

HB

205 -

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ALASKA STATE LEGISLATURE

Representative Gabrielle LeDoux,
Chair

Representative Wes Keller,
Vice Chair



Representative Charisse Millett
Representative Neal Foster
Representative Bob Lynn
Representative Matt Claman
Representative Jonathan Kreiss-Tomkins

HOUSE JUDICIARY COMMITTEE

Alaska State Capitol, Room 120
Juneau, AK 99801
907-465-4998 • 907-465-4419 (fax)

HOUSE BILL 205 HEARING SCHEDULE

Monday 3/14 at 12:30pm

- Explanation of Alaska Criminal Justice Commission's Justice Reinvestment Report policy recommendations by Commissioner and Juneau Police Department Lieutenant Kris Sell
- Sectional Analysis (forthcoming) of HB 205 by Grace Abbott, staff to Rep. Millett

Wednesday 3/16 at 12:30pm – Consideration of Pre-trial Policies in HB 205 (recs 1-4)

Friday 3/18 at 12:30pm – Consideration of Sentencing Policies in HB 205 (recs 5-11)

Monday 3/21 at 12:30pm – Consideration of Community Supervision Policies in HB 205 (recs 12-18)

Wednesday 3/23 at 12:30-3:00pm – Consideration of Reinvestment Policies (rec 21)

- These provisions are not in CS for HB 205, Version H
- The forthcoming language will be provided in draft form for consideration, inclusion in a new CS

Friday 3/25 – *no meeting*

Monday 3/28 at 12:30pm-3:00pm – Invited & Public Testimony

- Invited testimony from victims' groups first
- Public testimony will be opened after invited testimony

Wednesday 3/30 at 1:00pm – Amendments

- All amendments or proposed changes to be discussed in this meeting
- Amendment deadline to be announced

Alaska's Justice Reinvestment Report

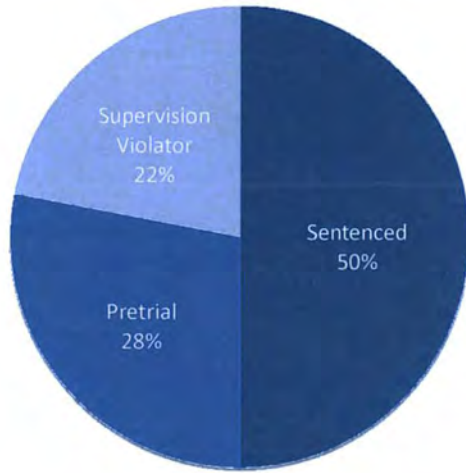
Final Recommendations of the Alaska Criminal Justice Commission

The Problem Facing Alaska

- The Cost of Doing Nothing
 - Trends in Alaska's Prison Population
 - Recommendations for Alaska's Lawmakers
-



Prison Population on July 1, 2014, by Status



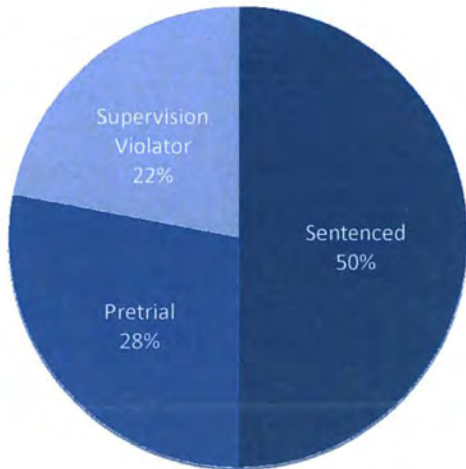
Prison Growth in Alaska

What is driving this growth?

Defendants in prison **pretrial** are staying for longer periods of time

Three-quarters of the sentenced population is convicted of **non-violent offenses**

Prison Population on July 1, 2014, by Status



Prison Growth in Alaska

Felony offenders are staying **31% longer** than in 2004

22% of prison inmates are there for **technical violations** of parole or probation

Alaska Criminal Justice Commission

“The Commission shall evaluate and make recommendations to improve criminal laws and practices, keeping in mind the goals of enhancing public safety, offender rehabilitation, victim restitution and reducing costs.”

Alaska’s Senate Bill 64 (2014)

September 2014
First Meeting of ACJC

July 2017
ACJC Sunsets

Alaska Judicial Council
Staff

Alaska Criminal Justice Commission

- Legislative Branch
 - Sen. John Coghill (Non-Voting)
 - Rep. Wes Keller (Non-Voting)
 - Judicial Branch
 - Alex Bryner
Chief Justice, Alaska Supreme Court (Retired)
 - Stephanie Rhoades
District Court Judge
 - Trevor Stephens
Superior Court Judge
 - Department of Corrections
 - Walt Monegan
Acting Commissioner
 - Law Enforcement
 - Craig Richards
Attorney General
 - Gary Folger
Commissioner, Department of Public Safety
 - Lt. Kris Sell
Juneau Police Department
 - Public Defender
 - Quinlan Steiner
 - Alaska Natives
 - Gregory Razo (Chair)
Cook Inlet Region, Inc.
 - Crime Victims
 - Brenda Stanfill
Interior Alaska Center for Non-Violent Living
 - Alaska Mental Health Trust
 - Jeff Jessee
CEO
-

Alaska Criminal Justice Commission

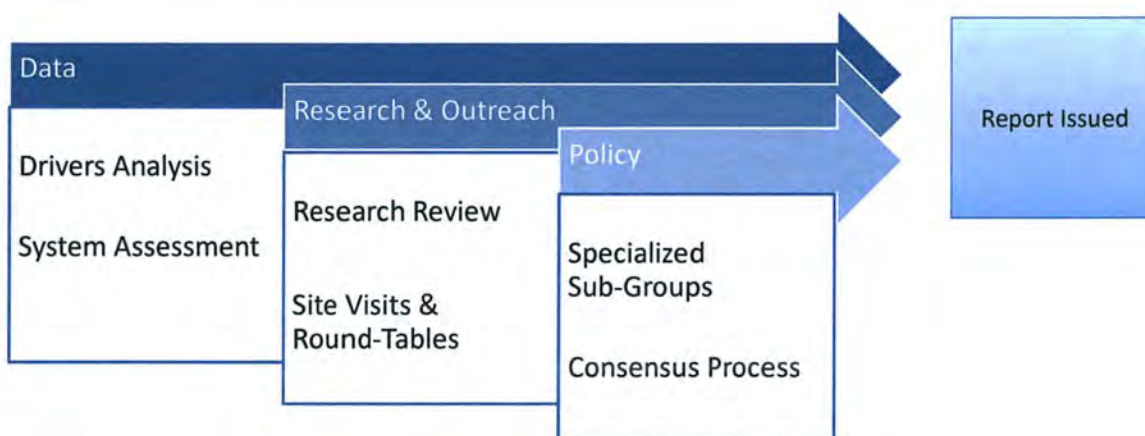
"We have asked for recommendations that enhance public safety, strengthen alternatives to prison, and determine which criminal defendants and offenders can be safely managed with those alternatives...."


[W]e call on the Commission to develop policy options for the Legislature to consider aimed at meeting the following goal posts: 1) averting all future prison growth; 2) averting all future prison growth and reducing the current prison population by 15 percent; and 3) averting all future prison growth and reducing the current prison population by 25 percent."


*Senate President Kevin Meyer
Senate Finance Chair Anna MacKinnon*


*Speaker Mike Chenault
House Finance Co-Chair Mark Neuman
House Finance Co-Chair Steve Thompson*


Alaska Criminal Justice Commission

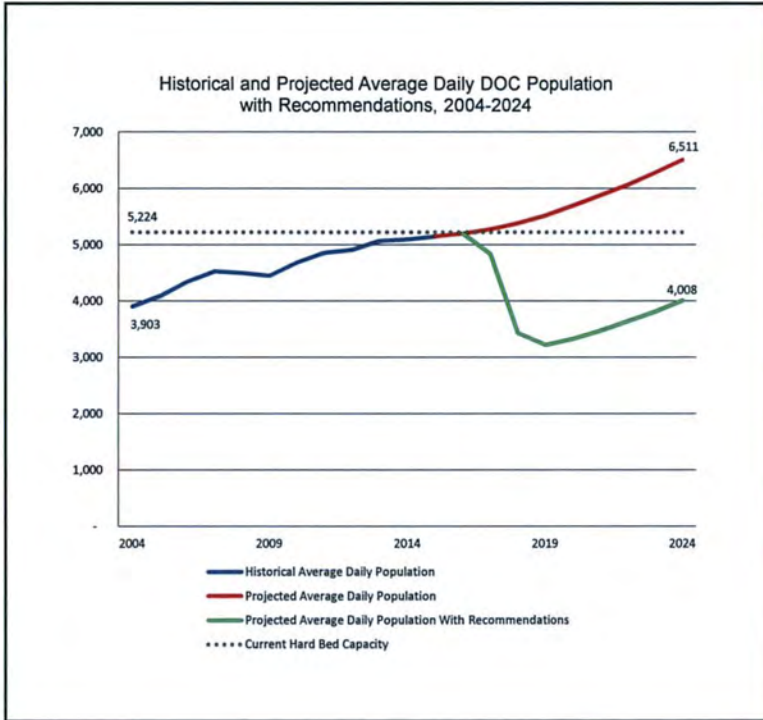


 <p>Alaska Criminal Justice Commission Justice Reinvestment Report</p> <hr/> <p><i>December 2015</i></p>	<p>Alaska's Justice Reinvestment Report</p> <hr/> <p>December 10 Report Issued</p> <p>21 Policy Recommendations</p>
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 <p>Alaska Criminal Justice Commission Justice Reinvestment Report</p> <hr/> <p><i>December 2015</i></p>	<p>Alaska's Justice Reinvestment Report</p> <hr/> <p>Pre-Trial Detention</p> <p>Sentencing</p> <p>Community Supervision</p> <p>Reinvestment</p>
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 <p>Alaska Criminal Justice Commission Justice Reinvestment Report</p> <hr/> <p><small>December 2015</small></p>	<p>Alaska's Justice Reinvestment Report</p> <hr/> <p>Focus prison beds on the most serious offenders</p> <p>Safely release and supervise defendants awaiting trial</p> <p>Make communities safer by strengthening supervision</p>
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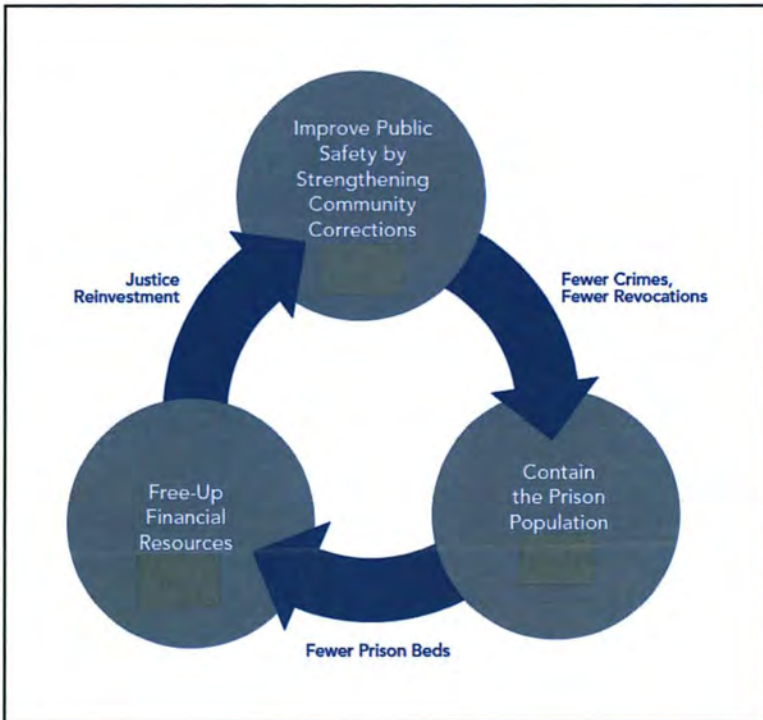
 <p>Alaska Criminal Justice Commission Justice Reinvestment Report</p> <hr/> <p><small>December 2015</small></p>	<p>Alaska's Justice Reinvestment Report</p> <hr/> <p>Expand proven programs to reduce recidivism and substance abuse</p> <p>Reinvest in services to prevent violence and support victims</p>
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Alaska's Justice Reinvestment Report

21% Reduction
in Prison Population
Projected by 2024

\$424 Million
in Savings to State



Reinvestment Priorities

- Pre-Trial Supervision
- Victim Services
- Violence Prevention
- Treatment Services
- Reentry & Support Services

Policy Recommendations

Recommendation 5:
Limit the use of prison for low-level misdemeanor offenders

Alaska's Justice Reinvestment Report

Policy Recommendations

Recommendation 2:
Utilize risk-based release decision-making for pre-trial defendants

Alaska's Justice Reinvestment Report

Policy Recommendations

Recommendation 14:
Establish a system of earned compliance credits for offenders on
community supervision

Alaska's Justice Reinvestment Report

Questions?

Report and research available at www.ajc.state.ak.us

Alaska Criminal Justice Commission : Justice Reinvestment Report

HOUSE BILL 205: CRIMINAL LAW/PROCEDURE;
DRIVER'S LICENSES; PUBLIC AID

Pretrial

Recommendation 1: Expand the use of citations in place of arrest for lower-level non-violent offenses

- ▶ **Specific Action Recommended:** To reduce pretrial admissions for defendants with lower-level nonviolent charges, the Commission recommends:
- ▶ a. Creating a presumption of citation for misdemeanors and class C felonies, excluding person offenses, domestic violence offenses, violations of release conditions, or offenses for which a warrant or summons has been ordered.
- ▶ b. Allowing law enforcement officials to overcome the presumption of citation if the officer has reasonable grounds to believe the person presents a significant likelihood of flight, presents a significant danger to the victim or the public, or if the officer is unable to verify the person's identification without making an arrest.

Recommendation 2: Utilize risk-based release decision-making

- ▶ **Specific Action Recommended:** To implement pretrial release decision-making based upon the offender's risk level, instead of ability to pay monetary bond, the Commission recommends:
- ▶ a. Directing the DOC, in consultation with the Department of Law ("DOL"), Public Defender, Department of Public Safety ("DPS"), and Alaska Court System ("ACS"), to create an evidence based pretrial release decision-making grid that strengthens the presumption of release on personal recognizance or unsecured bond for defendants with less serious charges and lower risk scores. The statutory parameters for this grid would include:
 - ▶ i. Defining a category of defendants who, as a matter of law, should always be released on personal recognizance or unsecured bond with appropriate release conditions; and
 - ▶ ii. Defining categories of defendants for whom DOC should always or usually recommend release on personal recognizance or unsecured bond with appropriate release conditions, while providing a mechanism for the court to depart from that recommendation in limited circumstances.

The following grid captures the release categories as recommended by the Commission:

Offense Type	Misd. non-person offense (non-DV/ non-DUI)	Class C felony non-person offense (non-DV/ non-DUI)	DUI	Failure to appear/ violation of release condition	Other
Low-risk	OR or UB release	OR or UB release	OR or UB recommended	OR or UB usually recommended	OR or UB usually recommended
Moderate-risk	OR or UB release	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended
High-risk	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended	OR or UB not usually recommended

- ▶ b. Mandating that DOC assess all pretrial defendants for risk using a validated pretrial risk assessment tool and make release recommendations to the court based on the grid prior to the defendant's first appearance. All releases on personal recognizance or unsecured bond would be accompanied by release conditions and, when appropriate, varying levels of pretrial supervision.
 - ▶ i. Absent compelling circumstances, all defendants should be seen for their first appearance within 24 hours. If a first appearance happens within 24 hours, DOL is not required to be present. The court shall notify DOL if an additional probable cause hearing within 48 hours is required.
- ▶ c. Authorizing courts to consider a defendant's inability to pay a previously set secured money bond in at least one bail review hearing.
- ▶ d. Authorizing courts to issue unsecured and partially-secured performance bonds.³³
- ▶ e. Authorizing the DOL collections unit to garnish paychecks and Permanent Fund Dividend checks to collect on forfeited unsecured bonds and unpaid victim restitution.
- ▶ f. Directing the ACS to eliminate misdemeanor bail schedules following DOC's implementation of the above evidence-based pretrial practices. Thereafter, any defendant arrested by law enforcement would remain detained until they have received a risk assessment and have made their first appearance before a judicial officer.

Recommendation 3: Implement meaningful pretrial supervision

- ▶ **Specific Action Recommended:** To reduce the risk that released defendants will fail to appear or engage in new criminal activity, the Commission recommends:
- ▶ a. Directing the DOC to provide varying levels of supervision for moderate- and high-risk defendants who are released pretrial. The DOC would also be responsible for standardizing and recommending the use of pretrial diversion, conducting outreach to community programs and tribal courts to develop and expand diversion options, and providing referral services on a voluntary basis for substance abuse and behavioral health treatment services.
- ▶ b. Directing the ACS to issue court date reminders to criminal defendants for each of their hearings, and to coordinate and share information about hearing dates and times with the DOC.

Recommendation 4: Focus supervision resources on high-risk defendants

- ▶ **Specific Action Recommended:** To ensure that supervision resources are focused on defendants at the highest risk to reoffend, the Commission recommends:
- ▶ a. Ensuring that the DOC recommends evidence-based release conditions for each defendant who they have recommended for pretrial release, with more restrictive conditions reserved for higher-risk defendants.
 - ▶ i. Additionally, entitling defendants to a subsequent bail hearing in cases where the release conditions prevented the defendant's release. At the bail hearing, the court would either revise the conditions or find on the record that there is clear and convincing evidence that no other release conditions can reasonably assure court appearance and public safety.
- ▶ b. Restricting third-party custodian conditions to only those cases in which pretrial supervision provided by the DOC is not available; when no secured money bond is ordered; and when the court finds on the record that there is clear and convincing evidence that no less restrictive release conditions can reasonably assure court appearance and public safety.
- ▶ c. Revising eligibility requirements for third-party custodians to limit disqualification from serving as a third-party custodian if there is a reasonable possibility that the prosecution will call them as a witness.

Sentencing

Recommendation 5: Limit the use of prison for lower-level misdemeanor offenders

- ▶ **Specific Action Recommended:** In accordance with the research on the null or mildly criminogenic effect of prison stays for many lower-level offenders, and the Commission's desire to redirect a greater percentage of lower-level misdemeanor offenders to alternatives such as fines, probation, and electronic monitoring, the Commission recommends:
- ▶ a. Reclassifying the following misdemeanors as violations, punishable by up to \$1,000 fine:
 - ▶ i. Misdemeanor B offenses, the lowest-level misdemeanor class in terms of severity, excluding theft and disorderly conduct violations;
 - ▶ ii. Driving with a suspended license ("DWLS") offenses, when the underlying license suspension was not related to a conviction for driving under the influence ("DUI") or refusal to submit to a chemical test; and
 - ▶ iii. Violations of conditions of release ("VCOR") and failure to appear ("FTA") offenses, with certain exclusions.³⁶ For these pretrial violations, law enforcement will be authorized to arrest the defendant, and the DOC will be authorized to detain the defendant until the court schedules a bail review hearing.

- ▶ b. Reclassifying disorderly conduct offenses in such a way that allows for an arrest but limits jail holds or terms up to 24 hours.
- ▶ c. Reclassifying first- and second-time theft offenses under \$250 as non-jailable misdemeanors, and limiting the maximum sentence for a third or subsequent theft offense under \$250 to five days suspended and a six-month probation term.
- ▶ d. Eliminating the mandatory minimum for first-time DUI-related DWLS offenses.
- ▶ e. Requiring that first-time misdemeanor DUI and refusal to submit to chemical test offenders serve their incarceration sentences on electronic monitoring in the community; in cases where electronic monitoring is not available, assigning the offenders to serve their incarceration sentence on supervised probation.

- ▶ f. Presumptively setting a zero to thirty day sentencing range for misdemeanor A's.
 - ▶ i. Permitting courts to depart from the presumptive sentencing range for DV-related assault 4s if the prosecution demonstrates that the conduct was among the most serious constituting the offense or if the offender has past similar and repeated criminal history (not limited to convictions).
 - ▶ ii. Permitting courts to depart from the presumptive sentencing range for all other misdemeanor A's if the prosecution demonstrates that the conduct was among the most serious constituting the offense or if the offender had past similar criminal convictions.
- ▶ g. Restricting municipalities from incarcerating past these limits for similar municipal offenses.

Recommendation 6: Revise drug penalties to focus the most severe punishments on higher level drug offenders

- ▶ **Specific Action Recommended:** In accordance with the research on the limited recidivism-reduction benefit of longer stays in prison, as well as the low deterrent value of long drug sentences in particular, the Commission recommends:
- ▶ a. Reclassifying simple possession of heroin, methamphetamine, and cocaine as a misdemeanor offense, and limiting the maximum penalty for first-and second-time possession offenses to one month and six month suspended sentences, respectively.³⁸
- ▶ b. Aligning penalties for commercial heroin offenses with penalties for commercial methamphetamine and cocaine offenses.³⁹ This recommendation shall be forwarded to the Controlled Substances Advisory Committee (“CSAC”) and CSAC shall be provided with the opportunity to comment and carry out their duties under AS 11.71.110.
- ▶ c. Creating a tiered commercial drug statute whereby offenses related to more than 2.5g of heroin, methamphetamine, and cocaine is a more serious offense (Felony B) than offenses related to less than 2.5g of heroin, methamphetamine, and cocaine (Felony C).

Recommendation 7: Utilize inflation-adjusted property thresholds

- ▶ **Specific Action Recommended:** To focus costly prison space on more serious offenders, and to ensure that value-based penalties take inflation into account, the Commission recommends:
- ▶ a. Raising the felony property crime threshold to \$2,000 for all property crimes with a required value amount. ⁴²
- ▶ b. Requiring the Department of Labor to set in regulation an inflation-adjusted felony property threshold, as well as an inflation-adjusted threshold dividing Misdemeanor A and B property crimes (currently set at \$250), every 5 years, rounded up to the nearest \$50 increment.

Recommendation 8: Align non-sex felony presumptive ranges with prior presumptive terms

- ▶ **Specific Action Recommended:** In accordance with the research demonstrating that for many offenders longer prison stays do not reduce recidivism more than shorter prison stays, and the original legislative intent to maintain lengths of prison stays at 2005 levels, the Commission recommends aligning presumptive ranges with the prior presumptive terms.

(Numbers in brackets indicate presumptive terms/ranges.)

Felony Class ⁴⁵	Presumptive Term (2005)	Alaska Current	Recommendation
Class A			
First	[5] – 20 years	[5 – 8] – 20 years	[3 – 6] – 20 years
First/Enhanced ⁴⁶	[7] – 20 years	[7 – 11] – 20 years	[5 – 9] – 20 years
Second	[10] – 20 years	[10 – 14] – 20 years	[8 – 12] – 20 years
Third	[15] – 20 years	15 – 20 years	13 – 20 years
Class B			
First	[n/a] – 10 years	[1 – 3] – 10 years	[0 – 2] – 10 years
First/Enhanced ⁴⁷	[n/a] – 10 years	[2 – 4] – 10 years	[1 – 3] – 10 years
Second	[4] – 10 years	[4 – 7] – 10 years	[2 – 5] – 10 years
Third	[6] – 10 years	6 – 10 years	4 – 10 years
Class C			
First	[n/a] – 5 years	[0 – 2] – 5 years	Presumptive probation; 0 – 18 months ⁴⁸
Second	[2] – 5 years	[2 – 4] – 5 years	[1 – 3] – 5 years
Third	[3] – 5 years	3 – 5 years	2 – 5 years

Recommendation 9: Expand and streamline the use of discretionary parole

- ▶ **Specific Action Recommended:** To increase the number of offenders who are eligible to apply for parole, as well as to streamline the decision-making process, the Commission recommends:
- ▶ a. Expanding eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with prior felony convictions.
- ▶ b. Streamlining parole decision-making for lower-level felonies (first time Felony C and B offenders) by restricting hearings to only those offenders who have failed to comply with their individual case plan or who have been disciplined for failure to obey institutional rules, or in cases where the victim has requested a parole hearing. Otherwise, inmates will be paroled at their earliest eligibility date.
- ▶ c. Requiring that any other offender who is eligible for parole receives a hearing at least 90 days before his or her first eligibility date, with the presumption that the offender will be granted parole if he or she has complied with the Individual Case Plan and followed institutional rules. The presumption of parole could be overcome with a finding on the record that release would jeopardize public safety

Recommendation 10: Implement a specialty parole option for long-term, geriatric inmates

- ▶ **Specific Action Recommended:** To reduce the number of low risk, geriatric offenders in prison, the Commission recommends:
- ▶ a. Providing for automatic parole hearings for offenders, including those incarcerated prior to the implementation of the legislation, who are over an age threshold set between 55 and 60 and have served at least 10 years of their sentence.
- ▶ b. Ensuring that when evaluating inmates under this policy, the Parole Board considers the inmate's likelihood of re-offending in light of his or her age, as well as criminal history, behavior in prison, participation in treatment, and plans for reentering the community.

Recommendation 11: Incentivize completion of treatment for sex offenders with an earned time policy

- ▶ **Specific Action Recommended:** To incentivize participation in and completion of sex offender treatment, the Commission recommends:
- ▶ a. Implementing an earned time policy for sex offenders who are currently ineligible for mandatory parole, whereby offenders are able to earn up to one-third off their sentence if they complete in-prison treatment requirements set forth by the DOC.
- ▶ b. Expanding the DOC's capacity to provide residential, long-term sex offender treatment that focuses on ensuring the offender is held responsible for harmful behavior and teaches cognitive behavioral strategies to end patterns of abuse.

Community Supervision

Recommendation 12: Implement graduated sanctions and incentives

- ▶ **Specific Action Recommended:** To reduce recidivism and increase success rates on probation and parole through the use of swift, certain, and proportional sanctions and incentives, the Commission recommends:
- ▶ a. Statutorily authorizing the DOC to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses, and to follow the matrix both when rewarding prosocial behavior and when responding to technical violations of supervision.
- ▶ b. Requiring field agents to be trained on principles of effective intervention, case management, and the use of sanctions and rewards.

Recommendation 13: Reduce pre-adjudication length of stay & cap overall incarceration time for technical violations of supervision

- ▶ **Specific Action Recommended:** To respond swiftly and proportionately to violations of supervision and to limit the use of prison as a sanction for technical violations, the Commission recommends:
- ▶ a. For offenders not participating in the PACE program, limiting revocations to prison as a potential sanction for technical violations of probation or parole as follows:
 - ▶ i. First revocation: Up to 3 days
 - ▶ ii. Second revocation: Up to 5 days
 - ▶ iii. Third revocation: Up to 10 days
 - ▶ iv. Fourth and subsequent revocation: Up to 10 days and a referral to the PACE program; or, if the PACE program is not available in the jurisdiction, the sanction would be left to judicial or Board discretion.
 - ▶ v. Revocation for absconding: Up to 30 days.
 - ▶ vi. These limits would not apply if the probationer or parolee is a sex offender who has failed to complete sex offender treatment.

- ▶ b. Requiring that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released back to probation and/or parole supervision on personal recognizance after serving the maximum allowable time outlined above, unless new criminal charges have been filed.
- ▶ c. Requiring that courts convert any unperformed Community Work Service directed in a judgment to a fine - and not to jail time - once the deadline set and announced at the time of sentencing has elapsed.
- ▶ d. Stipulating that jail time cannot be imposed because a person failed to complete treatment if, despite having made a good faith effort, they were unable to afford treatment.
 - ▶ i. Additionally, including substance abuse treatment as a reinvestment priority for indigent offenders who are:
 - ▶ 1. Referred to ASAP by the court; and
 - ▶ 2. At a moderate to high risk of re-offending and in need of substance abuse treatment, as determined by a validated risk and needs assessment.

Recommendation 14: Establish a system of earned compliance credits

- ▶ **Specific Action Recommended:** To focus resources on offenders at the highest risk to reoffend and to incentivize compliance with the offender's conditions of probation or parole, the Commission recommends:
 - ▶ a. Statutorily establishing an earned compliance policy that grants probationers and parolees one month credit towards their probation and/or parole term for each month they are in compliance with the conditions of supervision.
 - ▶ b. Establishing an automated time accounting system wherein probationers/parolees automatically earn the credit each month unless a violation report has been filed in that month

Recommendation 15: Reduce maximum lengths for probation terms and standardize early discharge proceedings

- ▶ **Specific Action Recommended:** To more effectively focus scarce probation and parole resources on offenders at the time they are most likely to re-offend or fail, the Commission recommends:
 - ▶ a. Capping maximum probation terms at the following:
 - ▶ i. A maximum of 5 years for felony sex offenders and Unclassified felony offenders;
 - ▶ ii. A maximum of 3 years for all other felony offenders;
 - ▶ iii. A maximum of 2 years for 2nd DUI and DV assault misdemeanor offenders; and
 - ▶ iv. A maximum of 1 year for all other misdemeanor offenders.

- ▶ b. Reducing the minimum time needed to serve on probation or parole prior to being eligible for early discharge to 1 year.
- ▶ c. Requiring the DOC to recommend early termination of probation or parole to the court/Parole Board for any offender who has completed all treatment programs required as a condition of supervision and is currently in compliance with all supervision conditions.
- ▶ d. Requiring the DOC to provide notification to the victim when recommending early discharge, with an opportunity for the victim to provide input at the court or Parole Board hearing.
- ▶ e. Authorizing courts to terminate probation early in cases where the sentence was imposed in accordance with a plea agreement under Rule 11 and DOC is recommending early discharge for good behavior.

Recommendation 16: Extend good time eligibility to offenders serving sentences on electronic monitoring

- ▶ Specific Action Recommended:
- ▶ To incentivize compliance with the conditions of electronic monitoring, the Commission recommends allowing offenders on electronic monitoring to qualify for good time credits under the same conditions set forth for offenders in DOC institutions.

Recommendation 17: Focus ASAP resources to improve program effectiveness

- ▶ Specific Action Recommended: To increase the effectiveness of the ASAP program, the Commission recommends:
- ▶ a. Focusing ASAP resources on offenders at the highest risk of taking up future prison resources through one of the following means:
 - ▶ i. Limiting the offense categories that courts would be authorized to refer to ASAP to those currently mandated by statute (DUI, refusal to submit to a chemical test, and habitual minor consuming).
 - ▶ ii. Alternatively, limiting the offense categories that courts would be authorized to refer to ASAP to second-time misdemeanor DUI and refusal to submit to a chemical test offenses, as well as alcohol-related assault 4 offenses.

- ▶ b. Requiring ASAP to expand the services it provides to include:
 - ▶ i. Using a validated assessment tool to screen for criminogenic risk;
 - ▶ ii. Performing a brief behavioral health screening; and iii. Providing referrals to treatment programs designed to address offenders' individual high priority criminogenic needs including, but not limited to, substance abuse.
- ▶ c. Requiring ASAP provide increased case supervision for moderate to high risk offenders as resources permit.

