u>		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64 (FIN)

Analysis

CSSB 64(FIN) raises the threshold amounts for theft in the second, third, and fourth degrees. 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 \$1200 or more.

The bill prohibits a person who is not a relative of a child or has no legal right to do so to represent to the lawful custodian that the person has a legal right to take or keep a child or an incompetent person.

CSSB 64(FIN) requires the Department of Health & 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 probation officer, prosecutor, or local law enforcement office within 24 hours if the person fails to appear for an appointment required by the program or tests positive for alcohol or drugs. The bill also requires the Parole Board to establish a similar program for 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.

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 until June 30, 2018. It would be staffed by the Alaska Judicial Council.

No fiscal impact is anticipated by the Department of Law.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 64(FIN)
Fiscal Note Number: 19
(S) Publish Date: 3/14/14

Identifier: SB064CS(FIN)-ACS-TRC-03-12-14
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: Senate 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	Governor's FY2015 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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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 Senate 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>03/10/2014 08:00 AM</u>
Approved By: <u>Nancy Meade for Christine Johnson, Administrative Director</u>	Date: <u>03/10/14</u>
Agency: <u>Alaska Court System</u>	

FISCAL NOTE ANALYSIS #19

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(FIN)

Analysis

The CS for Senate Bill 64(FIN) 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.

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 \$1200 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 \$1200, 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 CSSB 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 29, 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 CSSB 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.

Under Section 25, 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 26-28 concern **parole conditions and required risk/needs assessments** for prisoners. These will not have a fiscal impact on the court system.

In addition to requiring DHSS to establish the "24/7" program, Section 29 also establishes a **recidivism reduction grant 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: CSSB 64(FIN)
Fiscal Note Number: 18
(S) Publish Date: 3/14/14

Identifier: SB064CS(FIN)-AJC-3-13-14
Title: OMNIBUS CRIME/CORRECTIONS 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 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services	126.3		126.3	126.3	126.3	126.3		
Travel	21.5		21.5	21.5	21.5	21.5		
Services	38.4		38.4	38.4	38.4	38.4		
Commodities	5.0		1.6	1.6	1.6	1.6		
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	191.2	0.0	187.8	187.8	187.8	187.8	0.0	0.0

Fund Source (Operating Only)

1004 Gen Fund	191.2		187.8	187.8	187.8		
Total	191.2	0.0	187.8	187.8	187.8	0.0	0.0

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

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 SB64(FIN) that creates a Criminal Justice Commission of ten members which would sunset after four years.
--

Prepared By: <u>Susanne DiPietro, Executive Director</u>	Phone: <u>(907)279-2526</u>
Division: <u>Alaska Judicial Council</u>	Date: <u>03/13/2014 11:41 AM</u>
Approved By: <u>Susanne DiPietro, Executive Director</u>	Date: <u>03/13/14</u>
Agency: <u>Alaska Judicial Council</u>	

FISCAL NOTE ANALYSIS #18

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(FIN)

Analysis

CSSB64(FIN) creates a Criminal Justice Commission of ten members which would sunset after four years.

Sections 25 and 30 of the CS require the Alaska Judicial Council to provide staff and administrative support to the ten-member commission. For this, 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. The attorney will guide the work and research agenda of the commission, and provide information to state policy makers as requested. The attorney also will research existing law and best practices from elsewhere (for example, Texas), work with the research analyst to define the scope and direction of the necessary data collection and analysis, and assist the commissioners in their efforts to bring forward ideas and proposals to decrease costs while promoting public safety.

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: CSSB 64(FIN)
Fiscal Note Number: 17
(S) Publish Date: 3/14/14

Identifier: SB064CS(FIN)-DOC-OC-03-12-14
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: Senate Finance

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

Expenditures/Revenues

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

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services	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	241.2		268.7	296.2	296.2	296.2	296.2
Commodities	98.0		116.6	135.2	135.2	135.2	135.2
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	1,603.7	0.0	2,149.3	2,694.8	2,694.8	2,694.8	2,694.8

Fund Source (Operating Only)

1004 Gen Fund	1,603.7		2,149.3	2,694.8	2,694.8	2,694.8	2,694.8
Total	1,603.7	0.0	2,149.3	2,694.8	2,694.8	2,694.8	2,694.8

Positions

Full-time	14.0		25.0	25.0	25.0	25.0	25.0
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? **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 Senate Finance Committee. This version increases the number of offenders receiving a risk assessment under the Department of Corrections. In addition, this version will transfer the development and administration of the 24/7 Sobriety Program and the Recidivism Reduction Grant fund to the Department of Health and Social Services.

Prepared By:	April Wilkerson, Director	Phone:	(907)465-3460
Division:	Administrative Services - Department of Corrections	Date:	03/12/2014 10:00 AM
Approved By:	Leslie Houston, Deputy Commissioner	Date:	03/12/14
Agency:	Department of Corrections		

FISCAL NOTE ANALYSIS #17

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(FIN)

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.

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 #17

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(FIN)

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, Plamer, 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: CSSB 64(FIN)
Fiscal Note Number: 16
(S) Publish Date: 3/14/14

Identifier: SB064CS (FIN) - DOC RRG 3-13-14
Title: OMNIBUS CRIME/CORRECTIONS 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 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services	500.0		500.0	500.0	500.0	500.0	500.0	500.0
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	500.0	0.0	500.0	500.0	500.0	500.0	500.0	500.0

Fund Source (Operating Only)

1004 Gen Fund	500.0		500.0	500.0	500.0	500.0	500.0	500.0
Total	500.0	0.0	500.0	500.0	500.0	500.0	500.0	500.0

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:

Initial Version

Prepared By: Co-Chair Senator Kelly Phone: (907)465-3753
Senate Finance Committee Date: 03/13/2014
Co-Chair Senator Meyer
Senate Finance Committee

FISCAL NOTE ANALYSIS #16

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(FIN)

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.

Fiscal Note

State of Alaska
2014 Legislative Session

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

Identifier: SB064CS(FIN)-DHSS-ASAP-03-13-14
Title: OMNIBUS CRIME/CORRECTIONS 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
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
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							
Total Operating	878.2	0.0	878.2	878.2	878.2	878.2	878.2

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
Total	878.2	0.0	878.2	878.2	878.2	878.2	878.2

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 Phone: (907)465-3753
Senate Finance Committee Date: 03/13/2014
Co-Chair Senator Meyer
Senate Finance Committee

FISCAL NOTE ANALYSIS #15

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(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 #15

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(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: 14
(S) Publish Date: 3/14/14

Identifier: SB064CS(FIN)-DHSS-ASS-03-13-14
Title: OMNIBUS CRIME/CORRECTIONS 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 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services	93.0		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	2.0
Commodities	1.0		1.0	1.0	1.0	1.0	1.0	1.0
Capital Outlay	5.0							
Grants & Benefits								
Miscellaneous								
Total Operating	101.0	0.0	96.0	96.0	96.0	96.0	96.0	96.0

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
Total	101.0	0.0	96.0	96.0	96.0	96.0	96.0

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 Phone: (907)465-3753
Senate Finance Committee Date: 03/13/2014
Co-Chair Senator Meyer
Senate Finance Committee

FISCAL NOTE ANALYSIS #14

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(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(JUD)
Fiscal Note Number: 13
(S) Publish Date: 2/14/14

Identifier: SB064-OOG-EO-2-14-14
Title: OMNIBUS CRIME/CORRECTIONS 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
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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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.

Prepared By:	Guy Bell, Director of Administrative Services	Phone:	(907)465-3876
Division:	Administrative Services	Date:	02/14/2014 09:00 AM
Approved By:	Guy Bell, Director of Administrative Services	Date:	02/14/14
Agency:	Office of the Governor		

FISCAL NOTE ANALYSIS #13

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(JUD)
Fiscal Note Number: 11
(S) Publish Date: 2/14/14

Identifier: SB064CS(JUD)-LAW-CRIM-02-13-14
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: (S) JUDICIARY

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

Expenditures/Revenues

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

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

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change In Revenues								
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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 the provisions raising the threshold amounts for certain theft offenses. It deletes the portion of the former bill that addressed limited drivers licenses for persons in therapeutic court and the return of driving privileges for persons who complete therapeutic court.

Prepared By: <u>Loretta Withington, Division Operations Manager</u>	Phone: <u>(907)465-5427</u>
Division: <u>Department of Law</u>	Date: <u>02/13/2014 11:25 AM</u>
Approved By: <u>Michael C. Geraghty, Attorney General</u>	Date: <u>02/13/14</u>
Agency: <u>Department of Law</u>	

FISCAL NOTE ANALYSIS #11

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(JUD)

Analysis

CSSB 64(JUD) raises the threshold amounts for theft in the second, third, and fourth degrees. 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 prohibits a person who is not a relative of a child or has no legal right to do so to represent to the lawful custodian that the person has a legal right to take or keep a child or an incompetent person.

CSSB 64(JUD) requires the Department of Corrections 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 probation officer, prosecutor, or local law enforcement office within 24 hours if the person fails to appear for an appointment required by the program or tests positive for alcohol or drugs. The bill also requires the Parole Board to establish a similar program for 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.

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 June 30, 2019. It would be staffed by the Alaska Judicial Council.

No fiscal impact is anticipated by the Department of Law.

Fiscal Note

State of Alaska
2014 Legislative Session

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

Identifier: SB064CS(JUD)-DOA-OPA-02-13-2014
Title: OMNIBUS CRIME/CORRECTIONS 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 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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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: <u>Richard Allen, Director</u>	Phone: <u>(907)269-3504</u>
Division: <u>Office of Public Advocacy</u>	Date: <u>02/13/2014 08:30 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>02/13/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS #10

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(JUD)

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: 9
(S) Publish Date: 2/14/14

Identifier: SB064CS(JUD)-DOA-DMV-02-13-14
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: Senate Judiciary

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

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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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 sections of this bill that related to DMV have been removed from version 28-LS0116H.

Prepared By:	Amy Erickson, Director	Phone:	(907)269-5559
Division:	Division of Motor Vehicles	Date:	02/13/2014 09:00 AM
Approved By:	Curtis Thayer, Commissioner	Date:	02/13/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS #9

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(JUD)

Analysis

The current version of the bill has removed all of the sections that related to DMV. Therefore this bill has no impact on the operations of DMV and we are submitting a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

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

Identifier: SB064CS(JUD)-DOA-PDA-02-13-14
Title: OMNIBUS CRIME/CORRECTIONS 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
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

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

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

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

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Updated for new version of the bill.

Prepared By:	Quinlan Steiner, Public Defender	Phone:	(907)334-4414
Division:	Public Defender Agency	Date:	02/12/2014 04:50 PM
Approved By:	Curtis Thayer, Commissioner	Date:	02/13/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS #8

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 64(JUD)

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.



Senate Bill 64

Omnibus Crime/Corrections Bill

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



Goose Creek Correctional Center
Completed in 2011

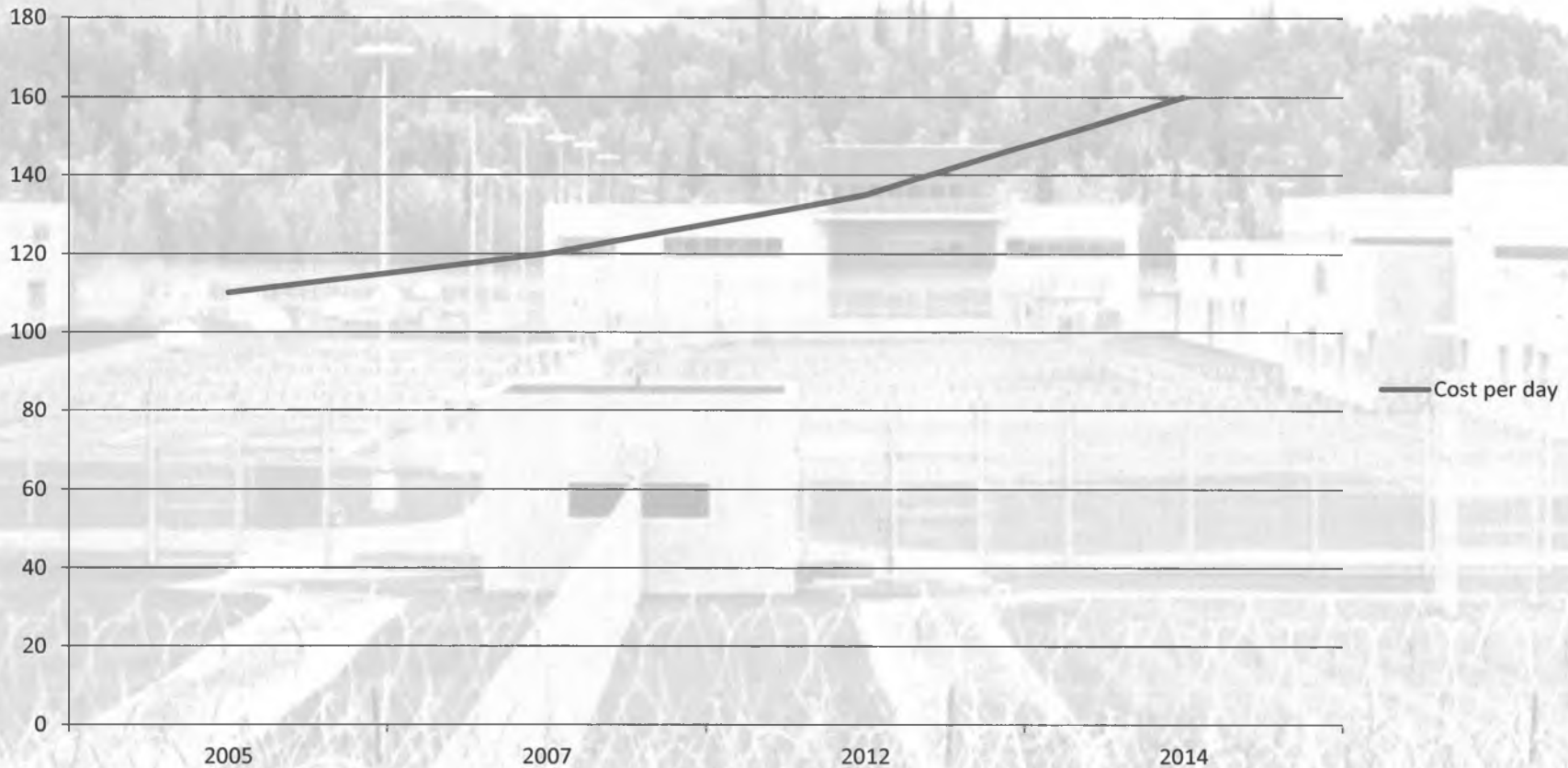
\$250 million

+

\$50 million a year to
operate

Cost per Day to Incarcerate

\$159/day per inmate

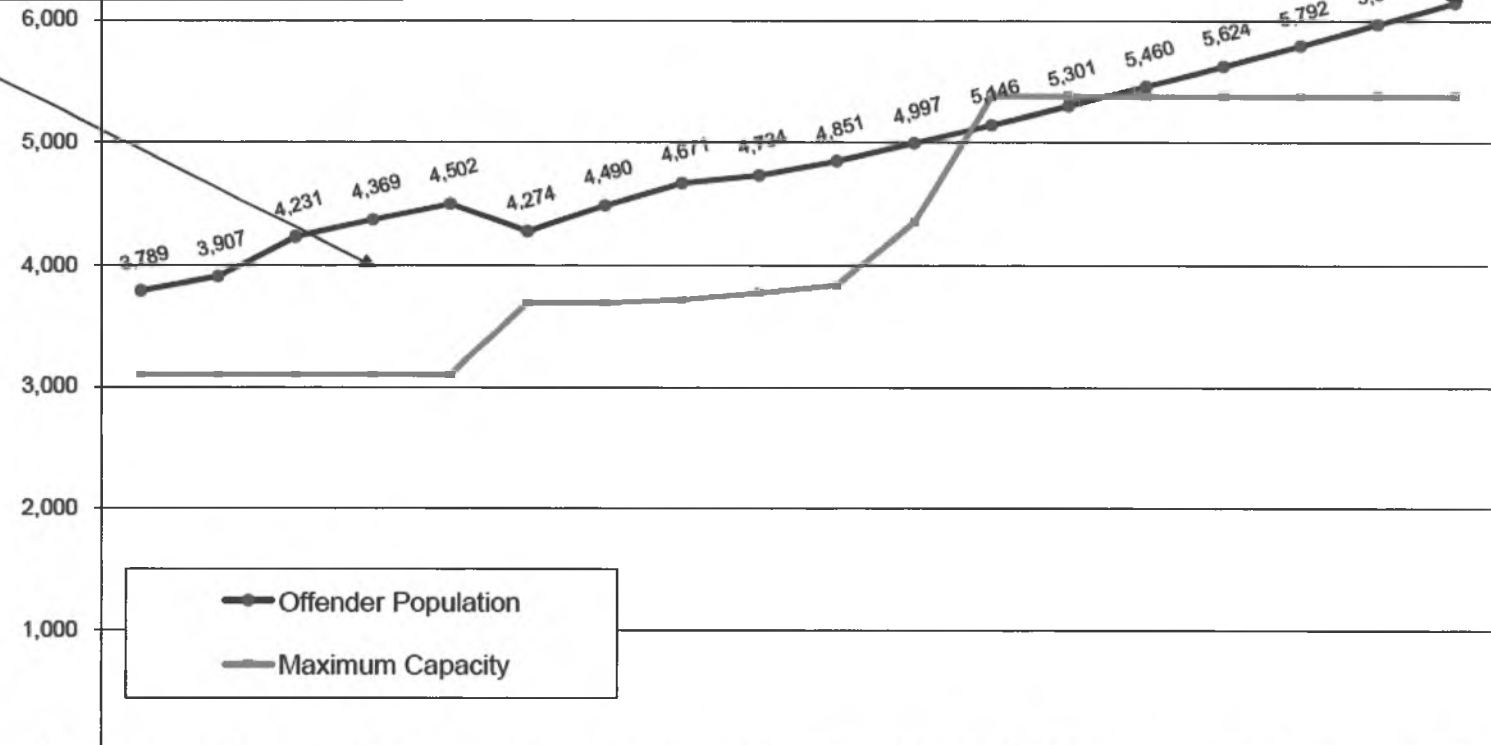


\$54k per year

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.



	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. 4

Sentencing and Corrections Reforms in Justice Reinvestment States

Policy Reform	2013				2012				2011				2010		2009		2008				2007			Total								
	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.

Goals

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

DOC Mission Statement

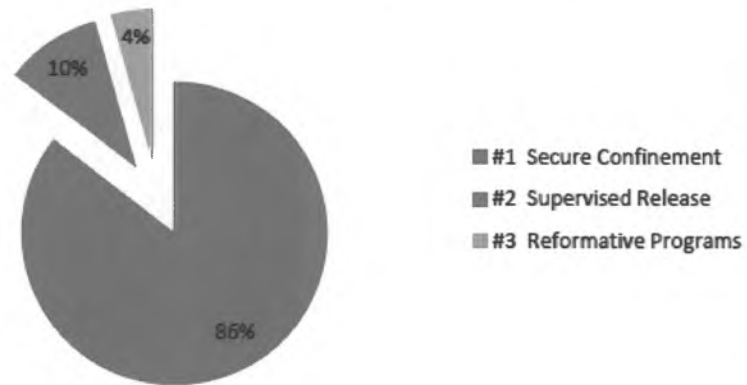
The Alaska Department of Corrections provides **secure confinement**, **reformative programs**, and a process of supervised **community reintegration** to enhance the safety of our communities.

Department of Corrections - Key Performance Indicators

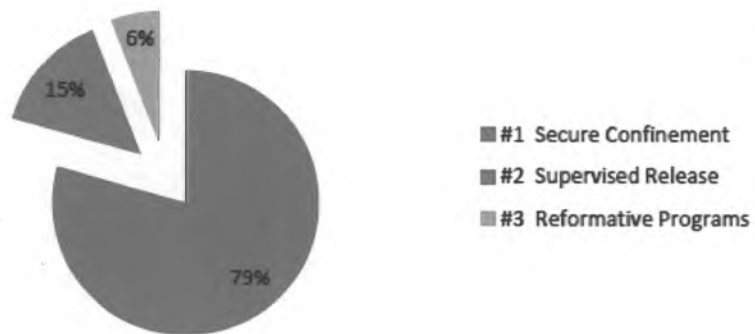
	FT Positions	Total Funds
#1 Secure Confinement	1591	265,134,400.00
#2 Supervised Release	189	49,126,200
#3 Reformatory Programs	81	19,806,200
Total:	1861	334,066,800.00

Source: Office of Budget and Management, 2013

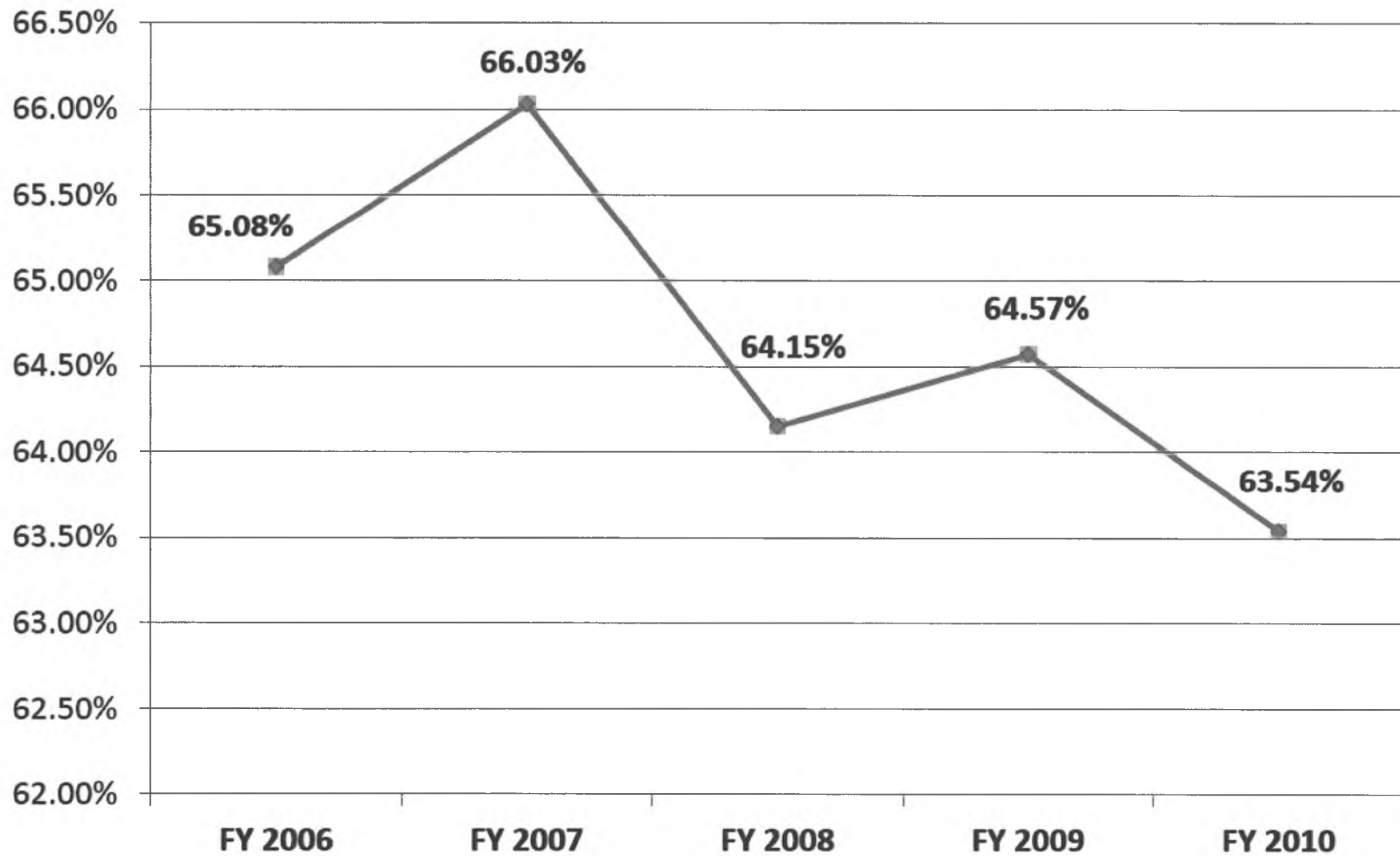
Positions by Performance Indicator



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
- Stricter penalties for attempted abduction
- Adjusting the Felony Theft Threshold
- Incentivizing Residential Treatment



Sections 1-3

CUSTODIAL INTERFERENCE

Custodial Interference

- Currently, if a non-relative of a child represents themselves as the legal custodian of that child, and attempts to abduct the child, that person can only be charged with criminal mischief.
- Sections 1-3 establish this scenario as a crime of custodial interference in the 2nd degree – a more severe crime than the only currently available option, which is criminal mischief.



