

SB

64

**<TARGET><BILL>SB 64</BILL><SUBJECT>SB
64</SUBJECT><COMM>SSTA28</COMM></TARGET>**

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/27/13

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

FURTHER: Judiciary
 DATE TURNED IN TO OFFICE: 4/9/13

State Affairs Committee considered SENATE BILL NO. 64

SB 64-OMNIBUS CRIME/CORRECTIONS BILL

"An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for offenders in court-ordered treatment programs; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving while under the influence or refusing to submit to a chemical test; relating to court termination of a revocation of a person's driver's license; relating to limitation of drivers' licenses; relating to conditions of probation and parole; and providing for an effective date."

and recommends:

- be replaced with CS SB 64 (STA) [] Same Title New Title
- [] adopt previous CS _____ (_____) [] Same Title [] New Title
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
CRT	✓			1
COR			✓	2
ADM			✓	3
ADM			✓	4
ADM			✓	5

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

[] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	Coghill				✓
	Cressel			✓	
CHAIR:	Dyson	✓			

ALASKA STATE SENATE

Interim:
301 Santa Claus Lane
North Pole Plaza Mall Ste. 3B
North Pole, Alaska 99705
Phone: (907) 451-2063
Fax (907) 451-2332



Session:
State Capitol, Room 119
Juneau, Alaska 99801-1182
Phone: (907) 465-3719
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SENATOR JOHN COGHILL

To: Senator Fred Dyson
Senate State Affairs Committee

From: Senator John Coghill

A handwritten signature in black ink, appearing to read "JCO", written over a horizontal line.

Date: 4/8/13

Re: Hearing Request Memorandum for Senate Bill 64

Senator Dyson:

This office formally requests a hearing on SB 64. The e-mail version of this request shall be sent to: 'Ken.Truitt@akleg.gov'

1. We anticipate that introduction of the bill shall take approximately 10-15 minutes. We anticipate invited testimony from Carmen Gutierrez and Nancy Meade.
2. Chad Hutchison from Sen. Coghill's office shall be the primary point of contact. His direct line is: 465-6858. His e-mail is chad.hutchison@akleg.gov.



ALASKA STATE LEGISLATURE

SENATOR JOHN COGHILL

State Capitol, Room 119, Juneau, AK 99801-1182 (907) 465-3719
301 Santa Claus Lane, Suite 3B, North Pole, AK 99705 (907) 488-5725

SPONSOR STATEMENT

SB 64: An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for offenders in court-ordered treatment programs; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for person convicted of driving while under the influence or refusing to submit to a chemical test; relating to court termination of a revocation of a person's driver's license; relating to limitation of drivers' licenses; relating to restoration of a driver's license; relating to conditions of probation and parole; and providing for an effective date."

Senate Bill 64 ("SB 64") establishes the Alaska Sentencing Commission. The Commission is intended to review, analyze and evaluate the effect of sentencing laws and practices of the criminal justice system.

Additionally, SB 64 focuses on court-ordered treatment programs and limited licenses. Court-ordered treatment programs are an effective means of assisting and providing incentives for DUI offenders to seek treatment and become more productive members of society.

A misdemeanor offender may obtain a limited license provided they qualify for the program (after entering a plea of "guilty" or "no contest"). During the time they drive on the limited license, they shall be required to complete treatment pursuant to the direction of their assigned judge. If a misdemeanor successfully completes the program, drives on the limited license for a minimum period related to the offense, and does not re-offend, then their regular license revocation shall terminate. The misdemeanor shall then be able to obtain their regular license.

For felony offenders, the process is longer; however, it still provides felons incentive to seek treatment. Instead of a presumptive lifetime revocation of the driver's license, a felon can obtain a limited license (provided they undergo the treatment program with appropriate testing). The revocation for their regular license shall be terminated in 5 years, provided they safely drive on their limited license during that period and do not re-offend.

Please join Senator Coghill in supporting SB 64.

CS FOR SENATE BILL NO. 64(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for**
2 **offenders in court-ordered treatment programs; allowing a reduction of penalties for**
3 **offenders successfully completing court-ordered treatment programs for persons**
4 **convicted of driving while under the influence or refusing to submit to a chemical test;**
5 **relating to court termination of a revocation of a person's driver's license; relating to**
6 **limitation of drivers' licenses; relating to restoration of a driver's license; relating to**
7 **conditions of probation and parole; and providing for an effective date."**

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

9 *** Section 1.** AS 12.55.027(c) is amended to read:

10 (c) To qualify for credit against a sentence of imprisonment for time spent in a
11 treatment program, the treatment program and the facility of the treatment program
12 must impose substantial restrictions on a person's liberty that are equivalent to
13 incarceration, including the requirement that a participant in the program

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

2 (2) must be confined at all times to the grounds of the facility or be in
3 the physical custody of an employee of the facility, except for court appearances,
4 meetings with counsel, or periods during which residents are permitted to leave
5 the facility, so long as the periods during which the residents are permitted to
6 leave the facility are expressly limited as to both time and purpose [AND WORK
7 REQUIRED BY THE TREATMENT PROGRAM AND APPROVED IN ADVANCE
8 BY THE COURT];

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

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

14 * **Sec. 2.** AS 22.20 is amended by adding new sections to read:

15 **Article 7. Sentencing Commission.**

16 **Sec. 22.20.500. Creation of commission.** The Alaska Sentencing Commission
17 is established in the Office of the Governor.