Recommendation 18: Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

- ▶ Specific Action Recommended: To reduce recidivism and improve outcomes for offenders placed in CRCs, the Commission recommends:
- ▶ a. Requiring CRCs to provide treatment (cognitive-behavioral, substance abuse, after care and/or support services) designed to address offenders' individual criminogenic needs.
- ▶ b. Adopting quality assurance procedures to ensure CRCs are meeting contractual obligations with regard to safety and offender management.
- ▶ c. Implementing admission criteria for CRCs that:
 - ▶ i. Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment, using the results of a validated risk and needs assessment; and
 - ▶ ii. Minimize the mixing of low and high risk offenders.

Oversight and Accountability

Recommendation 19: Require collection of key performance measures and establish an oversight council

- ▶ **Specific Action Recommended:** To ensure that reforms are monitored for fidelity and efficacy, and to better prepare the state to meet the objectives of justice reinvestment, the Commission recommends:
- ▶ a. Requiring the ACS, the DOC, the Department of Health and Social Services (“DHSS”), the DOL, the DPS, and the Parole Board to collect and report data annually on key performance measures.
- ▶ b. Creating a Justice Reinvestment Oversight Task Force (“Task Force”), composed of legislative, executive, and judicial branch members, as well as members representing crime victims and Alaska Natives, charged with:
 - ▶ i. Monitoring and reporting back to the Legislature and Governor on the implementation and outcomes of the Commission’s recommendations;
 - ▶ ii. If needed, making additional recommendations for legislative and administrative changes to achieve the state’s justice reinvestment goals;
 - ▶ iii. Helping to administer reinvestment dollars and develop plans on an annual basis for ongoing reinvestment of a portion of the state general fund savings achieved through pretrial, sentencing, and corrections reforms, based on observed outcomes and cost-benefit estimates; and
 - ▶ iv. Assessing state government processes to ensure victim restitution and violent crimes compensation are working effectively to meet crime victim needs.

Recommendation 20: Ensure policymakers are aware of the impact of all future legislative proposals that could affect prison populations

- ▶ **Specific Action Recommended:** To ensure that policymakers are informed of the long-term fiscal impact of proposed corrections policies, require 10-year fiscal impact statements to accompany future sentencing and corrections legislation.

Victim Priorities

Recommendation 21: Advance crime victim priorities

- ▶ Proposed Administrative Reforms: To advance reforms addressing the needs of crime victims, the Commission recommends the following administrative reforms:
- ▶ a. The DOL and District Attorneys' offices should make enhanced efforts to increase the number of crime victims signed up for court notifications through VINE.
- ▶ b. The DOC should review and revise policies and procedures related to inmate phone calls and visitation to reduce the likelihood of offenders contacting victims.
- ▶ c. The DOC should review and revise policies and procedures to include an increased focus on crime victim needs during offender transition and reentry planning.
- ▶ d. The training standards for criminal justice professionals should contain more specific provisions related to the frequency and content of victim-focused training, with input as appropriate from victim advocacy organizations in the state.
- ▶ e. The state should authorize the DHSS to provide similar trauma-informed services for child victims as the services that exist for adult victims.
- ▶ f. The courts and criminal justice agencies should take steps to make communications and documents more accessible for non-English speakers and people with low levels of literacy.

Outside the Report: Re-Entry

- ▶ Limited Driver's Licenses
- ▶ Administrative License Revocation
- ▶ Food Stamps
- ▶ Re-Entry Program
- ▶ Community Work

Thank You



**Alaska Criminal Justice Commission
Justice Reinvestment Report**

December 2015

Acknowledgements

The Alaska Criminal Justice Commission (“Commission”) would like to thank the following agencies, associations, and individuals for their assistance throughout the Commission’s work:

Alaska Council on Domestic Violence and Sexual Assault

Lauree Morton

Alaska Court System

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Brodie Kimmel
James Kwon
Cynthia Lee
Robert Lewis
Nancy Meade
Ruth Meier
Debbie Miller
Julie Monsen
Kelley Montgomery
Josh Preston
Paul Roetman
Doug Wooliver

Alaska Department of Health and Social Services

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Albert Wall
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Alaska Department of Corrections

Tomi Anderson
Carrie Belden
Gail Brimmer
Laura Brooks
Rebecca Brunger
L. Diane Casto
Sherrie Daigle
Kay Hoover
Remond Henderson

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Executive Summary

Alaska's prison population has grown by 27 percent in the last decade, almost three times faster than the resident population. This rapid growth spurred the opening of the state's newest correctional facility – Goose Creek Correctional Center – in 2012, costing the state \$240 million in construction funds. On July 1, 2014, Alaska's correctional facilities housed 5,267 inmates, and the Department of Corrections ("DOC") had a fiscal year operating budget of \$327 million.

Absent reform, these trends are projected to continue: Alaska will need to house an additional 1,416 inmates by 2024, surpassing the state's current prison bed capacity by 2017. This growth is estimated to cost the state at least \$169 million in new corrections spending over the next 10 years.

The rising cost of Alaska's prison population coupled with the state's high recidivism rate – almost two-thirds of inmates released from the state's facilities return within three years – have led policymakers to consider whether the state is achieving the best public safety return on its corrections spending.

Seeking a comprehensive review of the state's corrections and criminal justice systems, the 2014 Alaska Legislature established the bi-partisan, interbranch Alaska Criminal Justice Commission ("Commission").

In April of the following year, state leaders from all three branches of government joined together to request technical assistance from the Public Safety Performance Project of The Pew Charitable Trusts and the U.S. Department of Justice as part of the Justice Reinvestment Initiative. Governor Bill Walker, former Chief Justice Dana Fabe, Senate President Kevin Meyer, House Speaker Mike Chenault, Attorney General Craig Richards, former Commissioner of the Alaska DOC Ron Taylor, and former Chair of the Commission Alexander O. Bryner tasked the Commission with "develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars."

In addition, Senate President Meyer and Speaker Chenault requested that, because the state's difficult budget situation rendered reinvestment in evidence-based programs and treatment possible only with significant reforms, the Commission forward policy options that would not only avert future prison growth, but would also reduce the prison population between 15 and 25 percent below current levels.

Over a seven-month period, the Commission analyzed the state's criminal justice system, including a comprehensive review of sentencing, corrections, and community supervision data. Key findings include:

- Alaska's pretrial population has grown by 81 percent over the past decade, driven primarily by longer lengths of stay for both felony and misdemeanor defendants.
- Three-quarters of offenders entering prison post-conviction in 2014 were convicted of a nonviolent offense.

- Length of stay for sentenced felony offenders is up 31 percent over the past decade.
- In 2014, 47 percent of post-revocation supervision violators – who are incarcerated primarily for non-criminal violations of probation and parole conditions – stayed more than 30 days, and 28 percent stayed longer than 3 months behind bars.

Based on this analysis, and the directive from legislative leadership, the Commission developed a comprehensive, evidence-based package of 21 consensus policy recommendations that would protect public safety, hold offenders accountable, and reduce the state's average daily prison population by 21 percent, netting estimated savings of \$424 million over the next decade.

Members of the Alaska Criminal Justice Commission

Gregory P. Razo (Chair)	Alaska Native Justice Center
Justice Alexander O. Bryner	Alaska Supreme Court (retired)
Senator John Coghill	Alaska State Senate
Commissioner Gary Folger	Alaska Department of Public Safety
Jeff Jessee	Alaska Mental Health Trust Authority
Representative Wes Keller	Alaska House of Representatives
Commissioner Walt Monegan	Alaska Department of Corrections
Hon. Judge Stephanie Rhoades	Anchorage District Court
Attorney General Craig Richards	Alaska Department of Law
Lieutenant Kris Sell	Juneau Police Department
Brenda Stanfill	Interior Alaska Center for Non-Violent Living
Quinlan Steiner	Alaska Public Defender
Hon. Judge Trevor Stephens	Ketchikan Superior Court

Terry Vrabec, former Deputy Commissioner of the Department of Public Safety and Ron Taylor, former Commissioner of the Department of Corrections, were previous members of the Commission and initial participants in the Justice Reinvestment process.

Challenges Facing Alaska

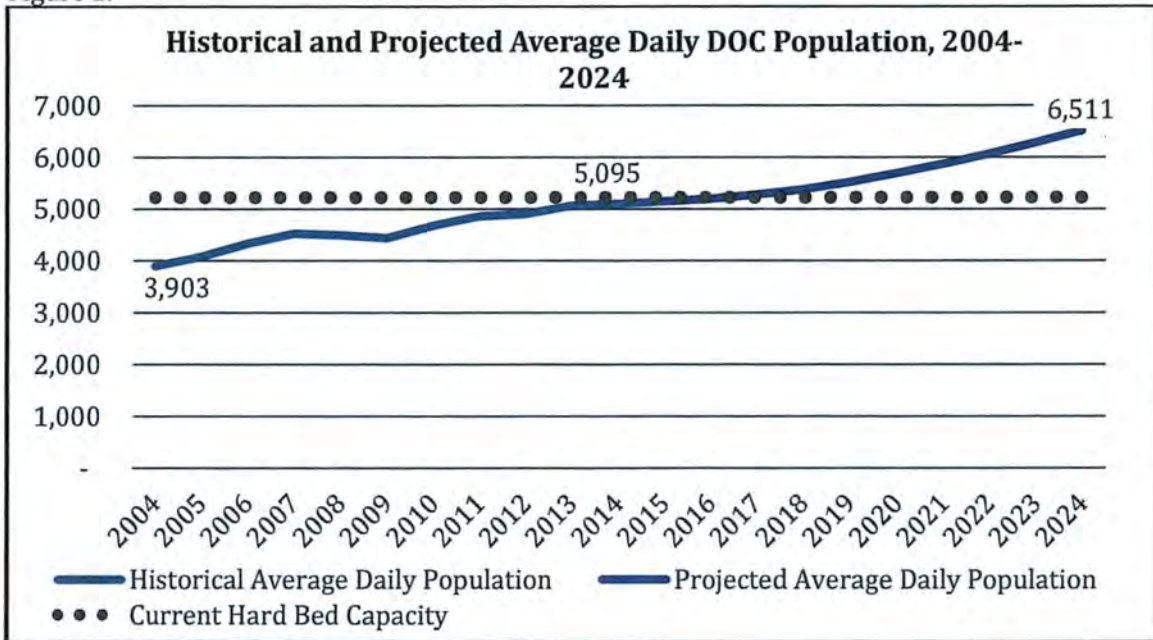
Alaska's prison population, which includes both pretrial and post-conviction inmates, has grown by 27 percent in the last decade, nearly three times faster than the resident population.¹ Alaska's overall correctional population, which includes incarcerated offenders as well as offenders on probation and parole, electronic monitoring, and in halfway houses, grew 45 percent over the last decade. On July 1, 2014, Alaska's correctional facilities housed 5,267 inmates and the total number of offenders under the Department of Corrections' ("DOC") control numbered 11,136.

Growth in the state's prison and community corrections populations has come at significant state expense. Alaska spent \$327 million on corrections in fiscal year 2014, up from \$184 million in 2005. In addition to these operating costs, recent corrections growth has also required significant capital expenditures, including the construction of the \$240 million Goose Creek Correctional Center, which opened in 2012.²

Moreover, the state's growing prison population and increased corrections spending have failed to produce commensurate improvements in public safety: nearly two out of every three offenders released from Alaska correctional facilities return within three years.

Without a shift in sentencing and corrections policy, Alaska's average daily prison population is projected to grow by another 1,416 inmates over the next decade. (See figure 1, next page.) These additional inmates will surpass the state's capacity to house them in 2017, requiring both the re-opening of a currently unused 128-bed facility and, once that facility has been filled, transferring inmates to private facilities out of state. If policy makers decide to keep all the state's inmates in Alaska, accommodating the projected prison population growth will necessitate building another facility or expanding existing facilities, costing the state significantly more in capital expenditures.

Figure 1.



Source: Alaska Department of Corrections

Alaska Criminal Justice Commission

Seeking a comprehensive review of the state’s corrections and criminal justice systems, the 2014 Alaska Legislature passed Senate Bill 64, which established the bipartisan, inter-branch Alaska Criminal Justice Commission (“Commission”).

The Commission, comprised of 13 stakeholders including legislators, judges, law enforcement officials, the state’s Attorney General and Public Defender, the Corrections Commissioner, and members representing crime victims, Alaska Natives, and the Mental Health Trust Authority, was charged with conducting a comprehensive review of Alaska’s criminal justice system and providing recommendations for legislative and administrative action.

In April 2015, state leaders from all branches of government joined together to request technical assistance from the Public Safety Performance Project as part of the Justice Reinvestment Initiative, a collaboration between The Pew Charitable Trusts and the U.S. Department of Justice Bureau of Justice Assistance. Governor Bill Walker, former Chief Justice Dana Fabe, Senate President Kevin Meyer, House Speaker Mike Chenault, Attorney General Craig Richards, former Commissioner of the Alaska DOC Ron Taylor, and former Chair of the Commission Alexander O. Bryner tasked the Commission with “develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars.”

Beginning in the summer of 2015 and extending through the end of the calendar year, the full Commission met seven times as a part of the Justice Reinvestment Initiative. To provide the opportunity for further analysis and discussion of specific policy areas, Commissioners also split into three subgroups focused on pretrial, sentencing, and community supervision policies.

Each subgroup's goal was to craft recommendations within their criminal justice policy area that would meet the Commission's charge. Subgroups reported their policy recommendations to the larger Commission for consideration.

Throughout the Justice Reinvestment process, the Commission and its staff heard from a wide range of stakeholders. It held five public hearings across the state, conducted outreach in rural hub communities and remote villages, and held roundtable discussions with victims, survivors, and victim advocates to identify key priorities. Members of the Commission and staff also received input and advice from prosecutors, defense attorneys, behavioral health experts, and other criminal justice stakeholders, and presented at annual convenings for judges, magistrates, law enforcement, the Prisoner Reentry Coalition, and the Alaska Federation of Natives.

National Picture

Alaska's challenges with long-term prison growth are not unique. Across the country, state prison populations have expanded rapidly and state officials have spent an increasing share of taxpayer dollars to keep pace with soaring prison costs. From the mid-1980s to the mid-2000s, spending on corrections was the second fastest growing state budget category, behind only Medicaid.³ In 2012, one in 14 state general fund dollars went to corrections.⁴

However, in recent years many states have taken steps to curb their prison population growth while holding public safety paramount. After 38 years of uninterrupted growth, the national prison population declined 3 percent between 2009 and 2014.⁵

Many of these states adopted policies to rein in the size and cost of their corrections systems through a "justice reinvestment" strategy. Georgia, Mississippi, North Carolina, Oregon, South Dakota, Texas, and Utah, among many others, have implemented reforms to protect public safety and control corrections costs. These states revised their sentencing and corrections policies to focus state prison beds on violent and habitual offenders and then reinvested a portion of the savings from averted prison growth into more cost-effective strategies to reduce recidivism.

In 2011, for example, policymakers in Georgia faced a projected eight percent increase in the prison population over the next five years, at a cost of \$264 million. Rather than spend additional taxpayer dollars on prisons, Georgia leaders looked for more cost-effective solutions. The state legislature unanimously passed a set of reforms that controlled prison growth through changes to drug and property offense statutes, and improved public safety by investing in drug and mental health courts and treatment.⁶ Between 2012 and 2014 (the most recent year with available crime data), the state crime rate has fallen three percent and the sentenced prison population has declined three percent, giving taxpayers better public safety at a lower cost.⁷

In these and other states, state working groups have focused on research that shows how to improve public safety and have integrated the perspectives of the three branches of government and key system stakeholders. This data-driven, inclusive process resulted in wide-ranging innovations to the laws and policies that govern who goes to prison, how long they stay, and whether they return.

Key Findings of the Alaska Criminal Justice Commission

To evaluate Alaska's criminal justice system, the Commission reviewed the research on what works to change criminal offending behavior and safely reduce prison populations and then assessed Alaska's practices and policies against these standards. The Commission studied the criminal justice system in three areas – pretrial detention, post-conviction imprisonment, and community corrections.

Pretrial Detention

The number of pretrial inmates in Alaska has grown by 81 percent over the past decade (up from 817 in 2005 to 1,479 in 2014), significantly outpacing the growth of the post-conviction population (up 14 percent from 2,303 in 2005 to 2,627 in 2014) and the growth in the supervision violation population (up 15 percent from 1,013 to 1,161). In 2005, pretrial inmates comprised 20 percent of the population; today they comprise 28 percent.

While criminologists have been studying post-conviction imprisonment and community corrections for many decades, publications on the pretrial phase of the criminal justice system were, until recently, focused almost exclusively on legal and constitutional questions rather than scientific ones. In the last decade, however, rigorous scientific research into the area of pretrial policy has expanded rapidly. Today, a growing body of literature supports the following three principles of pretrial policy.

Pretrial risks can be predicted and used to guide release decisions

In deciding whether to release a defendant pretrial, courts generally consider two factors: the likelihood that the defendant will miss their court hearings and the likelihood that the defendant will engage in new criminal activity if released.⁸ Research has shown that risk assessment tools can accurately predict these risks by identifying and weighing factors that are associated with each type of pretrial failure.⁹

Research also supports the use of these assessments in guiding decisions about conditions of release. Targeted use of pretrial conditions is critical because restrictive release conditions such as electronic monitoring and drug and alcohol testing do not improve outcomes for all pretrial defendants. While select restrictive release conditions can decrease the likelihood of pretrial failure (measured as failure to appear or bail revocation due to new arrest) for higher risk defendants, when restrictive conditions are applied to lower risk defendants, they can actually do the opposite. Compared to similar defendants not assigned these restrictive release conditions,

lower risk defendants with restrictive release conditions are more likely to fail during their pretrial release period.¹⁰

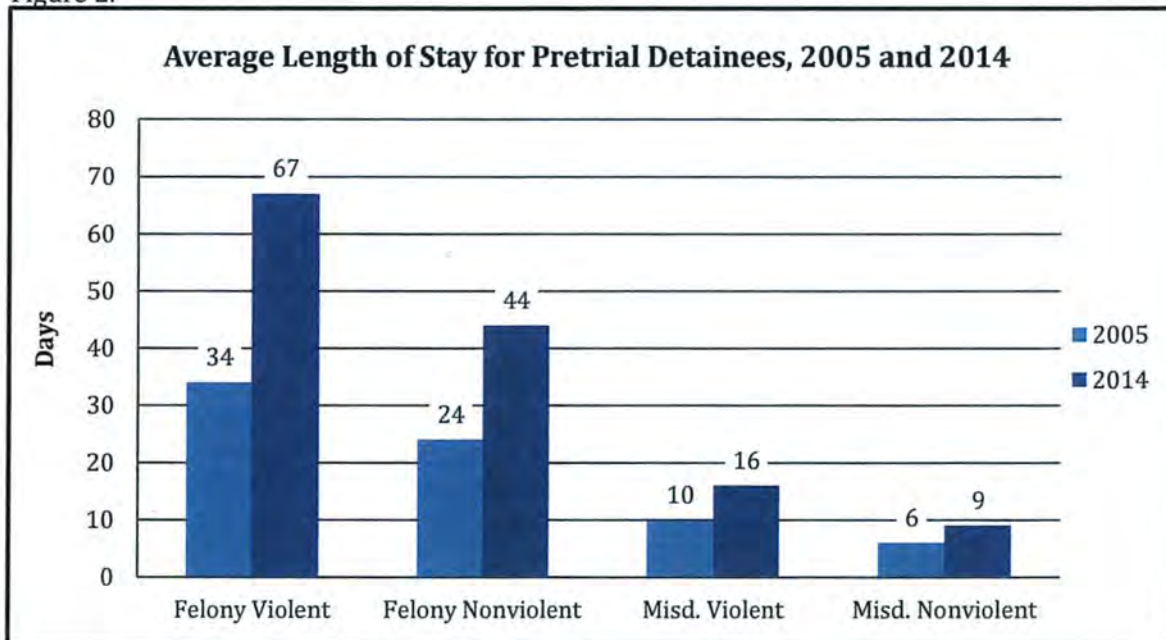
In Alaska, courts do not currently utilize pretrial risk assessments to guide their decisions about release or conditions of release, so, in the absence of data, it is not possible to determine whether those who are detained pretrial or released under restrictive conditions are in fact higher risk.

Pretrial detention longer than 24 hours can lead to worse outcomes, particularly for low risk defendants

Researchers have also examined the impacts of pretrial detention on defendants' outcomes. In a recent examination of this relationship, researchers matched defendants with similar criminal charges, risk levels, and demographic characteristics who were detained pretrial for different lengths of time. A key finding of this study was that, generally, low risk defendants who are detained for more than 24 hours experience an increased likelihood of failure to appear and new criminal activity during the pretrial period.¹¹ In addition, the study demonstrated that being detained for the entirety of the pretrial period is associated with an increased likelihood of new criminal activity post-disposition across all risk categories.¹²

In Alaska, pretrial inmates are staying behind bars longer before being released than they were 10 years ago – increases that have occurred across charge severity. (See figure 2.) For example, in 2014, detainees whose most serious charge was a nonviolent misdemeanor were staying an average of nine days during the pretrial period – three days longer than the average stay in 2005.

Figure 2.



Source: Alaska Department of Corrections

Unsecured bail is as effective as secured bail

Across the country, length of pretrial detention is often tied to whether a defendant can afford to pay monetary bail. While this is a common practice in the United States, it does not have a foundation in the growing body of research on pretrial risk. Ability to pay monetary bail does not make a person low risk.¹³ There are defendants who cannot afford monetary bail who are unlikely to engage in new criminal activity during the pretrial period. Additionally, there are defendants who can afford to pay their monetary bail, but who are likely to engage in new criminal activity. For these reasons, monetary bail is not the most effective tool for protecting the public during the pretrial period.

Research supports the use of unsecured monetary bail and other release conditions in place of secured monetary bail to reduce length of pretrial detention. (Secured bail requires payment of money upfront to be released, while unsecured bail permits release without payment and only requires payment if the defendant does not comply with their release conditions). Research has shown that defendants are as likely to make their court appearances and refrain from new criminal activity whether their bail is secured or unsecured, compared to defendants with similar risk levels.¹⁴ However, use of secured bail results in many more jail beds than use of unsecured bail, as defendants who are unable to post the monetary amount upfront remain detained.¹⁵

One of the likely contributors to pretrial length of stay in Alaska is the use of secured money bail. While there is a statutory presumption that defendants will be released on personal recognizance or unsecured bail, a court file review of bail conditions for a random sample of offenders found that courts departed from this presumption in the vast majority of cases.¹⁶ Only 12 percent of defendants in the sample were released on personal recognizance, and an additional 10 percent had unsecured money bail. Fifty-two percent of sampled defendants were never released prior to their case being resolved.

The case file review also revealed a connection between higher dollar bail amounts and release. Fewer than half of the defendants sampled were released at all during the pretrial period, and those with higher amounts of secured money bail were less likely to be released. Of those who were released, those with higher money bail spent longer in jail prior to their first release. For offenders whose bail was set at \$1,000 or more, for example, those who were eventually able to secure their release spent an average of seven weeks detained pretrial prior to release.

Post-Conviction Imprisonment

Alaska's sentenced prison population, defined as those offenders sentenced to a period of incarceration for a new criminal conviction, has grown by 14 percent in the last decade. Additionally, the number of offenders in prison for a violation of supervision (both pre-hearing and post-revocation) grew 15 percent over the same period.

The relationship between crime and incarceration has been studied for many years. While experts differ on precise figures, researchers have found that increased incarceration in the 1990s was responsible for between 10 and 30 percent of the nationwide crime decline in that decade.¹⁷

Beyond the crime control benefit, prison sentences can be used to express community condemnation or to isolate the offender.

However, there is general consensus among experts that, as states have incarcerated higher numbers of lower-level offenders, and held offenders for longer periods of time, the country has passed the point of diminishing returns, meaning that additional use of prison would have little if any crime reduction effect today.¹⁸ On the individual offender level, the evidence suggests that, for many offenders, incarceration is not more effective at reducing recidivism than non-custodial sanctions. At the same time, for a substantial number of offenders, there is little or no evidence that longer prison stays reduce recidivism more than shorter prison stays.¹⁹

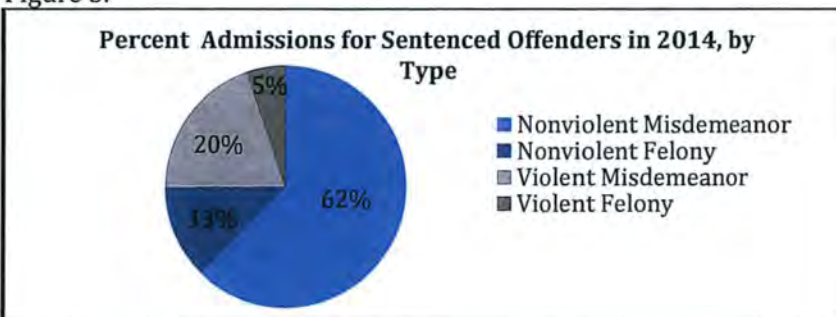
For many offenders, incarceration is not more effective at reducing recidivism than non-custodial sanctions

The Commission first considered the value of sending offenders to prison relative to non-custodial sanctions – such as drug court, probation, or electronic monitoring. Researchers have examined this question by matching samples of offenders sent to prison with those sent to non-custodial sanctions and have consistently found no differences in re-arrest or re-conviction rates, both in short-term and in long-term analyses, even when controlling for individuals' education, employment, drug abuse status, and current offense.²⁰

Moreover, there is a growing body of research showing that for many low-level offenders, prison terms may increase rather than reduce recidivism.²¹ Research around the “schools of crime” theory suggests that for many types of nonviolent offenders, the negative impacts of incarceration outweigh the positive: that is, sending offenders to prison can cause them to commit more crimes upon release.²²

In examining the use of incarceration as a post-conviction sanction in Alaska, the Commission focused closely on the number of offenders entering prison for nonviolent offenses. Over the last 10 years, the number of nonviolent felony admissions has increased and, in 2014, nonviolent offenses (misdemeanors and felonies) comprised three-quarters of all post-conviction admissions to prison. (See figure 3.)

Figure 3.



Source: Alaska Department of Corrections

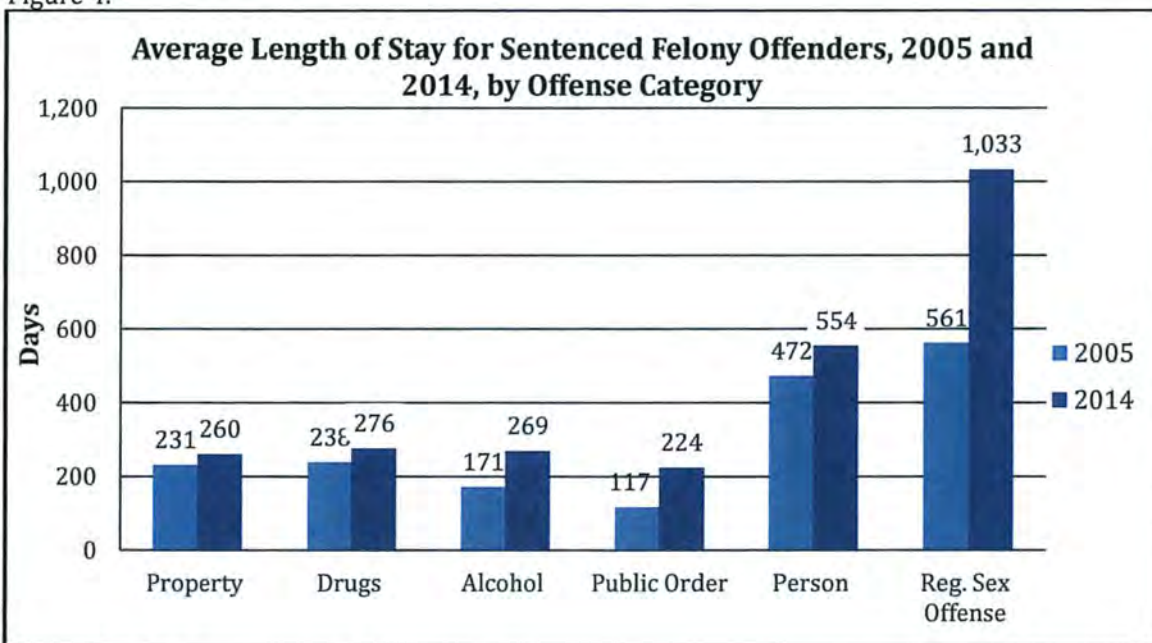
Additionally, the Commission examined the growing number of inmates in Alaska entering prison not for a new conviction but for a technical violation of their probation or parole conditions, defined as a violation of their supervision conditions that does not rise to the level of new criminal conduct. These offenders are admitted for failing to comply with the terms of their supervision, such as missing or failing a drug test or failing to report to their supervision officer. The number of offenders sentenced to prison after being revoked for a technical violation grew 32 percent in the past 10 years.

Longer prison stays do not reduce recidivism more than shorter prison stays

The Commission also considered the relationship between the length of prison terms and recidivism. The best measurement for whether longer lengths of stay provide for greater deterrence is whether similar offenders, when subjected to different terms of incarceration, recidivate at different levels. The rigorous research studies find no significant effect, positive or negative, of longer prison terms on recidivism rates.²³

Examining length of stay in Alaska presents a mixed picture: while average misdemeanor length of stay is down slightly over the last 10 years, felony length of stay is up across all offense types and felony classes. For some offense types, including drug and property offenders, length of stay has increased by roughly 30 days over the last decade. For others, including felony public order and sex offenders, length of stay has nearly doubled, leading to an additional 3 ½ months in prison on average for public order convictions and an additional 16 months in prison on average for felony sex offenders.²⁴ (See figure 4.)

Figure 4.