Sections 4-19

FELONY THEFT THRESHOLD

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

\$500

\$1800

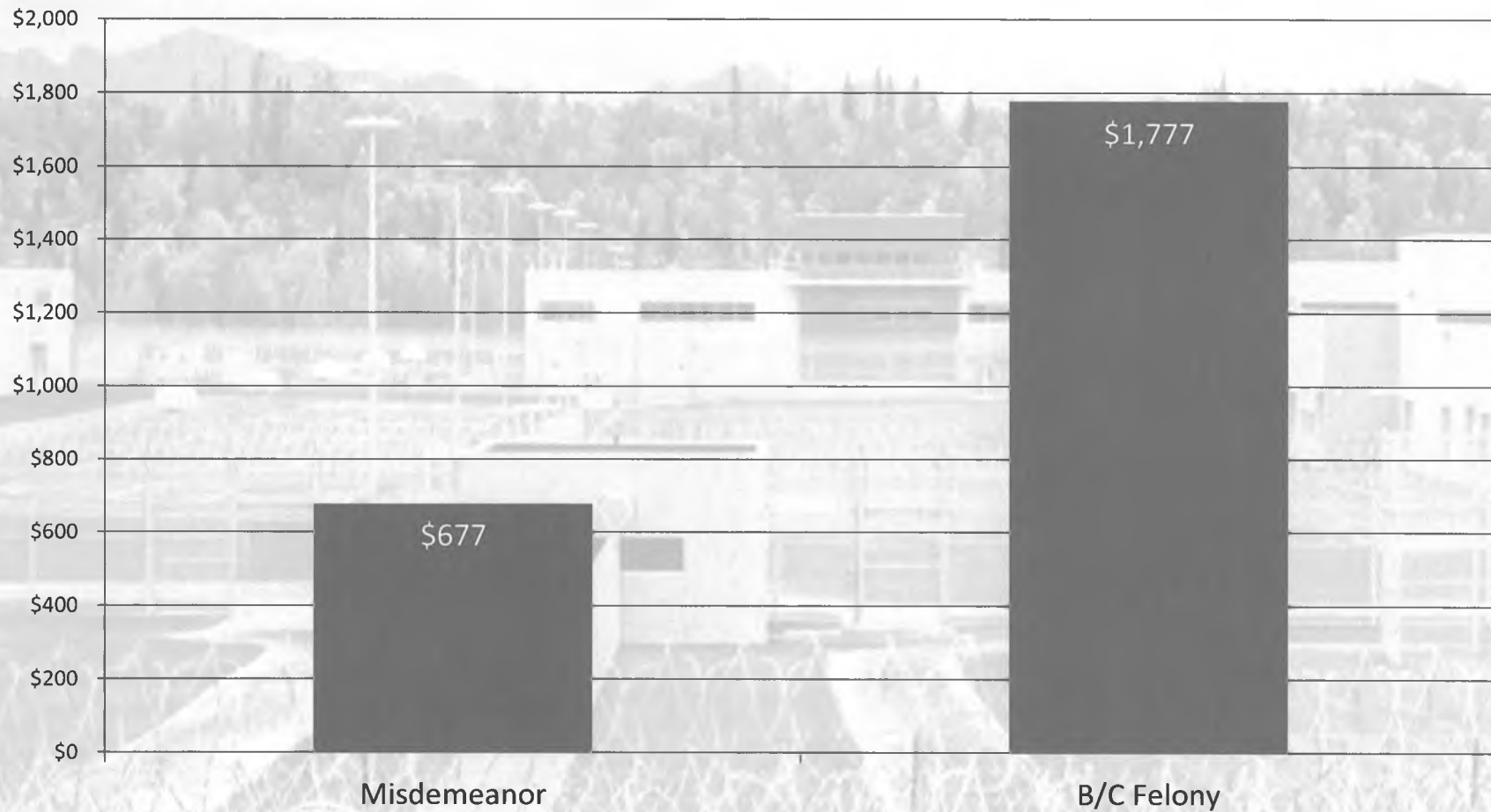
36 years

of inflation

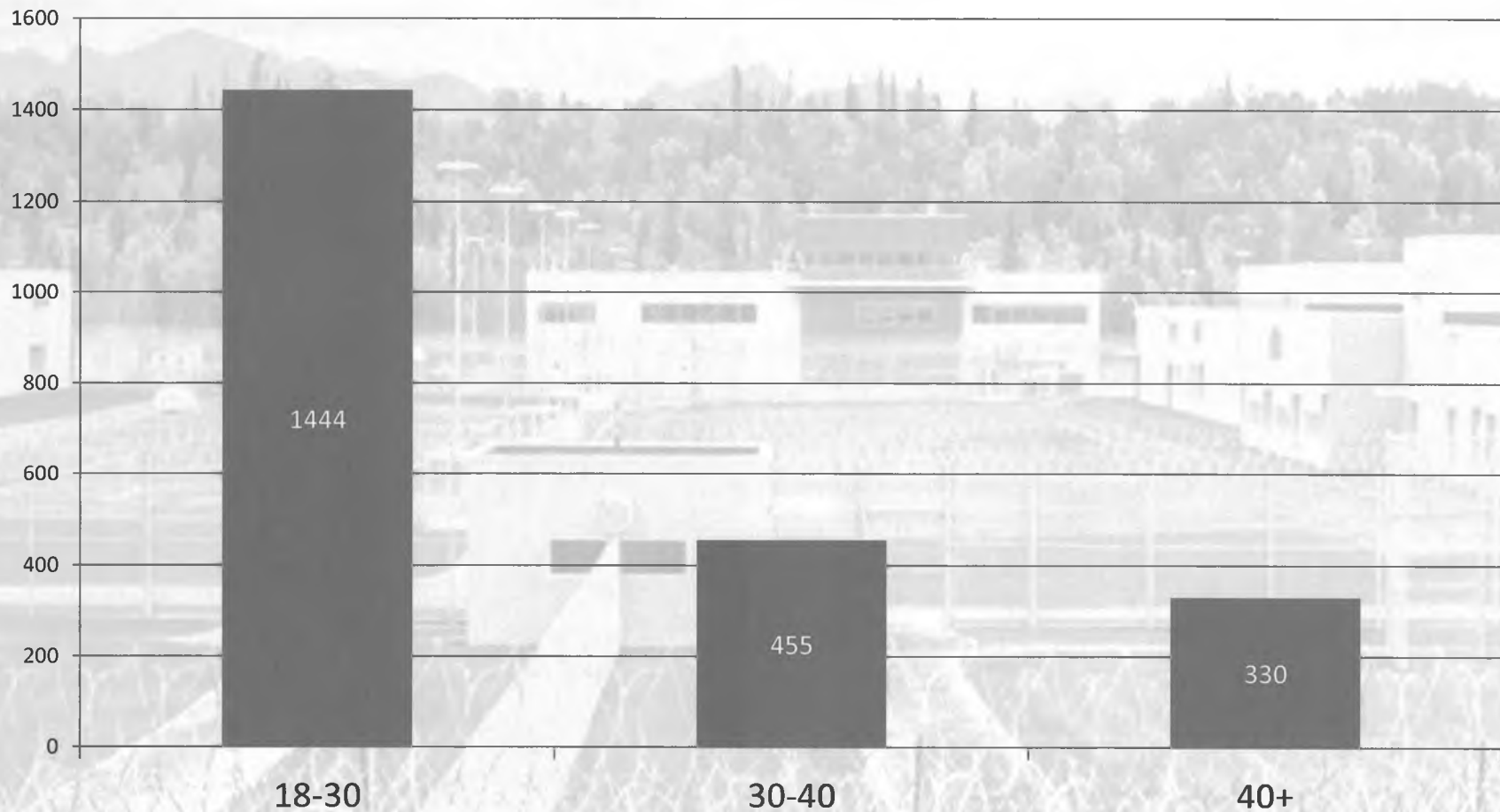
1978

2014

Public Defender Agency (PDA) Cost Per Criminal Case



Number of Felony Property Crimes by Age



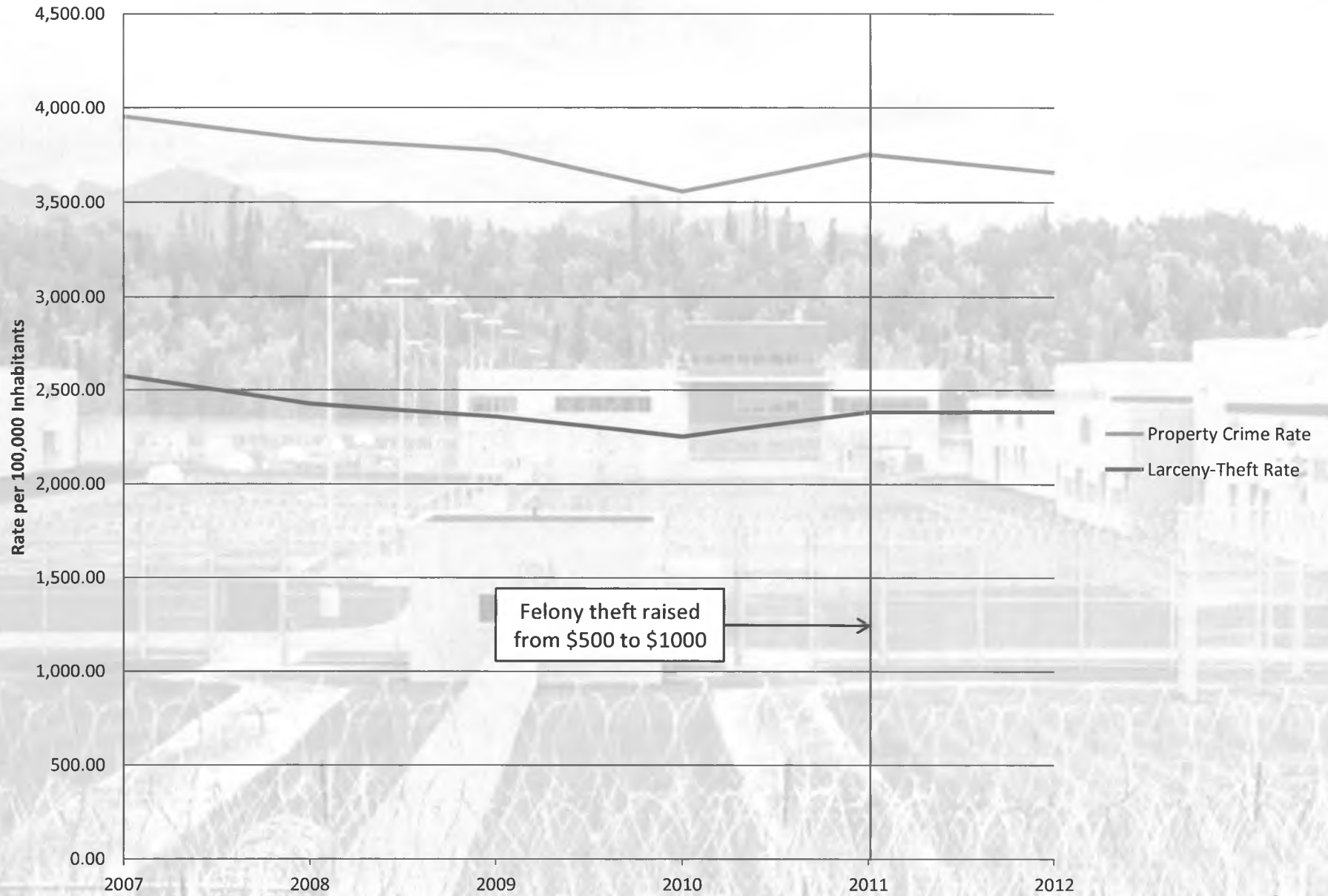
Nationally

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

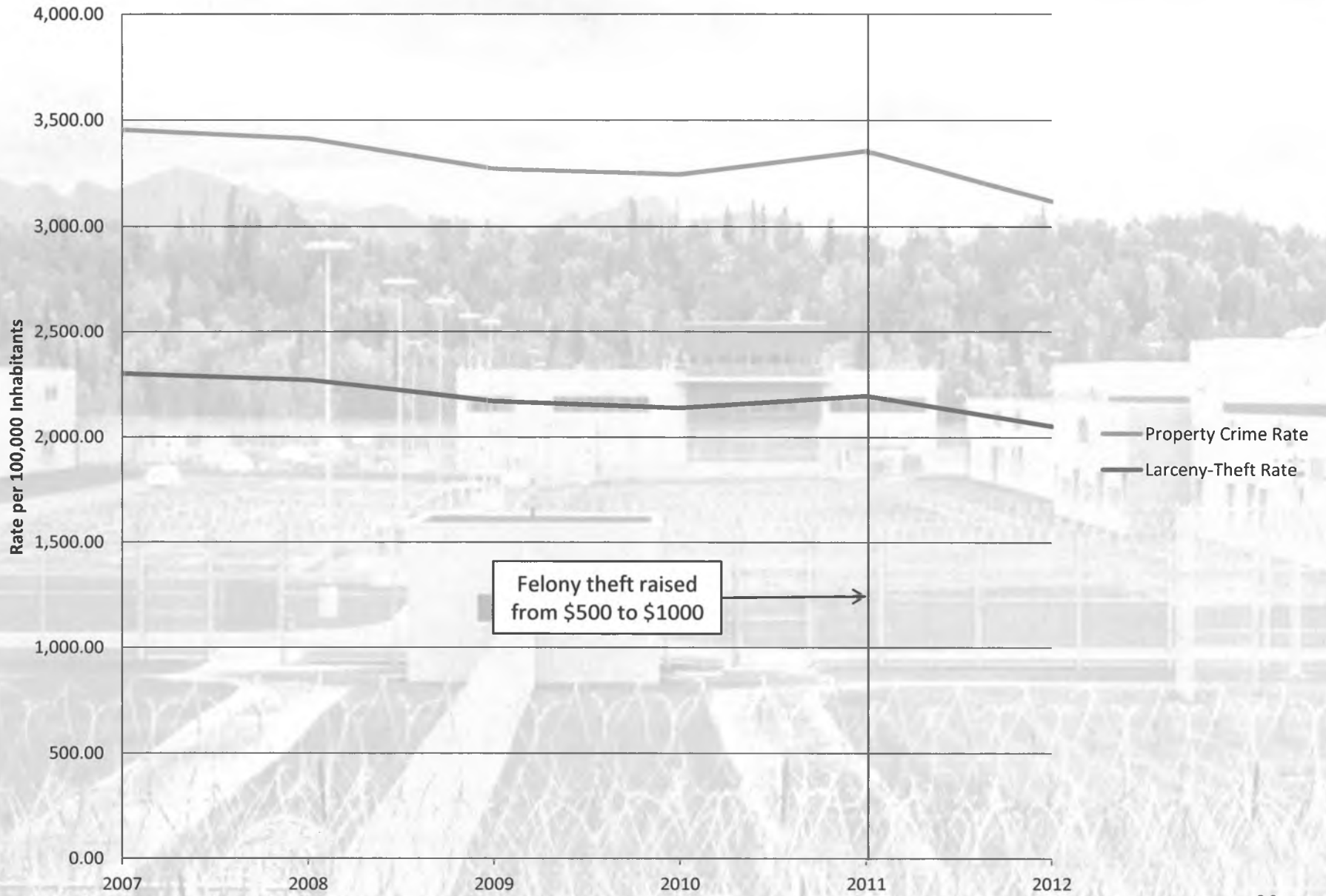
Raises the Threshold for all property crimes:

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

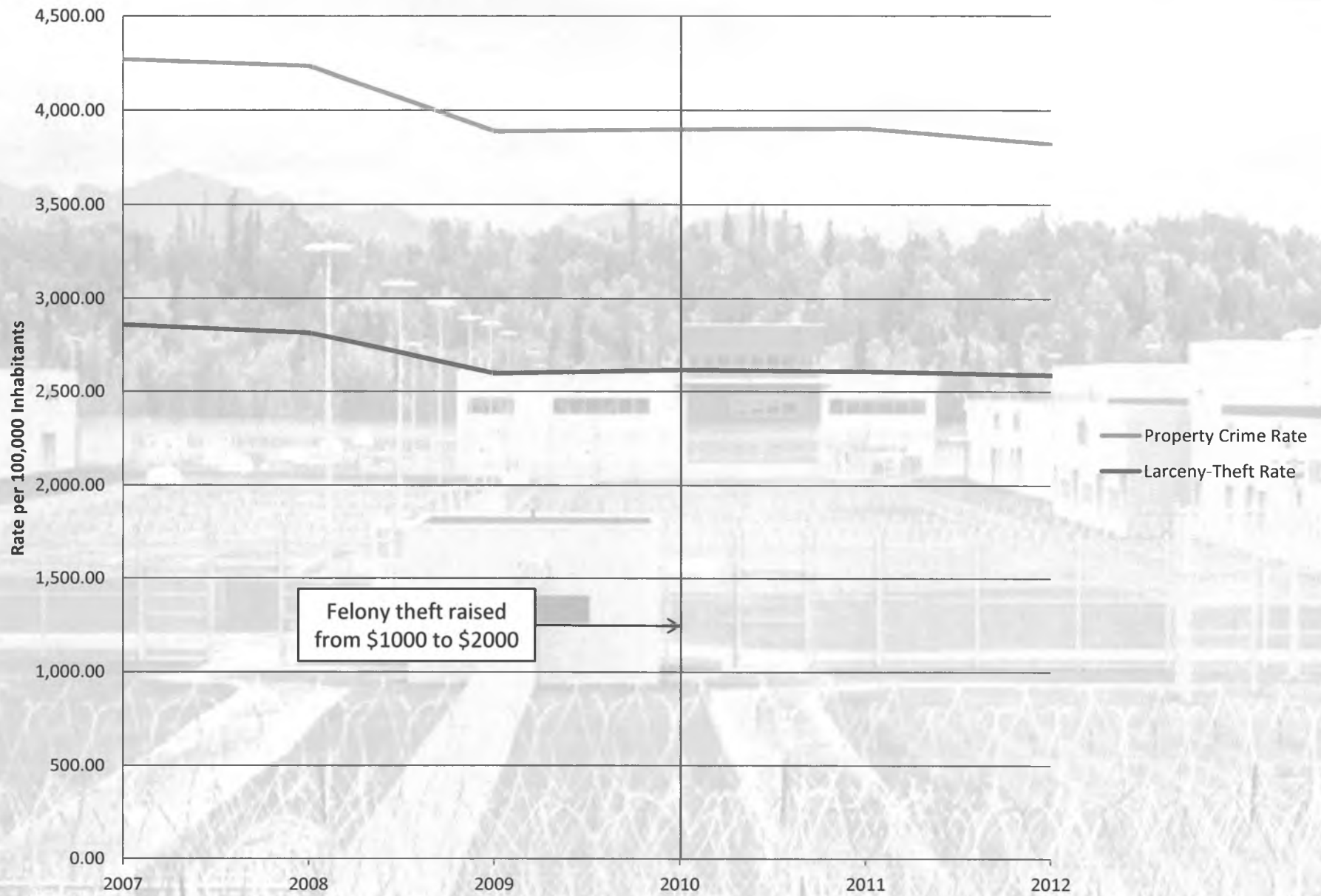
Property Crime in Arkansas



Property Crime in Ohio



Property Crime in South Carolina



Current



SB 64



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

\$500

\$1800

36 years

1978

2014



Sections 20-22 & 24

24/7 SOBRIETY

Applicability

Any crime where alcohol is a factor, like domestic violence, DUI, assault, etc.