18 **Sec. 22.20.510. Membership; staff.** (a) The commission consists of 17
19 members as follows:

20 (1) three members of the senate appointed by the president of the
21 senate, one of whom shall be a member of the minority caucus of the senate;

22 (2) three members of the house of representatives appointed by the
23 speaker of the house of representatives, one of whom shall be a member of the
24 minority caucus of the house of representatives;

25 (3) the chief justice of the Alaska Supreme Court or another active or
26 retired justice of the supreme court or an active or retired judge of the court of appeals
27 designated by the chief justice;

28 (4) an active or retired superior court judge designated by the chief
29 justice for a three-year term;

30 (5) an active or retired district court judge designated by the chief
31 justice for a three-year term;

1 (6) a member of the Alaska Native community appointed by the
2 governor for a three-year term;

3 (7) the attorney general or a designee of the attorney general;

4 (8) the commissioner of corrections or a deputy commissioner
5 designated by the commissioner;

6 (9) the commissioner of public safety or a deputy commissioner
7 designated by the commissioner;

8 (10) the commissioner of health and social services or a deputy
9 commissioner designated by the commissioner;

10 (11) the director of the Public Defender Agency or a deputy public
11 defender designated by the director;

12 (12) the director of the office of public advocacy or deputy director
13 designated by the director; and

14 (13) a victims' rights advocate appointed by the governor for a three-
15 year term.

16 (b) A member appointed under (a)(6) or (13) of this section serves at the
17 pleasure of the governor and may be reappointed.

18 (c) The commission shall, by majority vote of the membership, elect a chair
19 and other officers it considers necessary from among its membership to serve on a
20 yearly basis.

21 (d) The Office of the Governor shall provide staff and administrative support
22 to the commission.

23 **Sec. 22.20.520. Compensation.** Members of the commission serve without
24 compensation but are entitled to per diem and travel expenses authorized for boards
25 and commissions under AS 39.20.180.

26 **Sec. 22.20.530. Meetings.** A majority of the members constitutes a quorum for
27 conducting business and exercising the powers of the commission. The commission
28 shall meet at least quarterly, at the call of the chair, at the request of the majority of the
29 members, or at a regularly scheduled time as determined by a majority of the
30 members. The commission shall keep a record of its proceedings and make these
31 records available for public inspection.

1 **Sec. 22.20.540. Powers and duties of the commission.** (a) The commission
2 shall evaluate the effect of sentencing laws and practices on the criminal justice
3 system to evaluate whether sentences provide for protection of the public, community
4 condemnation of the offender, the rights of victims of crimes, restitution from the
5 offender, and the principle of reformation. The commission shall make
6 recommendations for improving criminal sentencing practices and, in so doing, the
7 commission shall consider

8 (1) statutes and court rules related to sentencing of criminal defendants
9 in misdemeanor and felony cases;

10 (2) sentencing practices of the judiciary, including use of presumptive
11 sentences;

12 (3) means of promoting uniformity and proportionality in sentencing;

13 (4) alternatives to traditional forms of incarceration;

14 (5) the use of parole and probation in sentencing criminal defendants
15 and to ensure public safety;

16 (6) the adequacy, availability, and effectiveness of treatment and
17 rehabilitation programs;

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

21 (8) the relationship between sentencing priorities and correctional
22 resources;

23 (9) truth and certainty in statutes and sentencing practices; and

24 (10) the effectiveness of the state's current methodologies for the
25 collection and dissemination of criminal justice data.

26 (b) The commission may

27 (1) select and retain the services of consultants whose advice is
28 considered necessary to assist the commission in obtaining information;

29 (2) accumulate and compile information concerning sentencing
30 practices; and

31 (3) recommend legislative and administrative action on sentencing

1 practices.

2 **Sec. 22.20.550. Methodology.** In making recommendations, the commission
3 shall

4 (1) solicit and consider information and views from a variety of
5 constituencies to represent the broad spectrum of views that exist with respect to
6 possible approaches to sentencing criminals in the state; and

7 (2) base recommendations on the following factors:

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

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

11 (C) the need to rehabilitate criminal offenders;

12 (D) the need to confine offenders to prevent harm to the public;

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

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

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

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

20 (I) the resources available to agencies in the criminal justice
21 system; and

22 (J) the effect of sentencing on reducing the rate of recidivism in
23 the state.

24 **Sec. 22.20.560. Annual report and recommendations.** The commission shall
25 submit to the governor and the legislature an annual report of its proceedings for the
26 previous calendar year and may submit recommendations for legislative and
27 administrative action. Reports and recommendations provided under this section shall
28 be submitted not later than January 1 of each year.

29 **Sec. 22.20.570. Definition.** In AS 22.20.500 - 22.20.570, "commission" means
30 the Alaska Sentencing Commission.

31 * **Sec. 3.** AS 28.15.181(f) is amended to read:

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

3 (1) **either**

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

7 (B) **the person**

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

10 (ii) **has not been charged with or convicted of a**
11 **violation of AS 28.35.030 or 28.35.032, or a similar municipal**
12 **ordinance, since completing the program; and**

13 (iii) **has been granted limited license privileges under**
14 **AS 28.15.201(g) and has successfully driven under that limited**
15 **license for the minimum period provided in AS 28.15.201(g)(3); and**

16 (2) the person complies with the provisions of AS 28.15.211(d) and

17 (e).

18 * **Sec. 4.** AS 28.15.201 is amended by adding a new subsection to read:

19 (g) Notwithstanding (d) of this section, a court revoking a driver's license,
20 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), may grant
21 limited license privileges if

22 (1) the revocation was for a conviction under AS 28.35.030 or
23 28.35.032 or a similar municipal ordinance;

24 (2) the person is participating in a court-ordered treatment program
25 under AS 28.35.028;

26 (3) the court grants the limited license privileges as provided in this
27 section for, at a minimum, either

28 (A) the period of revocation while the person is participating in
29 a court-ordered treatment program under AS 28.35.028; or

30 (B) five years, for a person convicted under AS 28.35.030(n) or
31 AS 28.35.032(p), including the period of revocation while the person was

1 participating in a court-ordered treatment program under AS 28.35.028;

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

4 (5) the person agrees to totally abstain from the use of alcoholic
5 beverages, inhalants, and controlled substances; and

6 (6) the person agrees to participate in and pay the cost of testing, as
7 ordered by the court, for the use of any of those substances.