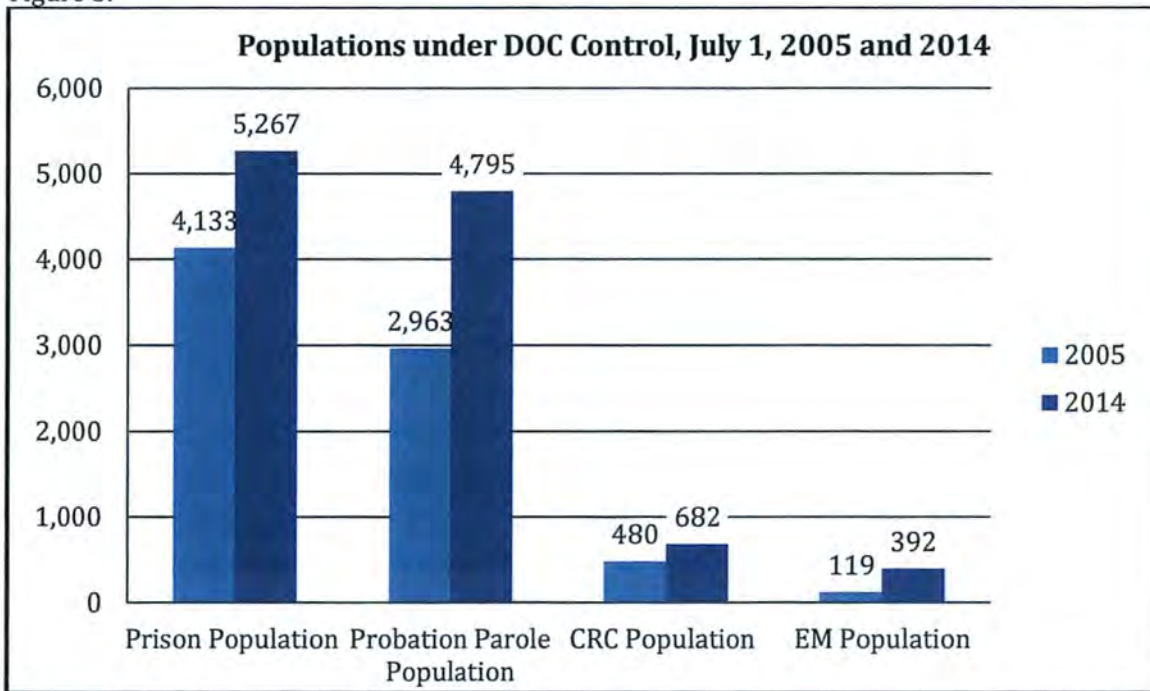


Source: Alaska Department of Corrections

Community Corrections

While Alaska's prison population has grown by 27 percent over the last decade, the state has experienced more growth among its community corrections populations, including probation and parole (up 62 percent), community residential centers or halfway houses ("CRCs") (up 42 percent), and electronic monitoring ("EM") (up 229 percent). (See figure 5.)

Figure 5.



Source: Alaska Department of Corrections

Research has identified a number of key strategies to increase success rates for those supervised in the community, including identifying and focusing resources on higher risk offenders, using swift, certain, and proportionate sanctions, incorporating rewards and incentives, frontloading resources in the first weeks and months following release from prison, and integrating treatment into supervision, rather than relying on surveillance alone.

Identify and focus supervision resources on high risk offenders

Research has consistently shown that offenders' likelihood to recidivate – that is, to commit new crimes upon release – can be accurately predicted with the use of validated risk assessment tools.²⁵ With these tools, supervision agents can focus their oversight and resources on those who pose the highest risk of reoffending, a practice that provides the biggest return on investment.

While Alaska currently utilizes a risk and needs assessment tool, the Level of Service Inventory-Revised ("LSI-R"), to inform supervision levels, a sizeable portion of the state's community

supervision resources remain focused on low risk offenders. On July 1, 2014, 39 percent of the state's probation and parole supervised population was classified as low risk. Even with reduced reporting requirements, these low risk offenders make up a large share of caseloads and require staff resources that could otherwise be dedicated to offenders with a higher likelihood to reoffend.

Use swift, certain, and proportionate sanctions

Research has also demonstrated that offenders are more responsive to sanctions that are swift, certain, and proportionate rather than those that are delayed, inconsistently applied, and severe.²⁶ Swift and proportionate sanctions work both because they help offenders see the sanction as a consequence of their behavior rather than a decision levied upon them, and because offenders heavily weigh the present over the future (consequences that come months and years later are steeply discounted). Certainty establishes a credible and consistent threat – thereby creating a clear deterrent for non-compliant behavior.²⁷

In Alaska, with the implementation of the Probation Accountability with Certain Enforcement (“PACE”) program in 2010, the state has begun utilizing evidence-based jail sanctions for a small portion of offenders on community supervision (offenders deemed high risk in five pilot communities). However, data across the entire supervision violator population – PACE and non-PACE – point to long delays between the problem behavior and the consequence – with an average of 33 days to resolve a revocation charge – and many offenders serving long sentences once convicted. In 2014, nearly half of revoked supervision violators stayed more than 30 days, and 28 percent stayed longer than 3 months behind bars.

Moreover, Alaska lacks a system-wide framework for the use of swift, certain, and proportionate sanctions that do not rise to the level of additional prison time. States across the country have successfully implemented graduated sanctioning, whereby supervision officers can respond to non-compliant behavior with a range of non-custodial responses – from less intensive sanctions like increased reporting requirements or community service hours, to more intensive sanctions like electronic monitoring.

Incorporate rewards and incentives

Historically, probation and parole supervision was focused on surveillance and sanctioning in order to catch or interrupt negative behavior. However, research shows that encouraging positive behavior with incentives and rewards can have an even greater effect on motivating and sustaining behavior change.²⁸

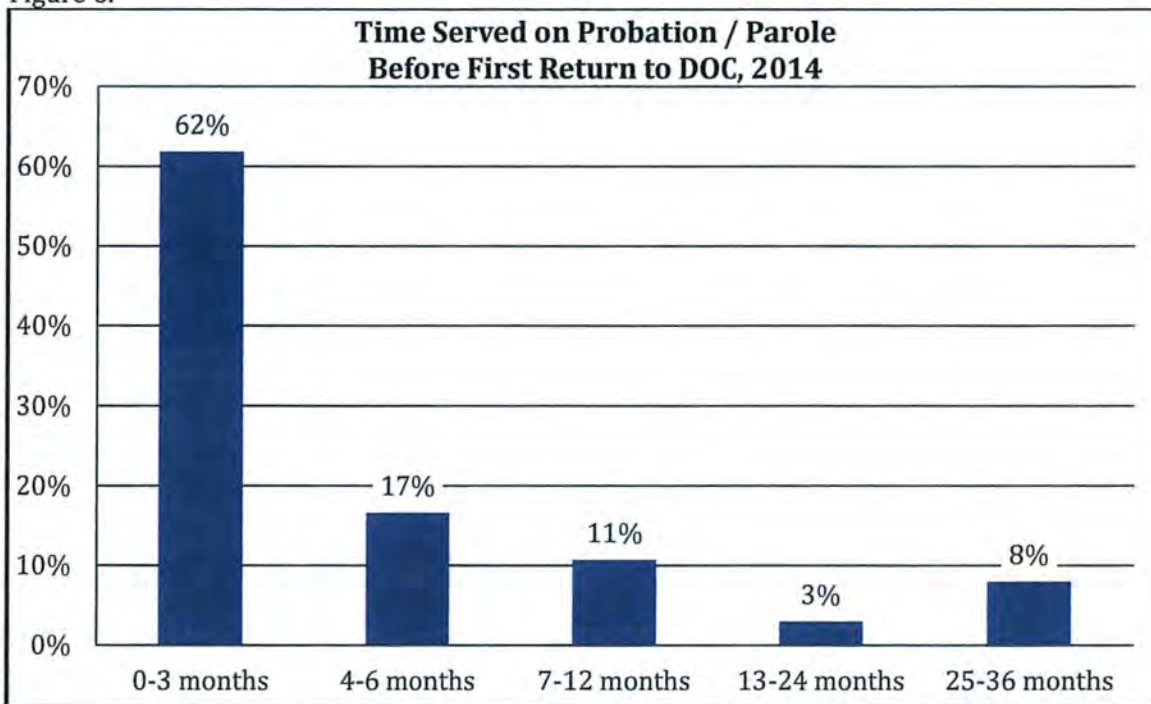
While incarcerated offenders in Alaska have the opportunity to receive good time and furlough incentives in acknowledgement of positive behavior and program participation, the state provides no similar incentives for offenders under supervision. Alaska has no earned discharge policy to allow supervisees to earn time off their supervision sentence for good behavior. Additionally, there is currently no standard practice for probation and parole officers to terminate supervision for offenders who have been consistently compliant. Rather, applications to terminate supervision must be made before a court and on an individual basis.

Frontload resources in the first weeks and months following release

Long-term success for offenders returning home from prison is closely tied to accountability and support in the time period immediately following release. Offenders in Alaska and elsewhere are most likely to reoffend or violate the terms of their community supervision in the initial days, weeks, and months after release from prison. (See figure 6.) The likelihood of violations and the value of ongoing supervision diminish as offenders gain stability and demonstrate longer-term success in the community.²⁹

Research has shown that supervision resources have the highest impact when they target this critical period. By frontloading limited resources, states can better target offenders at the time when they are most likely to reoffend, thereby reducing future violations by addressing non-compliant offender behavior early in the process.³⁰

Figure 6.



Source: Alaska Department of Corrections

While Alaska has taken significant strides in recent years to support offenders as they reenter the community, the state lacks policies to concentrate supervision resources on those first critical months. Moreover, while offenders are far more likely to fail in the first three months after release, the average length of time spent on community supervision prior to successful discharge has grown by 13 percent in the last decade, meaning that more parole and probation resources are dedicated to supervising offenders beyond the period when they pose the highest risk.

Integrate treatment into surveillance

Lastly, research shows that a combination of surveillance and treatment focused on offenders' criminogenic needs (changeable risk factors that increase an offender's likelihood of committing a crime, such as anti-social behavior and substance abuse) is more effective at reducing recidivism than supervision consisting of surveillance alone.³¹

In Alaska, probation and parole officers currently use risk assessments to both inform offenders' supervision levels (as outlined earlier), as well as to identify supervisees' criminogenic needs with top priority needs forming the basis of case management plans. However, the Commission heard a number of anecdotal reports regarding insufficient inpatient and outpatient treatment beds in DOC institutions and CRCs, as well as regional disparities in the availability of community-based treatment and programming, that render accessing evidence-based treatment difficult for many offenders.

Policy Recommendations

On September 8, 2015, Senate President Kevin Meyer and Speaker of the House Mike Chenault made an additional request of the Commission. Noting that the state's difficult budget situation rendered reinvestment in programs and treatment only possible with significant reforms, they charged the Commission with delivering policy options that met three benchmarks: (1) averting all future growth, (2) averting all future growth and reducing the prison population by 15 percent, and (3) averting all future growth and reducing the prison population by 25 percent. In a separate letter, Governor Walker applauded the legislative leadership for taking this initiative and pledged to use the benchmarks in developing reinvestment priorities in his budget.

Based on the Commission's review of evidence-based practices and an evaluation of the state's alignment with those practices in the areas of pretrial detention, post-conviction imprisonment, and community corrections, the Commission came to consensus on 21 policy recommendations that, taken together, are projected to reduce the average daily prison population by 21 percent by 2024, achieving an estimated net savings to the state of \$424 million over the next decade.

These 21 consensus recommendations will:

- Implement evidence-based pretrial practices;
- Focus prison beds on serious and violent offenders;
- Strengthen supervision and interventions to reduce recidivism;
- Ensure oversight and accountability; and
- Advance crime victim priorities.

In an acknowledgement of the state's rapid prison growth over the last decade, and the importance of reinvesting savings into programs and policies that will reduce victimization and the state's recidivism rate, the Commission decided not to forward recommendations to the legislature that met the first two benchmarks: averting all future growth, and averting all future growth and reducing the prison population by 15 percent. Instead, the Commission strongly encourages the legislature to consider the 21 consensus recommendations forwarded and, where savings are achieved, to reinvest a portion into pretrial supervision services, victims' services in remote and

bush communities, violence prevention, reentry support services, and institutional and community-based treatment in both rural and urban areas.

Commission's Consensus Recommendations

Implement evidence-based pretrial practices

Recommendation 1: Expand the use of citations in place of arrest for lower-level nonviolent offenses

The majority of admissions to prison pretrial are for defendants with nonviolent misdemeanor charges. While law enforcement officers have discretion to issue citations for these offenses, the large number of admissions suggests that officers are not using that discretion as often as they could to ensure that expensive prison beds during the pretrial period are occupied those facing serious charges.

Specific Action Recommended: To reduce pretrial admissions for defendants with lower-level nonviolent charges, the Commission recommends:

- a. Creating a presumption of citation for misdemeanors and class C felonies, excluding person offenses, domestic violence offenses, violations of release conditions, or offenses for which a warrant or summons has been ordered.
- b. Allowing law enforcement officials to overcome the presumption of citation if the officer has reasonable grounds to believe the person presents a significant likelihood of flight, presents a significant danger to the victim or the public, or if the officer is unable to verify the person's identification without making an arrest.

Recommendation 2: Utilize risk-based release decision-making

A review of a sample of Alaska court files found that courts ordered some amount of secured monetary bond (as opposed to personal recognizance or unsecured bond) in a majority of cases. Additionally, 52 percent of sampled defendants were detained for the entirety of their pretrial period. Therefore, whether a defendant is released pretrial in Alaska is often tied to his or her ability to pay a certain amount of secured money bail rather than his or her likelihood of failing to appear for court hearings or engaging in new criminal activity.

Specific Action Recommended: To implement pretrial release decision-making based upon the offender's risk level, instead of ability to pay monetary bond, the Commission recommends:

- a. Directing the DOC, in consultation with the Department of Law ("DOL"), Public Defender, Department of Public Safety ("DPS"), and Alaska Court System ("ACS"), to create an evidence-based pretrial release decision-making grid that strengthens the presumption of release on personal recognizance or unsecured bond for defendants with less serious charges and lower risk scores. The statutory parameters for this grid would include:
 - i. Defining a category of defendants who, as a matter of law, should always be released on personal recognizance or unsecured bond with appropriate release conditions; and

- ii. Defining categories of defendants for whom DOC should always or usually recommend release on personal recognizance or unsecured bond with appropriate release conditions, while providing a mechanism for the court to depart from that recommendation in limited circumstances.³²

The following grid captures the release categories as recommended by the Commission:

Offense Type	Misd. non-person offense (non-DV/ non-DUI)	Class C felony non-person offense (non-DV/ non-DUI)	DUI	Failure to appear/ violation of release condition	Other
Low-risk	OR or UB release	OR or UB release	OR or UB recommended	OR or UB usually recommended	OR or UB usually recommended
Moderate-risk	OR or UB release	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended
High-risk	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended	OR or UB not usually recommended

OR: Own recognizance.

UB: Unsecured bond.

- b. Mandating that DOC assess all pretrial defendants for risk using a validated pretrial risk assessment tool and make release recommendations to the court based on the grid prior to the defendant's first appearance. All releases on personal recognizance or unsecured bond would be accompanied by release conditions and, when appropriate, varying levels of pretrial supervision.
- i. Absent compelling circumstances, all defendants should be seen for their first appearance within 24 hours. If a first appearance happens within 24 hours, DOL is not required to be present. The court shall notify DOL if an additional probable cause hearing within 48 hours is required.
- c. Authorizing courts to consider a defendant's inability to pay a previously set secured money bond in at least one bail review hearing.
- d. Authorizing courts to issue unsecured and partially-secured performance bonds.³³
- e. Authorizing the DOL collections unit to garnish paychecks and Permanent Fund Dividend checks to collect on forfeited unsecured bonds and unpaid victim restitution.
- f. Directing the ACS to eliminate misdemeanor bail schedules following DOC's implementation of the above evidence-based pretrial practices. Thereafter, any defendant arrested by law enforcement would remain detained until they have received a risk assessment and have made their first appearance before a judicial officer.

Recommendation 3: Implement meaningful pretrial supervision

Currently, judges have few options for pretrial supervision, and the options that are available are typically handled by non-state agencies and contingent upon the defendant's ability to pay monitoring fees, including the ordering of a private third-party custodian, the services of a private electronic-monitoring company, and the 24/7 sobriety program. The Commission heard from many judges and magistrates who said they would release more defendants from jail pretrial if there were more options for meaningful supervision in the community to reduce the defendants' risk of committing new crimes or failing to appear for court.

Specific Action Recommended: To reduce the risk that released defendants will fail to appear or engage in new criminal activity, the Commission recommends:

- a. Directing the DOC to provide varying levels of supervision for moderate- and high-risk defendants who are released pretrial. The DOC would also be responsible for standardizing and recommending the use of pretrial diversion, conducting outreach to community programs and tribal courts to develop and expand diversion options, and providing referral services on a voluntary basis for substance abuse and behavioral health treatment services.
- b. Directing the ACS to issue court date reminders to criminal defendants for each of their hearings, and to coordinate and share information about hearing dates and times with the DOC.

Recommendation 4: Focus supervision resources on high-risk defendants

Research shows that pretrial supervision resources should be focused on those defendants who are the most likely to fail. Certain restrictive release conditions can improve success rates for higher-risk defendants, but result in worse outcomes for lower-risk defendants.³⁴ Courts in Alaska currently do not utilize actuarial risk assessment tools or have guidance for assigning release conditions based in part on risk scores.

Specific Action Recommended: To ensure that supervision resources are focused on defendants at the highest risk to reoffend, the Commission recommends:

- a. Ensuring that the DOC recommends evidence-based release conditions for each defendant who they have recommended for pretrial release, with more restrictive conditions reserved for higher-risk defendants.
 - i. Additionally, entitling defendants to a subsequent bail hearing in cases where the release conditions prevented the defendant's release. At the bail hearing, the court would either revise the conditions or find on the record that there is clear and convincing evidence that no other release conditions can reasonably assure court appearance and public safety.
- b. Restricting third-party custodian conditions to only those cases in which pretrial supervision provided by the DOC is not available; when no secured money bond is ordered; and when the court finds on the record that there is clear and convincing evidence that no less restrictive release conditions can reasonably assure court appearance and public safety.
- c. Revising eligibility requirements for third-party custodians to limit disqualification from serving as a third-party custodian if there is a reasonable possibility that the prosecution will call them as a witness.³⁵

Focus prison beds on serious and violent offenders

Recommendation 5: Limit the use of prison for lower-level misdemeanor offenders

In 2014, 6,569 offenders were admitted for a period of incarceration for a nonviolent misdemeanor offense, and an additional 2,093 offenders were admitted to prison for a violent misdemeanor – constituting 82 percent of all admissions to prison in that year.

Specific Action Recommended: In accordance with the research on the null or mildly criminogenic effect of prison stays for many lower-level offenders, and the Commission’s desire to redirect a greater percentage of lower-level misdemeanor offenders to alternatives such as fines, probation, and electronic monitoring, the Commission recommends:

- a. Reclassifying the following misdemeanors as violations, punishable by up to \$1,000 fine:
 - i. Misdemeanor B offenses, the lowest-level misdemeanor class in terms of severity, excluding theft and disorderly conduct violations;
 - ii. Driving with a suspended license (“DWLS”) offenses, when the underlying license suspension was not related to a conviction for driving under the influence (“DUI”) or refusal to submit to a chemical test; and
 - iii. Violations of conditions of release (“VCOR”) and failure to appear (“FTA”) offenses, with certain exclusions.³⁶ For these pretrial violations, law enforcement will be authorized to arrest the defendant, and the DOC will be authorized to detain the defendant until the court schedules a bail review hearing.
- b. Reclassifying disorderly conduct offenses in such a way that allows for an arrest but limits jail holds or terms up to 24 hours.
- c. Reclassifying first- and second-time theft offenses under \$250 as non-jailable misdemeanors, and limiting the maximum sentence for a third or subsequent theft offense under \$250 to five days suspended and a six-month probation term.
- d. Eliminating the mandatory minimum for first-time DUI-related DWLS offenses.
- e. Requiring that first-time misdemeanor DUI and refusal to submit to chemical test offenders serve their incarceration sentences on electronic monitoring in the community; in cases where electronic monitoring is not available, assigning the offenders to serve their incarceration sentence on supervised probation.
- f. Presumptively setting a zero to thirty day sentencing range for misdemeanor A’s.
 - i. Permitting courts to depart from the presumptive sentencing range for DV-related assault 4s if the prosecution demonstrates that the conduct was among the most serious constituting the offense or if the offender has past similar and repeated criminal history (not limited to convictions).
 - ii. Permitting courts to depart from the presumptive sentencing range for all other misdemeanor A’s if the prosecution demonstrates that the conduct was among the most

serious constituting the offense or if the offender had past similar criminal convictions.

- g. Restricting municipalities from incarcerating past these limits for similar municipal offenses.

Recommendation 6: Revise drug penalties to focus the most severe punishments on higher-level drug offenders

Over the past 10 years, post-conviction admissions to prison for drug offenses have grown by 35 percent. In addition, felony drug offenders are spending 16 percent longer behind bars than they were a decade ago.

In addition to reviewing meta-analyses demonstrating that longer prison stays do not reduce recidivism more than shorter prison stays for many offenders, the Commission also reviewed research pointing to the low deterrent value of long prison terms for drug offenders. Research shows that the chances of a typical street-level drug transaction being detected are about 1 in 15,000.³⁷ With such a low risk of detection, drug offenders are unlikely to be dissuaded by the remote possibility of a longer stay in prison.

Specific Action Recommended: In accordance with the research on the limited recidivism-reduction benefit of longer stays in prison, as well as the low deterrent value of long drug sentences in particular, the Commission recommends:

- a. Reclassifying simple possession of heroin, methamphetamine, and cocaine as a misdemeanor offense, and limiting the maximum penalty for first- and second-time possession offenses to one month and six month suspended sentences, respectively.
- b. Aligning penalties for commercial heroin offenses with penalties for commercial methamphetamine and cocaine offenses. This recommendation shall be forwarded to the Controlled Substances Advisory Committee ("CSAC") and CSAC shall be provided with the opportunity to comment and carry out their duties under AS 11.71.110.
- c. Creating a tiered commercial drug statute whereby offenses related to more than 2.5g of heroin, methamphetamine, and cocaine is a more serious offense (Felony B) than offenses related to less than 2.5g of heroin, methamphetamine, and cocaine (Felony C).

Recommendation 7: Utilize inflation-adjusted property thresholds

Alaska's felony property offense threshold, the dividing line at which the vast majority of property crimes are categorized as felonies as opposed to misdemeanors, was originally set at \$500 in 1978. The equivalent value in today's dollars would be over \$1800. However, the state's threshold today is set at \$750, having been raised from \$500 in 2014.

In a recent examination of felony cut-off points, findings showed that increasing a felony theft threshold does not lead to higher property crime rates. Between 2001 and 2011, 23 states raised their felony theft thresholds. The analysis found that the change in threshold had no statistically significant impact, up or down, in the states' overall property crime or larceny rates. Additionally,

the study found no correlation between the amount of a state's felony theft threshold – whether it is \$500, \$1,000, or \$2,000 – and its property crime rates.³⁸

Specific Action Recommended: To focus costly prison space on more serious offenders, and to ensure that value-based penalties take inflation into account, the Commission recommends:

- a. Raising the felony property crime threshold to \$2,000 for all property crimes with a required value amount.³⁹
- b. Requiring the Department of Labor to set in regulation an inflation-adjusted felony property threshold, as well as an inflation-adjusted threshold dividing Misdemeanor A and B property crimes (currently set at \$250), every 5 years, rounded up to the nearest \$50 increment.

Recommendation 8: Align non-sex felony presumptive ranges with prior presumptive terms

In 2005, following the Supreme Court Case *Blakely v. Washington*, Alaska moved from a statutory framework with presumptive prison terms to one utilizing presumptive ranges. In designing these ranges, lawmakers used the prior presumptive term as the bottom of the presumptive range. For example, in establishing the presumptive range for a non-sex, first-time Class A Felony, the prior presumptive term – 5 years – was used as the bottom of the new presumptive range – set at 5 to 8 years. (See chart below.)

Lawmakers had sought to maintain the status quo in regard to sentence lengths, noting in the legislation that, “it is not the intent [...] to bring about an overall increase in the amount of active imprisonment time.”⁴⁰ However, since the shift to presumptive ranges, length of stay has increased across all non-sex felony classes: including an 80 percent increase for Class A Felonies, an 8 percent increase for Class B Felonies, and a 17 percent increase for Class C Felonies.⁴¹

Specific Action Recommended: In accordance with the research demonstrating that for many offenders longer prison stays do not reduce recidivism more than shorter prison stays, and the original legislative intent to maintain lengths of prison stays at 2005 levels, the Commission recommends aligning presumptive ranges with the prior presumptive terms as outlined below.

(Numbers in brackets indicate presumptive terms/ranges.)

Felony Class ⁴²	Presumptive Term (2005)	Alaska Current	Recommendation
Class A			
First	[5] – 20 years	[5 – 8] – 20 years	[3 – 6] – 20 years
First/Enhanced ⁴³	[7] – 20 years	[7 – 11] – 20 years	[5 – 9] – 20 years
Second	[10] – 20 years	[10 – 14] – 20 years	[8 – 12] – 20 years
Third	[15] – 20 years	15 – 20 years	13 – 20 years
Class B			
First	[n/a] – 10 years	[1 – 3] – 10 years	[0 – 2] – 10 years
First/Enhanced ⁴⁴	[n/a] – 10 years	[2 – 4] – 10 years	[1 – 3] – 10 years
Second	[4] – 10 years	[4 – 7] – 10 years	[2 – 5] – 10 years
Third	[6] – 10 years	6 – 10 years	4 – 10 years
Class C			
First	[n/a] – 5 years	[0 – 2] – 5 years	Presumptive probation;

			0 – 18 months ⁴⁵
Second	[2] – 5 years	[2 – 4] – 5 years	[1 – 3] – 5 years
Third	[3] – 5 years	3 – 5 years	2 – 5 years

Recommendation 9: Expand and streamline the use of discretionary parole

Current eligibility for discretionary parole is restricted to those non-sex offense felons convicted of the most serious crimes (Unclassified Felonies), and felonies towards the bottom of the severity scale (first- and second-time Class C Felonies, as well as first-time Class B Felonies). Offenders who fall between these two poles are ineligible for discretionary parole without the intervention of the three-judge panel. Additionally, no offenders convicted of a felony sex offense are able to apply for discretionary parole without the intervention of the three-judge panel.

Moreover, a review of DOC files found that, although a substantial number of offenders currently serving time in prison are eligible for discretionary parole, only a small percentage are applying and appearing before the Parole Board. Commissioners heard from numerous sources that this low percentage was attributable to a cumbersome application and review process.

Specific Action Recommended: To increase the number of offenders who are eligible to apply for parole, as well as to streamline the decision-making process, the Commission recommends:

- a. Expanding eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with prior felony convictions.
- b. Streamlining parole decision-making for lower-level felonies (first time Felony C and B offenders) by restricting hearings to only those offenders who have failed to comply with their individual case plan or who have been disciplined for failure to obey institutional rules, or in cases where the victim has requested a parole hearing. Otherwise, inmates will be paroled at their earliest eligibility date.
- c. Requiring that any other offender who is eligible for parole receives a hearing at least 90 days before his or her first eligibility date, with the presumption that the offender will be granted parole if he or she has complied with the Individual Case Plan and followed institutional rules. The presumption of parole could be overcome with a finding on the record that release would jeopardize public safety

Recommendation 10: Implement a specialty parole option for long-term, geriatric inmates

Geriatric prisoners are often much more expensive than younger inmates because of their higher medical costs. At the same time, research shows that older inmates are at a much lower risk of recidivism than younger inmates because they typically have “aged out” of their crime committing years. According to research by the Alaska Judicial Council, offenders released at age 55 and older were far less likely to be rearrested than the average for all offenders.⁴⁶

Specific Action Recommended: To reduce the number of low risk, geriatric offenders in prison, the Commission recommends:

- a. Providing for automatic parole hearings for offenders, including those incarcerated prior to the implementation of the legislation, who are over an age threshold set between 55 and 60 and have served at least 10 years of their sentence.
- b. Ensuring that when evaluating inmates under this policy, the Parole Board considers the inmate's likelihood of re-offending in light of his or her age, as well as criminal history, behavior in prison, participation in treatment, and plans for reentering the community.

Recommendation 11: Incentivize completion of treatment for sex offenders with an earned time policy

The Commission also reviewed research relating to the efficacy of sex offender treatment. Over the last decade, a growing body of evidence has demonstrated that treatment interventions for sex offenders can be successful. A cost-benefit analysis conducted by the Washington State Institute for Public Policy found that in-prison sex offender treatment had a positive cost-benefit ratio of \$1.87 (i.e. for every dollar spent on treatment, there was \$1.87 returned in benefits to the state and state residents).⁴⁷

Many states utilize earned time to motivate offenders to complete treatment rehabilitation activities – whereby inmate prison terms are reduced from the date on which they might have been released had they not completed the specified programs.⁴⁸ Earned time is distinguished from “good time” credits (often referred to in Alaska as “mandatory parole”), which are awarded to offenders exclusively for following prison rules.

Specific Action Recommended: To incentivize participation in and completion of sex offender treatment, the Commission recommends:

- a. Implementing an earned time policy for sex offenders who are currently ineligible for mandatory parole, whereby offenders are able to earn up to one-third off their sentence if they complete in-prison treatment requirements set forth by the DOC.
- b. Expanding the DOC's capacity to provide residential, long-term sex offender treatment that focuses on ensuring the offender is held responsible for harmful behavior and teaches cognitive behavioral strategies to end patterns of abuse.

Strengthen supervision and interventions to reduce recidivism

Recommendation 12: Implement graduated sanctions and incentives

Alaska law does not authorize community supervision field officers to respond to technical violations of community supervision, such as missing drug tests or treatment sessions, with intermediate sanctions. Although DOC policies do give field officers the authority to address minor violations administratively, there is no system-wide framework for the use of swift, certain, and proportionate sanctions. As a result, sanctioning practices vary widely across the state.

Specific Action Recommended: To reduce recidivism and increase success rates on probation and

parole through the use of swift, certain, and proportional sanctions and incentives, the Commission recommends:

- a. Statutorily authorizing the DOC to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses, and to follow the matrix both when rewarding pro-social behavior and when responding to technical violations of supervision.
- b. Requiring field agents to be trained on principles of effective intervention, case management, and the use of sanctions and rewards.

Recommendation 13: Reduce pre-adjudication length of stay and cap overall incarceration time for technical violations of supervision

On July 1, 2014, 22 percent of Alaska’s prison population was comprised of offenders who have violated the terms of their probation or parole supervision. Of those, most have violated the rules of supervision that do not constitute new criminal conduct, such as failing drug screenings or failing to report to their probation or parole officer.

After revocation, supervision violators are staying incarcerated, on average, for 106 days. Many of these supervision violators also spend a significant amount of time incarcerated before their case is resolved – on average, approximately one month. However, research shows – and Alaska’s experiences with the PACE program have demonstrated – that more proportionate sanctions, administered in a swift and certain fashion have a stronger deterrent effect than these less swift and more severe sanctions.