1. Pre-trial

2. Post conviction

- Conditions of probation
- Parole Board imposed

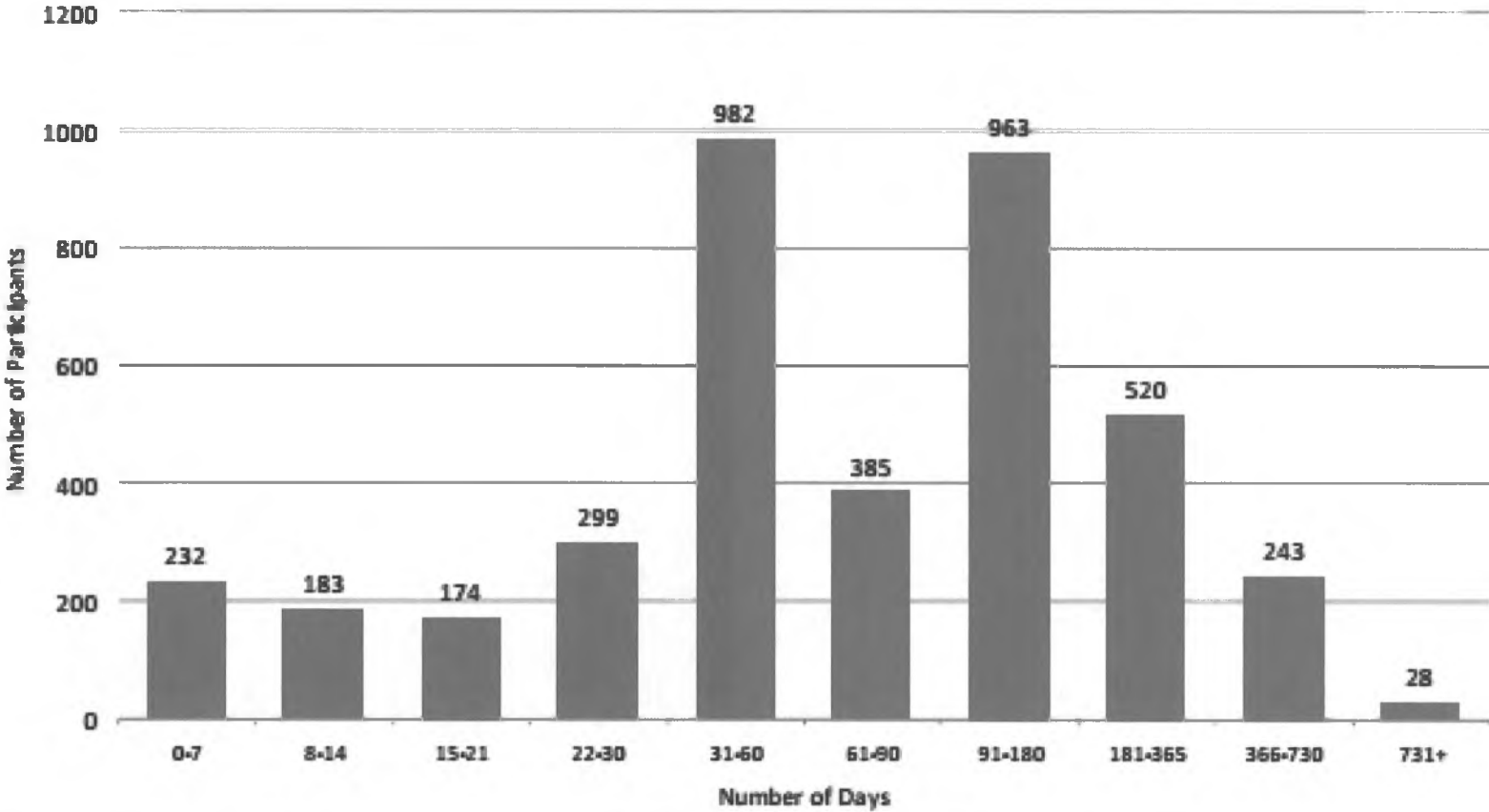
Main Tenets

- 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

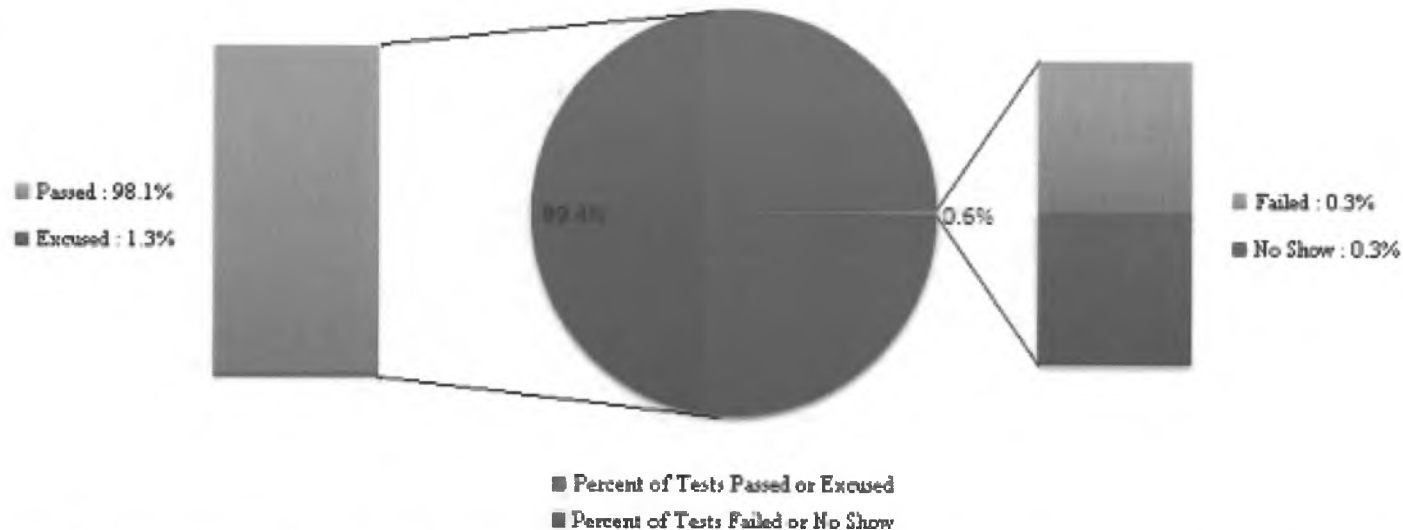
⇒ 55% never fail a test

⇒ 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)

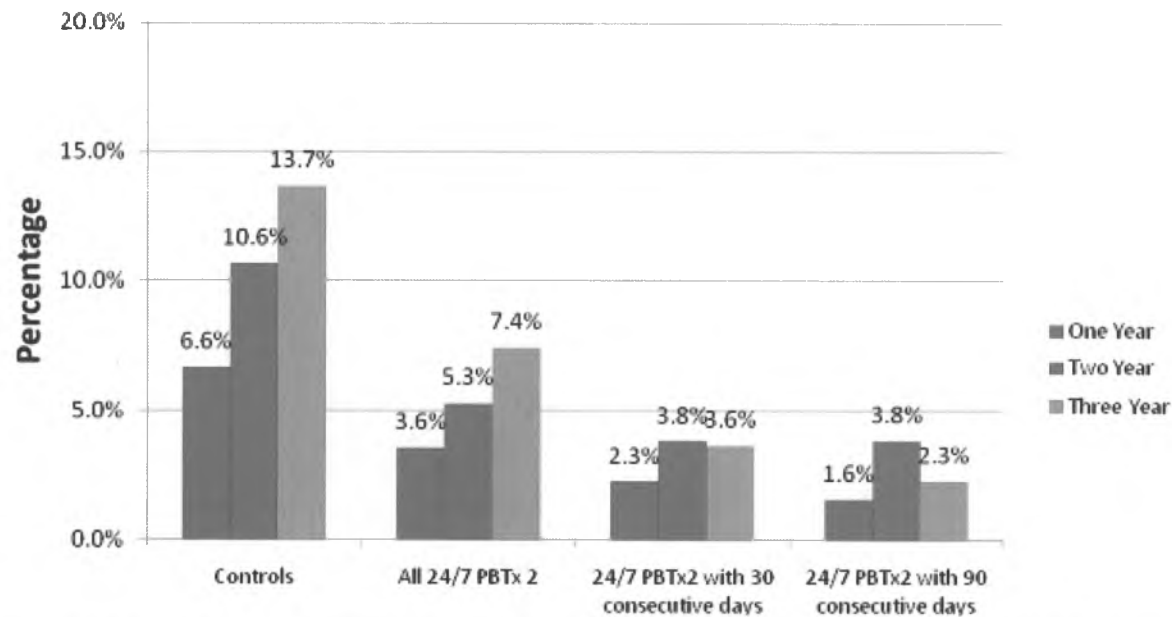


Effects on Recidivism

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

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





Section 23

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.

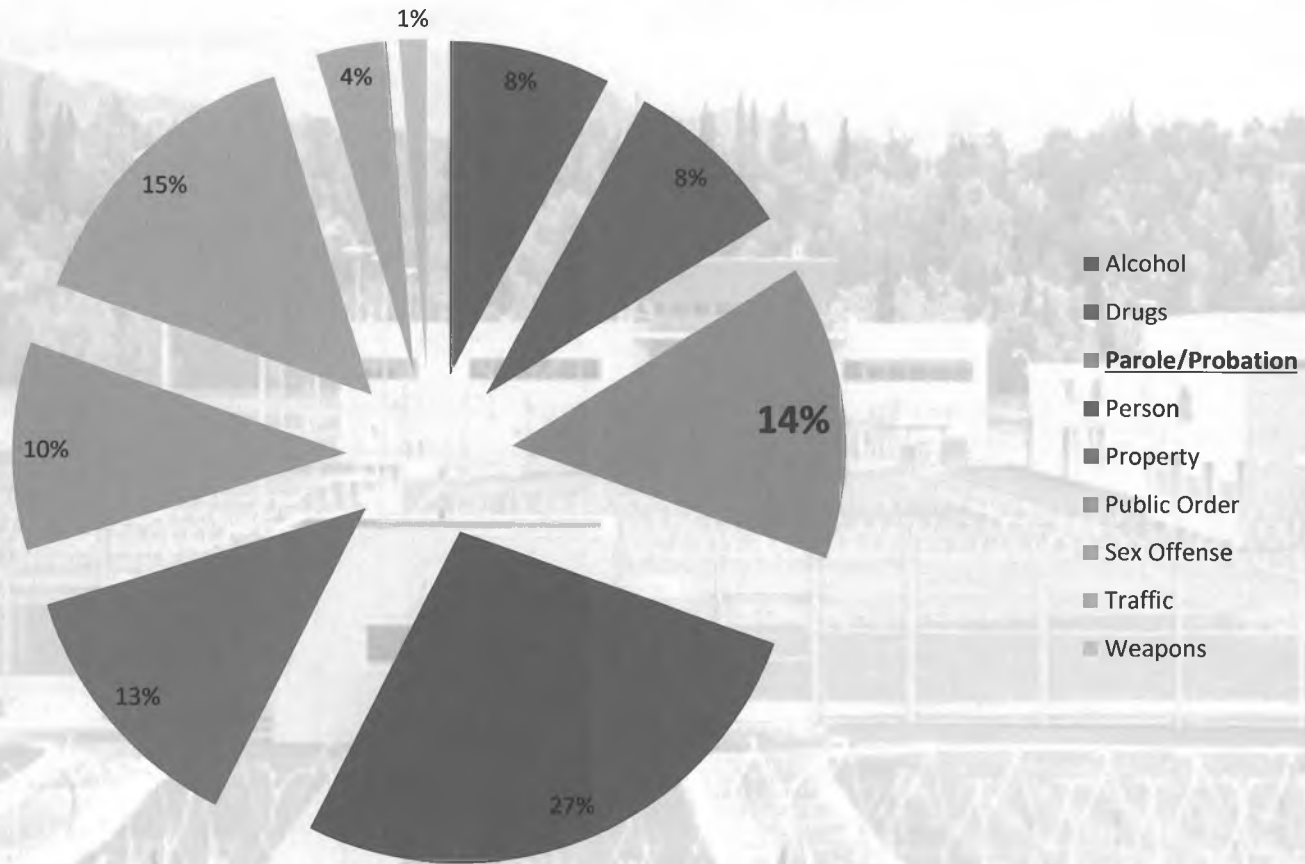
Less cumbersome than existing language (“work required by the treatment program and approved in advance by the court”).



Sections 26-28

**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

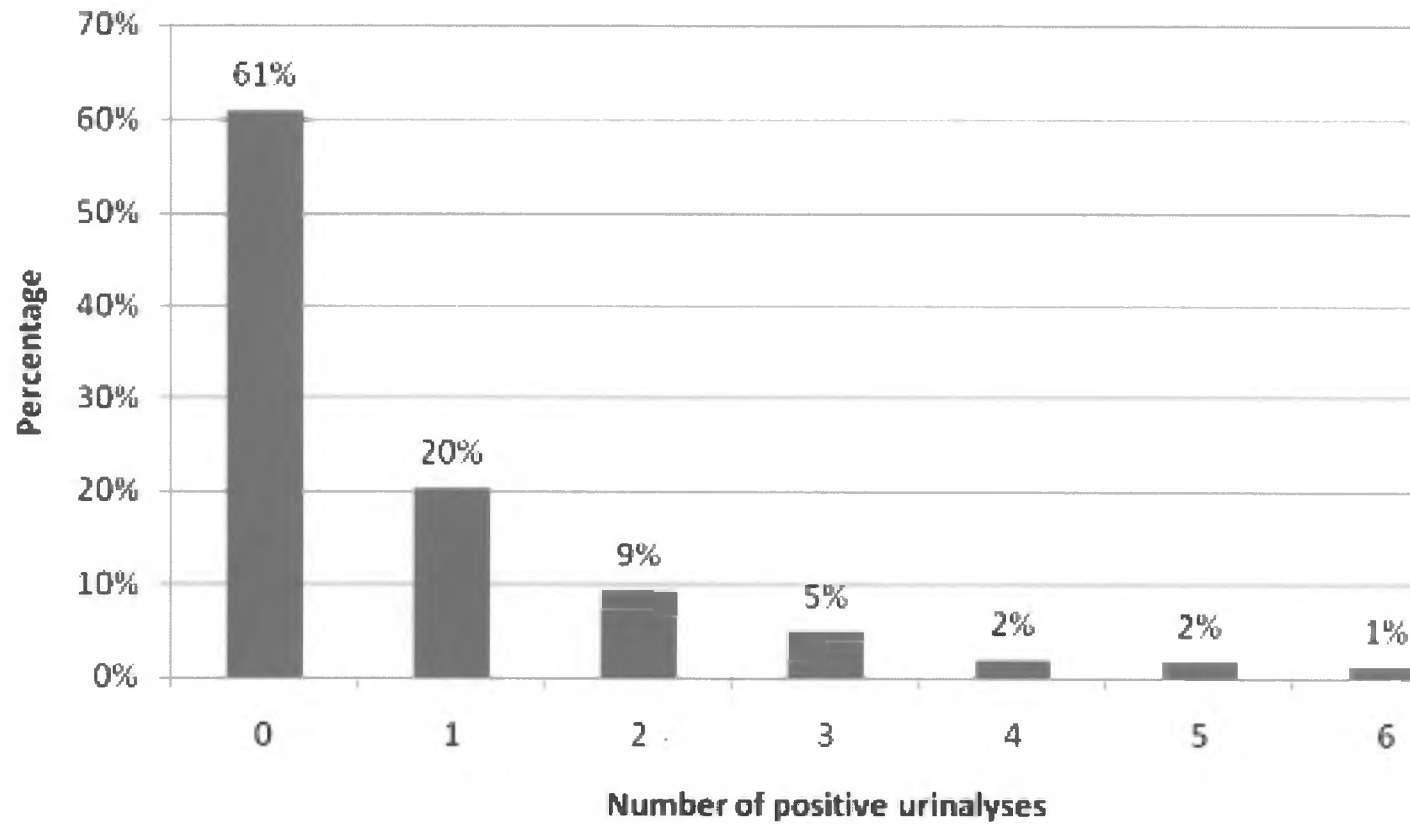


Figure 4. HOPE Probationers - Number of Missed Appointments in 12-months

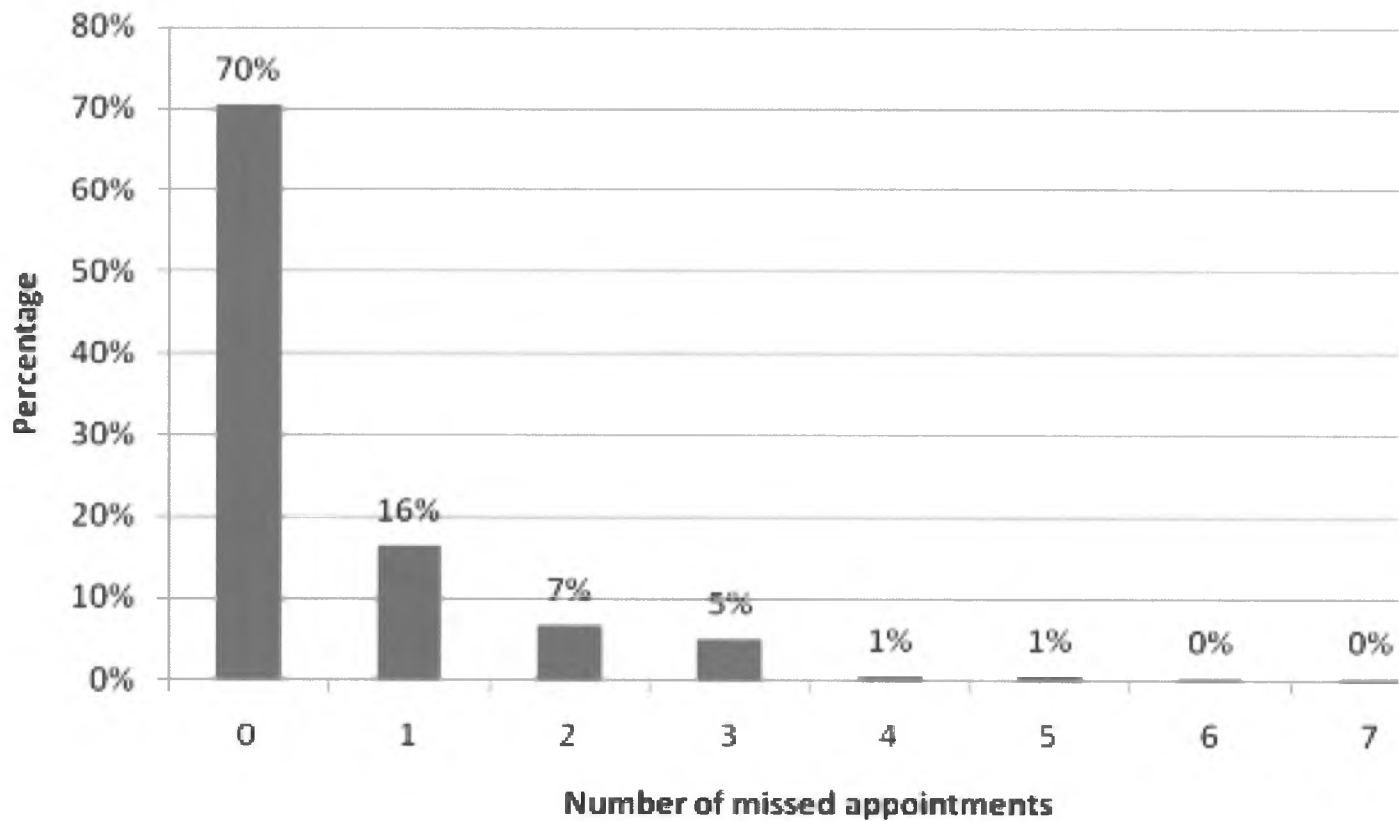
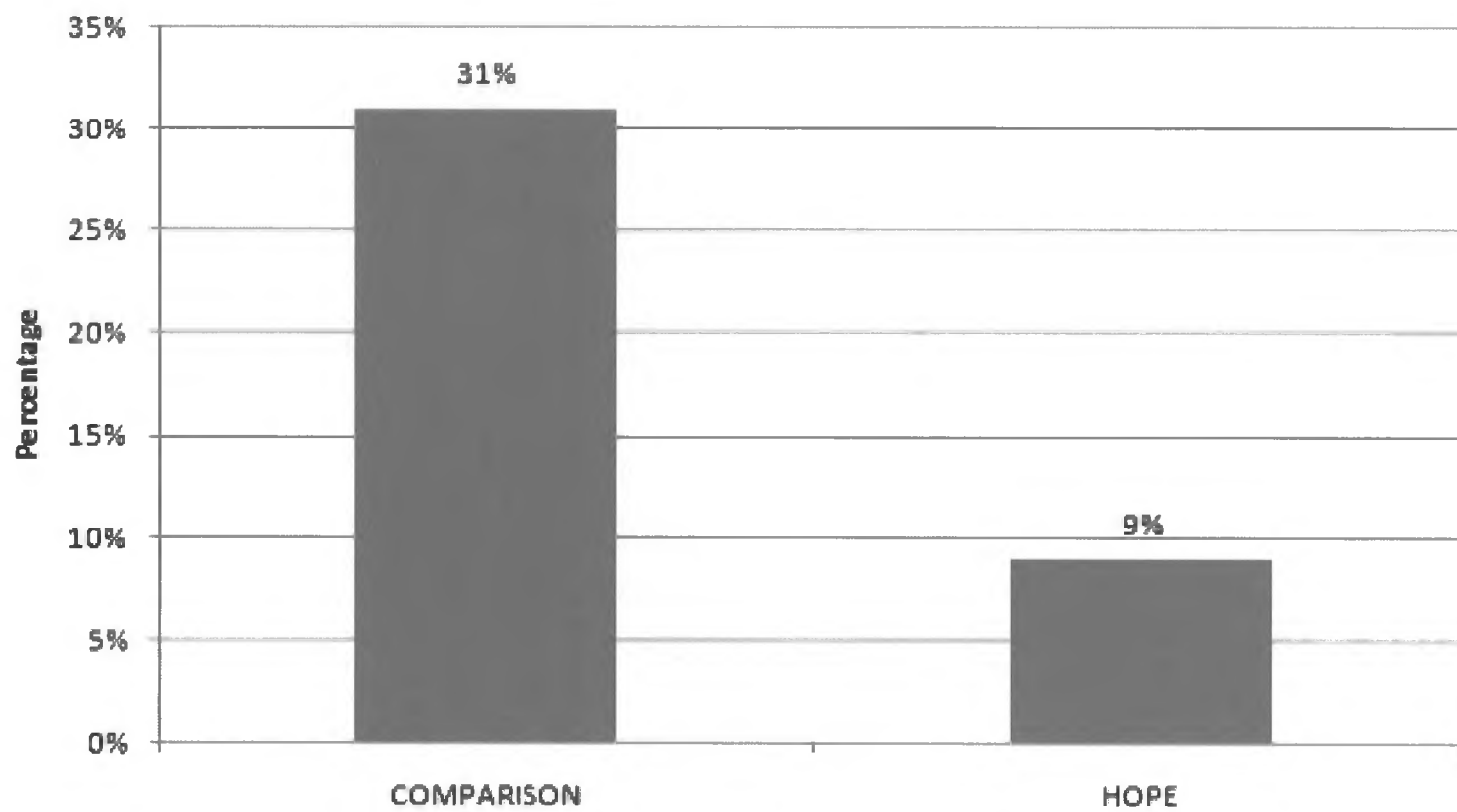
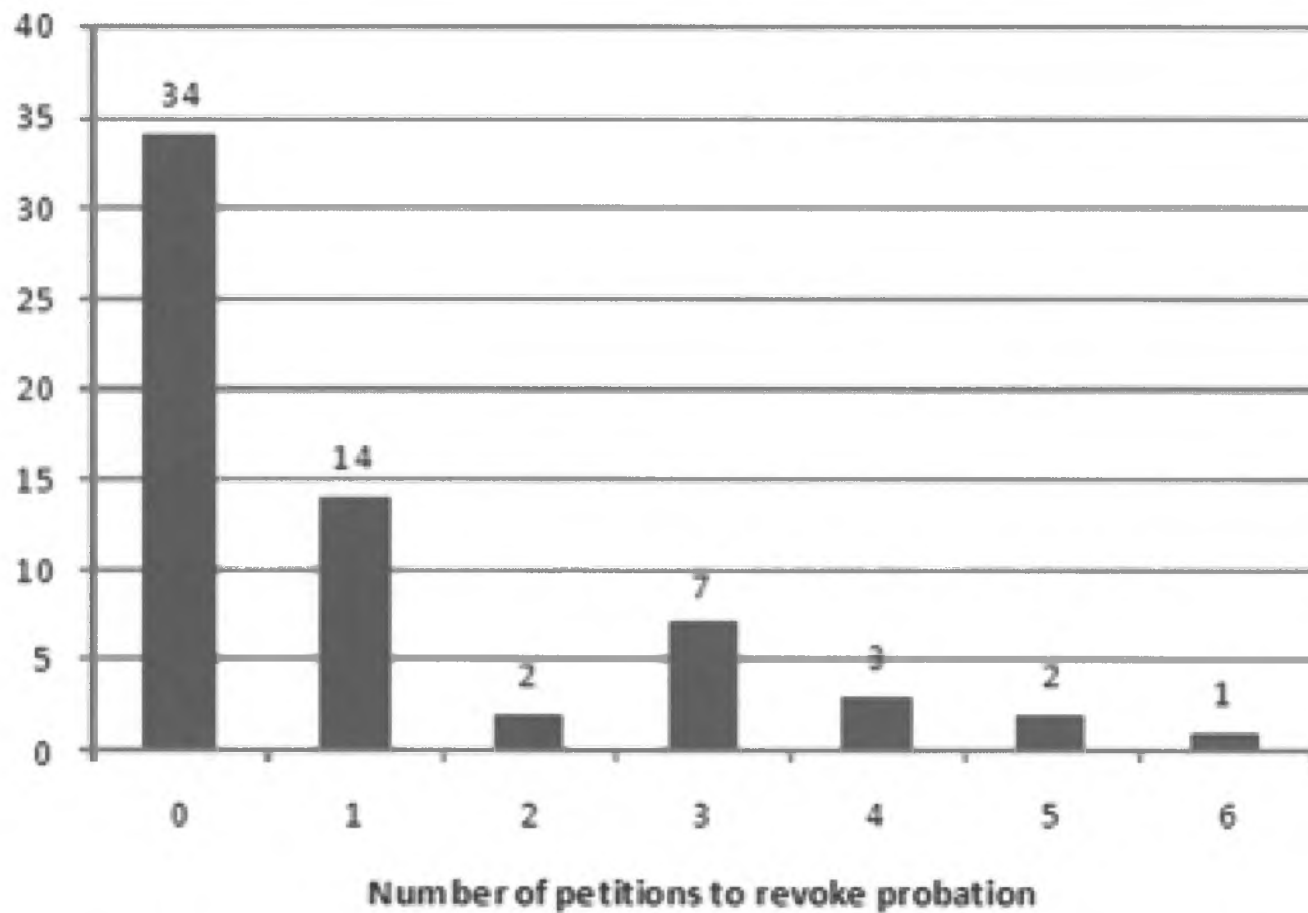