8 (h) The court shall immediately revoke a limited license granted under (g) of
9 this section if the person

10 (1) is charged with or convicted of a violation of AS 28.35.030 or
11 28.35.032 or a similar law or ordinance of this or another jurisdiction; or

12 (2) tests positive under (g)(6) of this section for the use of alcoholic
13 beverages, inhalants, or controlled substances.

14 * **Sec. 5.** AS 28.35.028(b) is amended to read:

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

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

11 * **Sec. 6.** AS 28.35.030(o) is amended to read:

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

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

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

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

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

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

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

25 **(B) the person has not been convicted of a criminal offense**
 26 **since the license was revoked; and**

27 **(C) the person provides proof of financial responsibility.**

28 * **Sec. 7.** AS 28.35.032(q) is amended to read:

29 (q) Upon request, the department shall review a driver's license revocation
 30 imposed under (p)(3) of this section and

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

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

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

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

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

7 **(A) the person has been granted limited license privileges**
8 **under AS 28.15.201(g) and has successfully driven under that limited**
9 **license for at least five years without having the limited license privileges**
10 **revoked;**

11 **(B) the person has not been convicted of a criminal offense**
12 **since the license was revoked; and**

13 **(C) the person provides proof of financial responsibility.**

14 * **Sec. 8.** AS 33.05.020 is amended by adding a new subsection to read:

15 (f) The commissioner shall establish a program and eligibility requirements
16 for certain offenders with conditions of probation that include not consuming
17 controlled substances, inhalants, or alcoholic beverages and who have been identified
18 as a high risk for violating their conditions of probation. The program shall

19 (1) include random urinalysis testing for controlled substance, inhalant,
20 and alcohol use;

21 (2) require that the probation officer file a petition to revoke probation
22 by the close of the next business day if a probationer

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

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

27 (C) fails to follow any condition of probation ordered by the
28 court; and

29 (3) include a means to provide the court with prompt notice that a
30 petition to revoke probation has been filed on a probationer placed in the program by
31 the commissioner so that the court may review the petition, schedule a prompt hearing,

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

3 * **Sec. 9.** AS 33.16.060 is amended by adding a new subsection to read:

4 (c) The board shall establish a program for certain offenders with conditions
5 of parole that include not consuming controlled substances, inhalants, or alcoholic
6 beverages and who have been identified as a high risk for violating their conditions of
7 parole. The program must

8 (1) include random urinalysis testing for controlled substance, inhalant,
9 and alcohol use;

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

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

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

16 (C) fails to follow any condition of probation ordered by the
17 court; and

18 (3) include a means to provide the board with prompt notice that a
19 petition to revoke parole has been filed on a parolee placed in the program by the
20 board so that the board may review the petition, schedule a prompt hearing, address a
21 request for a warrant provided by the parole officer, or take other action the board
22 considers appropriate.

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

25 **APPLICABILITY.** (a) The change made to AS 12.55.027(c), as amended by sec. 1 of
26 this Act, applies to offenses occurring on or after the effective date of this Act.

27 (b) The change made to AS 28.15.181(f), as amended by sec. 3 of this Act, the
28 changes made to AS 28.15.201, added by sec. 4 of this Act, the change made to
29 AS 28.35.028(b), as amended by sec. 5 of this Act, the changes made to AS 28.35.030(o), as
30 amended by sec. 6 of this Act, and the changes made to AS 28.35.032(q), as amended by sec.
31 7 of this Act, apply to convictions occurring before, on, or after the effective date of this Act

1 for offenses occurring before, on, or after the effective date of this Act.

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

4 TRANSITIONAL PROVISIONS. The initial designations and appointments to the
5 Alaska Sentencing Commission under AS 22.20.510, added by sec. 2 of this Act, shall be
6 made and the first meeting of the commission shall be held not later than September 30, 2014.
7 The first report required under AS 22.20.560, added by sec. 2 of this Act, shall be submitted
8 not later than February 1, 2016.

9 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).

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

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for**
2 **offenders in court-ordered treatment programs; allowing a reduction of penalties for**
3 **offenders successfully completing court-ordered treatment programs for persons**
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6 **limitation of drivers' licenses; relating to restoration of a driver's license; relating to**
7 **conditions of probation and parole; and providing for an effective date."**

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

9 *** Section 1. AS 12.55.027(c) is amended to read:**

10 **(c) To qualify for credit against a sentence of imprisonment for time spent in a**
11 **treatment program, the treatment program and the facility of the treatment program**
12 **must impose substantial restrictions on a person's liberty that are equivalent to**
13 **incarceration, including the requirement that a participant in the program**

- 1 (1) must live in a residential facility operated by the program;
- 2 (2) must be confined at all times to the grounds of the facility or be in
- 3 the physical custody of an employee of the facility, except for court appearances,
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- 5 the facility, so long as the periods during which the residents are permitted to
- 6 leave the facility are expressly limited as to both time and purpose [AND WORK
- 7 REQUIRED BY THE TREATMENT PROGRAM AND APPROVED IN ADVANCE
- 8 BY THE COURT];
- 9 (3) is subject to disciplinary sanctions by the program if the participant
- 10 violates rules of the program and facility; sanctions must be in writing and available
- 11 for court review; and
- 12 (4) is subject to immediate arrest, without warrant, if the participant
- 13 leaves the facility without permission.

14 * Sec. 2. AS 22.20 is amended by adding new sections to read:

15 **Article 7. Sentencing Commission.**

16 **Sec. 22.20.500. Creation of commission.** The Alaska Sentencing Commission

17 is established in the Office of the Governor.