Specific Action Recommended: To respond swiftly and proportionately to violations of supervision and to limit the use of prison as a sanction for technical violations, the Commission recommends:

- a. For offenders not participating in the PACE program, limiting revocations to prison as a potential sanction for technical violations of probation or parole as follows:
 - i. First revocation: Up to 3 days
 - ii. Second revocation: Up to 5 days
 - iii. Third revocation: Up to 10 days
 - iv. Fourth and subsequent revocation: Up to 10 days and a referral to the PACE program; or, if the PACE program is not available in the jurisdiction, the sanction would be left to judicial or Board discretion.
 - v. Revocation for absconding⁴⁹: Up to 30 days.
 - vi. These limits would not apply if the probationer or parolee is a sex offender who has failed to complete sex offender treatment.
- b. Requiring that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released back to probation and/or parole supervision on personal recognizance after serving the maximum allowable time outlined above, unless new criminal charges have been filed.
- c. Requiring that courts convert any unperformed Community Work Service directed in a judgment to a fine – and not to jail time - once the deadline set and announced at the time of

sentencing has elapsed.

- d. Stipulating that jail time cannot be imposed because a person failed to complete treatment if, despite having made a good faith effort, they were unable to afford treatment.
 - i. Additionally, including substance abuse treatment as a reinvestment priority for indigent offenders who are:
 - 1. Referred to ASAP by the court; and
 - 2. At a moderate to high risk of re-offending and in need of substance abuse treatment, as determined by a validated risk and needs assessment.

Recommendation 14: Establish a system of earned compliance credits

A robust body of research shows reduced recidivism when resources are focused on high risk offenders and front-loaded toward the first months following release. However, 39 percent of offenders on probation or parole are classified as low-risk, and supervising these offenders for long periods of time costs Alaska resources without improving public safety.

Earned compliance credits can provide a powerful incentive for offenders to participate in programs, obtain and retain employment, and remain drug- and alcohol-free.⁵⁰ As compliant and low risk offenders earn their way off supervision, earned compliance credits also work to focus limited supervision resources on the higher risk offenders who most require attention.

Specific Action Recommended: To focus resources on offenders at the highest risk to reoffend and to incentivize compliance with the offender's conditions of probation or parole, the Commission recommends:

- a. Statutorily establishing an earned compliance policy that grants probationers and parolees one month credit towards their probation and/or parole term for each month they are in compliance with the conditions of supervision.
- b. Establishing an automated time accounting system wherein probationers/parolees automatically earn the credit each month unless a violation report has been filed in that month.

Recommendation 15: Reduce maximum lengths for probation terms and standardize early discharge proceedings

Over the past decade, the average time that an offender spends on probation or parole prior to discharge has increased by 13 percent. However, a review of Alaska's data demonstrates that failure on supervision is most likely to happen in the first three months after an offender's release. Longer stays on probation and parole divert supervision resources that could be better focused on higher risk offenders at the time when they are most likely to fail on supervision.

Additionally, while the DOC currently has the option of recommending early termination of probation or parole to the court or Parole Board, there are no guidelines for when this option should be used, leading to differences in practice from region to region. Further, several statutory barriers restrict the usefulness of this option, including a restriction on terminating probation early

for Rule 11 (plea agreement) cases, and a requirement that offenders serve at least two years on parole before being discharged.

Specific Action Recommended: To more effectively focus scarce probation and parole resources on offenders at the time they are most likely to re-offend or fail, the Commission recommends:

- a. Capping maximum probation terms at the following:
 - i. A maximum of 5 years for felony sex offenders and Unclassified felony offenders;
 - ii. A maximum of 3 years for all other felony offenders;
 - iii. A maximum of 2 years for 2nd DUI and DV assault misdemeanor offenders; and
 - iv. A maximum of 1 year for all other misdemeanor offenders.
- b. Reducing the minimum time needed to serve on probation or parole prior to being eligible for early discharge to 1 year.
- c. Requiring the DOC to recommend early termination of probation or parole to the court/Parole Board for any offender who has completed all treatment programs required as a condition of supervision and is currently in compliance with all supervision conditions.
- d. Requiring the DOC to provide notification to the victim when recommending early discharge, with an opportunity for the victim to provide input at the court or Parole Board hearing.
- e. Authorizing courts to terminate probation early in cases where the sentence was imposed in accordance with a plea agreement under Rule 11 and DOC is recommending early discharge for good behavior.

Recommendation 16: Extend good time eligibility to offenders serving sentences on electronic monitoring

Most offenders who are housed within an institution have the opportunity to earn “good time” up to one-third off their sentences in acknowledgement of positive behavior. However, offenders who are serving their sentence on electronic monitoring are currently banned by statute from earning this incentive.

Specific Action Recommended: To incentivize compliance with the conditions of electronic monitoring, the Commission recommends allowing offenders on electronic monitoring to qualify for good time credits under the same conditions set forth for offenders in DOC institutions.

Recommendation 17: Focus ASAP resources to improve program effectiveness

Alaska’s Alcohol Safety Action Program (“ASAP”) provides screening and treatment referral services for thousands of misdemeanor offenders who are referred by the court. Unfortunately, the Commission finds that under-funding of ASAP has limited the program’s effectiveness.

This Commission believes that the best policy would be to increase funding for ASAP to allow the agency to provide more robust screening and treatment resources to all offenders struggling with substance abuse. The Commission also recognizes that, in the current fiscal climate, this is unlikely

– and in light of that, recommends focusing available ASAP resources on a smaller subset of high-risk misdemeanants to achieve better results.

Specific Action Recommended: To increase the effectiveness of the ASAP program, the Commission recommends:

- a. Focusing ASAP resources on offenders at the highest risk of taking up future prison resources through one of the following means:⁵¹
 - i. Limiting the offense categories that courts would be authorized to refer to ASAP to those currently mandated by statute (DUI, refusal to submit to a chemical test, and habitual minor consuming).
 - ii. Alternatively, limiting the offense categories that courts would be authorized to refer to ASAP to second-time misdemeanor DUI and refusal to submit to a chemical test offenses, as well as alcohol-related assault 4 offenses.
- b. Requiring ASAP to expand the services it provides to include:
 - i. Using a validated assessment tool to screen for criminogenic risk;
 - ii. Performing a brief behavioral health screening; and
 - iii. Providing referrals to treatment programs designed to address offenders' individual high priority criminogenic needs including, but not limited to, substance abuse.
- c. Requiring ASAP provide increased case supervision for moderate to high risk offenders as resources permit.

Recommendation 18: Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

CRCs, otherwise known as halfway houses, have the potential to effectively support offenders who are transitioning back to the community from prison. However, the Commission found that CRCs are likely mixing low and high risk offenders, which research has shown can lead to increased recidivism for low risk offenders.⁵² Additionally, the Commission found that CRCs would be more effective at reducing recidivism if the facilities offered treatment for offenders in addition to supervision.

Specific Action Recommended: To reduce recidivism and improve outcomes for offenders placed in CRCs, the Commission recommends:

- a. Requiring CRCs to provide treatment (cognitive-behavioral, substance abuse, after care and/or support services) designed to address offenders' individual criminogenic needs.
- b. Adopting quality assurance procedures to ensure CRCs are meeting contractual obligations with regard to safety and offender management.
- c. Implementing admission criteria for CRCs that:
 - i. Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment, using the results of a validated risk and needs assessment; and

- ii. Minimize the mixing of low and high risk offenders.

Ensure oversight and accountability

Recommendation 19: Require collection of key performance measures and establish an oversight council

The reforms to Alaska's corrections and criminal justice systems will require careful implementation and oversight. Moreover, additional legislative and administrative reforms may be needed after implementation to enable the state to realize the goals of justice reinvestment. Several states that have enacted similar comprehensive reform packages, including Georgia, South Carolina, and South Dakota, have mandated data collection on key performance measures and required oversight councils to track implementation, report on outcomes, and recommend additional reforms if necessary. Many of these states have also charged the oversight councils with helping to administer ongoing reinvestment dollars based upon the savings associated with the reforms.

Specific Action Recommended: To ensure that reforms are monitored for fidelity and efficacy, and to better prepare the state to meet the objectives of justice reinvestment, the Commission recommends:

- a. Requiring the ACS, the DOC, the Department of Health and Social Services ("DHSS"), the DOL, the DPS, and the Parole Board to collect and report data annually on key performance measures.
- b. Creating a Justice Reinvestment Oversight Task Force ("Task Force"), composed of legislative, executive, and judicial branch members, as well as members representing crime victims and Alaska Natives, charged with:
 - i. Monitoring and reporting back to the Legislature and Governor on the implementation and outcomes of the Commission's recommendations;
 - ii. If needed, making additional recommendations for legislative and administrative changes to achieve the state's justice reinvestment goals;
 - iii. Helping to administer reinvestment dollars and develop plans on an annual basis for ongoing reinvestment of a portion of the state general fund savings achieved through pretrial, sentencing, and corrections reforms, based on observed outcomes and cost-benefit estimates; and
 - iv. Assessing state government processes to ensure victim restitution and violent crimes compensation are working effectively to meet crime victim needs.

Recommendation 20: Ensure policymakers are aware of the impact of all future legislative proposals that could affect prison populations

Many sentencing and corrections reforms do not affect biennial budgets, but have significant impact on budgets four, six, and eight years out or longer. Fiscal impact statements that cover a longer period of time would give policymakers a more accurate account of the implications of proposed sentencing and corrections policies on the state prison population and budget.

Specific Action Recommended: To ensure that policymakers are informed of the long-term fiscal impact of proposed corrections policies, require 10-year fiscal impact statements to accompany future sentencing and corrections legislation.

Recommendation 21: Advance crime victim priorities

Crime victims, survivors, and victim advocates are important stakeholders in the work of the Commission. Two roundtable discussions were held in September 2015 to provide survivors and advocates with an overview of the Commission's work, and to seek their input in establishing priorities for crime victims and those who serve them in Alaska. These roundtables were supplemented with significant additional outreach to victim advocates in the state. The Commission did not make data- or fact-findings related to crime victims or victim services. Instead, the following recommendations reflect the shared concerns expressed by victims, survivors, and advocates in the state.

Proposed Administrative Reforms: To advance reforms addressing the needs of crime victims, the Commission recommends the following administrative reforms:

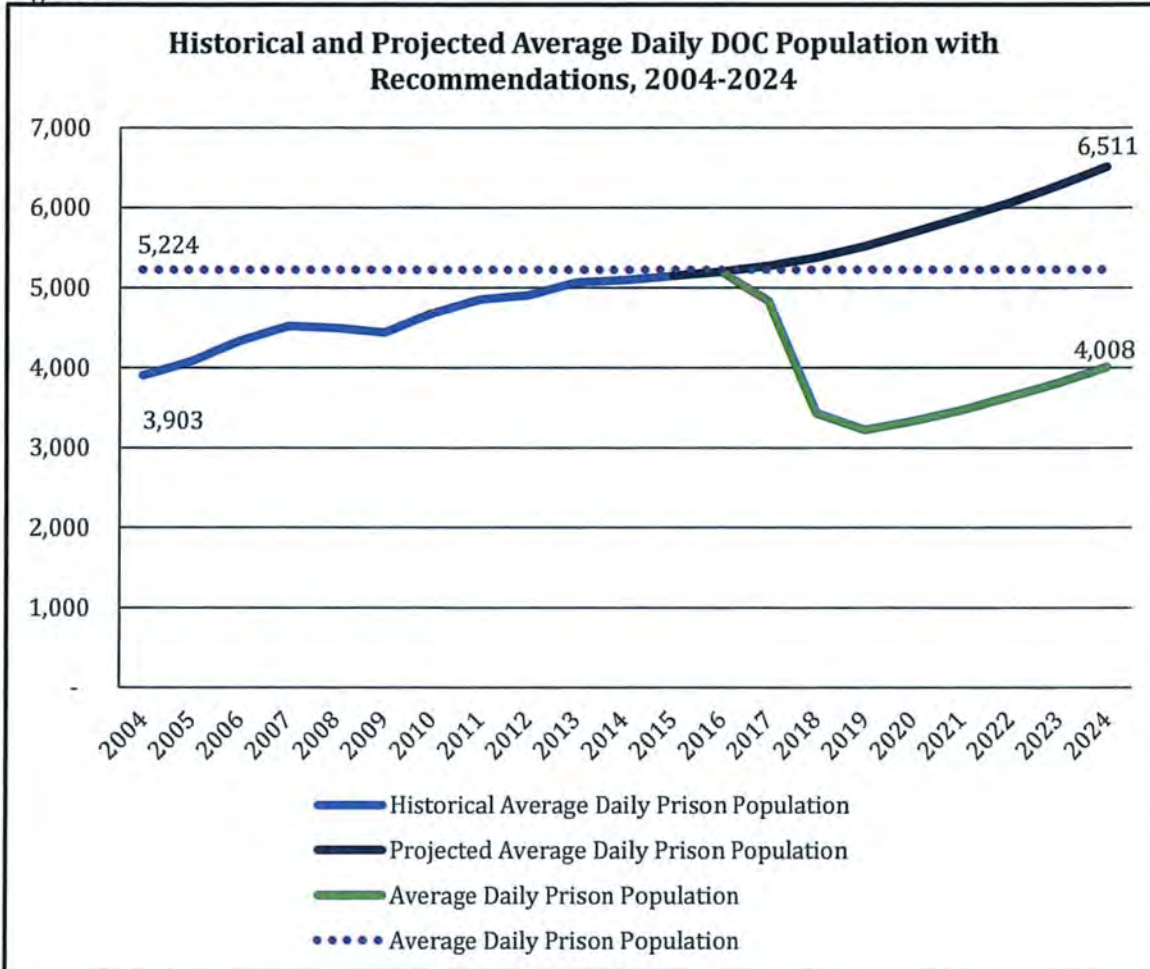
- a. The DOL and District Attorneys' offices should make enhanced efforts to increase the number of crime victims signed up for court notifications through VINE.
- b. The DOC should review and revise policies and procedures related to inmate phone calls and visitation to reduce the likelihood of offenders contacting victims.
- c. The DOC should review and revise policies and procedures to include an increased focus on crime victim needs during offender transition and reentry planning.
- d. The training standards for criminal justice professionals should contain more specific provisions related to the frequency and content of victim-focused training, with input as appropriate from victim advocacy organizations in the state.
- e. The state should authorize the DHSS to provide similar trauma-informed services for child victims as the services that exist for adult victims.
- f. The courts and criminal justice agencies should take steps to make communications and documents more accessible for non-English speakers and people with low levels of literacy.

Impacts of Commission's Consensus Recommendations

Enacting all 21 of the Commission's consensus recommendations is projected to reduce the average daily prison population by 21 percent over the next 10 years, netting an estimated \$424 million in prison costs through 2024. (See figure 7, next page.) This number includes both the savings associated with averting projected prison growth (\$169 million) and the savings associated with reducing the population below current levels (\$255 million).

These impacts are contingent upon successful implementation and funding of the above recommendations.

Figure 7.



Source: The Alaska Department of Corrections; the Pew Charitable Trusts.

Reinvestment Priorities

Recognizing that these recommendations will result in substantial state general fund savings over the next decade, the Commission strongly recommends reinvesting a portion of the savings into priority services designed to protect public safety, reduce victimization, and sustain reductions in the prison population.

With the understanding that prison population reductions and the associated savings will likely be achieved in the near future, the Commission recommends that the state provide an upfront

investment, and ongoing reinvestment based on guidance from the Justice Reinvestment Oversight Task Force, into the following priority services:

- a. Pretrial services. Provide resources for the DOC to conduct pretrial risk assessments, make recommendations to the court regarding release and release conditions, and provide varying levels of supervision in the community.
- b. Victims' services in remote and bush communities. Provide for emergency housing and travel, forensic exam training and equipment for health care providers, and community-driven programs that address cultural and geographic issues.
- c. Violence prevention. Provide for community-based programming focused on prevention, education, bystander intervention, restorative justice, evidence-based offender intervention, and building healthy communities.
- d. Treatment services. Fund treatment and programming in facilities and in the community to address criminogenic needs, behavioral health, substance abuse, and sexual offending behavior.
- e. Reentry and support services. Expand transitional housing, employment, case management, and support for addiction recovery.

Additional Recommendations for Legislative Consideration

In addition to the consensus package of reforms above, the Commission also voted to forward the following six recommendations that received majority approval. Taken in concert with the consensus policy package, these policies are projected to reduce the average daily prison population by 26 percent and save the state an estimated \$447 million dollars over the following decade.

Additional Recommendation 1: Require that all misdemeanor DUI and refusal to submit to a chemical test offenders serve their incarceration terms in proven prison alternatives (variation on recommendation 5(e))

In 2014, over 2,500 offenders were admitted to prison post-conviction for a misdemeanor DUI, and an additional 105 offenders were admitted for refusal to submit to a chemical test – together, comprising a quarter of all post-conviction admissions in that year. The Commission reviewed a number of studies on the effective management of DUI offenders, including a 2014 study which found that jail sentences for DUI offenders were associated with higher recidivism rates than sentences to probation, even when controlling for differences between offender groups.⁵³ Additional studies have found that, no matter that number of past DUI convictions (1, 2, or 3 or more), sanctions involving jail time were associated with the highest recidivism rates.⁵⁴

Specific Action Recommended: In recognition of the limited and potentially negative impacts of jail sanctions for DUI offenders, including repeat DUI offenders, a majority of Commission members recommend requiring all misdemeanor DUI and refusal to submit to a chemical test offenders (including those with a prior offense) to serve their incarceration terms in prison alternatives – specifically supervision under remote surveillance technologies or a CRC. In cases where electronic

monitoring is not available, the offenders can be assigned to serve their incarceration sentence on supervised probation.

Additional Recommendation 2: Set the weight threshold at which more serious commercial drug offenses are differentiated from less serious offenses at 5g (variation on recommendation 6(c))

While the Commission unanimously sought to differentiate more serious commercial drug offenses from less serious commercial drug offenses through the use of a weight-based system, a number of Commissioners sought to set the dividing weight at an amount higher than 2.5g, with the understanding that many drug addicts engage in low-level sale offenses primarily to support their habit, and therefore do not fall into the category of serious drug dealers.

Specific Action Recommended: A majority of Commission members recommend setting the weight at which more serious drug commercial drug offenses are differentiated from less serious offenses at 5g.

Additional Recommendation 3: Bring presumptive ranges under the ceiling of prior presumptive terms (variation on recommendation 8)

While the Commission unanimously sought to align non-sex presumptive sentencing ranges with prior presumptive terms, a number of Commissioners also sought to reduce average prison stays below 2005 levels – pointing to the robust body of research demonstrating that, even when controlling for offender characteristics, inmates who are sentenced to longer periods of incarceration are not less likely to commit a crime upon release than similarly situated offenders sentenced to shorter periods of incarceration.

Specific Action Recommended: In accordance with the research demonstrating that longer prison stays do not reduce recidivism more than shorter prison stays, a majority of Commission members recommend bringing presumptive ranges under the ceiling of the 2005 presumptive terms, and extending presumptive probation to both first- and second-time Class C Felony offenders.

Additional Recommendation 4: Return sentence lengths for Felony C and B sex offenders to pre-2006 levels

Over the last decade, the average length of stay behind bars for felony sex offenders has grown by 84 percent. Since 2005, Felony B sex offenders are staying an average of 120 percent longer and Felony C sex offenders are staying an average of 45 percent longer in prison. These longer prison stays were likely driven in part by significant increases in the lengths of sex offender sentences (both minimums and maximums) pursuant to legislative changes in 2006.

The Commission reviewed research demonstrating that sex offenders have a low risk of recidivism compared to other offense types. The most recent Alaska Judicial Council study of recidivism in the state found that sex offenders have substantially lower rates of rearrest within one year than other offense groups.⁵⁵ The same study found that sex offenders were reconvicted for a new sex offense

within two years at a rate of two percent.⁵⁶ Similar findings have also been borne out in national studies of recidivism rates.⁵⁷

Specific Action Recommended: In accordance with the research demonstrating that sex offenders have a low risk of recidivism compared to other offense types, and that longer prison stays do not reduce recidivism more than shorter prison stays, a majority of Commission members recommend returning sentence lengths for Felony C and B sex offenders to 2005 levels.

Additional Recommendation 5: Expand Medicaid funding to provide substance abuse treatment for indigent offenders

Substance abuse and mental illness are associated with a substantial number of crimes committed in Alaska. A 2012 study found that Mental Health Trust beneficiaries, defined as individuals with mental illness, chronic alcoholism, traumatic brain injuries, and developmental disabilities, comprised 30 percent of individuals entering the prison system and 65 percent of the standing prison population.⁵⁸

Yet stakeholders report that the need for substance abuse and mental health treatment far exceeds demand, both in institutions and in the community. In communities that do have some form of treatment available, waitlists are long, and free or subsidized options are limited; in much of rural Alaska, options are limited or non-existent.

Specific Action Recommended: To reduce the likelihood that high risk offenders in need of substance abuse and/or mental health treatment will re-offend, a majority of Commission members recommend expanding the availability of funding for treatment by both maximizing the enrollment of eligible offenders and better equipping private providers to bill Medicaid.

Additional Recommendation 6: Limit the use of multiple misdemeanor revocations for the same allegation of program noncompliance

Specific Action Recommended: To motivate probationers to participate in and complete treatment and programming, while also reducing the number of misdemeanants who are revoked and serve multiple jail terms for the same allegation of program noncompliance, a majority of Commission members recommend:

- a. Requiring that the court process misdemeanor revocations for failure to comply with substance abuse or other programming in such a manner that one single petition is processed for that violation.
- b. Ensuring that, after adjudication, the defendant is offered the opportunity to complete the required programming and a disposition hearing is continued for the purpose of assuring either successful completion of the program condition or a one-time suspended jail imposition and deletion of the program condition.

Endnotes

¹ Note: Unless otherwise cited, the analyses in this report were conducted for the Alaska Criminal Justice Commission by the Public Safety Performance Project of the Pew Charitable Trusts using annual cohort recidivism rates, prison and probation/parole admission, release, and stock population data 2005-2014 as well as aggregate community residential center and electronic monitoring counts provided by the Alaska Department of Corrections; criminal charge information 2005-2014 provided by the Alaska Court System; and national data from sources including the Federal Bureau of Investigation Uniform Crime Reports and the US Census Bureau population forecasts.

² Ben Anderson, (2012) "Opening Soon: Alaska's \$240 million Goose Creek Prison," *Alaska Dispatch News*, <http://www.adn.com/article/opening-soon-alaskas-240-million-goose-creek-prison>.

³ National Association of State Budget Officers (1987), "The State Expenditure Report", http://www.nasbo.org/sites/default/files/ER_1987.PDF; National Association of State Budget Officers (2007), State Expenditure Report Fiscal 2006", http://www.nasbo.org/sites/default/files/ER_2006.pdf. Note: Comparison excludes capital expenditures.

⁴ National Association of State Budget Officers (2014) "Examining Fiscal State Spending 2011-2013", <http://www.nasbo.org/sites/default/files/State%20Expenditure%20Report%20%28Fiscal%202011-2013%20Data%29.pdf>.

⁵ Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT), <http://www.bjs.gov/index.cfm?ty=nps>; Bureau of Justice Statistics (2015), "Prisoners in 2014", <http://www.bjs.gov/content/pub/pdf/p14.pdf>.

⁶ Pew Public Safety Performance Project (2012), "2012 Georgia Public Safety Reform", <http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/2012-georgia-public-safety-reform>.

⁷ Federal Bureau of Investigation, Uniform Crime Reports, UCR Data Tool <http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm>; Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT), <http://www.bjs.gov/index.cfm?ty=nps>.

⁸ In Alaska, courts are legally required to consider the likelihood that the defendant will miss their court hearings and the likelihood that the defendant poses a danger to the victim, other persons, or the community (according to AS 12.30.006).

⁹ Mamalian (2011), "State of the Science of Pretrial Risk Assessment", https://www.bja.gov/publications/pji_pretrialriskassessment.pdf; Lowenkamp & Van Nostrand (2013), "Assessing Pretrial Risk Without a Defendant Interview", http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_no-interview_FNL.pdf.

¹⁰ VanNostrand (2009), "Pretrial Risk Assessment in the Federal Court", [http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20\(2009\).pdf](http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20(2009).pdf).

¹¹ Lowenkamp, VanNostrand, & Holsinger (2013), "The Hidden Cost of Pretrial Detention", <http://www.pretrial.org/download/research/The%20Hidden%20Costs%20of%20Pretrial%20Detention%20-%20LJAF%202013.pdf>. Note: For this population, pretrial detention of 8-14 days and 31 or more days were not significantly associated with an increase in odds of failure to appear. Statistically significant differences were found for those who were detained for 2-3, 4-7, and 5-30 days as compared to 1 days or less.

¹² *Ibid.*

¹³ Schnacke (2014), "Money As a Criminal Justice Stakeholder: The Judge's Decision to Release or Detain a Defendant Pretrial", <http://www.pretrial.org/download/research/Money%20as%20a%20Criminal%20Justice%20Stakeholder.pdf>.

¹⁴ Jones (2013), "Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option", <http://www.pretrial.org/download/research/Unsecured+Bonds,+The+As+Effective+and+Most+Efficient+Pretrial+Release+Option+-+Jones+2013.pdf>.

¹⁵ *Ibid.*

¹⁶ Note: A random sample of 400 case files (usable bail information N=310) from Anchorage, Juneau, Bethel, Fairbanks, and Nome Courts was selected and reviewed to examine pretrial releases conditions and sentence lengths. Data entry and analysis were conducted by Pew and the Alaska Judicial Council in July 2015. All findings related to bail conditions were derived from this analysis.

¹⁷ National Research Council (2014), "The Growth of Incarceration in the United States", <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

¹⁸ *Ibid.*

¹⁹ Campbell Collaboration (2015), "The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge", <http://www.campbellcollaboration.org/lib/project/22/>; Nagin &

Snodgrass (2013), "The Effect of Incarceration on Re-Offending: Evidence from a Natural Experiment in Pennsylvania", <http://repository.cmu.edu/cgi/viewcontent.cgi?article=1407&context=heinzworke>; Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending", http://www.jstor.org/stable/10.1086/599202?seq=1#page_scan_tab_contents; Meade, Steiner, Makarios, & Travis (2012), "Estimating a Dose-Response Relationship Between Time Served in Prison and Recidivism", <http://jrc.sagepub.com/content/50/4/525.abstract>.

²⁰ Campbell Collaboration (2015), "The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge"; Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending".

²¹ *Ibid.*

²² Spohn & Holleran (2002), "The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders", <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.2002.tb00959.x/abstract>; Nieuwbeerta, Nagin, & Blokland (2009), "Assessing the Impact of First Time Imprisonment on Offender's Subsequent Criminal Career Development: A Matched Samples Comparison", <http://link.springer.com/article/10.1007%2Fs10940-009-9069-7>,

²³ Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending".

²⁴ Note: It is possible the increase in length of stay for felony sex offense convictions is an underestimate given the long sentences being served by many individuals convicted of sex offenses. The length of stay average is calculated based on the average time spent by offenders in their category released in a given year. As many sex offenders receive very long sentences, especially since sentencing ranges were broadened in 2006, the mean length of stay for offenders in this group might not reflect how long the average sex offender is likely to serve.

²⁵ Andrews (1999), "Recidivism Is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism", http://www.csc-scc.gc.ca/research/forum/e012/12j_e.pdf.

²⁶ Grasmack & Bryjak (1980), "The Deterrent Effect of Perceived Severity in Punishment",

http://www.jstor.org/stable/2578032?seq=1#page_scan_tab_contents; Farabee (2005), "Rethinking Rehabilitation: Why Can't We Reform Our Criminals?", http://www.aei.org/wp-content/uploads/2011/10/20050111_book806text.pdf.

²⁷ Nagin & Pogarsky (2000), "Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence: Theory and Evidence", <https://www.ssc.wisc.edu/econ/Durlauf/networkweb1/London/Criminology1-15-01.pdf>.

²⁸ Wodahl, Garland, Culhane, & McCarty (2011), "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections", <http://cjb.sagepub.com/content/38/4/386.abstract>.

²⁹ National Research Council (2007), "Parole, Desistance from Crime, and Community Integration",

<https://cdpsdocs.state.co.us/ccij/Resources/Ref/NCR2007.pdf>; Grattet, Petersilia, & Lin (2008), "Parole Violations and Revocations in California", <https://www.ncjrs.gov/pdffiles1/nij/grants/224521.pdf>.

³⁰ *Ibid.*

³¹ Washington State Institute for Public Policy. Adult Criminal Justice "Benefit-Cost Results."

<http://www.wsipp.wa.gov/BenefitCost?topicId=2>.

³² Note: For these categories of defendants, in order for the court to depart from a recommendation of personal recognizance or unsecured bond, and order secured money bond, it would have to find on the record that there is clear and convincing evidence that no other conditions of release can reasonably assure court appearance and public safety.

³³ Note: A performance bond is an agreement between the defendant and the court that if the defendant violates his or her conditions of release, he or she will forfeit a certain amount of money. A *secured* performance bond requires the defendant to pay upfront in order to be released, and the defendant would get that money back if they successfully completed the pretrial period. An *unsecured* performance bond does not require an upfront payment, but if the defendant violates conditions of release, the court can order the defendant to pay that amount of money. A *partially-secured* performance bond would require payment of 10 percent of the bond amount upfront in order to be released. That amount would be recoverable if the defendant successfully completes the pretrial period. Currently in Alaska, courts only have authority to issue *secured* performance bonds. As used in the policy description on the pretrial release decision-making grid, "unsecured bond" would refer to both appearance bonds and performance bonds, but statutes would have to change to permit courts to issue unsecured performance bonds.

³⁴ VanNostrand (2009), "Pretrial Risk Assessment in the Federal Court", <http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20%282009%29.pdf>.

³⁵ Note: Currently, the statute disqualifies a person from serving as a third-party custodian if they *may be called as a witness*.

³⁶ Note: FTA with intent to avoid prosecution and FTA for more than 30 days; and for violation of a protective order or no-contact order.