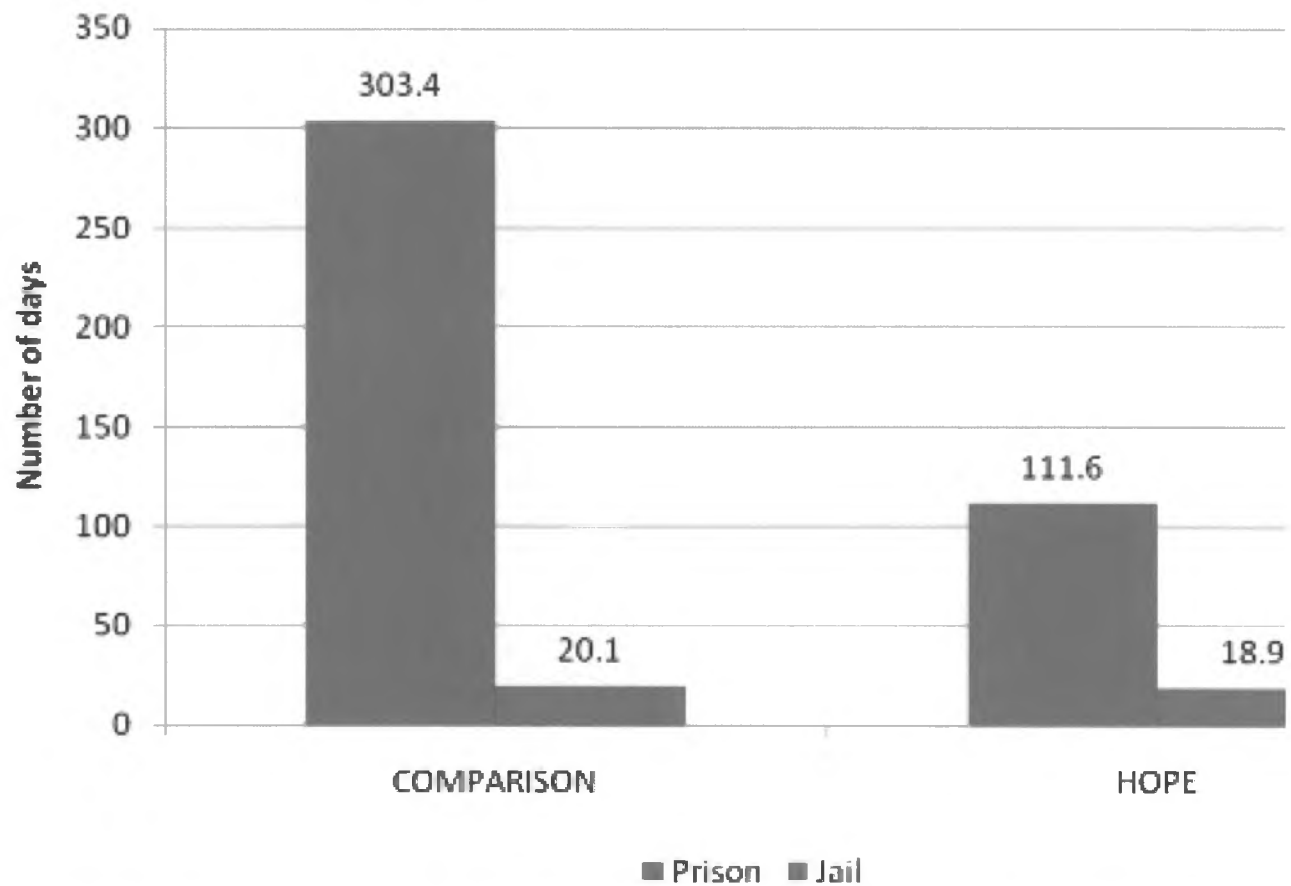
Figure 5. Probation revocation: HOPE versus Comparison Probationers





Petitions to revoke probation, during the three months after starting PACE

Figure 6. Incarceration: HOPE versus Comparison Probationers





Section 29

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 30

ALASKA CRIMINAL JUSTICE COMMISSION

Commission Structure

Previous CS

- (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

10 members
4-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.

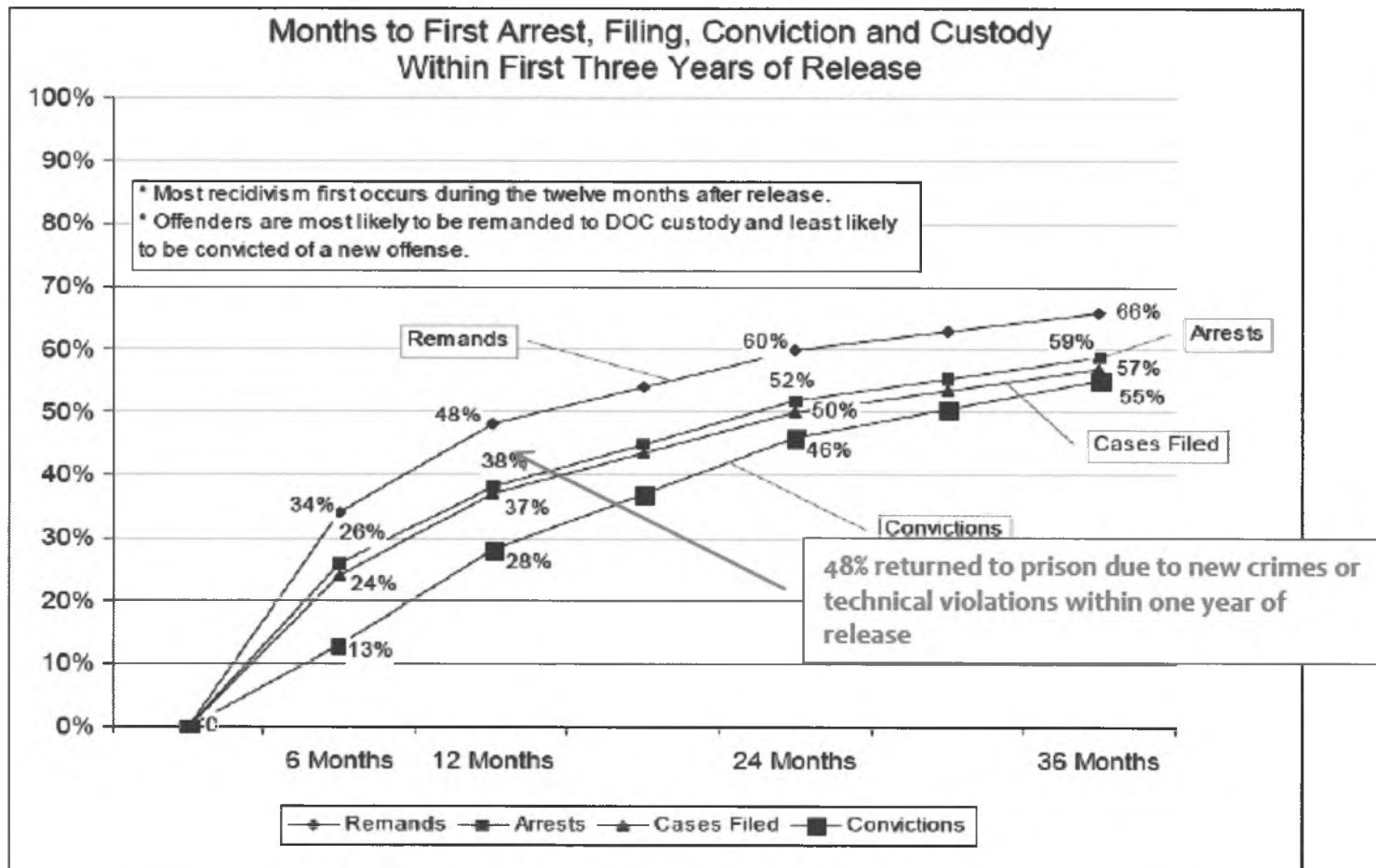


Section 32

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*

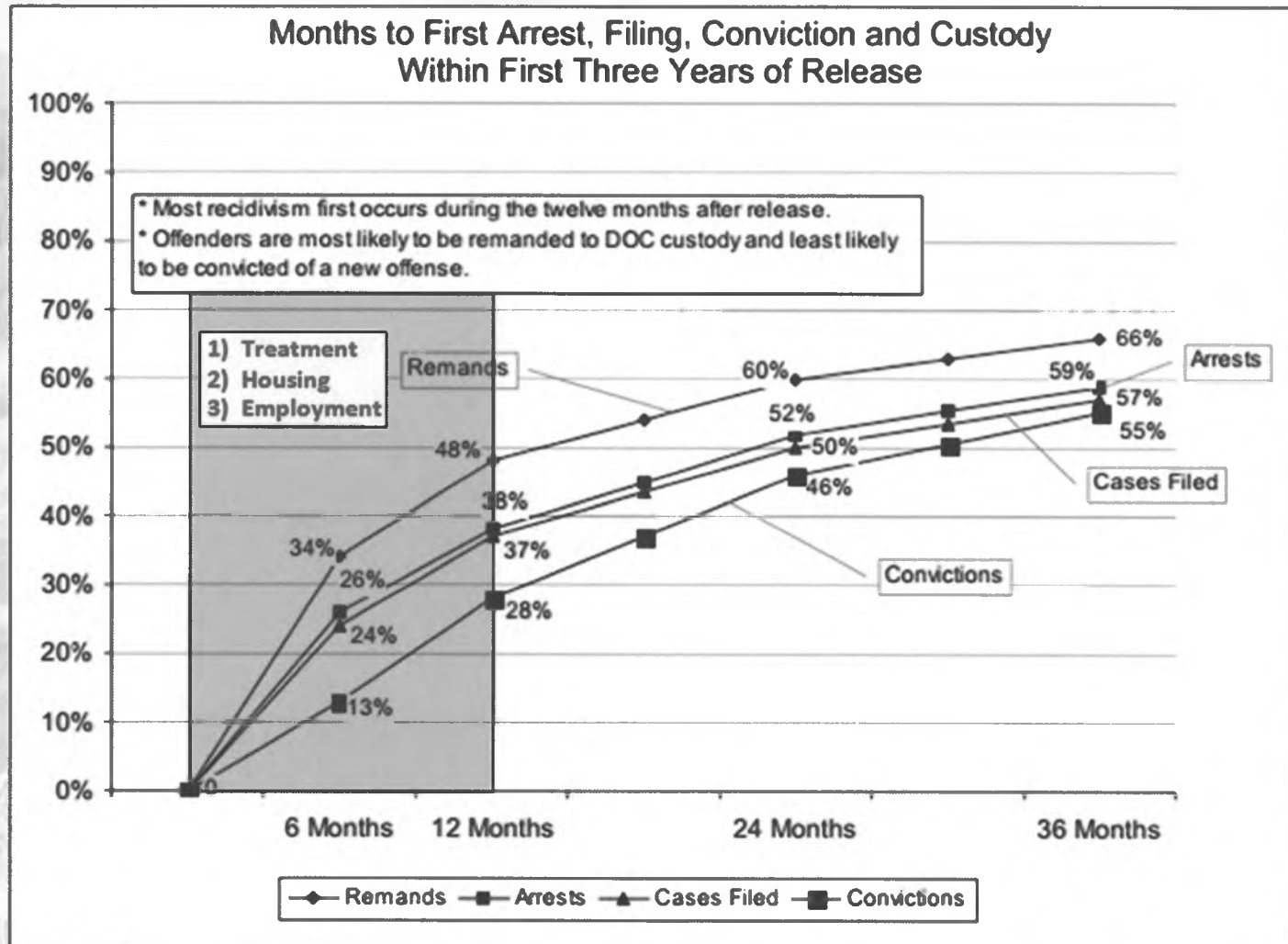
5. FY11 Performance Measures (1 year out):

	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 34-39

APPLICABILITY, TRANSITIONAL PROVISIONS, & EFFECTIVE DATES

Sections 34-39

- Section 34: changes apply to offenses occurring on or after the effective date of this act.
- Section 35: the first meeting of the commission shall be held no later than Sep. 30 2014.
- Sections 36 & 38: the Department of Corrections and Department of Health and Social Services may begin working on regulations immediately upon passage of SB 64.
- Section 37: Establishes a delayed effective date for Section 29 of the bill.
- Section 39: Establishes an overall effective date for the bill of July 1, 2014.

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

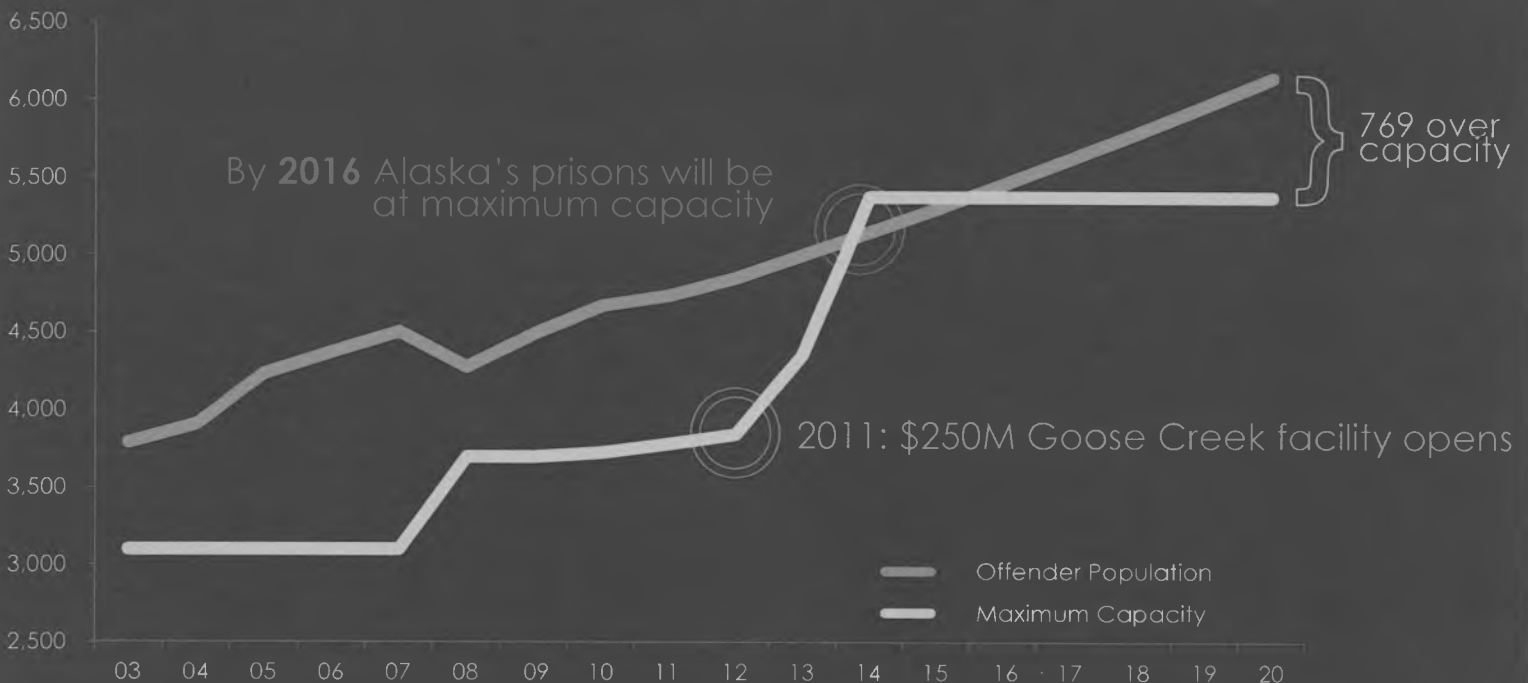
Of Alaska's prisoners
**will return to
prison.**
This is higher than
any state.



Alaska's
prison population
is growing at

4X

the rate of the
state's population



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. ¹
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. ²
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.

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

² *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

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.³
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.

³ *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.



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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

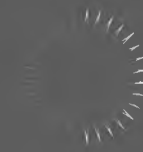
Alabama	Ala Code 13A-8-4	\$ 500	Montana	MCA 45-6-301	\$ 1,500
Alaska	AS § 11.46.130	\$ 500	Nebraska	Neb.Rev.St. § 28-518	\$ 500
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Source: Westlaw

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

JANUARY 2010



THE
PEW
CENTER ON THE STATES

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



The HOPE Program

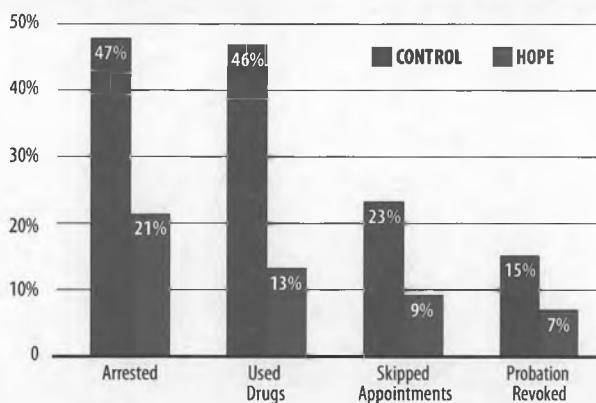
Launched in 2004, Hawaii's Opportunity Probation with Enforcement (HOPE) program aims to reduce crime and drug use among criminal offenders. HOPE identifies probationers who are likely to violate their conditions of community supervision; notifies them that detected violations will have consequences; 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).¹

Exhibit 1. HOPE Program Outcomes



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.² 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).³

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 ³		
	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%

¹ 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.

² 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.

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



The Pew Center on the States is a division of The Pew Charitable Trusts that identifies and advances effective solutions to critical issues facing states. Pew is a nonprofit organization that applies a rigorous, analytical approach to improve public policy, inform the public and stimulate civic life.

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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

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.¹ 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.²

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.³ 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.⁴

¹ 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, 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>.

² 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>.

³ 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.

⁴ 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.

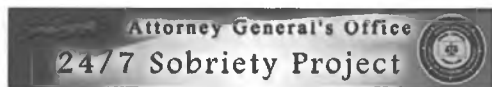
Using the current average daily cost of incarceration of \$158.67, and the mean, or average, number of days these two cohorts spent incarcerated due to a technical violation, the PACE cohort would have accounted for a total incarceration cost of \$110,458, or approximately \$944 per probationer, while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



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:¹

- 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.²
- 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.³
- Forty offenders wore drug patches, passing 92.8% of the tests.⁴
- Over 1,261 offenders took 17,730 urine tests, passing 97.5% of the time.⁵

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.⁶

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

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

² South Dakota Office of the Attorney General 2010.

³ Alcohol Monitoring Systems, Inc., 2009.

⁴ South Dakota Office of the Attorney General 2010.

⁵ South Dakota Office of the Attorney General 2010.

⁶ South Dakota Office of the Attorney General 2010.

alcohol-impaired crashes⁷ 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 2008.⁸

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.⁹ 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

⁷ 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.

⁸ South Dakota Department of Public Safety 2009.

⁹ 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 Probation¹ (Hawaii's Opportunity Probation with Enforcement) in Honolulu,^{2,}³ 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.

¹ 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.

² 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.

³ 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

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.^{1,2} Problem drinkers account for a disproportionate share of these costs.^{2,3} Although millions of problem drinkers pass through the criminal justice system each year,^{4,5} 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.⁶⁻⁸

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.⁹⁻¹³ Research also suggests that individuals value immediate rewards more strongly than delayed rewards,^{14,15} a tendency particularly pronounced among alcohol-abusing populations.^{16,17}

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.¹⁸⁻²⁰ 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.²¹ 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, but by 2010 the monthly average was 377 participants. One potential explanation for this decline is that 24/7 reduced drunk driving.

Dependent Variables

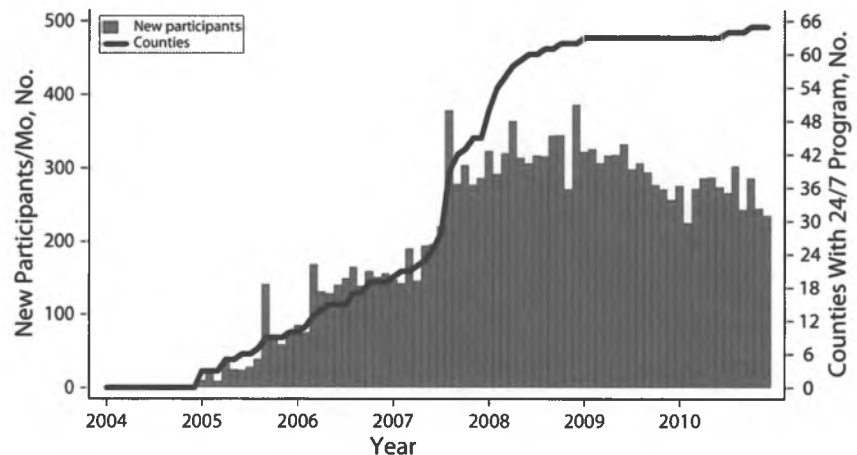
We focused on 3 drinking-related public health outcomes: DUI arrests, arrests for domestic violence, and traffic crashes. Arrest data for DUI and domestic violence from 2001 to 2010 were made available by the South Dakota Department of Criminal Investigation.

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.²² 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,²³ snowfall,²⁴ 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
Dependent					
Arrests					
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
Traffic crashes^a					
Total	5544	20.913 (44.789)	0	9	591
Men aged 18–40 y	5544	7.500 (18.547)	0	3	250
Independent					
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 ^b	7920	14.075 (5.583)	0	14.097	37.364
VMT per capita ^c	7920	1.601 (1.245)	0.500	1.282	9.444
Bars per capita ^b	7920	5.688 (4.026)	0	5.283	23.328
Package stores per capita ^b	7920	2.017 (2.212)	0	1.522	10.828
Snowfall ^d	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.
^aTraffic crashes only cover 2004–2010.
^bPer capita measure based on rate per 10 000 people.
^cVMT are based on annualized rate; miles in 10 000s.
^dAverage 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,²⁵ per capita police officers,²⁶ per capita on- and off-premises alcohol outlets,²⁷ and demographic characteristics including total population, share of population that is male aged 18 to 40 years, and share of population that is White.²⁸ 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, α , 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 (γ_i) capture unobservable characteristics of each county that are fixed over time. Finally, the vector δ_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 repeat 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.²⁹ 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.³⁰ 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 ^a	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 ^b	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 ^c	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 ^b	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 ^b	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 ^d	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 \times 10 y \times 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 \times 7 y \times 12 mo).

^aNatural log of monthly linear interpolation of population.

^bPer capita measure based on rate per 10 000 people.

^cVMT are based on annualized rate; miles in 10 000s.

^dNatural 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%.³¹ For Alberta, Canada, Voas et al. found that the introduction of a province-wide interlock program reduced aggregate DUI reconviction rates by 6%.³² 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.³³ 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 HOPE¹²), 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. ■

About the Authors

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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.