18 **Sec. 22.20.510. Membership; staff.** (a) The commission consists of 17

19 members as follows:

20 (1) three members of the senate appointed by the president of the

21 senate, one of whom shall be a member of the minority caucus of the senate;

22 (2) three members of the house of representatives appointed by the

23 speaker of the house of representatives, one of whom shall be a member of the

24 minority caucus of the house of representatives;

25 (3) the chief justice of the Alaska Supreme Court or another active or

26 retired justice of the supreme court or an active or retired judge of the court of appeals

27 designated by the chief justice;

28 (4) an active or retired superior court judge designated by the chief

29 justice for a three-year term;

30 (5) an active or retired district court judge designated by the chief

31 justice for a three-year term;

1 (6) a member of the Alaska Native community appointed by the
2 governor for a three-year term;

3 (7) the attorney general or a designee of the attorney general;

4 (8) the commissioner of corrections or a deputy commissioner
5 designated by the commissioner;

6 (9) the commissioner of public safety or a deputy commissioner
7 designated by the commissioner;

8 (10) the commissioner of health and social services or a deputy
9 commissioner designated by the commissioner;

10 (11) the director of the Public Defender Agency or a deputy public
11 defender designated by the director;

12 (12) the director of the office of public advocacy or deputy director
13 designated by the director; and

14 (13) a victims' rights advocate appointed by the governor for a three-
15 year term.

16 (b) A member appointed under (a)(6) or (13) of this section serves at the
17 pleasure of the governor and may be reappointed.

18 (c) The commission shall, by majority vote of the membership, elect a chair
19 and other officers it considers necessary from among its membership to serve on a
20 yearly basis.

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22 to the commission.

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24 compensation but are entitled to per diem and travel expenses authorized for boards
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27 conducting business and exercising the powers of the commission. The commission
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29 members, or at a regularly scheduled time as determined by a majority of the
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2 shall evaluate the effect of sentencing laws and practices on the criminal justice
3 system to evaluate whether sentences provide for protection of the public, community
4 condemnation of the offender, the rights of victims of crimes, restitution from the
5 offender, and the principle of reformation. The commission shall make
6 recommendations for improving criminal sentencing practices and, in so doing, the
7 commission shall consider

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9 in misdemeanor and felony cases;

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11 sentences;

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19 this state compared to other states, and best practices adopted by other states that have
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22 resources;

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5 constituencies to represent the broad spectrum of views that exist with respect to
6 possible approaches to sentencing criminals in the state; and

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10 sentencing;

11 (C) the need to rehabilitate criminal offenders;

12 (D) the need to confine offenders to prevent harm to the public;

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

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

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

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

20 (I) the resources available to agencies in the criminal justice
21 system; and

22 (J) the effect of sentencing on reducing the rate of recidivism in
23 the state.

24 **Sec. 22.20.560. Annual report and recommendations.** The commission shall
25 submit to the governor and the legislature an annual report of its proceedings for the
26 previous calendar year and may submit recommendations for legislative and
27 administrative action. Reports and recommendations provided under this section shall
28 be submitted not later than January 1 of each year.

29 **Sec. 22.20.570. Definition.** In AS 22.20.500 - 22.20.570, "commission" means
30 the Alaska Sentencing Commission.

31 * **Sec. 3.** AS 28.15.181(f) is amended to read:

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

3 (1) either

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

7 (B) the person

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

10 (ii) has not been charged with or convicted of a
11 violation of AS 28.35.030 or 28.35.032, or a similar municipal
12 ordinance, since completing the program; and

13 (iii) has been granted limited license privileges under
14 AS 28.15.201(g) and has successfully driven under that limited
15 license for the minimum period provided in AS 28.15.201(g)(3); and

16 (2) the person complies with the provisions of AS 28.15.211(d) and

17 (e).

18 * Sec. 4. AS 28.15.201 is amended by adding a new subsection to read:

19 (g) Notwithstanding (d) of this section, a court revoking a driver's license,
20 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), may grant
21 limited license privileges if

22 (1) the revocation was for a conviction under AS 28.35.030 or
23 28.35.032 or a similar municipal ordinance;

24 (2) the person is participating in a court-ordered treatment program
25 under AS 28.35.028;

26 (3) the court grants the limited license privileges as provided in this
27 section for, at a minimum, either

28 (A) the period of revocation while the person is participating in
29 a court-ordered treatment program under AS 28.35.028; or

30 (B) five years, for a person convicted under AS 28.35.030(n) or
31 AS 28.35.032(p), including the period of revocation while the person was

1 participating in a court-ordered treatment program under AS 28.35.028;

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

4 (5) the person agrees to totally abstain from the use of alcoholic
5 beverages, inhalants, and controlled substances; and

6 (6) the person agrees to participate in and pay the cost of testing, as
7 ordered by the court, for the use of any of those substances.

8 (h) The court shall immediately revoke a limited license granted under (g) of
9 this section if the person

10 (1) is charged with or convicted of a violation of AS 28.35.030 or
11 28.35.032 or a similar law or ordinance of this or another jurisdiction; or

12 (2) tests positive under (g)(6) of this section for the use of alcoholic
13 beverages, inhalants, or controlled substances.

14 * Sec. 5. AS 28.35.028(b) is amended to read:

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

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

11 * Sec. 6. AS 28.35.030(o) is amended to read:

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

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

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

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

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

20 (2) shall restore the driver's license if

21 (A) the person has been granted limited license privileges
22 under AS 28.15.201(g) and has successfully driven under that limited
23 license for at least five years without having the limited license privileges
24 revoked;

25 (B) the person has not been convicted of a criminal offense
26 since the license was revoked; and

27 (C) the person provides proof of financial responsibility.