- ³⁷ Boyum & Reuter (2005), "An Analytic Assessment of Drug Policy, American Enterprise Institute for Public Policy Research", http://www.aei.org/wp-content/uploads/2014/07/-an-analytic-assessment-of-us-drug-policy_112041831996.pdf.
- ³⁸ Pew Charitable Trusts (forthcoming), "The Effects of Changing State Theft Penalties".
- ³⁹ Note: Includes theft, concealing merchandise, issuing a bad check, vehicle theft, criminal mischief, unlawful possession, misapplication of property, criminal simulation, and removal of I.D. marks.
- ⁴⁰ Alaska State Legislature (2005), "Senate Bill 56".
- ⁴¹ Note: Comparison years are 2006 and 2014.
- ⁴² Note: Excludes Unclassified felonies.
- ⁴³ Note: The enhanced sentence applies to possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct at a peace officer or first responder who was engaged in official duties and to manufacturing of methamphetamine offenses if knowing within presence of children.
- ⁴⁴ Note: The enhanced sentence applies to violations of AS 11.41.130 (CN Homicide) and the victim was a child under 16 and to manufacturing of methamphetamine offenses if reckless within presence of children.
- ⁴⁵ Note: Maximum allowable imprisonment term if probation is not imposed.
- ⁴⁶ Alaska Judicial Council (2011), "Criminal Recidivism in Alaska, 2008 and 2009", <http://www.ajc.state.ak.us/reports/recid2011.pdf>.
- ⁴⁷ Washington State Institute for Public Policy (2015), "What Works and What Does Not?: Cost-Benefit Findings from WSIPP", http://www.wsipp.wa.gov/ReportFile/1602/WSipp_What-Works-and-What-Does-Not-Benefit-Cost-Findings-from-WSIPP_Report.pdf.
- ⁴⁸ National Conference of State Legislatures, (2009) "Cutting Corrections Costs: Earned Time Policies for State Prisoners," http://www.ncsl.org/documents/cj/earned_time_report.pdf.
- ⁴⁹ As used here, "absconding" is defined as failing to report within 5 working days after release or failing to report for 30 days.
- ⁵⁰ Petersilia (2007), "Employ Behavioral Contracting for "Earned Discharge" Parole", <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9133.2007.00472.x/pdf>; Wodahl, Garland, Culhane, & McCarty (2011), "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections"; American Probation and Parole Association (2014), "Administrative Responses in Probation and Parole Supervision: A Research Memo", <http://www.appa-net.org/eWeb/Resources/SPSP/Research-Memo.pdf>.
- ⁵¹ The Commission has chosen to forward two iterations of this policy to the legislature for its consideration.
- ⁵² Lowenkamp & Latessa (2002), "Evaluation of Ohio's Community Based Correctional Facilities and Halfway House Programs", https://www.uc.edu/content/dam/uc/ccjr/docs/reports/project_reports/HH_CBCF_Report1.pdf.
- ⁵³ Bachmann & Dixon (2014), "DWI Sentencing in the United States: Toward Promising Punishment Alternatives in Texas", <http://www.sascv.org/ijcjs/pdfs/bachmannandixonijcjs2014vol9issue2.pdf>; Martin, Annan, & Forst(1993), "The Special Deterrent Effects of a Jail Sanction on First-Time Drunk Drivers: A Quasi-Experimental Study", http://www.researchgate.net/publication/14800968_The_special_deterrent_effects_of_a_jail_sanction_on_first-time_drunk_drivers_A_quasi-experimental_study; Annan, Sampson, Martin, & Forst (1986), "Deterring the Drunk Driver: A Feasibility Study", <http://www.worldcat.org/title/deterring-the-drunk-driver-a-feasibility-study-technical-report/oclc/18578880>.
- ⁵⁴ DeYoung (1997), "An Evaluation of the Effectiveness of Alcohol Treatment, Driver License Actions and Jail Terms in Reducing Drunk Driving Recidivism in California", <http://www.ncbi.nlm.nih.gov/pubmed/9376781>.
- ⁵⁵ Alaska Judicial Council (2011), "Criminal Recidivism in Alaska, 2008 and 2009".
- ⁵⁶ *Ibid.*
- ⁵⁷ Bureau of Justice Statistics (2003), "Recidivism of Sex Offenders Released from Prison in 1994", <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1136>.
- ⁵⁸ Hornby Zeller Associates, Inc. (2014), "Trust Beneficiaries in Alaska's Department of Corrections", <http://mhtrust.org/mhtawp/wp-content/uploads/2014/10/ADOC-Trust-Beneficiaries-May-2014-FINAL-PRINT.pdf>.

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District 25

House Bill 205 Sponsor Statement

In the last two years, all three branches of government came together to request the assistance of the Alaska Criminal Justice Commission, a non-partisan body composed of experts in all realms of the justice system, to help stem the growth of our prison population and the trend of recidivism and re-victimization in Alaska. The Commission spent over a year conducting an exhaustive review of the state's pretrial, sentencing, corrections, and community supervision data and systems. Understanding the financial cost, as well as the very real human cost, of continuing down the path of using jail time as the default, the Commission looked at ways to balance public safety, rehabilitation and fiscal security, and produced their Justice Reinvestment Report. This report offers over 21 consensus policy recommendations to the Legislature that prioritize Alaskans' safety, hold offenders accountable for their actions, and reduce the cost of criminal justice.

These policy recommendations are translated into action items in House Bill 205. The bill offers changes to our pre-trial procedures, sentencing, community supervision, and incorporate priorities important to victims and victim advocates. Perhaps most importantly, however, are crucial reinvestments derived from cost-savings from the previously listed policy changes. Reinvestment is recommended in the form of evidence-based rehabilitation, close supervision of offenders living outside of prison, enhanced victim notification, better use of existing infrastructure, and other policy areas.

A vehicle for the Commission's recommendations, and for a discourse about the way in which to use proven practices to reform our justice system, House Bill 205 aims to better protect Alaskans and keep our state from requiring an additional prison.

HB 205 Sectional-by-Recommendation

Version H

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District 25

HOUSE BILL 205
SECTIONAL ANALYSIS
Version H

Section 1

11.41.110(a) – Murder in the Second Degree (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 2

11.41.150(a) – Murder of an Unborn child (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 3

11.46.130(a) - Theft in the Second Degree (Amended)

Increases the threshold value for theft in the second degree from \$750 to \$2,000.

Section 4

11.46.140(a) - Theft in the Third Degree (Amended)

Increases the threshold value for theft in the third degree from \$750 to \$2,000.

Section 5

11.46.150(a) – Theft in the Fourth Degree (Amended)

Makes threshold for theft in the fourth degree adjusted for inflation.

Section 6

11.46.220(c) - Concealment of Merchandise (Amended)

Increases the threshold value for concealment of merchandise from \$750 to \$2,000.

Section 7

11.46.260(b) - Removal of Identification Marks (Amended)

Increases the threshold value for removal of identification marks from \$750 to \$2,000.

Section 8

11.46.270(b) - Unlawful Possession (Amended)

Increases the threshold value for unlawful possession from \$750 to \$2,000.

Section 9

11.46.280(d) - Issuing a Bad Check (Amended)

Increases the threshold value for issuing a bad check from \$750 to \$2,000.

Section 10

11.46.285(b) - Fraudulent Use of an Access Device (Amended)

Decreases the threshold value for fraudulent use of an access device from \$750 to \$50.

Section 11

11.46.295 – Prior convictions (Amended)

Removes Theft in the Third Degree as an offense under consideration.

Section 12

11.46.360(a) - Vehicle Theft in the First Degree (Amended)

Increases the threshold value for vehicle theft in the first degree from \$750 to \$2,000.

Section 13

11.46.460 - Disregard of a Highway Obstruction (Amended)

Reclassifies the crime of disregard of a highway obstruction to a violation punishable by up to \$1,000 fine.

Section 14

11.46.482(a) - Criminal Mischief in the Third Degree (Amended)

Increases the threshold value for criminal mischief in the third degree from \$750 to \$2,000.

Section 15

11.46.484(a) - Criminal Mischief in the Fourth Degree (Amended)

Increases the threshold value for criminal mischief in the fourth degree from \$750 to \$2,000.

Section 16

11.46.486(a) - Criminal Mischief in the Fifth Degree (Amended)

Makes threshold for Criminal Mischief in the Fifth degree adjusted for inflation.

Section 17

11.46.530(b) - Criminal Simulation (Amended)

Increases the threshold value for criminal simulation from \$750 to \$2,000.

Section 18

11.46.620(d) - Misapplication of Property (Amended)

Increases the threshold value for misapplication of property from \$750 to \$2,000.

Section 19

11.46.730(c) - Defrauding Creditors (Amended)

Increases the threshold value for defrauding creditors from \$750 to \$2,000.

Section 20

11.46.980 – Determination of value; aggregation of amounts. (New Subsection)

Directs court to refer to most recent property threshold set by the Alaska Judicial Council under AS 11.46.982

Section 21

AS 11.46.982 - Annual Adjustment for Inflation Increasing the Value of Property or Services as an Element of an Offense (New Section)

Directs the Alaska Judicial Council to annually calculate the increase in value, if any, of the property crime threshold, based on a change in the Consumer Price Index, compiled by the Bureau of Labor Statistics. The Council shall provide notice to various criminal justice and law enforcement agencies.

Section 22

11.56.730(a) - Failure to Appear (Amended)

Conforming to reclassifying several elements of the crime of failure to appear as a violation punishable by a fine up to \$1,000.

Section 23

11.56.730(c) - Failure to Appear (Amended)

Conforms failure to appear penalties to no longer be a Class C felony.

Section 24

11.56.730 - Failure to Appear (New Subsection)

Reestablishes the punishment of failure to appear, as a Class A misdemeanor to apply to defendants missing a scheduled hearing to avoid prosecution or to defendants not making contact with the court within 30 days after not appearing at a scheduled hearing. Failure to appear is a violation punishable by a fine up to \$1,000

Section 25

11.56.757(a) - Violation of Condition of Release (Amended)

Conforms to the reclassification of the crime of violation of a condition of release to a violation.

Section 26

11.56.757(b) - Violation of Condition of Release (Amended)

Reclassifies the crime of violation of condition of release to a violation punishable by a fine up to \$1,000.

Section 27

11.56.759(a) - Violation by Sex Offender of Condition of Probation (Amended)

Conforms to renumbered statutes.

Section 28

11.61.110(c) - Disorderly Conduct (Amended)

Conforms disorderly conduct penalty to no longer be 10 days.

Section 29

11.61.145(d) - Promoting an Exhibition of Fighting Animals (Amended)

Reclassifies the crime of attending an exhibition of fighting animals as a violation for the second offense. Maintains third and subsequent offenses as a class A misdemeanor.

Section 30

11.61.150(a) - Obstruction of Highways (Amended)

Conforms to the reclassification of the crime of obstruction of highways to a violation.

Section 31

11.61.150(c) - Obstruction of Highways (Amended)

Reclassifies the crime of obstruction of highways to a violation punishable by a fine up to \$1,000.

Section 32

11.66.200(c) - Gambling (Amended)

Reclassifies the crime of unlawful gambling to a violation punishable by a fine up to \$1,000.

Section 33

*11.71.030(a) - Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the third degree as misconduct involving a controlled substance in second degree. Provides that manufacture or delivery of more than 2.5 grams of a IA, IIA, or IIIA controlled substance is an element of the offense. Adds in manufacture of methamphetamine or methamphetamine precursors as an element of the offense.

Section 34

*11.71.030(c) - Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (Amended)*

Conforms to renaming of misconduct involving a controlled substance in the third degree as misconduct involving a controlled substance in the second degree.

Section 35

*11.71.030 – Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (New Subsection)*

Provides that possession of certain amount of specific chemicals is prima facie evidence of intent to manufacture or deliver methamphetamine or methamphetamine precursors.

Section 36

*11.71.040(a) - Misconduct Involving a Controlled Substance in the **Third** [FOURTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the fourth degree as misconduct involving a controlled substance in the third degree. Provides that manufacture or delivery of less than 2.5 grams of a IA, IIA, or IIIA controlled substance, or any amount of a schedule IVA or VA controlled substance, is an element of the offense.

Section 37

*11.71.040(d) - Misconduct Involving a Controlled Substance in the **Third** [FOURTH] (Amended)*

Conforms to renaming of misconduct involving a controlled substance in the fourth degree as misconduct involving a controlled substance in the third degree.

Section 38

*11.71.050 - Misconduct Involving a Controlled Substance in the **Fourth** [FIFTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the fifth degree as misconduct involving a controlled substance in the fourth degree. Consolidates simple possession of IA, IIA, IIIA, IVA and VA controlled substances into misconduct involving a controlled substance in the fifth degree, excepting small quantities of specified IIIA drugs as set forth in AS 11.71.060.

Section 39

*11.71.060 - Misconduct Involving a Controlled Substance in the **Fifth** [SIXTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the sixth degree as misconduct involving a controlled substance in the fifth degree.

Section 40

11.71.311(a) - Restriction on Prosecution for Certain Persons in Connection with a Drug Overdose (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 41

12.25.150(a) – Rights of prisoner after arrest (Amended)

Decreases time with which arrested person appears before the court from 48 to 24 hours. Bars hearing from taking place 48 hours after arrest.

Section 42

12.25.180 - When Peace Officer Shall Issue Citation or Take Person before the Court (Amended)

Establishes a presumption to cite and summons to court for nonviolent misdemeanors and class C felonies, with exceptions including significant danger to self or others, and specified crimes. For infractions or violations, provides that a peace officer may bring the person before a judge if the violation is for a violation of conditions of release or for disorderly conduct.

Section 43

12.25.180 - When Peace Officer May Issue Citation or Take Person Before the Court (New Section)

Forbids civil action for damages for failure to comply with this section.

Section 44

12.25.190(b) - When Person to be Given Five-Day Notice to Appear in Court (Amended)

Reduces the minimum duration, when issued a citation, before the first appearance from five days to two days.

Section 45

12.25.190 – When person to be given five-day notice to appear in court. (New section)

Requires that a notice to appear is at least five working days after the issuance of a citation.

Section 46

12.30.006(b) – Release Procedures (Amended)

Conforms to renumbered statutes.

Section 47

12.30.006(c) - Release Procedures (Amended)

Requires judicial review and reconsideration of the conditions of release for instances where the defendant is detained pre-trial due to those conditions, unless the judicial officer finds that less restrictive release conditions cannot reasonably ensure the appearance of the person in court and safety of the victim, other persons, and the community.

Section 48

12.30.006(d) - Release Procedures (Amended)

Allows for defendant's inability to pay to be considered as a factor to at bail review hearings. Specifies that a defendant may only receive one bail review hearing for new information relating to the person's inability to pay.

Section 49

12.30.006(f) - Release Procedures (Amended)

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to arrest a person without a warrant for violating a court order.

Section 50

12.30.006(h) - Release Procedures (New Subsection)

Directs the first appearance to occur within 24 hours after a person's arrest absent compelling circumstances.

Section 51

12.30.011 - Release Before Trial (Amended)

Limits judicial discretion to detain low- and moderate-risk pretrial defendants charged with non-violent, non-DUI misdemeanors and low-risk pretrial defendants charged with non-violent, non-DUI Class C felonies. This section prevents the use of secured monetary bail for lower-risk defendants while ensuring conditions can be imposed to require defendants to refrain from alcohol consumption, to avoid all contact with victims, and to keep regular contact with a pretrial services officer. In determining the conditions of release, the court shall consider the conditions of release recommended by the pretrial services officer and the person's pretrial risk assessment score.

Section 52

12.30.011 - Release Before Trial (New Subsection)

Creates a presumption of release on personal recognizance or unsecured bond, with appropriate release conditions, for low-risk defendants and for most nonviolent misdemeanor and Class C felony defendants who are not included in Section 54. The court can overcome this presumption and order partially- or fully-secured money bond if it finds on the record that no less restrictive conditions can reasonably assure court appearance and public safety.

Section 53

12.30.016(b) - Release Before Trial in Certain Cases (Amended)

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to search a person's residence for the presence of alcohol under conditions to refrain from alcohol.

Section 54

12.30.016(c) - Release Before Trial in Certain Cases (Amended)

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to search a person's residence for the presence of a controlled substance under conditions to refrain from consuming from controlled substances. A judicial officer may order a defendant to participate in a random drug testing program with testing to occur at least once a week, or random drug testing by the pretrial services division.

Section 55

12.30.016(d) - Release Before Trial in Certain Cases (Amended)

Conforms to realigned misconduct involving controlled substances statutes.

Section 56

12.30.021(a) - Third-Party Custodians (Amended)

Restricts availability of third-party custodian release conditions to cases in which pretrial supervision is not available, secured money bond has not been ordered, and no other combination of release conditions can reasonably assure court appearance and public safety.

Section 57

12.30.021(c) - Third-Party Custodians (Amended)

Changes the restrictions on people who are eligible to serve as third-party custodians to prohibit those who are likely to be called as witnesses, as opposed to those who may be called as witnesses.

Section 58

12.30.055 - Persons Appearing on Petition to Revoke (New Subsection)

Requires that probationers and parolees who are in custody awaiting a revocation hearing for a technical violation are released back to probation or parole supervision without bail after serving the maximum allowable time for a revocation.

Section 59

12.55.025(a) - Sentencing Procedures (Amended)

Conforms to addition of administrative parole as a type of parole that the court must include in its sentencing report in stating the minimum term of imprisonment the defendant must serve before becoming eligible for parole.

Section 60

12.55.025(c) - Sentencing Procedures (Amended)

Conforming to ensure credit is applied for time spent in custody for a violation of a condition of probation or parole pending a revocation hearing.

Section 61

12.55.027(d) - Credit for Time Spent Toward Service of a Sentence of Imprisonment (Amended)

Limits pretrial credit to 120 days for time spent on electronic monitoring that complies with the Department of Corrections guidelines.

Section 62

AS 12.55.051(a) - Enforcement of Fines and Restitution (Amended)

Conforms to changes to the probation revocation process.

Section 63

12.55.051 - Enforcement of Fines and Restitution (New Subsection)

Authorizes the Department of Law to garnish a permanent fund dividend to collect restitution ordered by the court.

Section 64

12.55.055(a) - Community Work (Amended)

Limits the court to imposing community work service only for offenses where community work is a mandatory component of the penalty for the offense.

Section 65

12.55.055(c) - Community Work (Amended)

Increases the value of an hour of community work from three dollars to the state's minimum wage if the defendant is unable to pay the fine and the court offers the defendant the option of performing community work in lieu of a fine.

Section 66

12.55.055 - Community Work (New Subsection)

Prevents the court from converting community work service into a sentence of imprisonment or offering the defendant the option of serving jail time in lieu of completing community work service.

Section 67

12.55.078 - Suspended Entry of Judgment (New Section)

Establishes a process for suspending an entry of judgment, whereby if a person pleads guilty to a crime, the court may, with the consent of the defense and prosecution, impose conditions of probation without imposing or entering a judgment of guilt. Upon successful completion of probation, the court shall discharge the person and dismiss the case after one year.

Section 68

12.55.090(b) - Granting of Probation (Amended)

Conforms to new early discharge process.

Section 69

12.55.090(c) - Granting of Probation (Amended)

Limits probation terms to 5 years for an unclassified felony or felony sex offense, three years for any other felony offense, two years for a DV-related misdemeanor or a second-time misdemeanor DUI, and one year for all other misdemeanor offenses.

Section 70

12.55.090(f) - Granting of Probation (Amended)

Conforming to new early discharge and earned compliance credit policies.

Section 71

12.55.090 – Granting of Probation (New Subsection)

Requires probation officers to recommend early discharge from probation to the court for any probationer who has served at least one year, completed any required treatment, and is currently in compliance with the conditions of probation, excepting offenders convicted of an unclassified or sex felony offenses, or a crime involving domestic violence. This section also establishes an opportunity for a crime victim to be notified and comment at an early discharge hearing.

Section 72

12.55.100(a) - Conditions of Probation (Amended)

Conforming to ensure that probationers can be required to comply with the graduated sanctions imposed by a probation officer.

Section 73

12.55.100(c) - Conditions of Probation (Amended)

Conforms to renumbered statutes.

Section 74

12.55.110 - Notice and Grounds for Revocation and Suspension (New Subsection)

Limits the maximum sentence for technical violations of probation for probationers to 3 days for the first revocation, 5 days for the second revocation, 10 days for the third revocation, and up to the remainder of the suspended sentence for the fourth or subsequent revocation. Exceptions are made for absconding and failure to complete sex offender treatment.

Section 75

12.55.115 - Fixing Eligibility for Discretionary Parole at Sentencing (Amended)

Conforms to addition of administrative parole as a type of parole for which the court has discretion to restrict eligibility.

Section 76

12.55.125(c) - Sentences of Imprisonment for Felonies (Amended)

Maintains the maximum sentence for non-sex Class A felonies at 20 years, while reducing the presumptive range for a first felony conviction to three to six years, a first felony conviction if the defendant uses a dangerous instrument or the offense is directed at a first responder to five to nine years, a second felony conviction to eight to twelve years, and a third felony conviction to thirteen to twenty years. Conforms to refer to the realigned misconduct involving controlled substances statutes.

Section 77

12.55.125(d) - Sentences of Imprisonment for Felonies (Amended)

Maintains the maximum sentence for non-sex Class B felonies at 10 years, while reducing the presumptive range for a first felony conviction to zero to two years, a second felony conviction to two to five years, and a third felony conviction to four to 10 years. Conforms to refer to the realigned misconduct involving controlled substances statutes.

Section 78

12.55.125(e) - Sentences of Imprisonment for Felonies (Amended)

Maintains the maximum sentence for non-sex Class C felonies at 5 years, while reducing the presumptive range for a first felony conviction to a suspended term of imprisonment of up to eighteen months, a second felony conviction to one to three years, and a third felony conviction to two to five years.

Section 79

12.55.135(a) – Sentences of Imprisonment for Misdemeanors (Amended)

Provides for a presumptive range of zero to thirty days for class A misdemeanors, excepting offenses with mandatory minimums above thirty days or if the conviction is for crime of assault in the fourth degree involving domestic violence. Allows the presumptive range to be overcome if the prosecution proves that the conduct constituting the offense was the most serious included in the definition of the offense or the defendant has past criminal convictions similar in nature to the offense in question.

Section 80

12.55.135(b) – Sentences of Imprisonment for Misdemeanors (Amended)

Truncates the maximum term of imprisonment for a class B misdemeanor to ten days.

Section 81

12.55.135 – Sentences of Imprisonment for Misdemeanors (New Subsections)

Provides that for a person convicted of theft in the fourth degree, concealment of merchandise, removal of identification marks, unlawful possession, issuing a bad check, or criminal simulation, the court may not impose a sentence of more than five days of suspended imprisonment and a term of probation of more than six months if the person has previously been convicted two or more times for a similar theft-related offense. The court may not impose a sentence of active or suspended imprisonment if the person has not been previously convicted or has previously been convicted once, of a theft-related offense.

Provides that the court may not impose a sentence of imprisonment of more than 24 hours for a person convicted of disorderly conduct.

Provides that for a person convicted of misconduct involving a controlled substance in the fifth degree 11.71.050(a)(4) or misconduct involving a controlled substance in the sixth degree 11.71.060(a)(2), the court may not impose a sentence of active imprisonment unless the person has previously been convicted of a drug crime and may not impose a sentence of suspended imprisonment greater than 30 days, if the person has no prior convictions, and no greater than 180 days if the person has been previously convicted of a drug crime.

Provides that if the state seeks to establish a fact-based aggravating factor at sentencing, the factor must be established by clear and convincing evidence before the court sitting without a jury. If the state seeks to establish a law-based aggravating factor at sentencing, the factor must be presented to a trial jury and proved beyond a reasonable doubt, unless the defendant waives trial by jury, stipulates to the existence of the factor, or consents to allow the court to establish the aggravator by clear and convincing evidence without a jury.

Section 82

12.61.015(a) – Duties of Prosecuting Attorney (Amended)

Requires the prosecuting attorney to confer with the victim of a felony crime in regards to a proposed plea agreement, at the request of the victim.

Section 83

28.15.165 - Administrative Revocations and Disqualifications resulting from chemical sobriety tests and refusals to submit to tests. (New Subsection)

Requires the DMV to restore a person's driver's license if all charges have been dismissed or if the person has been acquitted of driving while under the influence.

Section 84

28.15.181(f) - Court Suspensions, Revocations, and Limitations (Amended)

Allows for the court to terminate a revocation if the person has successfully completed the therapeutic court program, has not been convicted of DUI, and has successfully driven under the limited license for three years without being revoked.

Section 85

28.15.201 - Limitation of Driver's License (New Subsection)

Authorizes the court to grant limited license privileges for felony DUI offenders if the person has completed the therapeutic court program, has proof of insurance, and an installed ignition interlock device. This section allows the court or the department to revoke a limited license if the person is convicted of a DUI or refusal.

Section 86

28.15.291(a) - Driving While License Suspended (Repealed and Reenacted)

Conforms to section 87 by differentiating DWLS offenses related to DUI license revocations and those unrelated to DUI license revocations.

Section 87

28.15.291(b) - Driving While License Suspended (Repealed and Reenacted)

Reduces the mandatory minimum for second time DWLS offenders whose license revocation is related to DUI offenses to 10 days. Removes the mandatory minimum for first time DWLS offenders whose license revocation is related to DUI offenses. Reduces the penalty for non-DUI-related DWLS offenses from a misdemeanor to an infraction.

Section 88

28.35.028(b) - Court-Ordered Treatment (Amended)

Authorizes the court to reduce a license revocation for the purposes of granting a limited license to eligible offenders.

Section 89

28.35.030(k) - Operating a Vehicle... Under the Influence (Amended)

Requires first-time DUI offenders to serve a mandatory term of electronic monitoring. If unavailable, imprisonment is determined by the department.

Section 90

28.35.030(l) - Operating a Vehicle... Under the Influence (Amended)

Conforms to provisions requiring a fiscal analysis of legislation that causes an increase or decrease in the prison population. This recommendation was removed, making this conforming section unnecessary.

Section 91

28.35.030(o) - Operating a Vehicle... Under the Influence (Amended)

Requires the department restore a driver's license to a person who has been granted a limited license and has successfully driven for three years without having driving

privileges revoked, has successfully completed the therapeutic court program, has not been convicted of a DUI or refusal, and provides proof of insurance.

Section 92

28.35.032(o) - Refusal to Submit to Chemical Test (Amended)

Requires first-time refusal to submit to a chemical test to serve a mandatory term of electronic monitoring. If unavailable, imprisonment is determined by the department.

Section 93

29.10.200(21) - Limitation of Home Rule Powers (Amended)

Conforms to the requirement that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements.

Section 94

29.25.070(a) - Penalties (Amended)

Conforms to the requirement that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements.

Section 95

29.25.070 - Penalties (New Subsection)

Requires that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements.

Section 96

33.05.020 - Duties of Commissioner (New Subsection)

Requires the commissioner to establish an administrative sanction and incentive program to facilitate a prompt and effective response to violations of probation, as well as a system of earned compliance credits that reduce the period of probation for one month for each month the probationer is in compliance with the conditions of their probation.

Section 97

33.05.040 - Duties of Probation Officers (Amended)

Conforms section to include earned compliance credits, administrative sanctions, and early discharge to the duties of probation officers.

Section 98

33.05.080 - Definitions (New Paragraph)

Defines “administrative sanctions and incentives” to mean responses by a probation officer to a probationer’s compliance or noncompliance with the conditions of probation.

Section 99

33.07.010 - Pretrial Services Program (New Section)

Establishes a pretrial services program at the Department of Corrections to conduct pretrial risk assessments, make recommendations to the court regarding release decisions, and supervise pretrial defendants who are released. Directs the Commissioner to adopt a risk assessment tool and relevant training and regulations.

Outlines duties of pretrial services officers to conduct pretrial risk assessments, make recommendations to the court regarding release and conditions of release, and provide supervision for defendants released pretrial. Authorizes pretrial services officers to make pretrial diversion recommendations and to arrest defendants who have failed to appear or violated their release conditions.

Requires pretrial services officers to recommend release on personal recognizance or unsecured bond for nonviolent, non-DV misdemeanor and Class C felony charges, low- or moderate-risk DUI charges, and other low-risk charges, with limited options for departing from this requirement if the pretrial services officer finds that no combination of non-money conditions can reasonably ensure court appearance and public safety.

Section 100

33.16.010(c) - Parole (Amended)

Conforms section to include administrative and special medical parole as not limiting eligibility for mandatory parole.

Section 101

33.16.010(d) - Parole (Amended)

Conforming to include prisoners released on administrative parole as being subject to the conditions of parole imposed by the board.

Section 102

33.16.010 Parole (New Subsection)

Provides for a prisoner meeting the eligibility requirements to be released on administrative parole by the board of parole.

Section 103

33.16.060(a) Duties of the Board (Amended)

Conforming to ensure the parole board shall impose conditions on all prisoners released on parole. Additionally, this section requires the board to notify prisoners who are eligible for administrative and discretionary parole at least 90 days before eligibility.

Section 104

33.16.089 - Eligibility for Administrative Parole (New Section)

Creates administrative parole for inmates convicted of a misdemeanor or Class B or C felony that is not a sexual felony who have not been previously convicted of a felony. These inmates are eligible for administrative parole if they complete the requirements of their case action plan (including following institutional rules and completing treatment requirements) and if no victim requests a hearing.

Section 105

33.16.090(a) - Eligibility for Discretionary Parole ...Served (Amended)

Expands eligibility for discretionary parole to all inmates, excluding inmates convicted of an unclassified or sexual felony, who are over the age of 55 and have served at least 10 years of their sentence.

Section 106

33.16.090(b) - Eligibility for Discretionary Parole ...Served (Amended)

Expands eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with a prior felony conviction.

Section 107

33.16.100(a) - Granting of Discretionary Parole (Amended)

Conforming to the expansion of eligibility for discretionary parole.

Section 108

33.16.100(b) - Granting of Discretionary Parole (Amended)

Authorizes the parole board to rescind or revise a previously granted parole release date if there is a change in circumstances in a prisoner's preparole report.

Section 109

33.16.100 - Granting of Discretionary Parole (New Subsection)

Authorizes the parole board to grant discretionary parole to a prisoner who has been convicted of more than one felony, except for an unclassified felony, provided the prisoner is eligible for discretionary parole and has met the requirements of their case plan. If the board finds by clear and convincing evidence that the prisoner poses a threat to the public, discretionary parole is denied.

Section 110

33.16.110(a) – Pre-parole Reports (Amended)

Requires the parole board to consider the inmate’s case plan and re-entry plan when evaluating an inmate’s suitability for discretionary parole.

Section 111

33.16.120(a) - Rights of Certain Victims in Connection with Parole (Amended)

Conforms to reflect changes to the parole application process.

Section 112

33.15.120(f) - Rights of Certain Victims in Connection with Parole (Amended)

Conforming to ensure victims receive notification for inmates eligible for administrative parole.

Section 113

33.16.120(g) - Rights of Certain Victims in Connection with Parole (Amended)

Conforms to the requirement that the parole board notify a victim of a crime involving domestic violence thirty days in advance of discretionary and geriatric parole hearings. Additionally, the board shall inform the victim of any decision to grant or deny parole, and notify the victim of release on parole, including mandatory parole.

Section 114

33.16.120 - Rights of Certain Victims in Connection with Parole (New Subsection)

Requires notice to a victim who has a right to receive notice from the parole board and enables the victim to request a hearing before a prisoner is administratively paroled. The notice to the victim must include the procedure for requesting a hearing.

Section 115

33.16.130 - Parole Procedures (Repealed and Reenacted)

Streamlines the hearing process for discretionary parole by requiring the parole board to hold hearings for all prisoners who are eligible, rather than wait for prisoners to determine eligibility and prepare an application prior to a hearing. If the board denies parole, the board shall provide a written plan for addressing all of the factors relevant to the denial. The board shall schedule a subsequent hearing within two years after the first parole eligibility date, and for additional denials, within two years after the most recent hearing.

Section 116

33.16.140 - Order for Parole (Amended)

Conforming to include administrative parole in list of parole types where a parole order is issued by the board that sets out conditions of release.

Section 117

33.16.150(a) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries mandatory conditions of parole.