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

Human Participant Protection

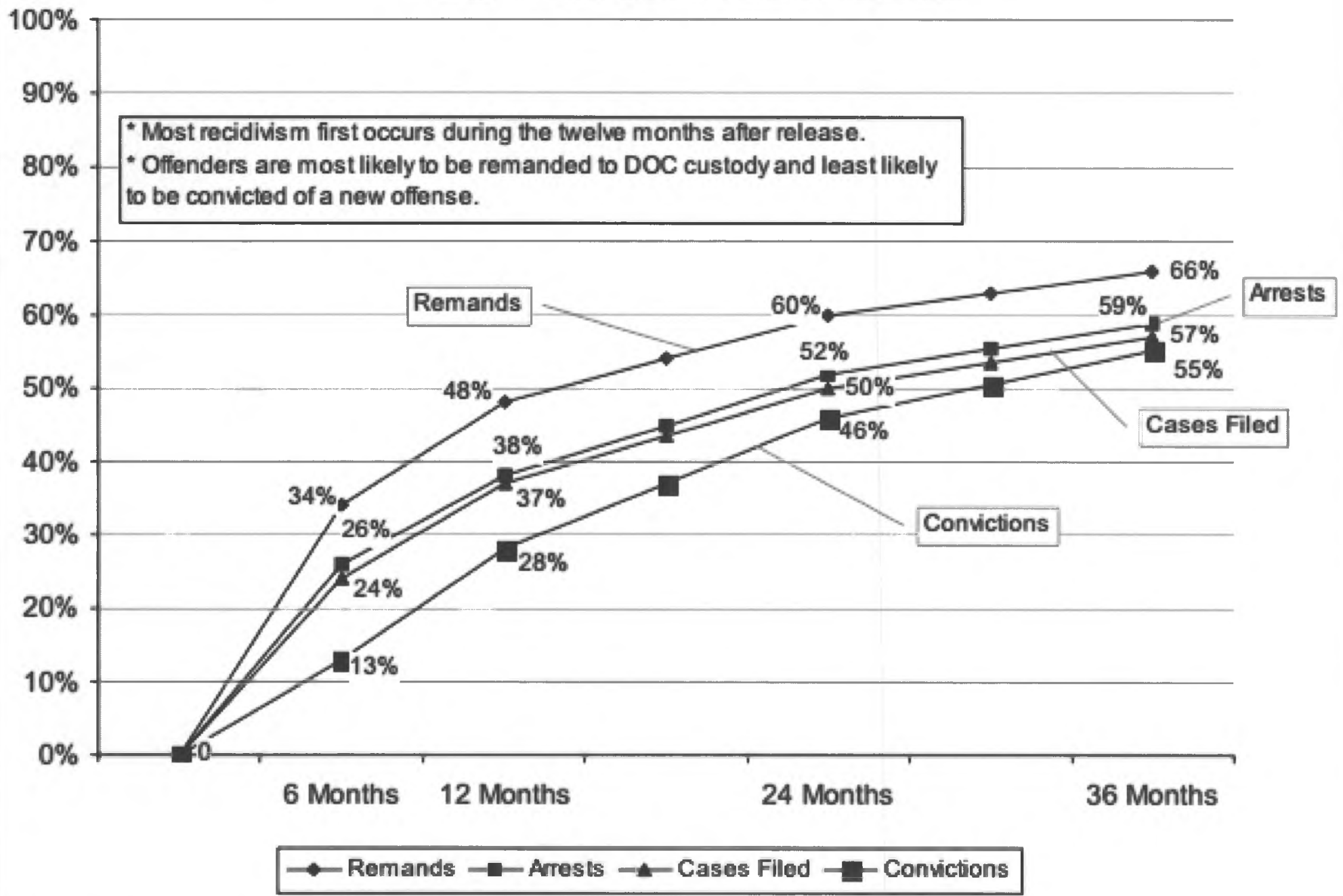
All relevant ethical safeguards have been met in relation to participant protection, including approval from the RAND Corporation's Human Subject Protection Committee (assurance number: FWA00003425; IRB number: IRB00000051).

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Months to First Arrest, Filing, Conviction and Custody Within First Three Years of Release



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(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.

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.

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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.^{FN1} Rep. Samuels introduced a representative of the Department, Assistant Attorney General Anne Carpeneti, who proceeded to describe the proposed bill section by section.^{FN2}

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

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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”.^{FN3} According to Carpeneti, the standards proposed in section 6 of the bill “follow [ed] decisional law to a great degree”.^{FN4}

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”.^{FN5} According to Carpeneti, the standards set forth in section 6 “pretty much mirror[ed] what the courts have [already] set out in *Nygren*”.^{FN6}

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”.^{FN7} 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”.^{FN8}

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”.^{FN9}

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.

Mr. Christopher noted that many treatment programs currently allowed defendants to work in the community without an escort.^{FN10} 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”.^{FN11}

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).^{FN13}

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.^{FN14} 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.^{FN15} 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.^{FN16}

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”.^{FN17} This amendment was approved without objection.^{FN18}

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”.^{FN19} 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.^{FN20}

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.^{FN21}

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." ^{FN22}

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". ^{FN23}

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). ^{FN24} 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 [.]. ^{FN25}

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. ^{FN26}

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". ^{FN27} There was no objection to Rep. Gruenberg's proposal, and it was adopted. ^{FN28}

FN27. *Ibid.*

FN28. *Ibid.*

A few minutes later, House Bill 90 (as just amended) was passed out of the Judiciary Committee. ^{FN29} 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

275 P.3d 567
(Cite as: 275 P.3d 567)

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
275 P.3d 567

END OF DOCUMENT



The Alaska Mental Health Trust Authority

March 1, 2014

Senator John Coghill
State Capitol Room 119
Juneau AK, 99801

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



February 28, 2014

Senator John Coghil, Jr.
Alaska State Legislature
120 4th St., State Capitol, Room 3
Juneau, AK 99801-1182

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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 Coghil:

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 written in a cursive, flowing style.

Rosalie Nadeau
Chief Executive Officer
Akeela, Inc.



3710 East 20th Avenue, Anchorage, AK 99508 • (907) 222-7300 • fax (907) 258-1091 • 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



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fs
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web
CITC.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.

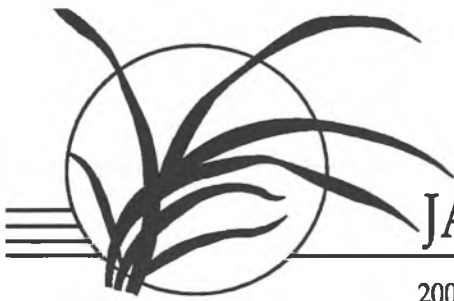
This legislation provides important new innovations to turn around Alaska recidivism rates, save money and make the state safer. CITC has been operating Chanlyut, a rehabilitation program for men recently released from prison, homelessness or substance abuse, for the past six years. Chanlyut is modeled 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**



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/>

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



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Terie T. Norelli
Speaker
New Hampshire House
President, NCSL

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

Patsy Spaw
Secretary of the Texas Senate
Staff Chair, NCSL

William Pound
Executive Director

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

Date: Thursday, July 25, 2013

Subject: Senate Bill 64

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.

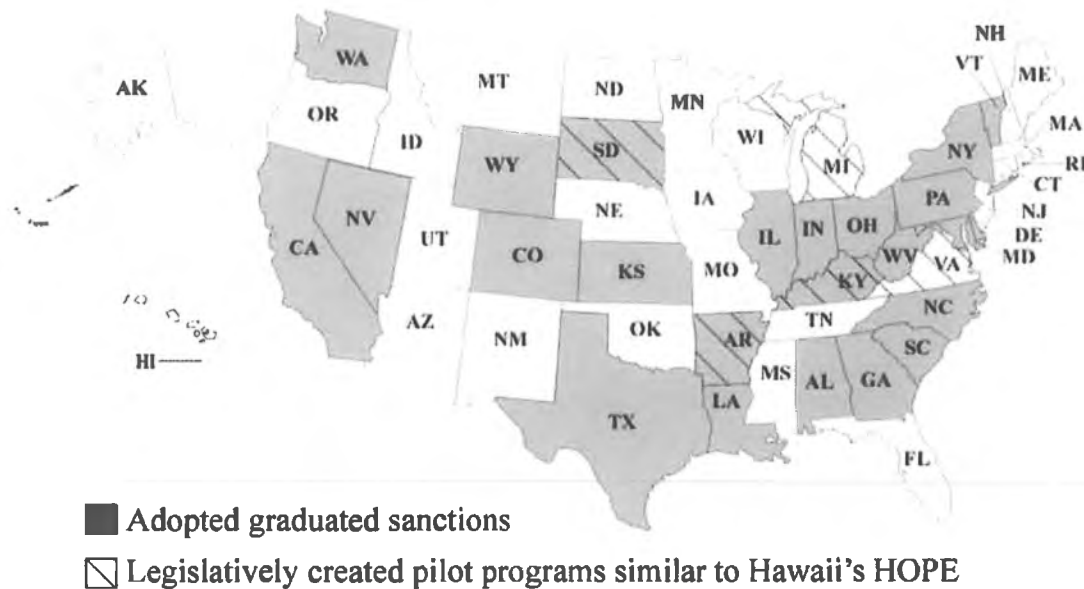
Swift and Certain Sanctions for Rule Violations

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	Policy Approaches
Forty-four percent of prison admissions in 2009 were for low-level offenses and sentences of less than 18 months.	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.
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.	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.
In 2009, probation and parole violations accounted for 24 percent of prison admissions, 66 percent of which were for non-criminal, technical violations of supervision.	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.
More than half of all inmates released in 2009 left prison without any kind of supervision or access to services.	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.
The parole grant rate declined from a 63 percent approval rate in 1980, to 27 percent in 2000, and 10 percent in 2008.	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)



Nine Star Education & Employment Services

“Developing Alaska’s Workforce”

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F (907) 279-3299
www.ninestar.com

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208 E. 4th Ave
(907) 433-8500

Tudor Road
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(907) 644-9933

Mountain View
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(907) 297-5422

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and Youth Employment**
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(907) 743-6074

**Adult Education/GED
English as a Second Language**
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Returning Citizens’ Center
1220 E Street
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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

February 27, 2014

The Office of Senator Coghill

RE: SB 64

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.



1326 K Street
Anchorage, AK 99501
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fillymcc@aol.com
www.partnersforprogressak.org

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

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**



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.

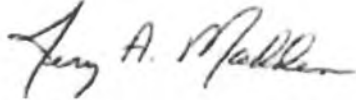
The other provisions in SB 64 are intended to bend the corrections cost curve, and to provide incentives and tools for offenders to help themselves successfully reintegrate once released from supervision. SB 64 updates the felony theft threshold, requires twice daily alcohol monitoring for certain offenders, 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 o 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,



Jerry Madden

Senior Fellow, Right on Crime

Former Chairman, Texas House of Representatives Corrections Committee

(512) 989-7758

jmaddeninsurance@aol.com

www.texaspolicy.com, www.rightoncrime.com

900 Congress, Suite 400

Austin, TX 78701

From: Jayce Robertson [<mailto:jaycerobertson@hotmail.com>]
Sent: Thursday, March 20, 2014 2:12 PM
To: Rep. Wes Keller
Subject: Support SB 81 with SB 64

To whom it may concern:

My name is Jayce Robertson and I vehemently support SB 81 and 64. I am a registered voter of House district 29 and Senate district O. I am registered as undeclared but traditional vote for republican candidates. I am also a member of Laborer's Local 341 which has a strong political voice throughout our state. My life forever changed on June 2, 2011 when I decided to get clean and sober. Since then I have been involved in the local 12 step recovery community and proudly part of the Serenity House Treatment Centers alumni. My close family and friends have all been an integral part of my recovery and have witnessed first hand how recovery works and affects all areas of my life. I am proud to be a recovering addict.

I have been in contact with many of my family members and friends whom live in and reside in the Kenai, Soldotna, and Nikiski areas and have voiced my opinion on these two senate bills and how they would greatly benefit my life, but also the lives of many other people all across our great state. I have gathered unanimous support from all the people I have spoken with.

Substance abuse has no boundaries. I was raised by excellent parents, had fantastic grades throughout my school years, and lead a healthy and productive life until I was dragged into the depths of addiction. It has caused a great deal of physical and emotional pain in mine and my families lives. There are very few ends to addiction and alcoholism. They are jails, institutions, and death. If it wasn't for the help I received while I was an inpatient at Serenity House Treatment Center in Soldotna, I am certain that today I would still be caught up in the depths of active addiction. Recovery has changed all facets of my life. It has helped me to face life and all the obstacles that come along my way, helped me realize that addiction is a disease and is treatable, take responsibility for my own actions, and to become a better person in all areas of my life. I could go on for hours about the advantages recovery has given me, but would rather focus on the movement of helping recovery reach those whom need it the most.

The obstacles I face today is the repercussions of my actions from almost 3 years ago. I was convicted of a DUI which revoked my drivers license for life, with a possibility to have a termination of revocation after 10 years. This is a tremendous hardship on myself and my family. I understand both sides of the debate of punishment for DUI offenses, but hope that our state could advocate for treatment, not punishment. For people like myself whom do recover and complete all conditions of our probation, complete residential treatment and remain clean and sober, there needs to be a means to regain a limited drivers license. For myself, not being able to drive to work creates an immense hardship. SB 81 gives hope to people like myself while maintaining discipline for those whom refuse to comply with their conditions set forth by the courts. This bill would allow those whom do recover from their addiction to be rewarded with obtaining a limited drivers license.

What I am asking is that you support SB 81 and SB 64. These bills would not only benefit me by allowing me to obtain a limited drivers license, but help our state save money by reducing

recidivism and putting the focus on treatment rather than punishment. In addition to these two senate bills I would also ask for your support of reinstating HB 266 and 267 or to not allow budget cuts to happen for behavioral health services grants. They are vital in recovery being available to the people who need it the most.

I am very grateful for your time and attention on these matters. They all mean a great deal to myself and many people close to me. SB 81 in particular would change my life in a very positive way, and many others lives too. If there is anything I can do to help your staff in any way please let me know. I am always willing to help support in any way I can. My contact information is listed below, please don't hesitate to contact me at any time. Once again, thank you for your time and consideration.

Sincerely,

Jayce N. Robertson
PO Box 2557
Soldotna, AK 99669
(907) 740-0352

To the Honorable Wes Keller

I am writing to express my strong support of SB 64 and the Legislature's bipartisan effort to find more effective ways to address criminal behavior in Alaska. (writer could provide a very brief description of who they are here)

Given that 2 out of 3 offenders return to prison within three years of their release, most within the first six months of release, Alaskans are not receiving good value for state criminal justice dollars spent.


Clearly, the time has come for the State to have a Sentencing or Criminal Justice Commission devoted to identifying and implementing proven evidence-based approaches that actually reduce recidivism, reduce crime, slow prison growth and build healthier, stronger communities.

I also understand that the limited license provisions in SB64 were removed when the bill moved from Senate Judiciary to Senate Finance. Although disappointed, I understand the reasons for taking this action at this time. Nevertheless, I strongly urge the Legislature to continue working on a bill that would provide truly reformed individuals with the hope of having their privilege to drive restored within a reasonable amount of time.

As it stands today, a person who has completed all terms and obligations of his sentence, who has completed substance abuse treatment and is completely substance free and living a law-abiding life, must wait **ten years** before he or she has any hope of legally driving a car. This makes it virtually impossible for these reformed people to work and live a productive life in Alaska. It makes it impossible for a parent to provide for the needs of their children and elderly family members. The kind of mobility required to carry on these activities in Alaska, even in cities that have a transit system, simply cannot take place without any hope of being able to legally drive for a minimum of ten years. This reduces Alaskans who have paid the full price for their crime to criminals when they drive a car with a suspended license and without insurance.

As one of your constituents, I urge you to please address this important issue. Providing a path for a limited license earlier than 10 years will motivate offenders to participate in therapeutic court. It will additionally strongly impact the ability of former offenders to be successful and hope that they too can be responsible, productive and law abiding citizens.

Sincerely yours,

 - CDCII
Michael Mooradian, CDCII

NFIB

The Voice of Small Business.®

ALASKA

March 20, 2014

The Honorable Wes Keller, Chair
House Judiciary Committee
State Capitol Building
Juneau, Alaska 99801-1182

RE: Senate Bill 64

Dear Representative Keller:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully share our concern with Senate Bill 64. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

NFIB members voted over 60% in 2010 to maintain the \$500 level, but its leadership recognized there is some need and reason to increase the level in 2014. They believe that a 50% increase to \$750 in the level is a significant step. We very much appreciate Senator Coghill's willingness to listen to our concerns and we do appreciate his concerns. We supported his amendment to raise the felony threshold to \$750. We, however, must oppose the current proposed level of \$1,200 inserted by the Senate.

There are several concerns NFIB members have raised. Prices of merchandise and tools have not always followed inflation. The cost of electronics has dropped significantly so that at \$750 many TVs can be taken before the theft would become a felony. Taking a TV is not a minor discretion. It takes intent to take what is not yours with the full knowledge that it is wrong. The same is true of tools used in the construction industry. For small businesses the cost of the TV comes out of the owner's pocket. For the person in construction, the cost comes out the person's pocket and limits the ability to be productive at the job. For the small business, these are significant issues.

Enforcement is also a concern. While we have no reason to question how anyone does their job and certainly not anyone's intention or honor, the facts are that property crimes get a lower priority and misdemeanors are a lower priority than felonies. When we are talking about your money vs. my money, my money is more precious to me. It is the same with small businesses. The \$250 more reduced to the misdemeanor is their money, not some far off corporation's money. The sense of violation remains high and the sense of protection goes down.

Representative Keller
March 20, 2014
Page 2

Our members are sympathetic to the issues raised by those concerned about the long-term impact of youthful bad decisions. Perhaps developing a program to expunge a felony record after rehabilitation should be examined.

I have attached emails from two NFIB members. One demonstrates the need sales to offset a \$750 robbery. The other email shares concern with the investigation of misdemeanors. I have also attached testimony provided relative to the enforcement of misdemeanors in the opinion of a representative of law enforcement.

Again, we appreciate your willingness to consider the concerns of small businesses in Alaska.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

Attachments

Email from John Weedman
Email from Ilse Tester
Minutes from Senate Judiciary Committee, February

Cc: NFIB/AK Leadership Council
Senator John Coghill
House Judiciary Committee members

I am profoundly against incentivizing crime, which is essentially what this bill does in my opinion.

\$750 is a lot to a small business, and we shouldn't be making it easier for thieves to steal from them.

\$750 in merchandise or other assets stolen from my store represents the net profit we `hope` to realize from \$25,000 in sales. Or to put it another way, my store would have served 650 customer visits for nothing.

There is substantial evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods.

Simply inflation-proofing crime is poor public policy, and therefore, I respectfully oppose any increase above the \$500 threshold.

Respectfully

Mr. John Weedman
Owner/Manager
Western Auto Marine
4331 Taku Blvd
Juneau AK 99801

From: Tester Drilling [<mailto:tester@alaska.net>] **Sent:** Saturday, March 08, 2014 11:53 AM **To:** Senator.John.Coghill@akleg.gov **Cc:** Sen.Pete.Kellev@akleg.gov; 'Sen.Kevin.Meyer@akleg.gov' **Subject:** Oppose increase felony limitsbSB64 **Importance:** High

Dear Senator Coghill, and Senator Kelley,

As small business owner, we oppose SB64, let me tell you our experienced. Someone stole our ongoing mail from our Mailbox, then made an exact copy of our check, and printed it on their home computer. They cashed the check at Safeway, Our bank honored it, and our sharp bookkeeper caught the fraud on the bank statement, and noticed that my signature had
Been forged. We contacted the bank, they had to close our account and we could not recoupe the money!

We called the Police because we did some detective work of our own, and had the name and address of the person that stole our check, but because it was \$350.00 the police told us that it wasn't enough for them to deal with it! The thief was so sophisticated that made it look like a payroll check and went and cashed it at Safeway without any problem.

My point is that thieves are aware of the levels of what they can get away with it, \$350 for our small business, is a lot, and To think that SB64 will increase the amount from \$500 to \$750 is ridiculous! Please, take into consideration all the small Business owners who had been and will be robbed in this manner.

Senator Coghill, as the sponsor of this bill, please consider us.

Kind regards,

Ilse Tester

Tester Drilling Services, Inc.

2221 Cinnabar Loop
Anchorage, AK 99507
Phone: 907-349-7214
Fax: 907-349-3787
tester@alaska.net

What's on your list today? You'll find it at
Fred Meyer

Fred Meyer Stores • P.O. Box 42121 • Portland, OR 97242-0121 • 3800 SE 22nd Ave. • Portland, OR 97202-2999 • 503 232-8844 • www.fredmeyer.com

Senator Kevin Meyer
Co-Chair, Senate Finance Committee
Room 518, State Capitol
Juneau, AK 99801-1182

Senator Pete Kelly
Co-Chair, Senate Finance Committee
Room 516, State Capitol
Juneau, AK 99801-1182

Dear Co-Chairs Kelly and Meyer,

We are writing today representing Fred Meyer Loss Prevention. Fred Meyer has 11 stores and nearly 3000 employees in Alaska. We request that this letter be placed into the official record with SB 64, and distributed to each member of the Committee in the bill packets.

We encourage you to leave intact the provisions contained in SB 64 that would raise the felony property crime threshold from the current \$500 level to \$750. This level reflects significant cooperation and compromise among interested parties, including the retail sales industry. While FM initially opposed any increase to the existing limit, we recognize the sponsor's desire to deflect some property crime enforcement and corrections expenses in Alaska.

Fred Meyer is a full-line grocery store as well as a general merchandise retailer. We sell many items in our stores that would become prime theft targets should the threshold be higher than the \$750 in SB64.

Theft in our stores no longer fits the traditional definition of shoplifting. It is no longer a person grabbing a carton of milk or eggs or a bottle of wine and stuffing it in their jacket. It's not a young kid stealing the latest video game or DVD. The days when these kinds of thefts were our primary problem are long gone.

Theft is now a profession. Our problem in today's world is professional, savvy, Organized Retail Crime rings.

At Fred Meyer we sell Dyson Vacuum Cleaners, KitchenAid Mixers, iPads and iPods, LED and Plasma flat screen TVs, Xbox and Wii consoles. These are the items where we face the high theft, and there has not been inflation in these products. In fact, there has been significant deflation. Flat screen TVs used to be \$6000. You can now get 30- and 40-inch flat screen TVs for \$500.

These professional thieves come into our stores and roll out with two Dyson vacuum cleaners, or four flat screen TVs. They take off with 30 or 40 DVDs. They break into our iPod cases and take off with a dozen iPods. They then make a living by selling the items they steal.

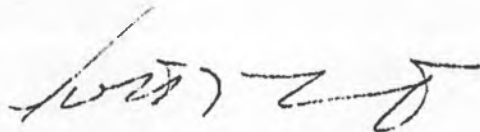
These things happen despite our best and most sophisticated efforts. We have strong and successful theft prevention programs and surveillance in our stores. We invest heavily in staying one step ahead of these professional criminals, and we do a very good job of it. But if any of you have been to a Fred Meyer store on a Thursday or Friday afternoon, you can see how the sheer volume of people in the store makes it possible for a skilled thief to gather multiple items and leave the store before anyone can stop them.

As a retailer, we're trying to get affordable merchandise to the customer, and in today's economy that means doing all we can to keep prices low. The items these professional thieves are stealing are very low margin – there is virtually no margin in TVs or iPods. We sell them because we hope you'll also buy the accessories or grab your groceries while you're there. So when they steal these items from us, that cost simply comes out of the store profit with which we pay wages and benefits to our nearly 3000 employees in Alaska.

We ask you to please leave intact the increase to \$750 and not raise it any further. News that the threshold has been raised will spread like wildfire among our theft and shoplifting community – news of any larger increase will spread even faster and further. At \$750, a young kid who makes a stupid decision and steals a bike or a pair of cool headphones is still only committing a misdemeanor and will get his or her second chance. But more than \$750 allows these professional criminals to walk out of our store with a cartload of infant formula which will be sold on the black market without care for the conditions it has been kept in or whether it's expired. And they will get just a slap on the hand.

We can tell you from experience that the theft community WILL know about any increase and WILL adjust accordingly. This isn't just about protection our profits; it's also about keeping our prices low for consumers and keeping our stores safe. Please leave intact the provisions contained in SB 64 that would raise the felony property crime threshold from the current \$500 level to \$750

Thank you for your time and for the opportunity to submit our thoughts.