28 * Sec. 7. AS 28.35.032(q) is amended to read:

29 (q) Upon request, the department shall review a driver's license revocation
30 imposed under (p)(3) of this section and

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

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

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

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

6 (2) shall restore the driver's license if

7 (A) the person has been granted limited license privileges
8 under AS 28.15.201(g) and has successfully driven under that limited
9 license for at least five years without having the limited license privileges
10 revoked;

11 (B) the person has not been convicted of a criminal offense
12 since the license was revoked; and

13 (C) the person provides proof of financial responsibility.

14 * Sec. 8. AS 33.05.020 is amended by adding a new subsection to read:

15 (f) The commissioner shall establish a program and eligibility requirements
16 for certain offenders with conditions of probation that include not consuming
17 controlled substances, inhalants, or alcoholic beverages and who have been identified
18 as a high risk for violating their conditions of probation. The program shall

19 (1) include random urinalysis testing for controlled substance, inhalant,
20 and alcohol use;

21 (2) require that the probation officer file a petition to revoke probation
22 by the close of the next business day if a probationer

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

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

27 (C) fails to follow any condition of probation ordered by the
28 court; and

29 (3) include a means to provide the court with prompt notice that a
30 petition to revoke probation has been filed on a probationer placed in the program by
31 the commissioner so that the court may review the petition, schedule a prompt hearing,

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

3 * **Sec. 9.** AS 33.16.060 is amended by adding a new subsection to read:

4 (c) The board shall establish a program for certain offenders with conditions
5 of parole that include not consuming controlled substances, inhalants, or alcoholic
6 beverages and who have been identified as a high risk for violating their conditions of
7 parole. The program must

8 (1) include random urinalysis testing for controlled substance, inhalant,
9 and alcohol use;

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

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

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

16 (C) fails to follow any condition of probation ordered by the
17 court; and

18 (3) include a means to provide the board with prompt notice that a
19 petition to revoke parole has been filed on a parolee placed in the program by the
20 board so that the board may review the petition, schedule a prompt hearing, address a
21 request for a warrant provided by the parole officer, or take other action the board
22 considers appropriate.

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

25 **APPLICABILITY.** (a) The change made to AS 12.55.027(c), as amended by sec. 1 of
26 this Act, applies to offenses occurring on or after the effective date of this Act.

27 (b) The change made to AS 28.15.181(f), as amended by sec. 3 of this Act, the
28 changes made to AS 28.15.201, added by sec. 4 of this Act, the change made to
29 AS 28.35.028(b), as amended by sec. 5 of this Act, the changes made to AS 28.35.030(o), as
30 amended by sec. 6 of this Act, and the changes made to AS 28.35.032(q), as amended by sec.
31 7 of this Act, apply to convictions occurring before, on, or after the effective date of this Act

1 for offenses occurring before, on, or after the effective date of this Act.

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

4 **TRANSITIONAL PROVISIONS.** The initial designations and appointments to the
5 Alaska Sentencing Commission under AS 22.20.510, added by sec. 2 of this Act, shall be
6 made and the first meeting of the commission shall be held not later than September 30, 2014.
7 The first report required under AS 22.20.560, added by sec. 2 of this Act, shall be submitted
8 not later than February 1, 2016.

9 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).



ALASKA STATE LEGISLATURE

SENATOR JOHN COGHILL

State Capitol, Room 119, Juneau, AK 99801-1182 (907) 465-3719
301 Santa Claus Lane, Suite 3B, North Pole, AK 99705 (907) 488-5725

CSSB 64 - SECTIONAL ANALYSIS

CSSB 64: “An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for offenders in court-ordered treatment programs; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving while under the influence or refusing to submit to a chemical test; relating to court termination of a revocation of a person’s driver’s license; relating to limitation of drivers’ licenses; relating to restoration of a driver’s license; relating to conditions of probation and parole; and providing for an effective date.”

Section 1: AS 12.55.027(c) is amended to read:

An incarcerated person shall receive credit against a sentence of imprisonment, including periods when the person is permitted to leave their facility for an expressly limited time and place.

Section 2: AS 22.20 is amended to add new sections.

The new sections shall create the Alaska Sentencing Commission.

AS 22.20.510 outlines the membership of the Alaska Sentencing Commission:

1. Three members of the Senate (to be chosen by the President).
 - a. One shall be a minority caucus member.
2. Three members of the House (to be chosen by the Speaker).
 - a. One shall be a minority caucus member.
3. The chief justice of the Alaska Supreme Court **or** another active or retired justice **or** an active or retired judge of the Court of Appeals designated by the chief justice.
4. An active or retired superior court judge designated by the chief justice for a three-year term.
5. An active or retired district court judge designated by the chief justice for a three-year term.
6. A member of the Alaska native community appointed by the governor for a three-year term. Serves at the pleasure of the governor.
7. The attorney general or a designee of the attorney general.
8. The commissioner of corrections or a deputy commissioner designated by the commissioner.

CSSB 64 - SECTIONAL ANALYSIS

Sen. Coghill’s Office

Page 1 of 6

9. The commissioner of public safety or a deputy commissioner designated by the commissioner.
10. The commissioner of health and social services or a deputy commissioner designated by the commissioner.
11. The director of the Public Defender Agency or a deputy public defender designated by the director.
12. The director of the office of public advocacy or deputy director designated by the director.
13. A victims' rights advocate appointed by the governor for a three-year term. Serves at the pleasure of the governor.

The Office of the Governor shall provide staff and administrative support to the commission.

AS 22.20.520 outlines that commission members shall serve without compensation but are entitled to per diem and travel expenses.

AS 22.20.530 outlines that a majority of the members shall constitute a quorum.

The commission shall meet at least quarterly and keep its records available for public inspection.