Section 118

33.16.150(b) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries conditions that can be imposed by the board or a designated member of the board.

Section 119

33.16.150(e) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that can carry conditions imposed by a designated member of the board acting on behalf of the full board.

Section 120

33.16.150(f) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries additional conditions for a prisoner serving a term for a crime involving domestic violence.

Section 121

33.16.150(g) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries the additional condition of electronic monitoring if the prisoner was sentenced with an aggravating factor relating to street gangs.

Section 122

33.16.180 - Duties of the Commissioner (Amended)

Includes administrative parole as a type of parole that the commissioner is responsible for conducting investigations of prisoner eligibility and notifying the board within 30 days after sentencing of potential eligibility. Requires preparation of pre-parole reports and notification to the parole board of compliance or noncompliance with the prisoner's case plan no less than 30 days before the next parole eligibility date or hearing. The commissioner is required to implement and administer a schedule of sanctions and incentives to facilitate a swift and certain response to violations, while including a process for due process considerations. Requires commissioner to notify victim information regarding release of offender.

Section 123

33.16.200 - Custody of Parolee (Amended)

Conforming to include administrative parolees as a type of parolees that the board retains custody of until the expiration of the maximum term of imprisonment to which the parolee is sentenced.

Section 124

33.16.210 - Discharge of Parolee (Amended)

Reduces the period of time before a parolee becomes eligible for unconditional discharge from parole, in some cases to serve a residual period of probation.

Section 125

33.16.210 - Discharge of Parolee (New Subsection)

Allows the board to initiate early discharge if the parolee has completed at least one year on parole, has completed all required treatment programs, is in compliance with all other conditions, and has not been convicted of unclassified felony, a sexual felony, or a crime involving domestic violence. The board shall also grant monthly parole incentive reductions for compliance with conditions imposed by the board.

Section 126

33.16.215 - Sanctions for a Technical Violation of Parole (New Section)

Provides for a system of imprisonment for technical violations not to exceed three days for the first technical violation of parole; five days for the second technical violation of parole; 10 days for the third technical violation of parole; and up to the remainder of the suspended portion of the sentence for a fourth or subsequent technical violation of parole. For defendants found absconding, the board may impose a period of imprisonment of up to 30 days. For probationers failing to complete sex offender treatment, the board may impose a period of imprisonment up to the remainder of the suspended portion of the sentence. These limits would not apply to parolees enrolled in the PACE program.

Section 127

33.16.220(b) - Revocation of Parole (Amended)

Conforms to include the commission of a new offense or failing to complete a sex offender treatment program as conduct that requires a preliminary hearing to determine if a violation of the conditions of parole occurred.

Section 128

33.16.220(f) - Revocation of Parole (Amended)

Conforms to ensure that revocation hearings for technical violations of parole occur within 15 days, while preserving current process for non-technical offenses.

Section 129

33.16.220(i) - Revocation of Parole (Amended)

Conforms to ensure the limits on parole revocations listed in Section 118 apply. Also conforming to ensure that any credits a parolee earned for compliance under Section 88 cannot indirectly be taken away through a board extension of the term of parole.

Section 130

33.16.220 - Revocation of Parole (New Subsection)

Changes the parole hearing process to ensure that revocation hearings for technical violations of parole occur within 15 days

Section 131

33.16.240 - Arrest of a Parole Violator (New Subsection)

Requires that a parolee arrested for a technical violation shall be released once the parole has served the maximum number of days for that technical violation. Allows the board to impose additional conditions as necessary

Section 132

33.16.270 – Earned Compliance Credits (New Section)

Requires the commissioner to establish a program allowing parolees to earn credits for complying with the conditions of parole.

Section 133

33.16.900 - Definitions (New Paragraph)

Defines “administrative sanctions and incentives” as a response by a parole officer to a parolee’s compliance or noncompliance with the conditions of parole.

Section 134

33.20.010(a) – Computation of Good Time (Amended)

Conforming good time policy so it does not apply to those in prison for a technical violation.

Section 135

33.20.010(c) - Computation of Good Time (Amended)

In addition to providing good time credit for time spent in community residential centers, this section extends credit to individuals on electronic monitoring.

Section 136

33.20.010 - Computation of Good Time (New Subsection)

Allows prisoners convicted of a sexual felony to receive earned credit upon completion of treatment requirements listed in the prisoner’s case plan.

Section 137

33.30.011 - Duties of Commissioner (Amended)

Requires the commissioner of corrections to establish a program to assess risk levels for pretrial defendants, as well as establish a procedure for providing a written case plan to prisoners within 90 days of sentencing and a reentry plan at least 90 days before release. Additionally, this section establishes standards for electronic monitoring and the approval of private contractors that provide electronic monitoring.

Section 138

33.30.013(a) - Commissioner to Notify Victims (New Subsection)

Requires the Department of Corrections to notify the victim if the parolee is eligible for a parole reduction for compliance with conditions.

Section 139

30.30.095 - Duties of Commissioner before Release of Prisoner (New Section)

Requires the Department of Corrections to establish a program to prepare a prisoner for re-entry that begins 90 days before the date of release. The program must include a re-entry plan and instruction on resources available in the community and obtaining state identification.

Section 140

33.30.151 - Correctional Restitution Centers (Amended)

Requires CRC's to provide treatment, reduce mixing low and high risk offenders, and adopt quality assurance measures, including standards for assessing risk levels.

Section 141

34.03.360(7) – Definitions (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 142

43.23.065(b) - Exemption of and Levy on Permanent Fund Dividends (Amended)

Conforms to ensure that forfeiture of an appearance or performance bond is not exempted from permanent fund dividend garnishment

Section 143

44.19.645 – Powers and duties of the commission (Amended)

Requires the commission to make recommendations to the governor and legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism. Establishes a working group to review and analyze implementation of recommendations.

Section 144

44.19.645 – Powers and duties of the commission (New Subsection)

Requires the commission to analyze available data to track and assess outcomes from recommendations. Establishes requirements for the Department of Public Safety, the Department of Correction, and the judiciary to report their data to the commission.

Section 145

44.19.647 – Annual Report and Recommendations (Amended)

Requires the commission to submit an annual report to the governor and legislature detailing the events of the past year, the savings produced by reforms, reinvestment recommendations, and performance metrics.

Section 146

44.19.647 – Annual Report and Recommendations (New Subsection)

Requires the commission submit the reports no later than November 1 of each year.

Section 147

44.66.010(a)(12) – Expiration of state boards and commissions

Extends the life of the commission until 2021.

Section 148

47.27.015 - Disqualifying Conditions (New Subsection)

Lifts the restriction on eligibility for food stamps for persons convicted of drug felonies, provided the individual is compliant with conditions of probation, has completed treatment, or is working toward rehabilitation.

Section 149

47.37.040 – Duties of department (Amended)

Conforms ASAP to changes in DUI policies.

Section 150

47.37.130(h) – Comprehensive program for treatment; regional facilities. (Amended)

Requires the department to develop regulations for ASAP programs, including the use of a risk assessment tool and the appropriate supervision levels.

Section 151

47.37.130 - – Comprehensive program for treatment; regional facilities (New Subsection)

Establishes that ASAP provides assessments based on the risk of the person to re-offend and the criminal risk factors contributing to the risk.

Section 152

Uncodified Law

Amendment to Court Rule 38 of the Alaska Rules of Criminal Procedure providing for hearing reminders to defendants.

Section 153

Uncodified Law

Amendment to Court Rule 41 of the Alaska Rules of Criminal Procedure prohibiting bail schedules for misdemeanors or felonies.

Section 154

Uncodified Law

Repeals Court Rules 41(d) and (e) in conformance with

Section 155

Uncodified Law

Repealed AS 11.46.140(a)(3), AS 11.46.220(c)(2)(B), AS 11.71.020, 11.71.040(a)(3), 11.71.050(a)(2), AS 12.55.135(j), and AS 33.16.100(e)

Section 156

Uncodified Law

Indirect Court Rule Amendments to the Alaska Rules of Criminal Procedure, changing rules 6, 41, 32, 43, 32.1,

Section 157

Uncodified Law

Applicability provisions.

Section 158

Uncodified Law

Provides that certain sections of the bill are conditional on a two-thirds majority vote of each house.

Section 159

Uncodified Law

Establishes effective date of July 1, 2016 for Sections 1 -21, 28-40, 62, 62, 65, 67, 69, 73, 76-88, 91, 93-95, 134, 135, 143 – 151, and 155.

Section 160

Uncodified Law

Establishes effective date of July 1, 2017 for Sections 58 – 60, 66, 68, 70 – 72, 74, 75, 89, 90, 92, 96-98, 100 – 133, and 136- 140.

Section 161

Uncodified Law

Establishes effective date of July 1, 2018 for Section 152

Section 162

Uncodified Law

Establishes effective date of July 1, 2018 for Sections 22 – 27, 41 – 57, 63, 99, 142, 152- 154, and 156(f).

29-LS0896H
Martin/Gardner
3/10/16

CS FOR HOUSE BILL NO. 205()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES MILLETT, LeDoux, Tarr

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to criminal law and procedure; relating to controlled substances;**
2 **relating to probation; relating to sentencing; establishing a pretrial services program**
3 **with pretrial services officers in the Department of Corrections; relating to permanent**
4 **fund dividends; relating to electronic monitoring; relating to penalties for violations of**
5 **municipal ordinances; relating to parole; relating to correctional restitution centers;**
6 **relating to community work service; relating to revocation, termination, suspension,**
7 **cancellation, or restoration of a driver's license; relating to the disqualification of**
8 **persons convicted of certain felony drug offenses from participation in the food stamp**
9 **and temporary assistance programs; relating to the duties of the commissioner of**
10 **corrections; amending Rules 6, 32, 32.1, 38, 41, and 43, Alaska Rules of Criminal**
11 **Procedure, and repealing Rules 41(d) and (e), Alaska Rules of Criminal Procedure; and**
12 **providing for an effective date."**

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

2 * **Section 1.** AS 11.41.110(a) is amended to read:

3 (a) A person commits the crime of murder in the second degree if

4 (1) with intent to cause serious physical injury to another person or
5 knowing that the conduct is substantially certain to cause death or serious physical
6 injury to another person, the person causes the death of any person;

7 (2) the person knowingly engages in conduct that results in the death
8 of another person under circumstances manifesting an extreme indifference to the
9 value of human life;

10 (3) under circumstances not amounting to murder in the first degree
11 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
12 person commits or attempts to commit arson in the first degree, kidnapping, sexual
13 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
14 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
15 degree, escape in the first or second degree, robbery in any degree, or misconduct
16 involving a controlled substance under AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) -
17 (8) [11.71.020(a), 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1) or (2) and, in the course
18 of or in furtherance of that crime or in immediate flight from that crime, any person
19 causes the death of a person other than one of the participants;

20 (4) acting with a criminal street gang, the person commits or attempts
21 to commit a crime that is a felony and, in the course of or in furtherance of that crime
22 or in immediate flight from that crime, any person causes the death of a person other
23 than one of the participants; or

24 (5) the person with criminal negligence causes the death of a child
25 under the age of 16, and the person has been previously convicted of a crime involving
26 a child under the age of 16 that was

27 (A) a felony violation of AS 11.41;

28 (B) in violation of a law or ordinance in another jurisdiction
29 with elements similar to a felony under AS 11.41; or

30 (C) an attempt, a solicitation, or a conspiracy to commit a
31 crime listed in (A) or (B) of this paragraph.

1 * **Sec. 2.** AS 11.41.150(a) is amended to read:

2 (a) A person commits the crime of murder of an unborn child if the person

3 (1) with intent to cause the death of an unborn child or of another
4 person, causes the death of an unborn child;

5 (2) with intent to cause serious physical injury to an unborn child or to
6 another person or knowing that the conduct is substantially certain to cause death or
7 serious physical injury to an unborn child or to another person, causes the death of an
8 unborn child;

9 (3) while acting alone or with one or more persons, commits or
10 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
11 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
12 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
13 first or second degree, robbery in any degree, or misconduct involving a controlled
14 substance under AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) - (8) [11.71.020(a),
15 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1) or (2), and, in the course of or in
16 furtherance of that crime or in immediate flight from that crime, any person causes the
17 death of an unborn child;

18 (4) knowingly engages in conduct that results in the death of an unborn
19 child under circumstances manifesting an extreme indifference to the value of human
20 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
21 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
22 does not constitute conduct manifesting an extreme indifference to the value of human
23 life.

24 * **Sec. 3.** AS 11.46.130(a) is amended to read:

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

27 (1) the value of the property or services, adjusted for inflation as
28 provided in AS 11.46.982, is \$2,000 [\$750] or more but less than \$25,000;

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

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

31 (4) the property is taken from a vessel and is vessel safety or survival

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equipment;

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

(6) the value of the property, adjusted for inflation as provided in AS 11.46.982, is \$250 or more but less than \$2,000 [\$750] and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of

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

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

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

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

(7) the property is an access device.

* **Sec. 4.** AS 11.46.140(a) is amended to read:

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

(1) the value of the property or services, adjusted for inflation as provided in AS 11.46.982, is \$250 or more but less than \$2,000 [\$750]; or

(2) [REPEALED]

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

* **Sec. 5.** AS 11.46.150(a) is amended to read:

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is less than \$250, adjusted for inflation as provided in AS 11.46.982.

* **Sec. 6.** AS 11.46.220(c) is amended to read:

1 (c) Concealment of merchandise is

2 (1) a class C felony if

3 (A) the merchandise is a firearm;

4 (B) the value of the merchandise, adjusted for inflation as
5 provided in AS 11.46.982, is \$2,000 [\$750] or more; or

6 (C) the value of the merchandise, adjusted for inflation as
7 provided in AS 11.46.982, is \$250 or more but less than \$2,000 [\$750] and,
8 within the preceding five years, the person has been convicted and sentenced
9 on two or more separate occasions in this or another jurisdiction of

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

13 (ii) an offense under AS 11.46.120, 11.46.130, or
14 11.46.140(a)(1), or an offense under another law or ordinance with
15 similar elements;

16 (2) a class A misdemeanor if

17 (A) the value of the merchandise, adjusted for inflation as
18 provided in AS 11.46.982, is \$250 or more but less than \$2,000 [\$750]; or

19 (B) the value of the merchandise is less than \$250 and, within
20 the preceding five years, the person has been convicted and sentenced on two
21 or more separate occasions of the offense of concealment of merchandise or
22 theft in any degree, or an offense under another law or ordinance with similar
23 elements;

24 (3) a class B misdemeanor if the value of the merchandise, adjusted
25 for inflation as provided in AS 11.46.982, is less than \$250.

26 * Sec. 7. AS 11.46.260(b) is amended to read:

27 (b) Removal of identification marks is

28 (1) a class C felony if the value of the property on which the serial
29 number or identification mark appeared, adjusted for inflation as provided in
30 AS 11.46.982, is \$2,000 [\$750] or more;

31 (2) a class A misdemeanor if the value of the property on which the

1 serial number or identification mark appeared, adjusted for inflation as provided in
2 AS 11.46.982, is \$250 or more but less than \$2,000 [\$750];

3 (3) a class B misdemeanor if the value of the property on which the
4 serial number or identification mark appeared, adjusted for inflation as provided in
5 AS 11.46.982, is less than \$250.

6 * **Sec. 8.** AS 11.46.270(b) is amended to read:

7 (b) Unlawful possession is

8 (1) a class C felony if the value of the property on which the serial
9 number or identification mark appeared, adjusted for inflation as provided in
10 AS 11.46.982, is \$2,000 [\$750] or more;

11 (2) a class A misdemeanor if the value of the property on which the
12 serial number or identification mark appeared, adjusted for inflation as provided in
13 AS 11.46.982, is \$250 or more but less than \$2,000 [\$750];

14 (3) a class B misdemeanor if the value of the property on which the
15 serial number or identification mark appeared, adjusted for inflation as provided in
16 AS 11.46.982, is less than \$250.

17 * **Sec. 9.** AS 11.46.280(d) is amended to read:

18 (d) Issuing a bad check is

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

20 (2) a class C felony if the face amount of the check, adjusted for
21 inflation as provided in AS 11.46.982, is \$2,000 [\$750] or more but less than
22 \$25,000;

23 (3) a class A misdemeanor if the face amount of the check, adjusted
24 for inflation as provided in AS 11.46.982, is \$250 or more but less than \$2,000
25 [\$750];

26 (4) a class B misdemeanor if the face amount of the check, adjusted
27 for inflation as provided in AS 11.46.982, is less than \$250.

28 * **Sec. 10.** AS 11.46.285(b) is amended to read:

29 (b) Fraudulent use of an access device is

30 (1) a class B felony if the value of the property or services obtained is
31 \$25,000 or more;

1 (2) a class C felony if the value of the property or services obtained,
2 **adjusted for inflation as provided in AS 11.46.982**, is **\$2,000** [\$750] or more but
3 less than \$25,000;

4 (3) a class A misdemeanor if the value of the property or services
5 obtained, **adjusted for inflation as provided in AS 11.46.982**, is less than **\$2,000**
6 [\$750].

7 * **Sec. 11.** AS 11.46.295 is amended to read:

8 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior
9 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) [OR
10 11.46.140(a)(3),] or in prosecuting the crime of concealment of merchandise under
11 AS 11.46.220(c),

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

15 (2) a conviction for an offense under Alaska law where the value of the
16 property or services for the offense was lower than the value of property or services
17 for the offense under current Alaska law is a prior conviction for that offense; and

18 (3) the court shall consider the date of a prior conviction as occurring
19 on the date that sentence is imposed for the prior offense.

20 * **Sec. 12.** AS 11.46.360(a) is amended to read:

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

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

26 (2) the propelled vehicle of another and

27 (A) the vehicle or any other property of another is damaged in a
28 total amount, **adjusted for inflation as provided in AS 11.46.982**, of **\$2,000**
29 [\$750] or more;

30 (B) the owner incurs reasonable expenses, **adjusted for**
31 **inflation as provided in AS 11.46.982**, as a result of the loss of use of the

1 vehicle, in a total amount of \$2,000 [\$750] or more; or

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

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

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

8 (A) this section or AS 11.46.365;

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

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

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

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

16 * **Sec. 13.** AS 11.46.460 is amended to read:

17 **Sec. 11.46.460. Disregard of a highway obstruction.** (a) A person commits
18 the offense [CRIME] of disregard of a highway obstruction if, without the right to do
19 so or a reasonable ground to believe the person has the right, the person

20 (1) drives a vehicle through, over, or around an obstruction erected on
21 [UPON] a highway under authority of AS 19.10.100; or

22 (2) opens an obstruction erected on [UPON] a highway under authority
23 of AS 19.10.100.

24 (b) Violation of this section is a violation punishable by a fine of not more
25 than \$1,000 [CLASS B MISDEMEANOR].

26 * **Sec. 14.** AS 11.46.482(a) is amended to read:

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

30 (1) with intent to damage property of another, the person damages
31 property of another in an amount, adjusted for inflation as provided in

1 AS 11.46.982, of \$2,000 [\$750] or more;

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

4 (3) the person knowingly

5 (A) defaces, damages, or desecrates a cemetery or the contents
6 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,
7 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or
8 memorial appears to be abandoned, lost, or neglected;

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

12 * **Sec. 15.** AS 11.46.484(a) is amended to read:

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

16 (1) with intent to damage property of another, the person damages
17 property of another in an amount, adjusted for inflation as provided in
18 AS 11.46.982, of \$250 or more but less than \$2,000 [\$750];

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

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

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

27 (5) the person knowingly removes, relocates, defaces, alters, obscures,
28 shoots at, destroys, or otherwise tampers with an official traffic control device or
29 damages the work on [UPON] a highway under construction.

30 * **Sec. 16.** AS 11.46.486(a) is amended to read:

31 (a) A person commits the offense [CRIME] of criminal mischief in the fifth

1 degree if, having no right to do so or any reasonable ground to believe the person has
2 such a right,

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

6 (2) with intent to damage property of another, the person damages
7 property of another in an amount, adjusted for inflation as provided in
8 AS 11.46.982, less than \$250; or

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

11 * **Sec. 17.** AS 11.46.530(b) is amended to read:

12 (b) Criminal simulation is

13 (1) a class C felony if the value of what the object purports to
14 represent, adjusted for inflation as provided in AS 11.46.982, is \$2,000 [\$750] or
15 more;

16 (2) a class A misdemeanor if the value of what the object purports to
17 represent, adjusted for inflation as provided in AS 11.46.982, is \$250 or more but
18 less than \$2,000 [\$750];

19 (3) a class B misdemeanor if the value of what the object purports to
20 represent, adjusted for inflation as provided in AS 11.46.982, is less than \$250.

21 * **Sec. 18.** AS 11.46.620(d) is amended to read:

22 (d) Misapplication of property is

23 (1) a class C felony if the value of the property misapplied, adjusted
24 for inflation as provided in AS 11.46.982, is \$2,000 [\$750] or more;

25 (2) a class A misdemeanor if the value of the property misapplied,
26 adjusted for inflation as provided in AS 11.46.982, is less than \$2,000 [\$750].

27 * **Sec. 19.** AS 11.46.730(c) is amended to read:

28 (c) Defrauding creditors is a class A misdemeanor unless that secured party,
29 judgment creditor, or creditor incurs a pecuniary loss, adjusted for inflation as
30 provided in AS 11.46.982, of \$2,000 [\$750] or more as a result of [TO] the
31 defendant's conduct, in which case defrauding secured creditors is

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- (1) a class B felony if the loss is \$25,000 or more;
- (2) a class C felony if the loss, **adjusted for inflation as provided in AS 11.46.982**, is **\$2,000** [\$750] or more but less than \$25,000.

* **Sec. 20.** AS 11.46.980 is amended by adding a new subsection to read:

(d) In making a finding related to the degree or classification of a crime under this chapter, a court shall refer to the most recent property value threshold set by the Alaska Judicial Council under AS 11.46.982.

* **Sec. 21.** AS 11.46 is amended by adding a new section to read:

Sec. 11.46.982. Adjustment for inflation increasing the value of property or services as an element of an offense. (a) The Alaska Judicial Council shall publish a report on July 1, 2020, calculating the increase in value, if any, of property or services as an element of an offense in this chapter from a base value of \$250 and \$2,000, based on a formula provided by the Department of Labor and Workforce Development, reflecting the change in the Consumer Price Index for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics, United States Department of Labor.

(b) The Alaska Judicial Council shall, in calculating the price of property or services as provided in this section,

- (1) recalculate the base value of property and services of \$250 and \$2,000 every five years; and
- (2) report the base value of property and services of \$250 and \$2,000 rounded to the nearest \$50 increment.

(c) The Alaska Judicial Council shall publish the report provided in this section by electronically providing copies of the report

- (1) to all law enforcement agencies in the state;
- (2) the Public Defender Agency;
- (3) the office of public advocacy;
- (4) the attorney general;
- (5) the court system;
- (6) on the judicial council's Internet website; and
- (7) to the senate secretary and the chief clerk of the house of

1 representatives.

2 * **Sec. 22.** AS 11.56.730(a) is amended to read:

3 (a) A person commits the offense [CRIME] of failure to appear if the person

4 (1) is released under the provisions of AS 12.30;

5 (2) knows that the person is required to appear before a court or
6 judicial officer at the time and place of a scheduled hearing; and

7 (3) with criminal negligence does not appear before the court or
8 judicial officer at the time and place of the scheduled hearing.

9 * **Sec. 23.** AS 11.56.730(c) is amended to read:

10 (c) A person who commits failure to appear incurs a forfeiture of any security
11 for any appearance of the person that was given or pledged to the court for the person's
12 release [, AND IS GUILTY OF A

13 (1) CLASS C FELONY IF THE PERSON WAS RELEASED IN
14 CONNECTION WITH A CHARGE OF A FELONY, OR WHILE AWAITING
15 SENTENCE OR APPEAL AFTER CONVICTION OF A FELONY;

16 (2) CLASS A MISDEMEANOR IF THE PERSON WAS RELEASED
17 IN CONNECTION WITH A

18 (A) CHARGE OF A MISDEMEANOR, OR WHILE
19 AWAITING SENTENCE OR APPEAL AFTER CONVICTION OF A
20 MISDEMEANOR; OR

21 (B) REQUIREMENT TO APPEAR AS A MATERIAL
22 WITNESS IN A CRIMINAL PROCEEDING].

23 * **Sec. 24.** AS 11.56.730 is amended by adding new subsections to read:

24 (d) Failure to appear is a

25 (1) class A misdemeanor if the person

26 (A) does not make contact with the court or a judicial officer
27 within 30 days after the person does not appear at the time and place of a
28 scheduled hearing; or

29 (B) does not appear at the time and place of a scheduled
30 hearing to avoid prosecution; or

31 (2) violation punishable by a fine of up to \$1,000.

1 (e) In a prosecution for failure to appear under (a) of this section, it is not a
2 defense that the defendant did not receive a reminder notification from a court or
3 judicial officer under Rule 38(e), Alaska Rules of Criminal Procedure.

4 * **Sec. 25.** AS 11.56.757(a) is amended to read:

5 (a) A person commits the offense [CRIME] of violation of condition of
6 release if the person

7 (1) has been charged with a crime or convicted of a crime;

8 (2) has been released under AS 12.30; and

9 (3) violates a condition of release imposed by a judicial officer under
10 AS 12.30, other than the requirement to appear as ordered by a judicial officer.

11 * **Sec. 26.** AS 11.56.757(b) is amended to read:

12 (b) Violation of condition of release is a violation punishable by a fine of up
13 to \$1,000 [(1) A CLASS A MISDEMEANOR IF THE PERSON IS RELEASED
14 FROM A CHARGE OR CONVICTION OF A FELONY;

15 (2) A CLASS B MISDEMEANOR IF THE PERSON IS RELEASED
16 FROM A CHARGE OR CONVICTION OF A MISDEMEANOR].

17 * **Sec. 27.** AS 11.56.759(a) is amended to read:

18 (a) A person commits the crime of violation by sex offender of condition of
19 probation if the person

20 (1) is on probation for conviction of a sex offense;

21 (2) has served the entire term of incarceration imposed for conviction
22 of the sex offense; and

23 (3) violates a condition of probation imposed under
24 AS 12.55.100(a)(2)(E), (a)(2)(F) [AS 12.55.100(a)(5), (a)(6)], or (e), 12.55.101(a)(1),
25 or any other condition imposed by the court that the court finds to be specifically
26 related to the defendant's offense.

27 * **Sec. 28.** AS 11.61.110(c) is amended to read:

28 (c) Disorderly conduct is a class B misdemeanor [AND IS PUNISHABLE AS
29 AUTHORIZED IN AS 12.55 EXCEPT THAT A SENTENCE OF IMPRISONMENT,
30 IF IMPOSED, SHALL BE FOR A DEFINITE TERM OF NOT MORE THAN 10
31 DAYS].

1 * **Sec. 29.** AS 11.61.145(d) is amended to read:

2 (d) Promoting an exhibition of fighting animals

3 (1) under (a)(1) or (2) of this section is a class C felony;

4 (2) under (a)(3) of this section is

5 **(A)** a violation

6 **(i)** for the first offense;

7 **(ii) punishable by a fine of not more than \$1,000** [, A

8 CLASS B MISDEMEANOR] for the second offense; [,] and

9 **(B)** a class A misdemeanor for the third and each subsequent
10 offense.

11 * **Sec. 30.** AS 11.61.150(a) is amended to read:

12 (a) A person commits the **offense** [CRIME] of obstruction of highways if the
13 person knowingly

14 (1) places, drops, or permits to drop on a highway any substance that
15 creates a substantial risk of physical injury to others using the highway; or

16 (2) renders a highway impassable or passable only with unreasonable
17 inconvenience or hazard.

18 * **Sec. 31.** AS 11.61.150(c) is amended to read:

19 (c) Obstruction of highways is a **violation punishable by a fine of not more**
20 **than \$1,000** [CLASS B MISDEMEANOR].

21 * **Sec. 32.** AS 11.66.200(c) is amended to read:

22 (c) Gambling is a violation

23 **(1)** for the first offense;

24 **(2) punishable by a fine of not more than \$1,000** [. GAMBLING IS

25 A CLASS B MISDEMEANOR] for the second and each subsequent offense.

26 * **Sec. 33.** AS 11.71.030(a) is amended to read:

27 (a) Except as authorized in AS 17.30, a person commits the crime of
28 misconduct involving a controlled substance in the **second** [THIRD] degree if the
29 person

30 (1) [UNDER CIRCUMSTANCES NOT PROSCRIBED UNDER
31 AS 11.71.020(a)(2) - (6),] manufactures or delivers **2.5 grams or more** [ANY

1 AMOUNT] of a schedule IA, IIA, or IIIA controlled substance or possesses 2.5
2 grams or more [ANY AMOUNT] of a schedule IA, IIA, or IIIA controlled substance
3 with intent to manufacture or deliver;

4 (2) delivers any amount of a schedule IVA, VA, or VIA controlled
5 substance to a person under 19 years of age who is at least three years younger than
6 the person delivering the substance; [OR]

7 (3) possesses any amount of a schedule IA or IIA controlled substance

8 (A) with reckless disregard that the possession occurs

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

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

11 or

12 (B) on a school bus;

13 (4) manufactures any material, compound, mixture, or
14 preparation that contains

15 (A) methamphetamine, or its salts, isomers, or salts of
16 isomers; or

17 (B) an immediate precursor of methamphetamine, or its
18 salts, isomers, or salts of isomers;

19 (5) possesses an immediate precursor of methamphetamine, or the
20 salts, isomers, or salts of isomers of the immediate precursor of
21 methamphetamine, with the intent to manufacture any material, compound,
22 mixture, or preparation that contains methamphetamine, or its salts, isomers, or
23 salts of isomers;

24 (6) possesses a listed chemical with intent to manufacture any
25 material, compound, mixture, or preparation that contains

26 (A) methamphetamine, or its salts, isomers, or salts of
27 isomers; or

28 (B) an immediate precursor of methamphetamine, or its
29 salts, isomers, or salts of isomers;

30 (7) possesses methamphetamine in an organic solution with intent
31 to extract from it methamphetamine or its salts, isomers, or salts of isomers; or

1 (8) under circumstances not proscribed under AS 11.71.010(a)(2),
2 delivers

3 (A) an immediate precursor of methamphetamine, or the
4 salts, isomers, or salts of isomers of the immediate precursor of
5 methamphetamine, to another person with reckless disregard that the
6 precursor will be used to manufacture any material, compound, mixture,
7 or preparation that contains methamphetamine, or its salts, isomers, or
8 salts of isomers; or

9 (B) a listed chemical to another person with reckless
10 disregard that the listed chemical will be used to manufacture any
11 material, compound, mixture, or preparation that contains

12 (i) methamphetamine, or its salts, isomers, or salts of
13 isomers;

14 (ii) an immediate precursor of methamphetamine, or
15 its salts, isomers, or salts of isomers; or

16 (iii) methamphetamine or its salts, isomers, or salts
17 of isomers in an organic solution.