Scott Bringham
VP Loss Prevention
Fred Meyer Stores



Shawn Crouse
Loss Prevention Coordinator
Fred Meyer Stores Alaska District

28th 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

Memo Addressing Questions from House Judiciary

3/26/14

Custodial Interference (Sections 1-3)

Why is this section needed?

These sections were added through an amendment in the Senate Judiciary Committee. The issue was brought to the committee's attention after hearing testimony from an Anchorage resident.

The scenario: a man walked into a school and represented himself as the lawful parent of a child in an attempt to (probably) kidnap that child. The program employees knew he wasn't the lawful custodian and sent him away. The man then returned and tried to do the exact same thing with another child. He was charged with criminal mischief in the 4th degree.

Are there "attempted kidnapping" statutes?

There are no "attempted kidnapping" statutes, but you can prosecute an attempted kidnapping under the general "attempt" statutes (AS 11.31.100).

Under the scenario, why couldn't the Department of Law prosecute that person with attempted kidnapping?

The type of facts in the scenario made it impossible for the Department of Law to charge attempted kidnapping. They did not feel they could successfully prove the attempt.

Simply representing yourself as a parent does not constitute a “substantial step” toward commission of kidnapping, which involves restraining another person with intent to hold the person.

To be prosecuted for custodial interference in the 2nd degree (as proposed in SB 64), all the person has to do is ‘represent’ to the lawful custodian that they have a legal right, and that would not amount to an “attempt” because all they are doing is making a verbal statement. The Department of Law needs evidence that the man intended to restrain another person, and they just didn’t have that evidence, thus they could not meet the threshold of attempt under our statutes. *That’s why it requires a separate statute.*

Sec. 11.31.100. Attempt.

(a) A person is guilty of an attempt to commit a crime if, with intent to commit a crime, the person engages in conduct which constitutes a substantial step toward the commission of that crime.

(b) In a prosecution under this section, it is not a defense that it was factually or legally impossible to commit the crime which was the object of the attempt if the conduct engaged in by the defendant would be a crime had the circumstances been as the defendant believed them to be.

(c) In a prosecution under this section, it is an affirmative defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, prevented the commission of the attempted crime.

(d) An attempt is

(1) an unclassified felony if the crime attempted is murder in the first degree;

(2) a class A felony if the crime attempted is an unclassified felony other than murder in the first degree;

(3) a class B felony if the crime attempted is a class A felony;

(4) a class C felony if the crime attempted is a class B felony;

(5) a class A misdemeanor if the crime attempted is a class C felony;

(6) a class B misdemeanor if the crime attempted is a class A or class B misdemeanor.

(e) If the crime attempted is an unclassified crime described in a state law which is not part of this title and no provision for punishment of an attempt to commit the crime is specified, the punishment for the attempt is imprisonment for a term of not more than half the maximum period prescribed as punishment for the unclassified crime, or a fine of not more than half the amount of the maximum fine prescribed as punishment for the unclassified crime, or both. If the crime attempted is punishable by an indeterminate or life term, the attempt is a class A felony.

Sec. 11.41.300. Kidnapping.

- (a) A person commits the crime of kidnapping if
- (1) the person restrains another with intent to
 - (A) hold the restrained person for ransom, reward, or other payment;
 - (B) use the restrained person as a shield or hostage;
 - (C) inflict physical injury upon or sexually assault the restrained person or place the restrained person or a third person in apprehension that any person will be subjected to serious physical injury or sexual assault;
 - (D) interfere with the performance of a governmental or political function;
 - (E) facilitate the commission of a felony or flight after commission of a felony;
 - (F) commit an offense in violation of AS 11.41.434 - 11.41.438 upon the restrained person or place the restrained person or a third person in apprehension that a person will be subject to an offense in violation of AS 11.41.434 - 11.41.438; or
 - (2) the person restrains another
 - (A) by secreting and holding the restrained person in a place where the restrained person is not likely to be found; or
 - (B) under circumstances which expose the restrained person to a substantial risk of serious physical injury.
- (b) In a prosecution under (a)(2)(A) of this section, it is an affirmative defense that
- (1) the defendant was a relative of the victim;
 - (2) the victim was a child under 18 years of age or an incompetent person;
- and
- (3) the primary intent of the defendant was to assume custody of the victim.
- (c) Except as provided in (d) of this section, kidnapping is an unclassified felony and is punishable as provided in AS 12.55.
- (d) In a prosecution for kidnapping, it is an affirmative defense which reduces the crime to a class A felony that the defendant voluntarily caused the release of the victim alive in a safe place before arrest, or within 24 hours after arrest, without having caused serious physical injury to the victim and without having engaged in conduct described in AS 11.41.410(a), 11.41.420, 11.41.434, or 11.41.436.

Would this concept be more appropriate in the kidnapping statutes, rather than the custodial interference statutes?

Truthfully, it doesn't fit nicely into either one.

So, why the CI statutes? Because, although this crime is committed by a non-relative, the offender is attempting to portray themselves as a relative – portraying themselves as a custodian. They are saying they have a right to custody, so that's why the decision was made to put it into the custodial interference statutes.

24/7 Sobriety

How does the swift response work with electronic monitoring?

Half of the counties in South Dakota are rural, and many of the smaller ones do not have a local jail or sufficient personnel to administer the breath tests. This means that the nearest test site could be up to 50 miles away, so some offenders would have to drive significant distance twice a day to be tested. Also, some offenders have unusual employment responsibilities that made attendance at regular testing times very difficult.

Alaska is also predominately rural, so in order for 24/7 Sobriety to work, there will need to be an electronic/remote monitoring component.

It's true that that by using SCRAM the response is less immediate when compared to in-person testing. However, many people who violate (consume alcohol) will actually skip the appointment, so an officer would have to seek out and arrest that individual anyway. States with established 24/7 Sobriety programs (SD, ND, and MT) have about 15% of program participants on E.M. *According to the data, using electronic monitoring for 24/7 Sobriety is successful at keeping participants sober and reducing recidivism.*

SCRAM statistics (Nov 2006 – Apr 2008)

- 490 offenders monitored
- Average duration of 80 days
- 83% of people on SCRAM are program compliant.

Since 2007, has there been legislation regarding Nygren Credit?

No. Since 2007, there has been no legislation affecting AS 12.55.027 – Credit for time spent toward service of a sentence of imprisonment.

From: Jayce Robertson <jaycerobertson@hotmail.com>
Sent: Monday, March 24, 2014 10:40 AM
To:
Subject: Support Testimony for SB 64 and SB 81

To whom it may concern:

My name is Jayce Robertson and I am writing to support SB 64 with the addition of language from SB 81. These two bills are similar in nature and would have an enormous and positive impact on my life. I am a registered voter of House District 29 and a lifelong Alaskan resident. The language from SB 81 is what would directly impact my life. I have made many mistakes in my life and have had my license revoked for a minimum of 10 years. However, the mistakes I have made brought me to a turning point where I made tremendous changes and have been clean and sober ever since June 2, 2011. SB 81 would grant people like myself whom have completed residential treatment and remained clean and sober the opportunity to obtain a limited driver's license. I believe this language is very fair because it rewards those who seek and maintain recovery while remaining strict on those whom continue to drink and abuse substances. Not having a driver's license is an extreme hardship on myself and my family. The passing of SB 64 with the language from SB 81 would be one step closer to our state recognizing treatment as the solution rather than punishment for those whom wish to comply.

Please help our great state show compassion to those whom are willing to seek and get help for the disease of addiction. There is no one solution or answer to this problem that affects all areas of Alaska. However, this is a step in the right direction and will remain hard on those whom continue to violate their conditions of probation and reoffend while rewarding those who comply with their conditions and seek help for their substance abuse issues.

Sincerely,

Jayce N. Robertson

PO Box 2557

Soldotna, AK 99669

907-740-0352

Sent from Windows Mail

To the Honorable Rep. Wes Keller and the House Judicial Committee:

As a concerned citizen, I am seeing many injustices in the sentencing of our citizens that greatly concern me and the status of those who thus become inmates in our prison for unjustifiable reasons. I would like to share some ideas for possible changes for you to look at as you are considering SB64 in the House Judiciary Committee this week.

I have been doing some extensive reading and listening to committee meetings regarding SB64 and Legislative Resolve 12. As I have talked with unnamed Corrections Officers and other concerned individuals, I have come up with one very important identifying item to look at. **The redefinition of a sexual crime.** That is a critical piece in all of this Legislation. Then the Court System can deal justly with real people in this state and find that they aren't all criminals as they see them now!

Starting with SB64, I would like to use specific lines where I can see the need to closely look at the possibility for redefinition:

Sec.44.19.645 Powers and duties of the Commission

I would like to see the Alaska Criminal Justice Commission consider the following points in this bill:

- 1) **make recommendations for improving criminal sentencing practices** – less jail time and more treatment time based on the need and allow faith-based centers to be used.
- 2) **consider statutes and court rules related to sentencing of criminal defendants in misdemeanor and felony cases** - are many of these cases really felony cases.
- 3) **sentencing practices of the judiciary, including use of presumptive sentences**- redefine what a felon case is - don't just presume that is the judgment they should receive.
- 4) **means of promoting uniformity and proportionality in sentencing** – some one who has seduced 6 or more girls to his boat and drugged and raped them gets only 15 years while another case in inappropriate touching gets the same.
- 5) **alternatives to traditional forms of incarceration** – programs like TLC and other treatment programs.
- 6) **crime and incarceration rates, including the rate of violent crime, in this state compared to other states, and best practices adopted by other states that have proven to be successful in reducing recidivism** – we supposedly have more crime because so many cases are charged with a prison sentence and not all are charged correctly.

Let's learn from Texas and other states who have improved and have a lower recidivism rate and less crime because of the changes they have made by allowing the lesser criminals to go home and start their lives over before they are totally embittered by the system.

- 7) **accumulate and compile information concerning sentencing practices; and recommend legislative and administrative action on sentencing practices** – I know our Legislature is very busy, but I see the great need for this to happen as soon as can be done. Lives are being destroyed every day because of our inconsistencies and incorrect sentencing practice.

It is suggested in the next section of **SB64** to base those recommendations on the following factors and I concur strongly:

- 1) **the seriousness of each offense in relation to other offenses**, i.e., is stealing a \$1000 in the same category as robbing a bank of \$50,000 or is touching a breast the same as aggravated assault and forcible rape? 'Make the punishment fit the crime.'
- 2) **The effect of an offender's prior criminal history on sentencing** – an outstanding citizen in the community, with no previous record and strong backing from the community and church should be considered for a lesser sentence or treatment as compared to someone who is a repeat offender already.
- 3) **The need to rehabilitate criminal offenders** - this is great and is needed but, except for the TLC program which is only for the Medium Facility and for offenders that are there for over two years, and IF there is room for them, can they get any treatment. There is no treatment for others. Why not let them get treatment and not send them to prison. It is not helping them, only makes them worse.
- 4) **The elimination of unjustified disparity in sentences** – feel like this has been touched on already. Here is the great need for redefinition of what a sex crime is. And then sentence the lower crimes at a less harsh level.
- 5) **The effect of sentencing on reducing the rate of recidivism in the state** – I have found that unless an inmate is able to go through a treatment program, has already changed their own life with a personal relationship with God, or has major family and community support, recidivism will be high. And they are not getting help on the inside.

I apologize for the long-windedness and details, but I am trusting this will be of help to you.

Let's now look briefly at **Legislative Resolve 21 with HCR 12 as its source**.

Here are specific lines I am concerned for the need to look at:

- 1) **relating to the crime of sexual assault** – redefine what it is.
- 2) **relating to the crime of unlawful contact** – is this really a sexual crime that deserves a felon charge for the rest of their lives?
- 3) **Relating to the use of evidence of sexual conduct concerning victims of certain crimes** – if there is no DNA, the charge should not be a felon.
- 4) **Relating to the definition of “sexual felony” for sentencing and probation for conviction of certain crimes** – if redefined, the true sexual felony would be more accurate and other cases would be lesser charges or even just have treatment.
- 5) **Relating to the definition of “sex offense” regarding sex offender registration** – if this would be redefined we would have a more accurate picture on the registration list.
- 6) **Relating to the definition of “victim counseling centers” for disclosure of certain communications concerning sexual assault or domestic violence** – there should only need to be disclosure of information if there could be a potential problem for harm to that person or to another individual. We all have things we need to talk about to someone. The State does not need to concern itself with all of these thoughts of the offender.
- 7) **Relating to remission of sentences for certain sexual felony offenders** – once a redefinition has been done, there could definitely be sentences cut back or even completely excused because of the time already served. Let's let these people have their lives back.

Thank you for taking the time to read the ideas I wanted to share with you. I trust this will be of benefit as you are working through these bills. If I can answer any more questions, you can pass them on to Rep. Keller, or he may be able to answer them as I have spoken with him several times already.

With the highest respect for all you are doing,

An Anonymous but very concerned Citizen

To Rep Keller and the Judiciary Committee:

As a concerned citizen, I am seeing injustices in the sentencing of our citizens as too many are being classed as felons who not deserve that label! So the thrust of my written testimony on Wednesday, March 26 was the need for Redefinition of a sexual crime. I am very pleased to see that you are increasing the amount before a theft is considered a felon and trusting you see the need for the sexual crime to be seriously looked at and redefined.

In my first written testimony, I went over line-by-line the statements that I felt were worth looking at for redefinition or consideration for changes in the process:

- 1) Criminal sentencing
- 2) Statues and court rules in misdemeanor and felony cases
- 3) Presumptive sentencing practices
- 4) uniformity and proportionality in sentencing
- 5) alternatives to incarceration
- 6) rate of crime in our state compared to others and what they have done to reduce recidivism
- 7) look at sentencing practices and recommend legislative and administrative action on sentencing practices
- 8) the seriousness of each offense in relation to other similar offenses
- 9) effect of an offenders prior criminal history or lack of it on sentencing!
- 10) great need to rehabilitate criminal offenders - while they are incarcerated
- 11) unjust disparity in sentences
- 12) does sentencing really reduce recidivism - not without treatment

I also touched on 7 points in Legislative Resolve 21, with HCR 12 as its source. Please refer back to my first testimony for those details. The thrust of those was to really look at what is a sexual crime and redefine what it is, the sentencing and what is truly needed to help someone.

After listening to several testimonies on Wednesday, other issues that I have been concerned about were once again brought to the forefront!

I appreciated the testimonies of two gentleman indicating that the tendency seems to give punishment and not look at the treatment for an inmate. One testimony indicated that 90% of the crimes are from impaired judgement - does that really make them a felon? The threshold at what constitutes the level of a crime that makes you a felon needs to be looked at! Just as Joe Bair expressed on Wednesday, if he has an encounter with Rep Keller and gets pushed against a wall and pushes Mr. Keller back on the chest, he could be charged with a misdemeanor. But if Mr. Bair has the same kind of encounter with a woman and he pushes her back and in some small way touches her breast, he would be charged with sexual assault and would become a felon for the rest of his life! How does that kind of a charge make

sense, especially in comparison to an intentional and aggravated rape case! It doesn't! Let's look at each case with a fair and open mind and not cause a person's life to be ruined forever for someone who is not a real sexual abuser or predator in our society.

The two issues I would like to address and encourage the Legislature to look into very closely are **what Education is really happening in the prisons and how many inmates are really getting help in a career possibility before they exit! I also would like to look closely at what treatment is actually being offered and to how many inmates!**

I have heard at the committee meeting Wednesday, as well as the Senate Judiciary Finance Committee meeting that indicate that two things are happening: 1) Yes educational classes are being offered and the inmates are being prepared for entering society with a trade and ready to go as a prepared citizen! 2) Secondly I hear they are getting adequate treatment while they are inside the institution so when they enter society they have adequate social skills and have addressed whatever behavior has gotten them to this point!

My question to the Legislature and maybe a challenge is: **How many actually classes are being offered in the Education Department per the number of inmates per institution?** There is a lot of talk about all the education opportunities for the inmates, but what is the actual number of inmates that have a career possibility when they leave an institution, especially in comparison to the total number of inmates in that facility!

I have a friend who is taking a Criminal Justice Class from the Mat-Su College. The class has visited both PCC and Goose Creek! They were told at PCC about all the Educational Programs that are offered, but even when this friend called back in, there were no specifics explained on what was really offered. 'We are working of getting more classes lined up.' **So what is really being offered?** From this friend and other contacts I have, I have only heard of 3 Career possibilities for the inmates at PCC: 1) Electrician, 2) Plumber and 3) Carpentry! These are all great career opportunities, but for an institution of maybe up to 600, only 120 in the minimum area have the availability of access to these classes. But in actuality only two students are allowed to take each of these classes over a period of 18 months. That does not seem to be a great availability of career opportunity for re-entry into the real world? **I would encourage you to look at what is really being offered!** They also offer two High School level classes: Auto Repair and Welding classes that are 6 weeks for each class! Yes they learn a good amount of material and get a certificate of completion, but that really does not get them very far! It is a High School Class!

If an inmate does not have a High School Diploma they do have the opportunity to get a GED while they are incarcerated! There are inmates who will help with the tutoring and the prison is supposed to have the test available for them to take it at

any time. Since the first of this year, the GED test itself has not been available for the inmates to take! The contract has expired and has not been re-instated with a new company! This might need to be looked into!

This same college student said there is a great program out at Goose Creek – offering classes in a huge facility for the inmates! From the reports on Channel 2 News, there is also an attitude of caring about the inmates in order to help them be a better person. According to Chad Brooks, a guard at Goose Creek, (per the TV documentary) if you treat an inmate like a real person and with respect, they will come out a stronger person who can make a difference in life. I think it is a good reminder for all of us to remember that “People respond with kindness when treated kindly, they respond with trust when trusted and they respond respectfully when respected”. A sign in one of the prisons says: my response is determined by your attitude! A good motto for all to remember but especially for those working with the inmates inside! If the guards and other staff have good attitudes towards the inmates, they will get a much better response back and increased improvement in those lives!

The other question I really don't feel like I am hearing a real answer to and encourage you to get an answer to is: **What treatment is being offered to the inmates – in real terms and how many are able to benefit from it?**

The one thing I did hear from my friend and others is that the best program that is offered to inmates for treatment is the TLC (Transformational Living Community) Program that is offered in Medium Security at PCC only. This program is available for inmates who are there for **over two years, residing in medium only and only for a limited number of people**. The results from the TLC Program are 75% less recidivism after they are released! But from the knowledge I have gleaned and what my friend has learned, this is the only treatment program that is available for inmates at PCC. There is no treatment or counseling in minimum at PCC. From a close friend who has tried to get help for a family member, they are not even allowed to pay for a counselor to come in and have counseling provided while that inmate is incarcerated – they have to wait until they are out of jail, because nothing is offered for them. At that point of release, an inmate is ready to get on with their life! **Treatment and counseling are not happening!** I would strongly encourage you to check into the statements that are being made! This is when the help needs to be given!

The Recidivism Fund Grant is a good for support once a person has been released, but the real help needs to be given while they are incarcerated! Help them work through their issues with all those months of nothing to do but think! There are many viable counselors available whether it is a certain state approved or a faith based counselor, let this happen while they are inside, so their life can begin again when they leave! And like the gentleman from Kenai said, if they are following all the rules and have changed, don't hold them to such harsh mandates, like no

Driver's License or long Probation! Give them their life back! Some of them have the tag of felony that will follow them forever and that is enough to bear!

When someone commits a crime whether it has to do with drinking, drugs, a sexual crime or theft, then the crime becomes an issue between that person and the State of Alaska! So, as the Legislature of the State of Alaska, I feel strongly that it behooves you to search for concrete answers to the questions I have presented! As a concerned citizen I would like to hear some valid answers to these issues I have presented to you.

Thank you for your time,

Betty Bair

*This is on the website but not
really offered*

PALMER CORRECTIONAL CENTER EDUCATION

PROGRAMS

- ▶ Adult Basic Education
- ▶ General Equivalency Diploma (GED)
- ▶ Post Secondary Education
- ▶ Parenting
- ▶ Pre-Release
- ▶ Introduction to Computers
- ▶ Microsoft and IC3 Certification
- ▶ Tech Prep
- ▶ National Center for Construction Education and Research (NCCER)
- ▶ Electrical, Plumbing & Carpentry Apprenticeship
- ▶ Cook & Baker Apprenticeships
- ▶ Computer Assisted Drafting
- ▶ A+
- ▶ Various Vocational Classes
- ▶ Commercial Drivers License
- ▶ Career Scope
- ▶ Right Way
- ▶ Job Center
- ▶ Child Support
- ▶ Educational Opportunity Center
- ▶ Moral Reconciliation Therapy
- ▶ Communication
- ▶ Resumes and Interviewing
- ▶ Independent Living
- ▶ Business Basics
- ▶ Pre-Release
- ▶ Employment



THE STATE
of ALASKA

GOVERNOR SEAN PARNELL

Department of Corrections

Office of the Commissioner

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April 2, 2014

The Honorable Wes Keller
House Judiciary Chair
Alaska State House of Representatives
State Capitol, Rm. 118
Juneau, AK 99801-1182

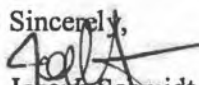
Dear Representative Keller:

During the March 28th hearing on SB 64 Omnibus Crime/Corrections Bill there was a question about inmate access to educational and substance abuse treatment programs. The Department of Corrections (Department) recognizes the vital role that these programs play in the rehabilitation of offenders and is working to improve both the quality and availability of these programs.

The Department offers institutional substance abuse treatment first to sentenced felons and then to other offenders when there is space available. Sentenced felons are typically incarcerated long enough to be able to take advantage of substance abuse treatment programs, as opposed to other offenders who may be released before being able to complete the program. Offenders with shorter sentences are encouraged to seek treatment in the community and there are numerous resources available to assist those offenders in finding an appropriate provider.

The Department also offers a variety of educational programs to better prepare inmates to become productive members of society. Already in FY14, 137 inmates have received their General Education Development diploma. Additionally, in FY14, the Department has provided vocational education services to 3,144 inmates which is an increase over FY13.

Enclosed you will find information on the number of inmates who have been served by the substance abuse, sex offender, and education programs offered by the Department. Please do not hesitate to contact me if you have further questions or would like additional information.

Sincerely,

Joseph Schmidt
Commissioner

Encl:



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

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Office of the Commissioner

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ALASKA DEPARTMENT OF CORRECTIONS SUBSTANCE ABUSE SERVICES REPORT

FY13 & FY14 (as of 2/1/14)

Overview of Substance Abuse Services:

Assessments: The assessment and referral services provide informational orientation to offenders for substance abuse treatment options within ADOC institutions and in the community. The assessments provide comprehensive referrals that best meet the offenders substance abuse treatment needs.

LSSAT: The Life Success Substance Abuse Treatment programs are based on the intensive outpatient treatment criteria also using a cognitive behavioral approach. These programs are comprehensive and intensive and participating inmates are generally required to participate for a minimum of three months.

ANSAT: The Alaska Native Substance Abuse Treatment programs are based on the intensive outpatient treatment criteria. These programs use a cognitive behavioral approach from an Alaska Native perspective. The programs require inmates to participate for a minimum of four weeks and up to six weeks.

RSAT: The Residential Substance Abuse Treatment program is based on the residential/intensive inpatient treatment criteria. The services provided use a cognitive behavioral approach. These programs are comprehensive and intensive; they are designed to intervene and treat substance use disorders using a therapeutic community model. Inmates in these programs are expected to participate for a minimum of six months.

Continuing Care: These services are based on the outpatient treatment criteria and are designed to complement the treatment that the offender has previously received. Length of the program, along with the program requirements, is based upon individual needs but generally is 90 to 120 days.