AS 22.20.540 outlines powers and duties of the commission. The commission shall evaluate and make recommendations for improving criminal sentencing practices. In doing so, the commission shall consider:

1. Statutes and court rules.
2. Sentencing practices, including presumptive sentencing.
3. Means of promoting uniformity and proportionality in sentencing.
4. Alternatives to traditional forms of incarceration.
5. Analysis of parole and probation.
6. The effectiveness of treatment and rehabilitation programs.
7. Crime and incarceration rates.
8. The relationship between sentencing priorities and correctional resources.
9. Truth and certainty in statutes and sentencing practices.
10. The effectiveness of the state's current methodologies and collection of criminal justice data.

The commission may select and maintain consultants to assist the commission.

The commission may collect and compile information concerning sentencing practices.

The commission may recommend legislative and administrative action on sentencing.

AS 12.20.550 outlines the methodology for the commission. The commission shall consider the information and views for a variety of constituencies.

Recommendations shall be based on the following factors:

- A. The seriousness of each offense.
- B. Prior criminal history.
- C. The need to rehabilitate criminals.
- D. The need to confine offenders.
- E. The extent to which criminal offenses harm victims.
- F. The effect of sentencing to deter an offender.
- G. The effect of sentencing as a community condemnation of criminal acts.
- 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.

AS 22.20.560 outlines the expected annual report and recommendations. The commission shall submit to the governor and legislature an annual report.

AS 22.20.570 is the definition.

Section 3: AS 28.15.181(f) is amended to read:

The court may terminate a revocation of license for a DUI or refusal offense if either:

1. The person's license has been revoked for the minimum period required:
 - i. 90 days for a first time misdemeanor offense.
 - ii. 1 year for misdemeanor second offense.
 - iii. 3 years for a misdemeanor third offense, or, if a felony, "for life" for a third offense.
 - iv. 5 years for a misdemeanor fourth offense, or, if a felony, "for life" for a fourth offense.
 - v. 5 years for a misdemeanor fifth offense, or, if a felony, "for life" for a fifth offense).

or

2. The person:
 - i. has successfully completed a court-ordered treatment program;
 - ii. has not been charged with or convicted of a DUI or refusal since completing the program;
 - iii. has been granted limited license privileges and having successfully driven under the limited license for the minimum period.

Section 4: AS 28.15.201 outlines when a court may grant limited license privileges. Limited license privileges may be granted if:

1. The revocation was for a DUI or refusal.
2. The person is participating in a court-ordered treatment program.
3. The court grants the limited license for a minimum time of either:
 - a. The period of revocation while the person is participating in the court-ordered treatment program; *or*
 - b. 5 years, for a person convicted of a felony DUI or refusal, including the period of revocation while the person was participating in the court-ordered treatment program.
4. The person provides proof of insurance.
5. The person agrees to be free from drugs and alcohol.
6. The person pays the cost of testing for the substances.

The court shall immediately revoke a limited license if the person is charged with or convicted of a DUI or refusal *or* tests positive for the use of alcohol or a controlled substance.

Section 5: AS 28.35.028(b) Procedure:

Once the court elects to proceed with this procedure the defendant shall enter a plea of “no contest” or “guilty.”

The court shall enter a judgment of conviction.

In a judgment of conviction and on probation conditions that the court considers appropriate, the court may withhold pronouncement of a period of imprisonment or a fine to provide an incentive for the defendant to complete the recommended treatment successfully.

The court may reduce the defendant’s sentence, including the time for imprisonment, fine, or license revocation.

Section 6: AS 28.35.030(o) (**DUI**) is amended to read:

Upon request, the department may consider a review of a felony driver’s license revocation and:

1. May restore the license if:
 - A. The license has been revoked for a period at least 10 years
 - B. The person has not been convicted of a criminal offense since the license was revoked; and

- C. The person provides proof of financial responsibility, and
2. Shall restore the driver's license if
- A. The person has been granted limited license privileges and has successfully driven on the limited license for a period of 5 years.
 - B. Has not been convicted of a criminal offense since the license was revoked.
 - C. The person proves proof of financial responsibility.

Section 7: AS 28.35.032(q) (**Refusal**) is amended to read:

Upon request, the department shall review a driver's license revocation and:

- 1. May restore the driver's license if
 - A. The license has been revoked for a period of at least 10 years
 - B. The person has not been convicted of a criminal offense since the license was been revoked; and
 - C. The person provides proof of financial responsibility; and
- 2. Shall restore the driver's license if
 - A. The person has been granted limited license privileges and has successfully driven on the limited license for a period of 5 years.
 - B. Has not been convicted of a criminal offense since the license was revoked.
 - C. The person proves proof of financial responsibility.

Section 8: AS 33.05.020 (**Duties of commissioner; probation officers and personnel**) is amended to add a new subsection to read:

The commissioner shall establish a program with eligibility requirements for certain offenders. The program shall:

- 1. Include random drug testing.
- 2. Require the probation officer to file a petition to revoke probation if a probationer:
 - A. Fails to appear for an appointment.
 - B. Tests positive for drugs or alcohol.
 - C. Fails a condition of probation.
- 3. Include a means to give the court prompt notice of a violation and take action as necessary.

Section 9: AS 33.16.060 (**Duties of the parole board**) is amended by adding a new subsection to read:

The board shall establish a program with eligibility requirements for certain offenders. The program shall:

1. Include random drug testing.
2. Require the probation officer to file a petition to revoke probation if a probationer:
 - A. Fails to appear for an appointment.
 - B. Tests positive for drugs or alcohol.
 - C. Fails a condition of probation.
3. Include a means to provide the board prompt notice of a violation and take action as necessary.

Section 10: Applicability and changes.

Section 11: Transitional Provisions.

Section 12: This Act takes effect immediately.