18 * Sec. 34. AS 11.71.030(c) is amended to read:

19 (c) Misconduct involving a controlled substance in the second [THIRD]
20 degree is a class B felony.

21 * Sec. 35. AS 11.71.030 is amended by adding new subsections to read:

22 (d) In a prosecution under (a) of this section, possession of more than six
23 grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or
24 the salts, isomers, or salts of isomers of those chemicals is prima facie evidence that
25 the person intended to use the listed chemicals to manufacture, aid or abet another
26 person to manufacture, or deliver to another person who intends to manufacture
27 methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers
28 of methamphetamine or its immediate precursors. The prima facie evidence described
29 in this subsection does not apply to a person who possesses

30 (1) the listed chemicals ephedrine, pseudoephedrine,
31 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

1 (A) and the listed chemical was dispensed to the person under a
2 valid prescription; or

3 (B) in the ordinary course of a legitimate business, or an
4 employee of a legitimate business, as a

5 (i) retailer or wholesaler;

6 (ii) wholesale drug distributor licensed by the Board of
7 Pharmacy;

8 (iii) manufacturer of drug products licensed by the
9 Board of Pharmacy;

10 (iv) pharmacist licensed by the Board of Pharmacy; or

11 (v) health care professional licensed by the state; or

12 (2) less than 24 grams of ephedrine, pseudoephedrine,
13 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals,
14 kept in a locked storage area on the premises of a legitimate business or nonprofit
15 organization operating a camp, lodge, school, day care center, treatment center, or
16 other organized group activity, and the location or nature of the activity, or the age of
17 the participants, makes it impractical for the participants in the activity to obtain
18 medicinal products.

19 (e) In this section, "listed chemical" means a chemical described under
20 AS 11.71.200.

21 * **Sec. 36.** AS 11.71.040(a) is amended to read:

22 (a) Except as authorized in AS 17.30, a person commits the crime of
23 misconduct involving a controlled substance in the third [FOURTH] degree if the
24 person

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

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

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- (3) possesses
 - (A) any amount of a
 - (i) schedule IA controlled substance; or
 - (ii) IIA controlled substance except a controlled substance listed in AS 11.71.150(e)(11) - (15);
 - (B) 25 or more tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;
 - (C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of
 - (i) three grams or more containing a schedule IIIA or IVA controlled substance except a controlled substance in a form listed in (ii) of this subparagraph;
 - (ii) 12 grams or more containing a schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material; or
 - (iii) 500 milligrams or more of a schedule IIA controlled substance listed in AS 11.71.150(e)(11) - (15);
 - (D) 50 or more tablets, ampules, or syrettes containing a schedule VA controlled substance;
 - (E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of six grams or more containing a schedule VA controlled substance;
 - (F) one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces or more containing a schedule VIA controlled substance; or
 - (G) 25 or more plants of the genus cannabis;
- (4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance
 - (A) with reckless disregard that the possession occurs
 - (i) on or within 500 feet of school grounds; or
 - (ii) at or within 500 feet of a recreation or youth center;

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or

(B) on a school bus;

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

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

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

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

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

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

(11) manufactures or delivers less than 2.5 grams of a schedule IA, IIA, or IIIA controlled substance or possesses less than 2.5 grams of a schedule IA, IIA, or IIIA controlled substance with intent to manufacture or deliver.

* Sec. 37. AS 11.71.040(d) is amended to read:

(d) Misconduct involving a controlled substance in the third [FOURTH] degree is a class C felony.

* Sec. 38. AS 11.71.050 is amended to read:

Sec. 11.71.050. Misconduct involving a controlled substance in the fourth [FIFTH] degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the fourth [FIFTH] degree if the person

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

5 (2) possesses

6 (A) less than 25 tablets, ampules, or syrettes containing a
7 schedule IIIA or IVA controlled substance;

8 (B) one or more preparations, compounds, mixtures, or
9 substances of an aggregate weight of less than

10 (i) three grams containing a schedule IIIA or IVA
11 controlled substance except a controlled substance in a form listed in

12 (ii) of this subparagraph;

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

17 (iii) 500 milligrams containing a schedule IIA
18 controlled substance listed in AS 11.71.150(e)(11) - (15);

19 (C) less than 50 tablets, ampules, or syrettes containing a
20 schedule VA controlled substance;

21 (D) one or more preparations, compounds, mixtures, or
22 substances of an aggregate weight of less than six grams containing a schedule
23 VA controlled substance; or

24 (E) one or more preparations, compounds, mixtures, or
25 substances of an aggregate weight of one ounce or more containing a schedule
26 VIA controlled substance; [OR]

27 (3) fails to make, keep, or furnish any record, notification, order form,
28 statement, invoice, or information required under AS 17.30; or

29 (4) under circumstances not proscribed under
30 AS 11.71.060(a)(2)(B), possesses any amount of a schedule IA, IIA, IIIA, IVA, or
31 VA controlled substance.

1 (b) Misconduct involving a controlled substance in the **fourth** [FIFTH] degree
2 is a class A misdemeanor.

3 * **Sec. 39.** AS 11.71.060 is amended to read:

4 **Sec. 11.71.060. Misconduct involving a controlled substance in the fifth**
5 **[SIXTH] degree.** (a) Except as authorized in AS 17.30, a person commits the crime
6 of misconduct involving a controlled substance in the **fifth** [SIXTH] degree if the
7 person

8 (1) uses or displays any amount of a schedule VIA controlled
9 substance;

10 (2) possesses one or more preparations, compounds, mixtures, or
11 substances of an aggregate weight of

12 (A) less than one ounce containing a schedule VIA controlled
13 substance;

14 (B) six grams or less containing a schedule IIIA controlled
15 substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or
16 otherwise applied to tobacco, an herb, or another organic material; or

17 (3) refuses entry into a premise for an inspection authorized under
18 AS 17.30.

19 (b) Misconduct involving a controlled substance in the **fifth** [SIXTH] degree
20 is a class B misdemeanor.

21 * **Sec. 40.** AS 11.71.311(a) is amended to read:

22 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
23 **11.71.040(a)(4), 11.71.050(a)(4)** [11.71.040(a)(3) OR (4), 11.71.050(a)(2)], or
24 11.71.060(a)(1) or (2) if that person

25 (1) sought, in good faith, medical or law enforcement assistance for
26 another person who the person reasonably believed was experiencing a drug overdose
27 and

28 (A) the evidence supporting the prosecution for an offense
29 under AS 11.71.030(a)(3), **11.71.040(a)(4), 11.71.050(a)(4)** [11.71.040(a)(3)
30 OR (4), 11.71.050(a)(2)], or 11.71.060(a)(1) or (2) was obtained or discovered
31 as a result of the person seeking medical or law enforcement assistance;

1 (B) the person remained at the scene with the other person until
2 medical or law enforcement assistance arrived; and

3 (C) the person cooperated with medical or law enforcement
4 personnel, including by providing identification;

5 (2) was experiencing a drug overdose and sought medical assistance,
6 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),
7 11.71.040(a)(4), 11.71.050(a)(4) [11.71.040(a)(3) OR (4), 11.71.050(a)(2)], or
8 11.71.060(a)(1) or (2) was obtained as a result of the overdose and the need for
9 medical assistance.

10 * **Sec. 41.** AS 12.25.150(a) is amended to read:

11 (a) A person arrested shall be taken before a judge or magistrate without
12 unnecessary delay [,] and in any event within 24 [48] hours after arrest, **absent**
13 **compelling circumstances**, including Sundays and holidays. **The hearing before the**
14 **judge or magistrate may not take place more than 48 hours after arrest.** This
15 requirement applies to municipal police officers to the same extent as it does to state
16 troopers.

17 * **Sec. 42.** AS 12.25.180 is amended to read:

18 **Sec. 12.25.180. When peace officer shall [MAY] issue citation or take**
19 **person before the court.** (a) When a peace officer stops or contacts a person for the
20 commission of a **class C felony offense that is not a crime against a person under**
21 **AS 11.41, arson in the third degree under AS 11.46.420, a misdemeanor,** or the
22 violation of a municipal ordinance, the officer **shall** [MAY, IN THE OFFICER'S
23 DISCRETION,] issue a citation to the person instead of taking the person before a
24 judge or magistrate under AS 12.25.150, unless

25 (1) the person does not furnish satisfactory evidence of identity;

26 (2) the contacting officer reasonably believes the person is a danger to
27 self or others;

28 (3) the crime for which the person is contacted is one involving
29 violence or harm to another person or to property;

30 (4) [THE PERSON ASKS TO BE TAKEN BEFORE A JUDGE OR
31 MAGISTRATE UNDER AS 12.25.150; OR

1 (5)] the peace officer has probable cause to believe the person
 2 committed a crime against a person under AS 11.41, a sexual offense, theft in the
 3 second degree under AS 11.46.130, escape under AS 11.56.300 - 11.56.330,
 4 unlawful evasion under AS 11.56.335 or 11.56.340, unlawful contact under
 5 AS 11.56.750 or 11.56.755, or a crime involving domestic violence; in this paragraph,

6 (A) "crime involving domestic violence" has the meaning given
 7 in AS 18.66.990; and

8 (B) "sexual offense" means an offense defined in
 9 AS 11.41.410 - 11.41.470;

10 (5) the person refuses to accept service of the citation;

11 (6) the peace officer reasonably believes there is a risk the
 12 defendant will fail to appear in court; or

13 (7) the peace officer is required to arrest the person under another
 14 provision of law.

15 (b) When a peace officer stops or contacts a person for the commission of an
 16 infraction or a violation, the officer shall issue a citation instead of taking the person
 17 before a judge or magistrate under AS 12.25.150, unless

18 (1) the person does not furnish satisfactory evidence of identity; [OR]

19 (2) the person refuses to accept service of the citation;

20 (3) the peace officer has probable cause to believe the person has
 21 committed a violation of conditions of release under AS 11.56.757; or

22 (4) the violation is disorderly conduct under AS 11.61.110, in
 23 which case the peace officer may make an arrest, but the person may be held for
 24 not more than 24 hours after arrest.

25 * Sec. 43. AS 12.25.180 is amended by adding a new subsection to read:

26 (c) A person may not bring a civil action for damages for a failure to comply
 27 with the provisions of this section.

28 * Sec. 44. AS 12.25.190(b) is amended to read:

29 (b) The time specified in the notice to appear shall be at least two [FIVE]
 30 working days after the issuance of the citation under AS 12.25.180(a).

31 * Sec. 45. AS 12.25.190 is amended by adding a new subsection to read:

1 (d) The time specified in the notice to appear shall be at least five working
2 days after issuance of the citation under AS 12.25.180(b).

3 * **Sec. 46.** AS 12.30.006(b) is amended to read:

4 (b) At the first appearance before a judicial officer, a person who is charged
5 with a felony may be detained up to 48 hours for the prosecuting authority to
6 demonstrate that release of the person under **AS 12.30.011** [AS 12.30.011(a)] would
7 not reasonably **ensure** [ASSURE] the appearance of the person or will pose a danger
8 to the victim, other persons, or the community.

9 * **Sec. 47.** AS 12.30.006(c) is amended to read:

10 (c) A person who remains in custody 48 hours after appearing before a judicial
11 officer because of inability to meet the conditions of release shall, upon application, be
12 entitled to have the conditions reviewed by the judicial officer who imposed them. If
13 the judicial officer who imposed the conditions of release is not available, any judicial
14 officer in the judicial district may review the conditions. **Upon review of the**
15 **conditions, the judicial officer shall revise any conditions of release that have**
16 **prevented the defendant from being released unless the judicial officer finds on**
17 **the record that there is clear and convincing evidence that less restrictive release**
18 **conditions cannot reasonably ensure the**

19 **(1) appearance of the person in court; and**

20 **(2) safety of the victim, other persons, and the community.**

21 * **Sec. 48.** AS 12.30.006(d) is amended to read:

22 (d) If a person remains in custody after review of conditions by a judicial
23 officer under (c) of this section, the person may request a subsequent review of
24 conditions. Unless the prosecuting authority stipulates otherwise or the person has
25 been incarcerated for a period equal to the maximum sentence for the most serious
26 charge for which the person is being held, a judicial officer may not schedule a bail
27 review hearing under this subsection unless

28 (1) the person provides to the court and the prosecuting authority a
29 written statement that new information not considered at the previous review will be
30 presented at the hearing; the statement must include a description of the information
31 and the reason the information was not presented at a previous hearing; in this

1 paragraph, "new information" **includes** [DOES NOT INCLUDE] the **person's**
2 inability to post the required bail;

3 (2) the prosecuting authority and any surety, if applicable, have at least
4 48 hours' written notice before the time set for the review requested under this
5 subsection; the defendant shall notify the surety; and

6 (3) at least seven days have elapsed between the previous review and
7 the time set for the requested review; **however, a person may only receive one bail**
8 **review hearing for inability to pay.**

9 * **Sec. 49.** AS 12.30.006(f) is amended to read:

10 (f) The judicial officer shall issue written or oral findings that explain the
11 reasons the officer imposed the particular conditions of release or modifications or
12 additions to conditions previously imposed. The judicial officer shall inform the
13 person that a law enforcement officer **or a pretrial services officer under AS 33.07**
14 may arrest the person without a warrant for violation of the court's order establishing
15 conditions of release.

16 * **Sec. 50.** AS 12.30.006 is amended by adding a new subsection to read:

17 (h) The first appearance under (a) and (b) of this section shall take place
18 within 24 hours after a person's arrest absent compelling circumstances, and in no
19 instance shall the first appearance take place more than 48 hours after a person's arrest.

20 * **Sec. 51.** AS 12.30.011 is amended to read:

21 **Sec. 12.30.011. Release before trial.** (a) **A** [EXCEPT AS OTHERWISE
22 PROVIDED IN THIS CHAPTER, A] judicial officer shall order a person charged
23 with an offense to be released on the person's personal recognizance, [OR] upon
24 execution of an unsecured appearance bond, **or upon execution of an unsecured**
25 **performance bond if** [ON THE CONDITION THAT THE PERSON]

26 (1) **the pretrial services officer, in a report required under**
27 **AS 33.07, determined that the person is a low or moderate risk defendant and the**
28 **person has been charged with a misdemeanor, or that the person is a low risk**
29 **defendant and has been charged with a class C felony; and**

30 (2) **the person has not been charged with an offense under**

31 **(A) AS 11.41;**

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(B) AS 11.56.730;

(C) AS 11.56.757;

(D) AS 18.66.990 that involves domestic violence;

(E) AS 28.35.030; or

(F) AS 28.35.032 [OBEY ALL COURT ORDERS AND ALL FEDERAL, STATE, AND LOCAL LAWS; (2) APPEAR IN COURT WHEN ORDERED;

(3) IF REPRESENTED, MAINTAIN CONTACT WITH THE PERSON'S LAWYER; AND

(4) NOTIFY THE PERSON'S LAWYER, WHO SHALL NOTIFY THE PROSECUTING AUTHORITY AND THE COURT, NOT MORE THAN 24 HOURS AFTER THE PERSON CHANGES RESIDENCE].

(b) The [IF A JUDICIAL OFFICER DETERMINES THAT THE RELEASE UNDER (a) OF THIS SECTION WILL NOT REASONABLY ASSURE THE APPEARANCE OF THE PERSON OR WILL POSE A DANGER TO THE VICTIM, OTHER PERSONS, OR THE COMMUNITY, THE OFFICER SHALL IMPOSE THE LEAST RESTRICTIVE CONDITION OR CONDITIONS THAT WILL REASONABLY ASSURE THE PERSON'S APPEARANCE AND PROTECT THE VICTIM, OTHER PERSONS, AND THE COMMUNITY. IN ADDITION TO CONDITIONS UNDER (a) OF THIS SECTION, THE] judicial officer may impose the least restrictive additional conditions on a person released under this section that the judicial officer determines are necessary to reasonably ensure the person's appearance and the safety of the victim, other persons, and the community. Singly [, SINGLY] or in combination, the additional conditions may

(1) [REQUIRE THE EXECUTION OF AN APPEARANCE BOND IN A SPECIFIED AMOUNT OF CASH TO BE DEPOSITED INTO THE REGISTRY OF THE COURT, IN A SUM NOT TO EXCEED 10 PERCENT OF THE AMOUNT OF THE BOND;

(2) REQUIRE THE EXECUTION OF A BAIL BOND WITH SUFFICIENT SOLVENT SURETIES OR THE DEPOSIT OF CASH;

(3) REQUIRE THE EXECUTION OF A PERFORMANCE BOND IN

1 A SPECIFIED AMOUNT OF CASH TO BE DEPOSITED IN THE REGISTRY OF
2 THE COURT; (4)] place restrictions on the person's travel, association, or residence;

3 (2) [(5)] order the person to refrain from possessing a deadly weapon
4 on the person or in the person's vehicle or residence;

5 (3) [(6)] require the person to maintain employment or, if unemployed,
6 actively seek employment;

7 (4) [(7)] require the person to notify the person's lawyer and the
8 prosecuting authority within two business days after any change in employment;

9 (5) [(8)] require the person to avoid all contact with a victim, a
10 potential witness, or a codefendant;

11 (6) [(9)] require the person to refrain from the consumption and
12 possession of alcoholic beverages;

13 (7) [(10)] require the person to refrain from the use of a controlled
14 substance as defined by AS 11.71, unless prescribed by a licensed health care provider
15 with prescriptive authority;

16 (8) [(11)] require the person to be physically inside the person's
17 residence, or in the residence of the person's third-party custodian, at time periods set
18 by the court, subject to AS 12.30.021;

19 (9) [(12)] require the person to keep regular contact with a pretrial
20 services officer or law enforcement officer or agency;

21 (10) [(13)] order the person to refrain from entering or remaining in
22 premises licensed under AS 04;

23 (11) [(14)] place the person in the custody of an individual who agrees
24 to serve as a third-party custodian of the person as provided in AS 12.30.021;

25 (12) [(15)] if the person is under the treatment of a licensed health care
26 provider, order the person to follow the provider's treatment recommendations;

27 (13) [(16)] order the person to take medication that has been prescribed
28 for the person by a licensed health care provider with prescriptive authority;

29 (14) [(17)] order the person to comply with any other condition that is
30 reasonably necessary to assure the appearance of the person and to assure the safety of
31 the victim, other persons, and the community;

1 **(15)** [(18)] require the person to comply with a program established
2 under AS 47.38.020 if the person has been charged with an alcohol-related or
3 substance-abuse-related offense that is an unclassified felony, a class A felony, a
4 sexual felony, or a crime involving domestic violence.

5 (c) In determining the conditions of release under this chapter, the court shall
6 consider the following:

- 7 (1) the nature and circumstances of the offense charged;
8 (2) the weight of the evidence against the person;
9 (3) the nature and extent of the person's family ties and relationships;
10 (4) the person's employment status and history;
11 (5) the length and character of the person's past and present residence;
12 (6) the person's record of convictions;
13 (7) the person's record of appearance at court proceedings;
14 (8) assets available to the person to meet monetary conditions of
15 release;
16 (9) the person's reputation, character, and mental condition;
17 (10) the effect of the offense on the victim, any threats made to the
18 victim, and the danger that the person poses to the victim;
19 (11) any other facts that are relevant to the person's appearance or the
20 person's danger to the victim, other persons, or the community;

21 **(12) the conditions of release recommended by the pretrial services**
22 **officer;**

23 **(13) the person's pretrial risk assessment score.**

24 (d) In making a finding regarding the release of a person under this chapter,
25 [(1) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER,] the burden of
26 proof is on the prosecuting authority that a person charged with an offense should be
27 detained or released with conditions described in [(b) OF] this section or AS 12.30.016
28 [;

29 (2) THERE IS A REBUTTABLE PRESUMPTION THAT NO
30 CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY
31 ASSURE THE APPEARANCE OF THE PERSON OR THE SAFETY OF THE

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VICTIM, OTHER PERSONS, OR THE COMMUNITY, IF THE PERSON IS

(A) CHARGED WITH AN UNCLASSIFIED FELONY, A CLASS A FELONY, A SEXUAL FELONY, OR A FELONY UNDER AS 28.35.030 OR 28.35.032;

(B) CHARGED WITH A FELONY CRIME AGAINST A PERSON UNDER AS 11.41, WAS PREVIOUSLY CONVICTED OF A FELONY CRIME AGAINST A PERSON UNDER AS 11.41 IN THIS STATE OR A SIMILAR OFFENSE IN ANOTHER JURISDICTION, AND LESS THAN FIVE YEARS HAVE ELAPSED BETWEEN THE DATE OF THE PERSON'S UNCONDITIONAL DISCHARGE ON THE IMMEDIATELY PRECEDING OFFENSE AND THE COMMISSION OF THE PRESENT OFFENSE;

(C) CHARGED WITH A FELONY OFFENSE COMMITTED WHILE THE PERSON WAS ON RELEASE UNDER THIS CHAPTER FOR A CHARGE OR CONVICTION OF ANOTHER OFFENSE;

(D) CHARGED WITH A CRIME INVOLVING DOMESTIC VIOLENCE, AND HAS BEEN CONVICTED IN THE PREVIOUS FIVE YEARS OF A CRIME INVOLVING DOMESTIC VIOLENCE IN THIS STATE OR A SIMILAR OFFENSE IN ANOTHER JURISDICTION;

(E) ARRESTED IN CONNECTION WITH AN ACCUSATION THAT THE PERSON COMMITTED A FELONY OUTSIDE THE STATE OR IS A FUGITIVE FROM JUSTICE FROM ANOTHER JURISDICTION, AND THE COURT IS CONSIDERING RELEASE UNDER AS 12.70].

* **Sec. 52.** AS 12.30.011 is amended by adding new subsections to read:

(e) Except as provided in (f) of this section, a judicial officer may order that a person charged with an offense, in addition to other conditions imposed under this section, be released

- (1) on the person's own recognizance;
- (2) upon execution of an unsecured appearance bond; or
- (3) upon execution of an unsecured performance bond.

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(f) A judicial officer shall order a person charged with an offense released on the person's own recognizance, upon execution of an unsecured appearance bond, or upon execution of an unsecured performance bond, unless the judicial officer makes a finding on the record that there is clear and convincing evidence that no nonmonetary conditions of release in combination with the release of the person on the person's own recognizance or upon the execution of an unsecured performance bond can reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community, if the person has been assessed by a pretrial services officer under AS 33.07 as a

(1) low risk defendant, unless a judicial officer orders the defendant to be released as provided in (a) and (b) of this section;

(2) high risk defendant, and the defendant has been charged with a misdemeanor that does not include an offense under

- (A) AS 11.41;
- (B) AS 11.56.730;
- (C) AS 11.56.757; or
- (D) AS 18.66.990 that involves domestic violence;

(3) moderate to high risk defendant, and the defendant has been charged with a class C felony that does not include an offense under

- (A) AS 11.41;
- (B) AS 11.56.730;
- (C) AS 11.56.757; or
- (D) AS 18.66.990 that involves domestic violence; or

(4) low to moderate risk defendant, and the defendant has been charged with an offense under

- (A) AS 11.56.730; or
- (B) AS 11.56.757.

(g) A person released under this section shall be released on the condition that the person

- (1) obey all court orders;
- (2) obey all laws;

- 1 (3) make all court appearances;
- 2 (4) maintain contact with the person's pretrial services officer, if one is
- 3 appointed by the court, and follow the pretrial services officer's instructions;
- 4 (5) maintain contact with the person's attorney;
- 5 (6) notify the person's attorney or, if the person is not represented by
- 6 an attorney, the pretrial services officer or the court within 24 hours after a change in
- 7 the person's residence.

8 (h) If a person charged with an offense is not required under this section to be

9 released on the person's own recognizance, upon execution of an unsecured

10 appearance bond, or upon execution of an unsecured performance bond, a judicial

11 officer may, singly or in combination, require that the person deposit with the court

12 and execute

13 (1) an appearance bond with a full or partial posting of the specified

14 amount of the bond with the condition that the deposit be returned upon the

15 appearance of the defendant at scheduled hearings;

16 (2) a bail bond with sufficient solvent sureties or the deposit of cash; or

17 (3) a performance bond with a full or partial posting of the amount of

18 the bond with the condition that the deposit be returned upon the performance of the

19 conditions of release set by the court.

20 (i) A judicial officer may require supervision by a pretrial services officer to

21 ensure compliance with the conditions of release.

22 * **Sec. 53.** AS 12.30.016(b) is amended to read:

23 (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,

24 AS 28.35.030, or 28.35.032, a judicial officer may order the person

25 (1) to refrain from

26 (A) consuming alcoholic beverages; or

27 (B) possessing on the person, in the person's residence, or in

28 any vehicle or other property over which the person has control, alcoholic

29 beverages;

30 (2) to submit to a search without a warrant of the person, the person's

31 personal property, the person's residence, or any vehicle or other property over which

1 the person has control, for the presence of alcoholic beverages by a peace officer **or**
2 **pretrial services officer** who has reasonable suspicion that the person is violating the
3 conditions of the person's release by possessing alcoholic beverages;

4 (3) to submit to a breath test when requested by a law enforcement
5 officer **or pretrial services officer**;

6 (4) to provide a sample for a urinalysis or blood test when requested by
7 a law enforcement officer **or pretrial services officer**;

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

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

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

13 * **Sec. 54.** AS 12.30.016(c) is amended to read:

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

16 (1) to refrain from

17 (A) consuming a controlled substance; or

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

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

27 (3) to enroll in a random drug testing program, at the person's expense,
28 **with testing to occur not less than once a week, or to submit to random drug**
29 **testing by the pretrial services office in the Department of Corrections** to detect
30 the presence of a controlled substance, [WITH TESTING TO OCCUR NOT LESS
31 THAN ONCE A WEEK, AND] with the results being submitted to the court and the

1 prosecuting authority;

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

4 (5) to refrain from being physically present at, within a two-block area
5 of, or within a designated area near, the location where the alleged offense occurred or
6 at other designated places, unless the person actually resides within that area;

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

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

9 * **Sec. 55.** AS 12.30.016(d) is amended to read:

10 (d) In a prosecution charging misconduct involving a controlled substance
11 under **AS 11.71.030(a)(4)** [AS 11.71.020(a)(2)] for the manufacture of
12 methamphetamine, or its salts, isomers, or salts of isomers, if the person has been
13 previously convicted in this or another jurisdiction of a crime involving the
14 manufacturing, delivering, or possessing of methamphetamine, or its salts, isomers, or
15 salts of isomers, a judicial officer shall require the posting of a minimum of \$250,000
16 cash bond before the person may be released. The judicial officer may reduce this
17 requirement if the person proves to the satisfaction of the officer that the person's only
18 role in the offense was as an aider or abettor and that the person did not stand to
19 benefit financially from the manufacturing.

20 * **Sec. 56.** AS 12.30.021(a) is amended to read:

21 (a) In addition to other conditions imposed under AS 12.30.011 or 12.30.016,
22 a judicial officer may appoint a third-party custodian if the officer finds, **on the**
23 **record,** that

24 **(1) pretrial supervision under AS 33.07 is not available in the**
25 **person's location;**

26 **(2) no secured appearance or performance bonds have been**
27 **ordered; and**

28 **(3) no other conditions of release or combination of conditions can**
29 [THE APPOINTMENT WILL, SINGLY OR IN COMBINATION WITH OTHER
30 CONDITIONS,] reasonably **ensure** [ASSURE] the person's appearance and the safety
31 of the victim, other persons, and the community.

1 * **Sec. 57.** AS 12.30.021(c) is amended to read:

2 (c) A judicial officer may not appoint a person as a third-party custodian if

3 (1) the proposed custodian is acting as a third-party custodian for
4 another person;

5 (2) the proposed custodian has been convicted in the previous three
6 years of a crime under AS 11.41 or a similar crime in this or another jurisdiction;

7 (3) criminal charges are pending in this state or another jurisdiction
8 against the proposed custodian;

9 (4) the proposed custodian is on probation in this state or another
10 jurisdiction for an offense;

11 (5) there is a reasonable probability that the state will call the
12 proposed custodian [MAY BE CALLED] as a witness in the prosecution of the
13 person;

14 (6) the proposed custodian resides out of state; however, a nonresident
15 may serve as a custodian if the nonresident resides in the state while serving as
16 custodian.

17 * **Sec. 58.** AS 12.30.055 is amended by adding a new subsection to read:

18 (b) A person who is in custody in connection with a petition to revoke
19 probation for a technical violation of probation under AS 12.55.110 shall be released
20 after the person has served the maximum number of days that the court could impose
21 on the person for a technical violation of probation under AS 12.55.110.

22 * **Sec. 59.** AS 12.55.025(a) is amended to read:

23 (a) When imposing a sentence for conviction of a felony offense or a sentence
24 of imprisonment exceeding 90 days or upon a conviction of a violation of AS 04, a
25 regulation adopted under AS 04, or an ordinance adopted in conformity with
26 AS 04.21.010, the court shall prepare, as a part of the record, a sentencing report that
27 includes the following:

28 (1) a verbatim record of the sentencing hearing and any other in-court
29 sentencing procedures;

30 (2) findings on material issues of fact and on factual questions required
31 to be determined as a prerequisite to the selection of the sentence imposed;

1 (3) a clear statement of the terms of the sentence imposed; if a term of
2 imprisonment is imposed, the statement must include

3 (A) the approximate minimum term the defendant is expected
4 to serve before being released or placed on mandatory parole if the defendant
5 is eligible for and does not forfeit good conduct deductions under
6 AS 33.20.010; and

7 (B) if applicable, the approximate minimum term of
8 imprisonment the defendant must serve before becoming eligible for release on
9 discretionary or administrative parole;

10 (4) any recommendations as to the place of confinement or the manner
11 of treatment; and

12 (5) in the case of a conviction for a felony offense, information
13 assessing

14 (A) the financial, emotional, and medical effects of the offense
15 on the victim;

16 (B) the need of the victim for restitution; and

17 (C) any other information required by the court.

18 * **Sec. 60.** AS 12.55.025(c) is amended to read:

19 (c) Except as provided in (d) of this section, when a defendant is sentenced to
20 imprisonment, the term of confinement commences on the date of imposition of
21 sentence unless the court specifically provides that the defendant must report to serve
22 the sentence on another date. If the court provides another date to begin the term of
23 confinement, the court shall provide the defendant with written notice of the date,
24 time, and location of the correctional facility to which the defendant must report. A
25 defendant shall receive credit for time spent in custody pending trial, sentencing, or
26 appeal, if the detention was in connection with the offense for which sentence was
27 imposed including a technical violation of probation as provided in AS 12.55.110.
28 A defendant may not receive credit for more than the actual time spent in custody
29 pending trial, sentencing, or appeal. The time during which a defendant is voluntarily
30 absent from official detention after the defendant has been sentenced may not be
31 credited toward service of the sentence.