Offenders Served Statewide:

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
Assessments	559	310	N/A
ANSAT	136	108	13
Continuing Care	335	277	98
LSSAT	921	547	125
RSAT	231	204	106
Total	2182	1446	342

Substance Abuse Services by Institutions:

Anchorage Correctional Complex (ACC):

The substance abuse services offered to offenders at ACC during this time period include Assessments and LSSAT (the LSSAT program was discontinued in FY14).

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
ACC Assessments	141	82	N/A
ACC LSSAT	40	N/A	N/A

Anvil Mountain Correctional Center (AMCC):

The substance abuse services offered to offenders at AMCC during this time period include ANSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
AMCC ANSAT	79	63	7

Fairbanks Correctional Center (FCC):

The substance abuse services offered to offenders at FCC during this time period include LSSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
FCC LSSAT	92	54	11

Goose Creek Correctional Center (GCCC):

The substance abuse services offered to offenders at GCCC during this time period include LSSAT and RSAT. In FY 14 the RSAT program was moved to Palmer Correctional Center and the LSSAT program was expanded at GCCC.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
GCCC LSSAT	43	129	31
GCCC RSAT	56	N/A	N/A

Hiland Mountain Correctional Center (HMCC):

The substance abuse services offered to offenders at HMCC during this time period include LSSAT and RSAT. The LSSAT began providing services in FY14.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
HMCC LSSAT	N/A	18	12
HMCC RSAT	54	63	30

Hudson Correctional Facility (HCF) (Hudson, CO):

The substance abuse services offered to offenders at HCF during this time period include RSAT which was transferred to GCCC in FY13. Note: As of September 2013 Alaska incarcerates less than 20 people out-of-state.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
HCF RSAT	121	N/A	N/A

Lemon Creek Correctional Center (LCCC):

The substance abuse services offered to offenders at LCCC during this time period include LSSAT (services are currently suspended due to lack of staff).

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
LCCC LSSAT	82	34	N/A

Mat Su Pretrial Facility (MSPT):

The substance abuse services offered to offenders at MSPT during this time period include Assessments.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
MSPT Assessment	221	126	N/A

Palmer Correctional Center (PCC):

The substance abuse services offered to offenders at PCC during this time period include LSSAT and RSAT. In FY14, the RSAT program was transferred into PCC from GCCC and the LSSAT program was transferred out to GCCC.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
PCC LSSAT	168	43	N/A
PCC RSAT	N/A	112	56

Spring Creek Correctional Center (SCCC):

The substance abuse services offered to offenders at SCCC during this time period include LSSAT and RSAT. The LSSAT was discontinued and the RSAT began in FY14.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
SCCC LSSAT	68	N/A	N/A
SCCC RSAT	N/A	29	20

Wildwood Correctional Center (WCC):

The substance abuse services offered to offenders at SCCC during this time period include LSSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
WCC LSSAT	76	37	11

Yukon-Kuskokwim Correctional Center (YKCC):

The substance abuse services offered to offenders at YKCC during this time period include ANSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
YKCC ANSAT	57	45	6

Anchorage Community:

The substance abuse services offered to offenders in the Anchorage community during this time period include Assessments, Continuing Care and LSSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
A-COM Assessment	197	102	N/A
A-Com Continuing Care	202	133	58
A-Com LSSAT	216	94	18

Fairbanks Community:

The substance abuse services offered to offenders in the Fairbanks community during this time period include Continuing Care and LSSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
F-Com Continuing Care	95	65	22
F-Com LSSAT	70	47	12

Juneau Community:

The substance abuse services offered to offenders in the Juneau community during this time period include Continuing Care and LSSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
J-Com Continuing Care	0	15	6
J-Com LSSAT	12	26	10

Kenai Community:

The substance abuse services offered to offenders in Kenai community during this time period include Continuing Care and LSSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
K-Com Continuing Care	9	28	6
K-Com LSSAT	15	26	2

Palmer Community:

The substance abuse services offered to offenders in the Palmer community during this time period include Continuing Care and LSSAT.

PROGRAM	FY13 SERVED	FY14 YTD SERVED	CURRENTLY ACTIVE
P-Com Continuing Care	29	36	6
P-Com LSSAT	39	39	14



ALASKA DEPARTMENT OF CORRECTIONS SEX OFFENDER TREATMENT REPORT

FY10 – FY13

Overview of Sex Offender Services:

Lemon Creek Correctional Center – Current capacity is 28 men. The program is full with a multi-year wait list. An expansion to 40 men is planned for 2015. This is a therapeutic 18-24 month program designed for Medium and Close custody level sex offenders.

Palmer Medium Correctional Center – Currently capacity is 36 men. The program is full with a multi-year wait list. This is an outpatient-based 18-24 month program designed for Minimum and Medium level sex offenders.

Hiland Mountain Correctional Center – Currently there are three female sex offenders in program. The capacity is 15, however there have never been more than five female sex offenders incarcerated statewide. This is an outpatient based 18-24 month program designed for all custody levels of female sex offenders.

DOC performs approximately 60 total psycho-sexual assessments each year, all performed by PhD level providers in LCCC, Goose Creek, Spring Creek and Wildwood Correctional Complex.

Institutional Probation Officers and DOC staff facilitate approximately 250 releases for sex offenders statewide. This entails performing a risk assessment, compliance with the Sex Offender Registry, and monitoring for potential community safety issues such as victim contact, victim pool access, minor contact, etc.

Offenders Served Statewide:

FY10 26 (only LCCC)
FY11 30 (only LCCC)
FY12 45 (LCCC and Hiland Mountain)
FY13 73 (LCCC, PCC and Hiland Mountain)



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Corrections

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**ALASKA DEPARTMENT OF CORRECTIONS
EDUCATIONAL AND VOCATIONAL SERVICES REPORT**

FY13 & FY14

Anger Management Class

In 2013, the **Anger Management** program was added as part of the core curriculum.

	Served FY-13	Served FY-14
GCCC	0	29
HMCC	0	0
LCCC	0	0
MSPT	0	12
PCC	0	0
PMCF	0	25
SCCC	0	4
WWCC	0	0
YKCC	0	0

Criminal Attitudes Program

	Served Fy-13	Served FY-14
ACCE	45	28
AMCC	5	5
FCC	12	15
GCCC	77	155
HMCC	128	59
KCC	44	22
LCCC	28	38
MSPT	65	41
PCC	149	131
SCCC	79	48
WWCC	66	55
YKCC	88	47

Parenting Class

	Served Fy-13	Served FY-14
ACCE	29	10
ACCW	22	48
AMCC	3	0
FCC	20	13
GCCC	35	70
HMCC	46	89
KCC	38	25
LCCC	50	8
MSPT	23	42
PCC	42	53
PMCF	4	21
SCCC	24	19
WWCC	62	31
YKCC	14	18

Re-Entry Class

	Served Fy-13	Served FY-14
ACCE	46	3
ACCW	67	47
AMCC	7	8
FCC	172	152
GCCC	158	144
HMCC	143	85
Hudson	255	0
KCC	14	6
LCCC	18	5
MSPT	0	1
PCC	38	42
PMCF	9	16
SCCC	58	38
WWCC	38	54
YKCC	0	0

Adult Basic Education Services

During FY14, 137 offenders received their General Education Development (GED) diploma while incarcerated.

	Served FY-13	Served FY-14
ACCE	88	104
ACCW	106	72
AMCC	17	11
FCC	114	41
GCCC	36	128
HMCC	329	356
KCC	17	10
LCCC	22	23
MSPT	16	14
PCC	45	37
PMCF	0	14
SCCC	43	68
WWCC	35	14
YKCC	52	102

Vocational Educational Programs

In FY14, 3,144 incarcerated individuals received a vocational program service and 2,457 completed.

	Served Fy-13	Served FY-14
ACCE	0	0
ACCW	0	106
AMCC	96	109
FCC	227	213
GCCC	640	683
HMCC	890	1185
KCC	49	16
LCCC	279	186
MSPT	99	0
PCC	127	79
PMCF	44	148
SCCC	172	165
WWCC	149	158
YKCC	157	42



April 3, 2014

House Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

ph.
907 793.3600

fx.
907 793.3602

web.
CITCI.org

Members of House Judiciary Committee:

CITC supports passage of Senate Bill 64 because this legislation provides important new innovations to turn around Alaska recidivism rates, save money and make the state safer. As many have stated already, even our new prison will be beyond capacity soon unless we find a way to address the substance abuse and addiction that leads to so many offenses and violations of probation or parole. CITC specifically supports the evidence based 24/7 and PACE programs that grew out of the work of the DOC's Re-Entry Task Force, the Justice Commission, the recidivism reduction fund, which is visionary for long term sustainability and represents strategic investments for the state, and the felony threshold for property related crimes. CITC particularly supports the section clarifying credit for time served in residential programs that contribute to reducing recidivism as well.

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 reinforcing accountability for actions, 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 served over 175 men and has saved the state millions of dollars by housing residents who otherwise would have been in a correctional facility, and has many success stories. Our graduates leave the program having earned everything they have themselves: they have been clean and sober for two years, they have a job and the wherewithal to set themselves up with tools, apartment, vehicle etc., for which they have saved in the last months of their residency. Key to the positive impact of the program is both the mandatory work component in the Chanlyut run businesses and the complete responsibility each man has for the maintenance of the house and the program. In fact, income from those Chanlyut businesses supports 35% of program expenses. We describe it as learning to live life on life's terms without the use of drugs or alcohol and with taking responsibility for their lives through honest work. Our requirements and expectations for behavior are so high that we have had residents who requested to go back to jail rather than complete the program.


House Judiciary Committee
April 3, 2014
Page Two

Given CITC's experience, the opportunities offered in SB 64 align with Chanlyut and we strongly support the bill. However, we suggest one change in the recidivism reduction grant program section:

The requirement for treatment for programs qualifying for the Recidivism Reduction fund should be qualified with the language "if required by assessment" in Section 33.30.045 (c)(3). For example, if an inmate received treatment inside the institution, he or she may not need treatment during the transition. This requirement can be a huge burden, both for programs and for employment schedules for those working in the community. Under the circumstances, only those who really need it should be occupying space in already full programs.

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

Sincerely,



Gloria O'Neill
President and CEO

From: Babette Miller <smartstartak@gmail.com>
Sent: Thursday, April 03, 2014 8:27 PM
To:
Subject: Please attach to hb373 sb64

I would first like to say, thank you for your public service. Next I would like to introduce myself. My name is Babette Miller. I have been involved in 24/7 monitoring and ignition interlocks for 8 years. Previous to that I worked for the Alaska state troopers and dmV for 15 years. I chose to enter the IID industry 8 years ago to provide interlocks to all Alaskans. I was born and raised in Alaska and have a vested interest in this state. I am not here temporarily. I am here to stay. The Ignition Interlock is a proven system that separates drinking from driving. It is unfortunate that individuals are trying to state that an in home breathalyzer is capable of being an alternate option for the IID. The Ignition Interlock device prevents the car from being started when alcohol is present. The in home breathalyzer tests an individual not present in a vehicle. Please do not believe that an in home breathalyzer can be an alternative or an option to the one in the car. If a person that is abusing alcohol needs to obtain a license, there should be no option for the Ignition Interlock. If they want a license you need to ensure the public is as safe as can be. Do not let the car start if alcohol is present. I have personally installed, maintained, serviced the Ignition Interlock device. People thank us, People hate us, but ultimately we are the providers that prevent them from drinking and driving. I can only speak for Smart Start. We, being Smart Start, do not have preset tests, we have random tests. We, being Smart Start have anti circumvention features in our unit to assure that a person is blowing and not an air tank. We, being Smart Start send in automated reports to agencies to try to show who is blowing violations (alcohol) into their vehicles. If the court ordered the camera be installed with the ignition interlock you could see who is blowing in the unit. Smart start has had volunteer Clients in Alaska for 8 years. That goes to show it works. Companies have been allowed to enter this state that are banned from other states because they have old technology and units that are not alcohol specific. This has tainted the industry. Alaska has become the dumping ground. Please do not move on to in home breathalyzers until you have refined the Ignition Interlock Industry. There is no teeth in the Ignition Interlock law and no regulations of the Interlock providers. Please see that this is done before we add In home unregulated breathalyzers. Ultimately, it is your decision but please consider the information that I have provided so you can make an educated decision. Ignition Interlocks are installed, alcohol is blown the whole six months of a court order, no ramifications are given, the person gets removed and gets the next DUI. Please pass this program to ASAP and obtain regulations and ramifications before we add more. ASAP is already the agency that verifies treatment is met, have them verify the IID court order is met as well. There is so much more information I can pass on that I cannot put it in this letter. It would be a ten page letter or more. I am a firm believer that the in home breathalyzer should be an enhancement to the one in the car but not a replacement for. Smart start provides in home breathalyzers but knows that preventing drinking from driving starts with the car. If you would like more information you can contact me at (907) 240-8949 or (907) 561-7678.

Thank you for your time and consideration Babette Miller Smart Start of Alaska

Sent from my iPad



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.

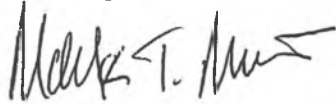
In Anchorage we have a Municipal Prosecutor. This office is willing and very able to take the shift in load from the District Attorney should the threshold be raised. The Municipal Prosecutor deals exclusively in misdemeanors. It is likely that these new misdemeanor property cases will get more attention 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

From: KYM FERNANDEZ [<mailto:kymberlyf@msn.com>]

Sent: Monday, April 07, 2014 2:23 PM

To: Rep. Wes Keller

Subject: SB 64 / SB 108

Representative Keller,

I am writing you today to express my support for passage of SB 64 which contains SB 108 - sealing of public records. I have see the harm caused to innocent members of the public first hand in my own family, as well as on the job in my capacity as a federal law enforcement officer. With options like Courtview available to everyone, but without the knowledge in how to properly read those records - much less the time to read it in it's entirety - people are permanently "branded" with whatever charges the DA decided to pursue. Initial overcharging is the norm, rather than the exception and, even if charges are dismissed or the person acquitted by a jury of their peers, potential dates, employers, background investigators, etc see only the label of the charges. Innocent people are never given a chance to even explain the circumstances; they are simply passed by for someone else who hasn't been permanently tainted with suspicion. The current system is unfair and is hurting good, innocent people every single day.

Thank you for your time and attention to this matter. If you would like to discuss this further I will make the time to do so.

Kymerly Fernandez

kymberlyf@msn.com

(907) 575-3383

19400 Villages Scenic Pky
Anchorage AK 99516

Ernest Prax

From: Taylor Winston
Sent: Tuesday, April 08, 2014 1:27 PM
To: 'Ernest.Prax@akleg.gov'
Subject: OVR opposition letter to SB 108 in SB 64
Attachments: OVR Letter in Opposiiton to SB 108.pdf

Hi Ernest -

I have prepared a letter voicing the concerns OVR has regarding SB 108 which will be taken up by your committee, the House Judiciary Committee, on Wednesday, April 9 at 1:00pm. It is a lengthy letter and provides many points I believe the committee should consider regarding this bill. My letter also offers some amendments which essentially rewrites the bill but which would drastically minimize the negative consequences of SB 108 as currently written. This letter provides much more information than the letter submitted previously by OVR regarding SB 108. I sincerely hope you read it in its entirety and seriously consider the points made as this is an important issue not only to victims of this State but to all Alaskans. I also know that Standing Together Against Rape (STAR) is opposed to this measure also. I am available to testify tomorrow. Please contact me if you have any questions about the letter, in particular the proposed amendments or about testifying.

Thanks,

Taylor E. Winston
Executive Director
Alaska Office of Victims' Rights
1007 West 3rd Avenue Suite 205
Anchorage, Alaska 99501-1936
1-907-754-3460 Main telephone
1-866-274-2620 Toll free
1-907-754-3469 Fax

Learn about the Alaska Office of Victims' Rights by visiting our web page at:

<http://www.ovr.legis.state.ak.us>

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

House Representative Wes Keller
House Judiciary Committee Chairman
State Capitol, Room 118
Juneau, AK 99801

April 7, 2014

RE: Opposition to SB 108 – Limit Public Access to Criminal Records

Dear Representative Keller:

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.

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 wrongfully charged. Before having the opportunity to serve as the Chief Victims' Advocate, I

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 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 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 bill 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.**

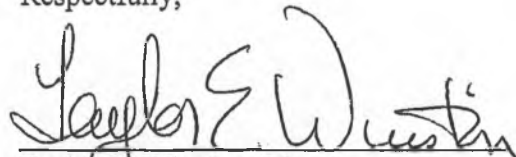
In decades past, communities were smaller. People connected face to face. They knew their neighbors' names at a minimum. This type of interpersonal association and communication allow people to "know" who was around them and to protect themselves. Those days are mostly gone. We are a more mobile society 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

Ernest Prax

From: Chuck Kopp
Sent: Tuesday, April 08, 2014 3:38 PM
To: Ernest Prax
Subject: Thank you for SB108
Attachments: 6.4 Support Letters of SB108.PDF; 6.4 Support of SB108 - Carmen Gutierrez.pdf; 6.4 Support of SB108 - Dr. Donna Klecka.pdf; 6.4 Support of SB108 - James Noble.pdf; 6.4 Support of SB108 - Mary Geddes.pdf

Hi Ernest,

Sen. Dyson request's this email, and attached letters of support be shared with committee members. Thank you.

Chuck Kopp

Chief of Staff
Office of Senator Fred Dyson
12641 Old Glenn Hwy, Suite 201
Eagle River, AK 99577
(907)694-6683
(907)694-1015 fax
(907)952-0189 cell

From: Mario.Toro@CH2M.com [mailto:Mario.Toro@CH2M.com]
Sent: Thursday, April 03, 2014 8:14 AM
To: Sen. Fred Dyson
Subject: Thank you for SB108

Senator,

I would like to personally thank you for sponsoring SB 108. I currently have a SIS (suspended imposition of sentence) on my record. I have firsthand experience with the discrimination associated with looking for work and having public records effect your chances for employment. Not only do I have to explain my SIS, even though the charges were set aside, I have to explain all the charges that were dropped, these charges would not ever have seen a trial, thus I would have no way to prove my innocents, regardless they are still following me on my public records. SB 108 takes cares of half of this issue, for me and many other Alaskans.

If possible please look at the SIS (suspended imposition of sentence) system and it worth without the possibility of sealing ones records. The state sets aside the conviction, which gives me back all my rights, but my record is for all to see. Is this truly setting aside a conviction? It's still a life sentence, for a mistake I made once, over six years ago. If we want to give Alaskans a second chance in life we need to make some changes. These SIS's are given out in plea deals, with the basis if you stay out of trouble, get your life together, you can live a normal life. That might have been true twenty years ago, when we didn't have the internet, the flow of information has changed.

I'm one of the lucky ones, I had an employer that would let me explain, and took a chance on me. I have been with my company for over 6 years now. The only drawback is that I have been asked by other companies (BP, EXXON, ConocoPhillips) to apply for jobs that would further my career. The fact of the matter, as soon as they do a background check, flags will be thrown.

Again, thank you for these first step in giving Alaskan's truly a second chance in life, everyone deserves at least one second chance at life, none of us are perfect.

Mario Toro

Mario Toro, PMP

Principal Project Controls Specialist

Energy & Chemicals

CH2M HILL

949 E. 36th Avenue, Suite 500

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www.ch2mhill.com

To the Senate Judiciary Committee:

Good Afternoon, My name is James Noble and I would like to thank this Committee for giving me the opportunity to voice my opinion in support of Senator Fred Dyson's Senate Bill 108 relating to the "Confidentiality of Certain Records of Criminal Cases".

I will keep my personal testimony as brief as possible to share my experience with (2) Charges that were filed against me from an ex-girlfriend and the repercussions I have experienced following a "Dismissal Ruling" from the Judge on both cases.

I believe to communicate this ordeal in its entirety, I must share some history of these charges; however, I will minimize all of the dramatic-details as I really don't enjoy reliving this situation either. With that said, I do appreciate a few moments of your time to hear my testimony and understand why I am so passionate about supporting Senator Dyson's Bill.

In researching this issue, I have discovered that a majority of cases that are encompassed by this bill, seems to involve the revengeful actions from a "significant other" abusing our Court System.

My (2) cases fall into this category.

Back in 2003 – 2007, I was dating a girl named Monica Fox. For purposes of this testimony, I will continue to refer to her only as Monica.

Toward the end of 2006, she ended our relationship and; as I later discovered, she was also dating a man named Charles Otten, her Front-Line Supervisor. What is most important of this statement, is that I would soon discover they were both very well versed at the interworking's of Alaska State Laws, being that they both worked for the State of Alaska's Juvenile Justice System.

Monica and myself continued to maintain a platonic relationship following our separation, until I discovered she had actually been dating someone else. In 2007, I found the love of my life whom I started dating, and later married. For obvious reasons of the time, I severed all financial and emotional support that I had been offering to Monica following our separation.

Not surprisingly, I soon received a Domestic Violence Protection Order from the Courts on September 17th 2007, while I was at work in Prudhoe Bay. Fortunately, I was able to afford a Lawyer to represent me throughout the court proceedings. During the course of my defense of the DV Order, my Lawyer also discovered that she had previously filed a "Stalking Charge" on September 11th 2007, which was dismissed the next day on September 12th 2007. To this day, I have no idea what happened in that case as the Courts has never notified me with any details of that charge. What I can say about that charge, is that it still appears in my Courtview Website Records for all to see, regardless of the fact that it was dismissed...the day after it was filed.

On October 04th 2007, my Lawyer and I appeared in Court to contest the DV Charge. I had several witnesses who were willing to testify on my behalf, including an Alaska State Trooper who could refute Monica's signed statement under oath.

I proved in a court of law that I was not this person that Monica was trying to portray me as. Many of her lies manifested themselves during the hearing, so much to the point that the Judge declined to hear from any of my witnesses and dismissed the DV case due to "Insufficient Evidence".

Unfortunately, I still have those (2) charges of "Stalking and Domestic Violence" listed on my Courtview Website Record for the public view at any time. It is not fair for my wife and I to have to bear the actions of very "Vicious and Vindictive Ex-Girlfriend" whose sole purpose was to use the court system to tarnish my character and future.

Thankfully, I had previously secured employment in a workplace where my Supervisors have known me for over 20 years, but I fear that if I ever have to re-enter the job market, those (2) listed charges would most definitely effect a recruiters opinion of selecting me for an interview. How do I know this? Because from time to time, I have been asked by my Supervisor's to research potential candidates to work in our department. It is very easy to form a negative opinion of someone based on the Courtview Website, without ever following up to see if the cases were dismissed or acquitted.

Closer to home, my wife has told me that; while we were dating, she had been warned numerous times from her family and friends "Not get involved with James" due to opinions they formed with these (2) charges on Courtview Website Records. Fortunately, these opinions have changed over time, once the family got to know me and I was given the opportunity to explain the situation to them. Based on findings from the Sponsors Statement of this Bill, is my conclusion that for the majority of the time, people never get this chance.

It was very embarrassing to relive this experience all over again and defend my character each time people ask me about it. My response to them, is my same response that I offer the Committee here today: "Please take a moment to read Monica's DV Petition, and compare it to her recorded testimony, before you form an opinion of me, I can offer up a copy of each upon your request."

To this date, nobody has taken me up on this offer, my guess is that an opinion (rather good or bad) has already been formed about me and I have to live with the repercussions.

Let's take a moment to put this more in perspective. I ask that everyone listening here today recall a situation in your life when you were wrongfully accused of something. {Pause} Maybe someone accused you of stealing, or lying? {Pause} Remember how it made you feel to try to defend and explain yourself to your peers? {Pause} Were you able to be vindicated? {Pause}. Now, finally ask yourself, "What would it be like to know that, even though you proved that you were innocent, you would be documented with that charge for all the public to see and for all time?"