Fiscal Note

State of Alaska
2013 Legislative Session

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

Identifier: SB064-DOC-OC-03-31-13
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: Senate State Affairs

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

Expenditures/Revenues

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

(Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	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

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By:	Kevin Worley, Director	Phone:	(907)465-4641
Division:	Administrative Services, Department of Corrections	Date:	03/31/2013 06:40 AM
Approved By:	Leslie Houston, Deputy Commissioner	Date:	03/31/13
	Department of Corrections		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB 64

Analysis

This bill establishes the Alaska Sentencing Commission composed of executive, legislative, and judicial branch members, as well as members of the public. This commission is tasked with evaluating the effect of sentencing laws on the criminal justice system and providing an annual report to the governor and legislature.

The bill also makes adjustments to statutes which relate to reductions in penalties for offenders successfully completing court-ordered treatment programs. These adjustments allow an offender to receive credit against their sentence for time spent in a treatment facility which allows them to leave the grounds for limited purposes. It also allows a court to terminate the revocation of a person's license if that person successfully completes a court-ordered treatment program.

Finally, this bill requires the Commissioner of the Department of Corrections and the Board of Parole to establish a program for offenders with substance abuse problems that includes vigilant monitoring, random urinalyses, and immediate consequences for violating conditions of probation or parole.

This bill will have no fiscal impact on the Department of Corrections.

Fiscal Note

State of Alaska
2013 Legislative Session

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

Identifier: SB064-DOA-PDA-3-29-13
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: Senate State Affairs

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

Expenditures/Revenues

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

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	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

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Quinlan Steiner</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>03/29/2013 03:00 PM</u>
Approved By: <u>Curtis Thayer, Deputy Commissioner</u>	Date: <u>03/29/13</u>
<u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB064

Analysis

SB 64 amends the current requirements imposed on defendants applying for credit towards a sentence for time spent in a treatment program. This bill also creates a sentencing commission and outlines the commission's purpose and organization. In addition, the bill adds circumstances under which the court may terminate a revocation of a driver's license for an offense, or grant limited license privileges, makes modifications to the statute governing court ordered treatment, and outlines the creation of a probation and parole program related to controlled substance restrictions.

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

Fiscal Note

State of Alaska
2013 Legislative Session

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

Identifier: SB064-DOA-OPA-3-29-13
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: Senate State Affairs

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

Expenditures/Revenues

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

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	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 (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division	Office of Public Advocacy	Date:	03/29/2013 02:00 PM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	03/29/13
	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB064

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
2013 Legislative Session

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

Identifier: SB064-DOA-DMV-3-29-13
Title: OMNIBUS CRIME/CORRECTIONS BILL
Sponsor: JUDICIARY
Requester: Senate State Affairs

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)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	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 (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Amy Erickson, Director	Phone: (907)269-5999
Division: Motor Vehicles	Date: 03/29/2013 03:45 PM
Approved By: Curtis Thayer, Deputy Commissioner	Date: 03/29/13
Department of Administration	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB064

Analysis

This bill establishes a sentencing commission, affords drivers convicted of DUI or Refusal to apply to have their revocation period terminated, modifies conditions of probation and allows for a limited license for a person convicted of DUI or Refusal who is participating in a court ordered treatment program.

The Alaska Court System (court) does not have the ability to modify a person's driving record which requires the Division of Motor Vehicles (DMV) to assist with processing the requests for termination of revocation allowed under AS 28.15.181, AS 28.35.030(o) and AS 28.35.032(q).

This bill has no fiscal impact on the DMV.

FISCAL NOTE

STATE OF ALASKA
2013 LEGISLATIVE SESSION

Bill Version SB0064A
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) SB64-AJC-3-4-13 Dept. Affected Alaska Court System
 Title An Act Establishing the Alaska Sentencing Comm. Appropriation Judicial Council
 Allocation Judicial Council
 Sponsor Senate Judiciary Committee
 Requester _____ OMB Component Number 771

Expenditures/Revenues (Thousands of Dollars)

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

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates					
			FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES								
Personal Services	247.3		247.3	247.3	247.3	247.3	247.3	247.3
Travel	25.0		25.0	25.0	25.0	25.0	25.0	25.0
Services	43.0		43.0	43.0	43.0	43.0	43.0	43.0
Commodities	5.0		5.0	5.0	5.0	5.0	5.0	5.0
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	320.3	0.0	320.3	320.3	320.3	320.3	320.3	320.3

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	320.3		320.3	320.3	320.3	320.3	320.3
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		320.3	0.0	320.3	320.3	320.3	320.3	320.3

POSITIONS								
Full-time		3		3	3	3	3	3
Part-time								
Temporary								

CHANGE IN REVENUES								

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

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

ASSOCIATED REGULATIONS

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

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

Initial version.

Prepared by Larry Cohn, Executive Director
 Division Alaska Judicial Council
 Approved by Larry Cohn, Executive Director
Alaska Judicial Council

Phone 279-2526 Ext. 1
 Date/Time 3/4/13 9:00 a.m.
 Date 3/4/13 9:00 a.m.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB0064A

Analysis

Section 2 of SB 64 creates a sentencing commission. The commission will evaluate the effects of sentencing laws and practices, report annually to the governor and legislature, and make recommendations for improvements. Section 2 requires the Alaska Judicial Council to provide staff and administrative support to the sentencing commission. The commission will meet regularly. The commission's work will require substantial research, including data collection and analysis.

To provide staff and administrative support to the commission and to do the necessary research, the Council will need to hire a full-time research analyst at range 18A, a staff attorney to work 30 hours per week at range 20A, and a full-time secretary at range 11. The Council will need to rent additional office space and purchase supplies and equipment. The Council will require a travel budget to enable commission members to attend an estimated four meetings a year, and to facilitate the commission's research.

Alaska had a sentencing commission for three years in the early 1990's. The Alaska Judicial Council staffed the commission. The Council's average budget to staff the commission for those three years, when adjusted for inflation, was \$341.1. This fiscal note anticipates total costs in the first year to be \$320.3 based on the same level of staffing that the Council used for the prior commission.

Carmen Gutierrez Testimony and Talking Points for CSSB64

Ms. Gutierrez has practiced criminal law in Alaska for over 25 years. She also served as Special Assistant and then Deputy Commissioner for the Alaska Department of Corrections (DOC) from June 2009 to December 2012. Currently, she is co-chair of the Alaska Prisoner Reentry Task Force.

The purpose of CSSB64:

1. Section 2 is intended to begin the thoughtful process of looking at whether Alaskan's are receiving good value for the criminal justice dollars spent. Given that currently 2 out of 3 prisoners return to custody within the first 3 years of release, our criminal justice system results suggests we are not.
2. The remaining sections of the bill are intended to provide offenders with certain tools necessary to help them be successful once released from supervision.
 - a. Section 1 provides an incentive for offenders to seek and complete substance abuse treatment.
 - b. Section 3 - 5 provides a limited license for successful Therapeutic Courts (TC) participants and graduates to obtain a limited license under stringent conditions. This will do two important things:
 - i) provide needed incentive to encourage successful participation in TC.
 - ii) serve as a means for those who are successful in TC to get licensed, insured and be closely monitored.
 - c. Section 6 & 7 are intended for those TC graduates who have demonstrated compliance with all TC court conditions and who have had no arrests. If these conditions are met they may be eligible to have their drivers licenses restored after 5 years instead of in 10 years as the law currently provides.
 - d. Section 8 is intended to move DOC closer to making the Probationer Accountability with Certain Enforcement model the standard method of DOC probation. When a probationer fails to show up for a probation office visit, UA testing or tests positive, their case is brought to the court's attention quickly for the swift imposition of certain and proportionate sanctions.

10 reasons supporting the need for CSSB64:

Today, Alaska is at a crossroads. DOC opened the Goose Creek Correctional Center (GCCC) at a cost of \$250 million to Alaskans with an annual operating budget of \$50 million. If the state's prison population continues to grow at its current rate of 3% per year, the state's prisons will be operating yet again, at full capacity, by 2016. This creates an inescapable reality, the state must today either start planning to build a new prison, or recommit to incarcerating out-of-state. Perhaps a better approach is to look at proven best practice that more effectively address criminality, reduce recidivism and in tern will build healthier, safer Alaskan communities.

1. Crime in Alaska has decreased. All violent crime index offense totals and property crime index offense totals decreased in 2011. The crime rate, which relates the incidence of crime to population, also experienced similar decreases.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 continues to drop 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 2009, that ratio had grown to 1 in 32 or 3.2% of the state's population.²
4. If state policymakers don't start now to look at the effectiveness of how we use limited, expensive hard prison beds, by 2016 DOC will be at 100% capacity even with GCCC fully on line. It will likely cost much more than 250 million to build additional prisons and more than the current 50k per year to operate.
5. With state revenues falling the state may not wish to build new prisons or incarcerate out-of-state. From 2005 to 2013, DOC's budget has grown from \$167 million to \$323 million. 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.
7. The number of nonviolent incarcerated offenders has increased from 42% in 2002 to 62% in 2011.
8. 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.
9. The majority of Alaska's criminal statutes were rewritten in 1982. The Alaska criminal code was based on the best research at the time. Importantly,

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

however, best practices research has continued to advance during the last 29 years and much has been learned about more effective ways to address criminality in a manner that reduces recidivism.

10. On March 18th Alaska's Deputy Attorney General when testifying before Senate Finance on SB 56 stated the following³ :
 - a. "The current [criminal] laws on the books are not working".
 - b. "Something has to be done about the amount of people that we have incarcerated. "
 - c. "We are not dealing with the addiction problem that people have."

Other states are reducing correction budgets while reducing recidivism:

A whole host of conservative states have begun to embrace these new approaches because their declining budgets could no longer sustain the practices of the past. Grover Norquist's Right on Crime initiative advocates for more cost-effective measures that place less reliance on increased incarceration for non-violent offenders. Other well-known leaders who have joined in this initiative are Newt Gingrich, Ed Meese, Williams Bennett & Jeb Bush just to name a few. In its statement of Principles Right on Crime asserts:

"Conservatives are known for being tough on crime, but we must also be tough on criminal justice spending. That means demanding more cost-effective approaches that enhance public safety. A clear example is our reliance on prisons, which serve a critical role by incapacitating dangerous offenders and career criminals but are not the solution for every type of offender. And in some instances, they have the unintended consequence of hardening nonviolent, low-risk offenders—making them a greater risk to the public than when they entered."⁴

As an example, Right on Crime questions whether incarcerating drug using non-violent offenders is the best way to get offenders to stop abusing drugs.

Six states have made noteworthy successful efforts to cut corrections spending and reduce recidivism. These states enacted comprehensive sentencing and corrections reforms using a bipartisan, interbranch working group and focusing on data and research to craft policies that met their unique challenges.⁵ These states are:

³http://www.legis.state.ak.us/basis/get_audio.asp?session=28&chamber=S&comm=FIN&date1=3/18/2013&start=0913&bill=SB56

⁴ <http://www.rightoncrime.com/the-conservative-case-for-reform/statement-of-principles/>

⁵ <http://www.pewstates.org/news-room/video-library/state-legislators-on-sentencing-and-corrections-reforms-85899434256> (December 12, 2012 interview of state elected officials)

- 1 Texas invested in community based treatment, among other things, and has averted over 2 billion dollars in corrections spending. The state's crime rate has also dropped in the process.
- 2 Oklahoma invested in community based treatment with good outcomes.
- 3 Arkansas
- 4 Georgia
- 5 Kentucky
- 6 Pennsylvania

The goal of this bill and the efforts that will follow are to break the cycle of recidivism in Alaska. With 2 of 3 offenders returning to prison upon release, Alaska is clearly not getting good value for the criminal justice dollar spent.