In Alaska and in America, we are supposed to be innocent until proven guilty in a court of law, yet my wife and I must continue to bear the label of a "Stalker and DV Assailant", because of the actions from an ex-girlfriends jealous rage.

In closing, I would like to thank everyone here today for listening to my Testimony and Personal Experience regarding the Courtview Website Records of charges that were acquitted or dismissed against me. I understand that the Courts are now considering a rule change for Civil Cases such as mine, to be included and compliment SB108. For obvious reasons, I support that rule change as well. I challenge this committee to support passage of Senator Dyson's SB108 as it is not only the right thing to do, but will offer citizens like myself a final sense of closure and privacy from charges in which the Judges have just cause to dismiss or acquit. I thank you for your time.

Carmen L. Gutierrez
529 W. 19th Avenue
Anchorage, Alaska 99503

February 27, 2014

To the Honorable Chairman of the Senate Judiciary Committee,
Senator John Coghill
To the Honorable Members of the Senate Judiciary Committee
State Capital
Juneau, AK 99801-1162

Dear Chairman Coghill and Member Senators,

Thank you for the opportunity to comment on SB 108. As a former criminal defense attorney for 25 years followed by the privilege of serving the state as Deputy Commissioner for the Department of Corrections, I have observed first-hand the need for the criminal justice reforms for which this Committee has so tirelessly worked to advance. I thank this Committee for its courageousness in promoting needed revisions aimed at reducing recidivism. Every former offender who is able to successfully return to his or her community means one less victim, one less crime, and one less costly prosecution.

I believe that SB 108 is another step in that direction. As it stands today, every person who is arrested for a criminal offense has a permanent public record of that arrest. In felony cases, a detailed statement of alleged factual detail accompanies the fact of arrest and charge.

The name of the person arrested and then convicted always remains available to the public through the period of prosecution and after conviction. That is fair.

What is not fair and not in keeping with our system of criminal justice is that under current law a person's name and fact of charge remains available to the public even when the prosecutor dismisses the charge, the charge is dismissed by the court or after a jury acquits the person. Despite dismissal or acquittal on the charge, the fact of arrest and the accompanying documentation forever remains available for public examination.

The reality is that when the fact of arrest after dismissal continues to be made available for public inspection either by an in-person visit to the courthouse or by review on CourtView, the arrest often becomes synonymous with conviction in the

mind of those doing the inspecting. This greatly impedes a person's ability to find employment, rent an apartment and to live a life free of stigmatization for a crime for which the person was never convicted.

Numerous individuals – both men and woman – in Alaska are arrested for the crime of Assault in the Fourth Degree. A person may charged with this offense if a police officer concludes there is probable cause to believe that a person by “words or other conduct recklessly places another person in fear of imminent physical injury.”¹

AS18.65.530 appropriately provides that in a domestic relations context, when a person reports to the police that she/he was placed in fear of imminent physical injury, the police must arrest the alleged offender for Domestic Violence Assault when the officer decides there is probable cause to believe the assault took place.

Needless to say, police officers taxed with a tremendous amount of work have to make snap decisions when deciding if there is probable cause to believe an assault occurred. The soundness of the police officer's decision often depends on the experience of the officer and the officer's perceived need to diffuse a situation.

After the person is arrested and charged, a prosecutor later has more time to review the merits of the case. In some cases, upon more careful review and with the benefit of additional facts, the prosecutor determines the charge doesn't merit prosecution and dismisses it. The individual arrested, however, is forever stigmatized by his arrest. It will forever be a part of the Alaska Court System records available for public inspection.

A good number of cases filed in Alaska are ultimately dismissed. For example, in FY 13, the state filed 6,675 felony cases. Of those, the state dismissed 1,289 cases. Of the 29,562 misdemeanor cases filed, the state dismissed 9,508.²

Our constitutional right to due process of law is intended to protect citizens from being treated as convicted persons without first being afforded certain procedural safeguards. That is the way it should be and it is our responsibility to uphold our system of criminal justice, the shining example and envy of other countries.

There are those who would have you believe that their individual judgment is more knowing than the collective wisdom of a jury; that a person's record should forever be stigmatized by an arrest and charge even though the prosecutor dismissed the charge or a jury of his peers acquitted him of the charge. These same individuals would have you believe that an arrest should be equated to conviction of crime. Alaska citizens, judges, prosecutors, and defense attorneys will always have different

¹ AS 11.41.230, a class A misdemeanor offense.

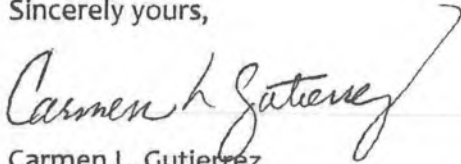
² Data provided by the Alaska Court System on February 26, 2014.

opinions regarding the facts of a case. That is why our system requires due process under the law before someone is convicted of crime and shoulders the burdens associated criminal conviction.

For these reasons, the fact of an arrest and charge without conviction should not forever tarnish the reputation of an Alaskan citizen. SB 108 is intended to rectify these unintended and harmful consequences that in many cases impact a person's ability to successfully live and work in our communities.

Thank you for any consideration you may give my comments.

Sincerely yours,

A handwritten signature in cursive script that reads "Carmen L. Gutierrez". The signature is written in black ink and is positioned above the printed name.

Carmen L. Gutierrez

I am Dr. Donna Klecka, a podiatrist. The financial senate committee requested I summarize some of my past experiences that would advocate that Bill 108 be passed. I once built and owned the Kenmore Foot and Ankle Clinic in Kenmore WA from 1990 until 1996. My first real hard lesson with litigation occurred when I attempted to sell the practice in 1995 to spend more time with my young children. The contract did include a work agreement to continue working at the office part time. Dennis Noss purchased the practice on a promissory note. Very shortly afterwards, Dr. Noss got a restraining order so I could never access the practice again and began litigation against me in an attempt to avoid payment for the practice. The evidence during the next two years proved he had done this before to multiple other podiatrists and lost his license in multiple other states. In the end between legal costs, corrupt attorneys from the state of Washington, and stress from the fact that my young children were growing up without me, I chose to start a less lucrative practice in Alaska, but one that allowed me more time with my kids. Hence, The Traveling Foot Doctor was born, and I became the only podiatrist to do house calls in the state of Alaska. As such, integrity and reputation is extremely important to me.

My 1st husband caused such financial distress, I asked for a divorce 1997. In retaliation he attempted to get me to pay him child support and alimony, along with the rights to the house and other property. In the end I got the children I so badly desired and paid him half the equity in the house and all we owned. No child support order was written as the judge forgot and I was not aware at the time he was supposed to. My ex husband had been advised by his attorney that if he could get a domestic violence order against me, he could possibly be given the kids and receive child support from me. Consequently two false reports were filed, but were dropped. I married once more very briefly to a military man whom upon marriage became abusive, and I ran back to my own home and quickly filed for a divorce.

Wary of my past mistakes I moved to a smaller home with the hopes of smaller house payments. The home I purchased was from a young woman attorney working as a clerk for the Anchorage courts. She drew up the paperwork, and I admittedly foolishly got caught up in many deceptions she provided. I took her to small claims court for the broken furnace where she immediately "upped the ante" by placing it in civil court and demanding a great deal of money to cover her own time. I then hired an attorney, who failed to attend court and filed for bankruptcy. I lost the case obviously, but not until first learning that the seller/attorney had known about my loss of the business in Washington, and stated unbeknown to me that the case was lost because there was no evidence. The attorney who represented me in Washington told me that the arbitration was not appealable, period, but we had hundreds of pages of evidence that the arbitrator refused to ever look at. Now the time limit had passed to do anything about it.

Another of the many false pieces of info the original owner of my home provided was a dimension of the homes boundaries. I was told I owned 40 feet of along the road behind my home. When I placed a driveway made of gravel back to the road, I was told by the city that I had to remove it as I crossed two feet onto the neighbor's property. The neighbor, an unseen Ms. Jones, called the police and an Officer Weinisky to say I was trespassing. I then went to land records, discovered the error, and removed the gravel driveway. She and her friend made multiple other false statements to Officer Weinisky, who continued to come and threaten my children and myself with prison time. I spoke to her supervisor upon which time Weinisky came and threw me in jail and I was not allowed to make a call for 24 hours.

The public defending attorney explained to me later that there was no arrest warrant so the police held me for a day stating I was suicidal while they scrambled for paperwork. Weinisky left the state that day and as far as I know was never seen again. Shortly after my time in jail, the neighbor next door, sent an email to me stating her six children, and several foster kids were not allowed near me because of my criminal, felony record. She requested I not contact her, or her kids, but her kids contacted my kids when they needed a ride and informed them of my felony record.

July 3, 2012 the kids and I were in Seward preparing for the race up Mt. Marathon, an annual event for the past 11 years. After dinner my kids stayed behind while I drove with my dog to the north end of town to a gravel bar to let the dog run loose. A Soldotna state trooper saw me heading north while he was heading south and wrongly thought I was speeding because he was not aware that the speed limit at mile 3.5 was 45 mph and not 35 mph. He checked my record (evident by follow up discovery) and decided to call in another cop who gratefully recorded the event from his car. They repeatedly asked me to redo tests to assess drunkenness, took a breathalyzer test, and although the tests (visual from the video and breath below the limit) proved I was not drunk, they arrested me. While handcuffing me, both cop each had one of my arms, neither one realized that they were both jerking me back and forth, and the second cop pulled my arm upward so forcefully as to break my elbow. At the hospital records indicated no sign (smell, behavior etc) of alcohol was noted. Because my past record was so bad, the cops assumed I was guilty, and because of my record, I became panicky and talked fast and scared, answering every question and even more so, which the police regarded as more evidence of guilt. No animosity occurred from my mouth, only nervousness. Although all charges have been dropped or found not guilty, I now owe over \$20,000 in medical bills and attorney fees because of this last incident.

A close friend in Wyoming is presently a correctional officer who used to live in Alaska. I spoke to her a couple of days ago. Her comments were "I know you didn't do these things, but if I didn't know you and you came into the jail with that record, I would assume, as everyone would, that you were wealthy enough to afford expensive attorneys and were guilty".

As it stands, when I have obtained contracts, like with the Pioneer Home or other assisted living homes, I've had to provide a written statement at a fee from the State Police Department, to prove my innocence.

Please notice the passage below, well-known in this country. Something has gone terribly wrong with the government. Like the bumper sticker says that recently circulated "I love my country, but I fear my government".

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Chuck Kopp

From: Ryan Kennedy <asmk76@yahoo.com>
Sent: Saturday, January 11, 2014 11:20 PM
To: Sen. Fred Dyson; Sen. Hollis French
Subject: SB 108

Dear Senators,

I just want to tell you i think your SB 108 is great. It's something I've thought should be law for a long time. I have two arrests on my record that were never even prosecuted. In both the cases the problem was I was young and had a big mouth. I was under the naive impression that if you mouthed off to a cop it was OK as long as you weren't actually doing anything wrong.

So naive of me. If you are sufficiently rude to a cop he can and most likely will find a way to arrest you. Disorderly conduct is a nice catch-all for a cop to use. Make no mistake, it happens all the time. Cops will be rude hoping you will react and when you react angrily they will arrest you for some made-up nonsense. You'll take a ride downtown and be booked wasting about an hour of your time and have to deal with the charges until they are quietly dropped by the prosecution.

Nowaday it's so easy for prospective employers to check criminal records. When they see, "disorderly conduct" they think "uh oh, trouble-maker" It doesn't even matter they the case was never prosecuted. They have to dig to even find if it was dropped. On the court website, it simply lists the charges. You have to dig to find how it all panned out. Not fair.

If anything, I think your bill doesn't go far enough. I think all misdemeanor convictions should be expunged from a persons public record after seven years. We are all fallen beings and I don't think that a person's stupid and often youthful foibles should follow a person around forever and often preclude employment.

Is there such a thing as redemption?

Chuck Kopp

From: Sen. Fred Dyson
Sent: Tuesday, February 04, 2014 2:53 PM
To: Chuck Kopp
Subject: FW: SB 108 is a step in the right direction, but . . .

From: cb scientific [mailto:akzocolo@yahoo.com]
Sent: Saturday, January 11, 2014 2:03 PM
To: Sen. Fred Dyson
Cc: Rep. Dan Saddler; Rep. Bill Stoltze
Subject: SB 108 is a step in the right direction, but . . .

Mr. Dyson,

Your Senate Bill 108 is a step in the right direction.

However, I am disappointed to find your Senate Bill limits confidentiality to cases where ALL charges were dismissed or resulted in acquittal.

Why not allow all dismissals and acquittals to be made confidential, or at least allow them to be expunged or sealed, like in other states?

It has always been standard procedure by Alaska prosecutors to force a guilty plea to something, anything. Surely you know that most false arrests in Alaska result in vast overcharging by prosecutors to force acceptance of a plea bargain for the lowest misdemeanor, which everyone may know the defendant is not guilty of, including the judge. The Prosecutors say they will take you to trial on felonies they know you didn't commit, unless you plead guilty to a low misdemeanor you are not guilty of. They will sweeten it up with offer of a Suspended Imposition of Sentence, and no fines or jail time, to compel you to plead to the lowest misdemeanor.

To gain confidentiality, your SB 108 will cause people to fight all charges rather than agree to these egregious and unethical plea bargains, which are compelled under duress. Additional trials will add to court backlogs, which are a serious and ongoing problem in Alaska.

A better approach would be to make confidential ALL dismissals and acquittals. This would begin to stem the rampant overcharging that Alaska prosecutors are unethically using as a lever to force pleading "no contest" (guilty) to something. Another approach would be to permit sealing or expungement of records from dismissals and acquittals, as is standard procedure elsewhere.

Limiting confidentiality to new cases (after mid 2014) may not stand.

It may be an expedient approach to avoid massive work and expenses involved with changes in records, but it is a violation of Equal Protection. However, Equal Protection claims might be handled on a case by case basis, so maybe it's not fatal to your bill.

Expungement or sealing of records from dismissals and acquittals would be handled on a case by case basis, so it would avoid the massive work and expense of wholesale records changes. I hope you consider this as a follow-on to your SB 108.

I applaud your bill as a step in the right direction, but I fear you have been hoodwinked by the officials in the Justice System. They seldom completely acquit anyone, even the completely innocent. It has always been their standard procedure to force a plea bargain to something. They knew that. They assumed you didn't know that.

Don Brink Ph.D.
Chugiak, AK

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

* Section 1.

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 court record of a criminal case is confidential if 90 days have elapsed from the date of acquittal or dismissal and the defendant was acquitted of all charges filed in the case; (2) all criminal charges against the defendant in the case have been dismissed; or (3) the defendant was acquitted of some of the criminal charges in the case and the remaining charges were dismissed.

On Saturday, January 11, 2014 12:19 PM, cb scientific <akzocolo@yahoo.com> wrote:
Mr. Mauer

I think it was wrong for you to treat Dyson's bill and Higgin's bill as similar in your article ("New bills would make public records off-limits to public"). That was a very misleading and unethical thing for you to do.

Dyson's bill is a good bill. Higgin's bill may be a bad bill - I don't know. I think your article misleads the public, and could have tragic consequences.

Alaska is becoming notorious for police falsely arresting people. The prosecutors overcharge, the charges are dismissed, and people are left with damaging public records that keep them from getting employment, etc.

For a recent example, see the youtube video, "Young woman being arrested for nothing." People who merely irritate police are being given permanent criminal records. Alaska police know they have this power, and they use it.

In other states, records can be expunged or sealed where charges are dismissed, or people are found not guilty. However, this is not the case in Alaska, and it is an injustice.

As you probably are aware, there is currently a civil suit over a blatantly false arrest that besmirches a young girl's record (ADN article, "Woman suing city, APD, claims wrongful arrest).

Previously, in America, you were innocent until proven guilty. In your article you say that if charges were dismissed it doesn't prove innocence. Is that where we are now? Currently, in Alaska, you are guilty until proven innocent. That seems kind of un-American. Dyson's bill would help fix that. Your article may keep Dyson's bill from passing, and then the continued injustice will be your fault. The ADN should be a force for good in the community.

I'm surprised your editor allowed this article into the newspaper.

I have enjoyed your articles in the past, especially on stories like the Jim Wilde case. I am quite frankly surprised and disappointed by your article on Dyson's bill.

All I can say is "shame on you."

Don Brink Ph.D.
Chugiak, AK

Read more here: <http://www.adn.com/2013/12/26/3247336/lawsuit-asserts-that-apd-officer.html#storylink=cpy>

more here: <http://www.adn.com/2014/01/10/3267834/new-bills-would-make-public-records.html#storylink=>

February 26, 2014

Dear Senator Coghill and members of the Judiciary Committee,

Thank you for this opportunity to comment on SB 108. I am going to make my comments brief.

This bill 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? In other words, when all charges have either been dismissed or gone to trial, and none of the charges resulted in a criminal conviction.

Under SB 108, the approach is straightforward and simple. Three months after the case is closed, the court file 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. Law enforcement and prosecutors still have access to the records.

Does the court system have an ongoing obligation to provide the general public with access to information which no longer has legal relevance? No. 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.

The reason for making this small number of closed nonconviction 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 community reputation. Making such records confidential, by contrast, provides a meaningful end to a criminal process.

Is being merely accused of a crime that much of a hardship? Perhaps there is no better illustration of the personal impact of criminal litigation for us Alaskans than the case of Senator Ted Stevens. After 41 years of faithful service,

he was charged with crimes and convicted. His conviction was later thrown out because of gross prosecutorial misconduct and the case was dismissed. If Sen. Stevens had been charged in state court with state crimes, his public court records would forever tar him as a criminal defendant. Why is that fair? Why should any citizen be treated that way for all time?

I understand that a letter has been submitted by Taylor Winston. I find it interesting that Ms. Winston, a former prosecutor opposing the bill, shows little regard for constitutional basics. She would stigmatize persons for all eternity with the mere fact that criminal charges were once filed. The Founding Fathers disagreed—they prescribed no penalty, no loss of privilege and no loss of privacy for those who had once been charged but not convicted with a crime.

Ms. Winston also thinks that the grand jury has a 'good enough' fact-finding process such that their indictments should forever stand as public monuments. She seems to forget that the grand jury meets in secret with the prosecutor and that the accused and his lawyer aren't allowed in. The Founding Fathers rejected the Star Chamber model as a reliable means of determining guilt.

Finally, she argues the Courtview is objective and provides information the public can use to can protect itself. Her example - she would check Courtview to help make a decision on a babysitter. This is a great example as to why SB 108 should be enacted. Courtview warns the reader as to its unreliability and yet people still rely on it, presumptively, for making important decisions on someone's trustworthiness. ¹

SB 108 should be approved. It is a neat, nifty way to be fair to defendants - like Sen. Stevens- who end up with non-conviction cases, without undermining law enforcement or prosecutorial functions.

Thank you.

Mary Geddes
1113 N Street
Anchorage, AK 99501

¹ By the way, parents can easily obtain reliable information about a potential babysitter's entire arrest record from the Alaska State Troopers by getting the babysitter's consent and paying \$20. SB 108 does not effect this mechanism at all.

April 8, 2014

Dear Chairman Keller and members of the House Judiciary Committee,

Thank you for this opportunity to comment on a proposed amendment (#17) to SB 64. This amendment integrates the content of SB 108 to SB 64. I support the amendment.

This bill 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? In other words, when all charges have either been dismissed or gone to trial, and none of the charges resulted in a criminal conviction.

Under the current language of SB 108, the approach is straightforward and simple. Three months after the case is closed, the court file 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. Law enforcement and prosecutors still have access to the records.

Does the court system have an ongoing obligation to continually publish the existence of a nonconviction record to the general public access? No. Such fact does not have legal relevance. The fact of an arrest or charge 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.

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 community 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 Senator Ted Stevens. After 41 years of faithful service, he was charged with crimes and convicted. His conviction was later thrown out because of gross prosecutorial misconduct and the case was entirely dismissed. Let's suppose that Sen. Stevens had been charged in state court. Even after 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 seen fit to dismiss the charges or when a defendant has been acquitted?

I understand that a letter opposing the amendment has been submitted by Taylor Winston, an employee of the Office of Victims' Rights. Ms. Winston opposes the idea of making closed nonconviction records confidential. Under Ms. Winston's theory of justice, a person once charged should be forever considered "not innocent," even though the courts make no such determination. Ms. Winston apparently thinks that the grand jury has a 'good enough' fact-finding process such that their indictments should forever stand as public monuments. She seems to forget that the grand jury meets in secret with the prosecutor and that the accused and his lawyer aren't allowed in.

The Founding Fathers would have disagreed. They rejected the Star Chamber model as a reliable means of determining guilt. Moreover, they required 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 Courtview is objective and provides information the public can use to can protect itself. She provided an example to the Senate Judiciary Committee of such use: she said she would check Courtview to help make a decision on a babysitter. This is a great example as to why SB 108 should be enacted. Courtview warns the reader as to its

unreliability and yet people still rely on it, presumptively, for divining someone's trustworthiness.¹

SB 108 should be approved. It is a neat, nifty way to be fair to defendants - like Sen. Stevens- who end up with nonconviction cases, without undermining law enforcement or prosecutorial functions.

Thank you.

Mary Geddes
1113 N Street
Anchorage, AK 99501

¹ By the way, parents can easily obtain reliable information about a potential babysitter's entire arrest record from the Alaska State Troopers by getting the babysitter's consent and paying \$20. SB 108 does not effect this mechanism at all.



THE STATE
of **ALASKA**

GOVERNOR SEAN PARNELL

**Department of
Corrections**

OFFICE OF THE COMMISSIONER

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April 9, 2014

The Honorable Wes Keller
Alaska State House of Representatives
State Capitol, Rm. 118
Juneau, AK 99801-1182

Dear Representative Keller:

During the April 4, 2014 hearing on SB 64 Omnibus Crime/Corrections Bill, Representative Gruenberg expressed concern over the amount of support given to inmates upon release. The Department of Corrections (Department) understands that inmates cannot be successful in the community unless they have developed the necessary skills and support systems. Therefore, the Department begins preparing inmates for release as soon as they are incarcerated and continues to connect individuals with support systems long after release.

The process of reintegrating inmates back into the community begins as soon as they are incarcerated. Felons who are sentenced to 45 days or more are given an in depth risk-needs assessment so the Department can address any substance abuse treatment or educational needs. Further, inmates who are employed during incarceration have a portion of their wages deposited into a mandatory savings account. The funds in this account are retained for the primary purpose of being available to the individual upon release.

As discussed in my letter of April 2, 2014, the Department offers numerous institutional substance abuse, educational, and vocational programs which help prepare inmates for reentry. As an inmate gets closer to their release date, the Department also offers a specific reentry course, reentry manual, and a community resource guide. These materials offer inmates guidance on how to reestablish themselves as functioning members of society. They include information on various topics such as obtaining a state identification card and employment.

Additionally, institutional probation officers work with sentenced felons before release to develop offender management plans. Offender management plans help these inmates prepare for release by identifying resources in the community that will address their

individual needs. For inmates with medical and mental health issues, the Department's medical social worker will set up follow up doctor's appointments in the community to ensure continuity of medical care. The Department also participates in the Assess, Plan, Identify, and Coordinate (APIC) program, which assists mentally ill inmates by allowing community providers to provide care in the institution up to 90 days before release and to continue care for up to 60 days post release.

The Department relies on community providers to provide services which compliment programs offered in the institutions. For example, the Department has worked closely with the reentry centers in Anchorage, which serve as "one stop" centers where offenders can receive referrals, information, and reentry assistance. Additionally, other nonprofits have coordinated much needed peer support programs both inside and outside of the institutions. This kind of coordination between the Department and the community is crucial to promoting successful community integration.

Thank you for allowing the Department the opportunity to outline its current reentry efforts. Please let me know if you have additional questions or would like any other information.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Schmidt", with a long horizontal flourish extending to the right.

Joseph Schmidt
Commissioner