1 * **Sec. 61.** AS 12.55.027(d) is amended to read:

2 (d) A court may grant credit **of not more than 120 days** against **the total**
3 **term** [A SENTENCE] of imprisonment **imposed following conviction for an offense**
4 for time spent under electronic monitoring **that complies with AS 33.30.011(10)**, if
5 the person has not committed a criminal offense while under electronic monitoring
6 and the court imposes restrictions on the person's freedom of movement and behavior
7 while under the electronic monitoring program, including requiring the person to be
8 confined to a residence except for a

9 (1) court appearance;

10 (2) meeting with counsel; or

11 (3) period during which the person is at a location ordered by the court
12 for the purposes of employment, attending educational or vocational training,
13 performing community volunteer work, or attending a rehabilitative activity or
14 medical appointment.

15 * **Sec. 62.** AS 12.55.051(a) is amended to read:

16 (a) If the defendant defaults in the payment of a fine or any installment or of
17 restitution or any installment, the court may order the defendant to show cause why
18 the defendant should not be sentenced to imprisonment for nonpayment and, if the
19 payment was made a condition of the defendant's probation, may revoke the probation
20 of the defendant **subject to the limits set out in AS 12.55.110**. In a contempt or
21 probation revocation proceeding brought as a result of failure to pay a fine or
22 restitution, it is an affirmative defense that the defendant was unable to pay despite
23 having made continuing good faith efforts to pay the fine or restitution. If the court
24 finds that the defendant was unable to pay despite having made continuing good faith
25 efforts, the defendant may not be imprisoned solely because of the inability to pay. If
26 the court does not find that the default was attributable to the defendant's inability to
27 pay despite having made continuing good faith efforts to pay the fine or restitution, the
28 court may order the defendant imprisoned **subject to the limits set out in**
29 **AS 12.55.110** [UNTIL THE ORDER OF THE COURT IS SATISFIED]. A term of
30 imprisonment imposed under this section may not exceed one day for each \$50 of the
31 unpaid portion of the fine or restitution or one year, whichever is shorter. Credit shall

1 be given toward satisfaction of the order of the court for every day a person is
2 incarcerated for nonpayment of a fine or restitution.

3 * **Sec. 63.** AS 12.55.051 is amended by adding a new subsection to read:

4 (k) The Department of Law may garnish a permanent fund dividend under
5 AS 43.23.065 or garnish other income of a defendant as allowed by state law to collect
6 restitution ordered by the court.

7 * **Sec. 64.** AS 12.55.055(a) is amended to read:

8 (a) The court may order a defendant convicted of an offense under AS 04,
9 AS 28, or AS 47.12.030, that specifically provides for community work as
10 authorized punishment to perform community work as a condition of probation, [A
11 SUSPENDED SENTENCE,] or may order community work in a suspended
12 imposition of sentence, [OR] in addition to any fine or restitution ordered. [IF THE
13 DEFENDANT IS SENTENCED TO IMPRISONMENT, THE COURT MAY
14 RECOMMEND TO THE DEPARTMENT OF CORRECTIONS THAT THE
15 DEFENDANT PERFORM COMMUNITY WORK.]

16 * **Sec. 65.** AS 12.55.055(c) is amended to read:

17 (c) The court may offer a defendant convicted of an offense the option of
18 performing community work in lieu of a fine, surcharge, or portion of a fine or
19 surcharge if the court finds the defendant is unable to pay the fine. The value of
20 community work in lieu of a fine is the state's minimum wage for each [\$3 PER]
21 hour.

22 * **Sec. 66.** AS 12.55.055 is amended by adding new subsections to read:

23 (g) The court may not

24 (1) offer a defendant convicted of an offense the option of serving jail
25 time in lieu of performing uncompleted community work previously ordered by the
26 court; or

27 (2) convert uncompleted community work hours into a sentence of
28 imprisonment.

29 (h) If a court orders community work as part of the defendant's sentence under
30 this section, the court shall provide notice to the defendant at sentencing and include
31 as a provision of the judgment that if the defendant fails to provide proof of

1 community work within 20 days after the date set by the court, the court shall convert
2 those community work hours to a fine equal to the number of uncompleted work hours
3 multiplied by the state's minimum hourly wage and issue a judgment against the
4 defendant for that amount.

5 * **Sec. 67.** AS 12.55 is amended by adding a new section to read:

6 **Sec. 12.55.078. Suspending entry of judgment.** (a) Except as provided in (g)
7 of this section, if a person is found guilty or pleads guilty to a crime, the court may,
8 with the consent of the defendant and the prosecution and without imposing or
9 entering a judgment of guilt, defer further proceedings and place the person on
10 probation.

11 (b) The court shall impose conditions of probation for a person on probation
12 as provided in (a) of this section, which may include that the person

- 13 (1) abide by all local, state, and federal laws;
- 14 (2) not leave the state without prior consent of the court;
- 15 (3) pay restitution as ordered by the court; and
- 16 (4) obey any other conditions of probation set by the court.

17 (c) At any time during the probationary term of the person released on
18 probation, a probation officer may, without warrant or other process, rearrest the
19 person so placed in the officer's care and bring the person before the court, or the court
20 may, in its discretion, issue a warrant for the rearrest of the person. The court may
21 revoke and terminate the probation if the court finds that the person placed upon
22 probation is

- 23 (1) violating the conditions of probation;
- 24 (2) engaging in criminal practices; or
- 25 (3) violating an order of the court to participate in or comply with the
26 treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

27 (d) If the court finds that the person has successfully completed probation, the
28 court shall, at the end of the probationary period set by the court, or at any time after
29 the expiration of one year from the date of the original probation, discharge the person
30 and dismiss the proceedings against the person.

31 (e) If the court finds that the person has violated the conditions of probation

1 ordered by the court, the court may revoke and terminate the person's probation, enter
2 judgment on the person's previous plea or finding of guilt, and pronounce sentence at
3 any time within the maximum probation period authorized by this section.

4 (f) The court may not suspend imposing or entering the judgment and defer
5 prosecution under this section of a person who

6 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260
7 - 11.41.320, 11.41.360 - 11.41.370, 11.41.410 - 11.41.530, AS 11.46.400,
8 AS 11.61.125 - 11.61.128, or AS 11.66.110 - 11.66.135;

9 (2) uses a firearm in the commission of the offense for which the
10 person is convicted;

11 (3) has previously been granted a suspension of judgment under this
12 section or a similar statute in another jurisdiction, unless the court enters written
13 findings that by clear and convincing evidence the person's prospects for rehabilitation
14 are high and suspending judgment under this section adequately protects the victim of
15 the offense, if any, and the community;

16 (4) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
17 and the person has one or more prior convictions for a misdemeanor violation of
18 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction
19 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a
20 felony in this state; for the purposes of this paragraph, a person shall be considered to
21 have a prior conviction even if

22 (A) the charges were dismissed under this section;

23 (B) the conviction has been set aside under AS 12.55.085; or

24 (C) the charge or conviction was dismissed or set aside under
25 an equivalent provision of the laws of another jurisdiction; or

26 (5) has been convicted of a crime involving domestic violence, as
27 defined by AS 18.66.990.

28 * **Sec. 68.** AS 12.55.090(b) is amended to read:

29 (b) Except as otherwise provided in (f) of this section, the court may revoke or
30 modify any condition of probation, [OR MAY] change the period of probation, or
31 terminate probation and discharge the defendant from probation.

1 * **Sec. 69.** AS 12.55.090(c) is amended to read:

2 (c) The period of probation, together with any extension, may not exceed

3 (1) **five** [25] years for **an unclassified felony under AS 11 or** a felony
4 sex offense; [OR]

5 (2) **three** [10] years for **a felony** [ANY OTHER] offense **not listed in**
6 **(1) of this subsection;**

7 **(3) two years for a misdemeanor offense**

8 **(A) involving domestic violence;**

9 **(B) under AS 28.35.030 or 28.35.032, if the person has**
10 **previously been convicted of an offense under AS 28.35.030 or 28.35.032,**
11 **or a similar law or ordinance of this or another jurisdiction; or**

12 **(4) one year for an offense not listed in (1) - (3) of this subsection.**

13 * **Sec. 70.** AS 12.55.090(f) is amended to read:

14 (f) Unless the defendant and the prosecuting authority agree at the probation
15 revocation proceeding or other proceeding **related to a probation violation, the**
16 **person qualifies for a reduction under AS 33.05.020(h) or a probation officer**
17 **recommends to the court that probation be terminated and the defendant be**
18 **discharged from probation under (g) of this section or AS 33.05.040,** the court may
19 not reduce the specific period of probation [,] or the specific term of suspended
20 incarceration except by the amount of incarceration imposed for a probation violation,
21 if

22 (1) the sentence was imposed in accordance with a plea agreement
23 under Rule 11, Alaska Rules of Criminal Procedure; and

24 (2) the agreement required a specific period of probation or a specific
25 term of suspended incarceration.

26 * **Sec. 71.** AS 12.55.090 is amended by adding new subsections to read:

27 (g) A probation officer shall recommend to the court that probation be
28 terminated and a defendant be discharged from probation if the defendant

29 (1) has completed at least one year on probation;

30 (2) has completed all treatment programs required as a condition of
31 probation;

1 (3) is currently in compliance with all conditions of probation; and

2 (4) has not been convicted of an unclassified felony offense, a sexual
3 felony as defined by AS 12.55.185, or a crime involving domestic violence as defined
4 by AS 18.66.990.

5 (h) Before a court may terminate probation and discharge the defendant before
6 the period of probation for the offense has been completed under (g) of this section,
7 the court shall allow victims to comment in writing to the court or allow a victim to
8 give sworn testimony or make an unsworn oral presentation at a hearing held to
9 determine whether to reduce the period of probation or terminate probation and
10 discharge the defendant.

11 (i) If a probation officer recommends to the court that probation be terminated
12 and a defendant be discharged from probation under (g) of this section, the court shall,
13 if feasible, send a copy of the motion to the Department of Corrections sufficiently in
14 advance of any scheduled hearing to enable the Department of Corrections to notify
15 the victim of that crime. If the victim has earlier requested to be notified, the
16 Department of Corrections shall send the victim notice of the recommendation under
17 (g) of this section and inform the victim of the victim's rights under this section, the
18 deadline for receipt of written comments, the hearing date, and the court's address.

19 (j) The court shall provide copies of the victim's written comments to the
20 prosecuting attorney, the defendant, and the defendant's attorney.

21 (k) In deciding whether to terminate probation and discharge the defendant
22 from probation under (g) of this section, the court shall consider the victim's
23 comments, testimony, or unsworn oral presentation, when relevant, and any response
24 by the prosecuting attorney and defendant.

25 (l) If a victim desires notice under this section, the victim shall maintain a
26 current, valid mailing address on file with the commissioner of corrections. The
27 commissioner shall send the notice to the victim's last known address. The victim's
28 address may not be disclosed to the defendant or the defendant's attorney.

29 (m) The court shall discharge the defendant from probation upon completion
30 of the period of probation. The period of probation is considered to be completed
31 when the combination of time served and credits earned under AS 33.05.020 is equal

1 to the probation period imposed.

2 * **Sec. 72.** AS 12.55.100(a) is amended to read:

3 (a) While on probation and among the conditions of probation, the defendant

4 **(1) shall be required to obey all state, federal, and local laws or**
5 **ordinances, and any court orders applicable to the probationer; and**

6 **(2)** may be required

7 **(A)** [(1)] to pay a fine in one or several sums;

8 **(B)** [(2)] to make restitution or reparation to aggrieved parties
9 for actual damages or loss caused by the crime for which conviction was had,
10 including compensation to a victim that is a nonprofit organization for the
11 value of labor or goods provided by volunteers if the labor or goods were
12 necessary to alleviate or mitigate the effects of the defendant's crime; when
13 determining the amount of actual damages or loss under this paragraph, the
14 court shall value property as the market value of the property at the time and
15 place of the crime or, if the market value cannot reasonably be ascertained, the
16 cost of the replacement of the property within a reasonable time after the
17 crime;

18 **(C)** [(3)] to provide for the support of any persons for whose
19 support the defendant is legally responsible;

20 **(D)** [(4)] to perform community work in accordance with
21 AS 12.55.055;

22 **(E)** [(5)] to participate in or comply with the treatment plan of
23 an inpatient or outpatient rehabilitation program specified by either the court or
24 the defendant's probation officer that is related to the defendant's offense or to
25 the defendant's rehabilitation;

26 **(F)** [(6)] to satisfy the screening, evaluation, referral, and
27 program requirements of an agency authorized by the court to make referrals
28 for rehabilitative treatment or to provide rehabilitative treatment;

29 **(G)** [AND (7)] to comply with a program established under
30 AS 47.38.020; **and**

31 **(H) to comply with the sanctions imposed by the**

1 **defendant's probation officer under AS 33.05.020(g).**

2 * **Sec. 73.** AS 12.55.100(c) is amended to read:

3 (c) A program of inpatient treatment may be required by the authorized
4 agency under **(a)(2)(F)** [(a)(6)] of this section only if authorized in the judgment, and
5 may not exceed the maximum term of inpatient treatment specified in the judgment. A
6 person who has been referred for inpatient treatment may make a written request to the
7 sentencing court asking the court to review the referral. The request for review shall be
8 made within seven days **after** [OF] the agency's referral, and shall specifically set out
9 the grounds **on** [UPON] which the request for review is based. The court may order a
10 hearing on the request for review.

11 * **Sec. 74.** AS 12.55.110 is amended by adding new subsections to read:

12 (c) If a defendant is serving a period of probation for an offense, the court may
13 find that the defendant has committed a technical violation of probation. If the court
14 finds that a defendant has committed a technical violation of probation that does not
15 include absconding, the court may reinstate the term of probation with appropriate
16 conditions or impose a sentence of imprisonment of not more than

17 (1) three days for the first petition to revoke probation filed with the
18 court;

19 (2) five days for the second petition to revoke probation filed with the
20 court;

21 (3) 10 days for the third petition to revoke probation filed with the
22 court; or

23 (4) up to the remainder of the suspended portion of the sentence for a
24 fourth or subsequent petition to revoke probation.

25 (d) If the court revokes a person's probation for absconding, the court may
26 impose a period of imprisonment not to exceed 30 days.

27 (e) The limits set out in this section on the length of imprisonment for a
28 revocation do not apply if a probationer is enrolled in a program established under
29 AS 33.05.020(f).

30 (f) If the defendant is ordered to complete treatment under
31 AS 12.55.100(a)(2)(E) and does not comply with the court's order, the court may order

1 the defendant to show cause why the defendant should not be sentenced to
2 imprisonment for noncompletion of treatment and may revoke the suspended sentence
3 subject to the limits established in this section. In a contempt or probation revocation
4 proceeding brought as a result of failure to complete treatment, it is an affirmative
5 defense that the defendant was unable to afford the cost of treatment or secure a place
6 in a free treatment program, despite having made continuing good faith efforts. If the
7 court finds that the defendant was unable to complete treatment despite having made
8 continuing good faith efforts, the defendant may not be imprisoned solely because of
9 an inability to pay. If the court does not find that the noncompletion of treatment was
10 attributable to the defendant's inability to pay, the court may order the defendant
11 imprisoned subject to the limits established in this section.

12 (g) In this section,

13 (1) "absconding" means failing to report within five working days after
14 release from custody under AS 33.20.030 or failing to report for a scheduled meeting
15 with a probation officer as ordered by the court or as directed by the probation officer,
16 and failing to make contact with the probation officer within 30 days following the
17 missed meeting;

18 (2) "technical violation" means a violation of the conditions of
19 probation that does not result from

20 (A) an arrest for a new criminal offense; or

21 (B) failing to complete sex offender treatment.

22 * **Sec. 75.** AS 12.55.115 is amended to read:

23 **Sec. 12.55.115. Fixing eligibility for discretionary or administrative parole**
24 **at sentencing.** The court may, as part of a sentence of imprisonment, further restrict
25 the eligibility of a prisoner for discretionary or administrative parole for a term
26 greater than that required under AS 33.16.089, 33.16.090, [AS 33.16.090] and
27 33.16.100.

28 * **Sec. 76.** AS 12.55.125(c) is amended to read:

29 (c) Except as provided in (i) of this section, a defendant convicted of a class A
30 felony may be sentenced to a definite term of imprisonment of not more than 20 years,
31 and shall be sentenced to a definite term within the following presumptive ranges,

1 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

2 (1) if the offense is a first felony conviction and does not involve
3 circumstances described in (2) of this subsection, three [FIVE] to six [EIGHT] years;

4 (2) if the offense is a first felony conviction

5 (A) and the defendant possessed a firearm, used a dangerous
6 instrument, or caused serious physical injury or death during the commission
7 of the offense, or knowingly directed the conduct constituting the offense at a
8 uniformed or otherwise clearly identified peace officer, firefighter, correctional
9 employee, emergency medical technician, paramedic, ambulance attendant, or
10 other emergency responder who was engaged in the performance of official
11 duties at the time of the offense, five [SEVEN] to nine [11] years;

12 (B) and the conviction is for manufacturing related to
13 methamphetamine under AS 11.71.030(a)(4)(A) or (B)
14 [AS 11.71.020(a)(2)(A) OR (B)], seven to 11 years, if

15 (i) the manufacturing occurred in a building with
16 reckless disregard that the building was used as a permanent or
17 temporary home or place of lodging for one or more children under 18
18 years of age or the building was a place frequented by children; or

19 (ii) in the course of manufacturing or in preparation for
20 manufacturing, the defendant obtained the assistance of one or more
21 children under 18 years of age or one or more children were present;

22 (3) if the offense is a second felony conviction, eight [10] to 12 [14]
23 years;

24 (4) if the offense is a third felony conviction and the defendant is not
25 subject to sentencing under (l) of this section, 13 [15] to 20 years.

26 * Sec. 77. AS 12.55.125(d) is amended to read:

27 (d) Except as provided in (i) of this section, a defendant convicted of a class B
28 felony may be sentenced to a definite term of imprisonment of not more than 10 years,
29 and shall be sentenced to a definite term within the following presumptive ranges,
30 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

31 (1) if the offense is a first felony conviction and does not involve

1 circumstances described in (2) of this subsection, zero [ONE] to two [THREE] years;
2 a defendant sentenced under this paragraph may, if the court finds it appropriate, be
3 granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of
4 probation under AS 12.55.086, the defendant is required to serve an active term of
5 imprisonment within the range specified in this paragraph, unless the court finds that a
6 mitigation factor under AS 12.55.155 applies;

7 (2) if the offense is a first felony conviction,

8 (A) the defendant violated AS 11.41.130, and the victim was a
9 child under 16 years of age, two to four years;

10 (B) two to four years if the conviction is for an attempt,
11 solicitation, or conspiracy to manufacture related to methamphetamine under
12 AS 11.31 and AS 11.71.030(a)(4)(A) or (B) [AS 11.71.020(a)(2)(A) OR (B)],
13 and

14 (i) the attempted manufacturing occurred, or the
15 solicited or conspired offense was to have occurred, in a building with
16 reckless disregard that the building was used as a permanent or
17 temporary home or place of lodging for one or more children under 18
18 years of age or the building was a place frequented by children; or

19 (ii) in the course of an attempt to manufacture, the
20 defendant obtained the assistance of one or more children under 18
21 years of age or one or more children were present;

22 (3) if the offense is a second felony conviction, two [FOUR] to five
23 [SEVEN] years;

24 (4) if the offense is a third felony conviction, four [SIX] to 10 years.

25 * **Sec. 78.** AS 12.55.125(e) is amended to read:

26 (e) Except as provided in (i) of this section, a defendant convicted of a class C
27 felony may be sentenced to a definite term of imprisonment of not more than five
28 years, and shall be sentenced to a definite term within the following presumptive
29 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

30 (1) if the offense is a first felony conviction and does not involve
31 circumstances described in (4) of this subsection, probation, with a suspended term

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of imprisonment of zero to 18 months [TWO YEARS; A DEFENDANT SENTENCED UNDER THIS PARAGRAPH MAY, IF THE COURT FINDS IT APPROPRIATE, BE GRANTED A SUSPENDED IMPOSITION OF SENTENCE UNDER AS 12.55.085, AND THE COURT MAY, AS A CONDITION OF PROBATION UNDER AS 12.55.086, REQUIRE THE DEFENDANT TO SERVE AN ACTIVE TERM OF IMPRISONMENT WITHIN THE RANGE SPECIFIED IN THIS PARAGRAPH];

(2) if the offense is a second felony conviction, one to three [TWO TO FOUR] years;

(3) if the offense is a third felony conviction, two [THREE] to five years;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years.

* Sec. 79. AS 12.55.135(a) is amended to read:

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than

(1) one year, if the

(A) conviction is for a crime with a mandatory minimum term of more than 30 days of active imprisonment; or

(B) trier of fact finds the aggravating factor that

(i) the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

or

(ii) the defendant has past criminal convictions for conduct violative of criminal laws, punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced; or

(C) conviction is for an assault in the fourth degree that is a crime involving domestic violence; or

(2) 30 days.

* Sec. 80. AS 12.55.135(b) is amended to read:

1 (b) A defendant convicted of a class B misdemeanor may be sentenced to a
2 definite term of imprisonment of not more than 10 [90] days unless otherwise
3 specified in the provision of law defining the offense or in this section.

4 * **Sec. 81.** AS 12.55.135 is amended by adding new subsections to read:

5 (l) A court sentencing a person convicted of theft in the fourth degree under
6 AS 11.46.150, concealment of merchandise under AS 11.46.220(c)(2), removal of
7 identification marks under AS 11.46.260(b)(3), unlawful possession under
8 AS 11.46.270(b)(3), issuing a bad check under AS 11.46.280(d)(4), or criminal
9 simulation under AS 11.46.530(b)(3) may not impose

10 (1) a sentence of more than five days of suspended imprisonment and a
11 term of probation of more than six months if the person has previously been convicted
12 two or more times of an offense under AS 11.46.110 - 11.46.220, 11.46.260 -
13 11.46.290, 11.46.360 or 11.46.365, or a law or ordinance of this or another jurisdiction
14 with substantially similar elements; or

15 (2) a sentence of active or suspended imprisonment if the person has
16 not been previously convicted, or has previously been convicted once, of an offense
17 under AS 11.46.110 - 11.46.220, 11.46.260 - 11.46.290, 11.46.360 or 11.46.365, or a
18 law or ordinance of this or another jurisdiction with substantially similar elements.

19 (m) A court may not impose a sentence of imprisonment for a definite term of
20 more than 24 hours for a person convicted of disorderly conduct under AS 11.61.110.

21 (n) A court sentencing a person convicted of misconduct involving a
22 controlled substance in the fifth degree under AS 11.71.050(a)(4) or a person
23 convicted of misconduct involving a controlled substance in the sixth degree under
24 AS 11.71.060(a)(2) may not impose

25 (1) a sentence of active imprisonment, unless the person has previously
26 been convicted more than once of an offense under AS 11.71 or a law of this or
27 another jurisdiction with elements substantially similar to an offense under AS 11.71;
28 or

29 (2) a sentence of suspended imprisonment greater than

30 (A) 30 days, if the defendant has not been previously convicted
31 of an offense under AS 11.71 or a law of this or another jurisdiction with

1 elements substantially similar to an offense under AS 11.71; or

2 (B) 180 days, if the person has been previously convicted of an
3 offense under AS 11.71 or a law of this or another jurisdiction with elements
4 substantially similar to an offense under AS 11.71.

5 (o) If an aggravating factor is a necessary element of the present offense, that
6 factor may not be used to impose a sentence above the high end of the range.

7 (p) If the state seeks to establish an aggravating factor at sentencing

8 (1) under (a)(1)(B)(ii) or (iii) of this section, written notice must be
9 served on the opposing party and filed with the court not later than 10 days before the
10 date set for imposition of sentence; the aggravating factors in (a)(1) of this section
11 must be established by clear and convincing evidence before the court sitting without a
12 jury; all findings must be set out with specificity;

13 (2) aggravating factors in (a)(1)(B)(i) of this section shall be presented
14 to a trial jury under procedures set by the court, unless the defendant waives trial by
15 jury, stipulates to the existence of the factor, or consents to have the factor proven
16 under procedures set out in (1) of this subsection; an aggravating factor presented to a
17 jury is established if proved beyond a reasonable doubt; written notice of the intent to
18 establish an aggravating factor must be served on the defendant and filed with the
19 court

20 (A) 20 days before trial or at a time specified by the court;

21 (B) within 48 hours, or at a time specified by the court, if the
22 court instructs the jury about the option to return a verdict for a lesser included
23 offense; or

24 (C) five days before entering a plea that results in a finding of
25 guilt or at a time specified by the court.

26 * **Sec. 82.** AS 12.61.015(a) is amended to read:

27 (a) If a victim of a felony or a crime involving domestic violence requests, the
28 prosecuting attorney shall make a reasonable effort to

29 (1) confer with the person against whom the offense has been
30 perpetrated about that person's testimony before the defendant's trial;

31 (2) in a manner reasonably calculated to give prompt actual notice,

1 notify the victim

2 (A) of the defendant's conviction and the crimes of which the
3 defendant was convicted;

4 (B) of the victim's right in a case that is a felony to make a
5 written or oral statement for use in preparation of the defendant's presentence
6 report, and of the victim's right to appear personally at the defendant's
7 sentencing hearing to present a written statement and to give sworn testimony
8 or an unsworn oral presentation;

9 (C) of the address and telephone number of the office that will
10 prepare the presentence report; and

11 (D) of the time and place of the sentencing proceeding;

12 (3) notify the victim in writing of the final disposition of the case
13 within 30 days after final disposition of the case;

14 (4) confer with the victim [OF A CRIME INVOLVING DOMESTIC
15 VIOLENCE] concerning a proposed plea agreement before entering into an
16 agreement;

17 (5) inform the victim of a pending motion that may substantially delay
18 the prosecution and inform the court of the victim's position on the motion; in this
19 paragraph, a "substantial delay" is

20 (A) for a misdemeanor, a delay of one month or longer;

21 (B) for a felony, a delay of two months or longer; and

22 (C) for an appeal, a delay of six months or longer.

23 * **Sec. 83.** AS 28.15.165 is amended by adding a new subsection to read:

24 (e) A person whose driver's license, privilege to drive, or privilege to obtain a
25 license has been revoked under this section as a result of a refusal to submit to a
26 chemical test authorized under AS 28.35.031(a) or (g) or a similar municipal
27 ordinance or a chemical test administered under AS 28.35.031(a) or (g) or a similar
28 municipal ordinance in which the test produced a result described in
29 AS 28.35.030(a)(2) may request that the department rescind the revocation. The
30 department shall rescind a revocation under this subsection if the department finds that
31 the person has supplied proof in a form satisfactory to the department that

1 (1) the person has been acquitted of driving while under the influence
2 under AS 28.35.030, refusal to submit to a chemical test under AS 28.35.032, or a
3 similar municipal ordinance for the incident on which the revocation was based; or

4 (2) all criminal charges against the person for driving while under the
5 influence under AS 28.35.030 or a similar municipal ordinance and refusing to submit
6 to a chemical test under AS 28.35.032 or a similar municipal ordinance in relation to
7 the incident on which the revocation is based have been dismissed with prejudice.

8 * **Sec. 84.** AS 28.15.181(f) is amended to read:

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

11 (1) **either**

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

15 (B) **the person**

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

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

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

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

26 (e).

27 * **Sec. 85.** AS 28.15.201 is amended by adding new subsections to read:

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

- 1 (1) the revocation was for a felony conviction under AS 28.35.030;
- 2 (2) the person has successfully participated for at least six months in,
3 or has successfully completed, a court-ordered treatment program under
4 AS 28.35.028;
- 5 (3) the person provides proof of insurance as required by AS 28.20.230
6 and 28.20.240;
- 7 (4) the person is required to use an ignition interlock device during the
8 period of the limited license whenever the person operates a motor vehicle in a
9 community not included in the list published by the department under
10 AS 28.22.011(b) and, when applicable,
- 11 (A) the person provides proof of installation of the ignition
12 interlock device on every vehicle the person operates;
- 13 (B) the person signs an affidavit acknowledging that
- 14 (i) operation by the person of a vehicle that is not
15 equipped with an ignition interlock device is subject to penalties for
16 driving with a revoked license;
- 17 (ii) circumventing or tampering with the ignition
18 interlock device is a class A misdemeanor; and
- 19 (iii) the person is required to maintain the ignition
20 interlock device throughout the period of the limited license, to keep
21 up-to-date records in each vehicle showing that any required service
22 and calibration is current, and to produce those records immediately on
23 request;
- 24 (5) the person is enrolled in and is in compliance with or has
25 successfully completed the alcoholism screening, evaluation, referral, and program
26 requirements of the Department of Health and Social Services under AS 28.35.030(h);
- 27 (6) the person has not previously been granted a limited license under
28 this subsection and had the license revoked under (h) of this section;
- 29 (7) the person is participating in a program established under
30 AS 47.38.020 for a minimum of 120 days from the date a limited license is granted
31 under this section.

1 (h) The court or the department may immediately revoke a limited license
2 granted under (g) of this section if the person is convicted of a violation of
3 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction
4 or if the person is not in compliance with a court-ordered treatment program under
5 AS 28.35.028.

6 * **Sec. 86.** AS 28.15.291(a) is repealed and reenacted to read:

7 (a) A person commits the crime of driving while license canceled, suspended,
8 revoked, or in violation of a limitation if the person drives

9 (1) a motor vehicle on a highway or vehicular way or area at a time
10 when that person's driver's license, privilege to drive, or privilege to obtain a license
11 has been canceled, suspended, or revoked under circumstances described in
12 AS 28.15.181(c) or a similar law in another jurisdiction;

13 (2) a motor vehicle on a highway or vehicular way or area at a time
14 when that person's driver's license, privilege to drive, or privilege to obtain a license
15 has been canceled, suspended, or revoked under circumstances other than those
16 described in (1) of this subsection; or

17 (3) in violation of a limitation placed on that person's license or
18 privilege to drive in this or another jurisdiction.

19 * **Sec. 87.** AS 28.15.291(b) is repealed and reenacted to read:

20 (b) Driving while license canceled, suspended, revoked, or in violation of a
21 limitation is

22 (1) a class A misdemeanor if the person violates (a)(1) of this section;
23 upon conviction the court shall impose a minimum sentence of imprisonment of not
24 less than 10 days

25 (A) with 10 days suspended if the person has not been
26 previously convicted under (a)(1) of this section or a similar law of another
27 jurisdiction; or

28 (B) if the person has been previously convicted under (a)(1) of
29 this section or a similar law in another jurisdiction;

30 (2) an infraction if the person violates (a)(2) or (3) of this section.

31 * **Sec. 88.** AS 28.35.028(b) is amended to read:

1 (b) Once the court elects to proceed under this section, the defendant shall
2 enter a no contest or guilty plea to the offense or shall admit to a probation violation,
3 as appropriate. The state and the defendant may enter into a plea agreement to
4 determine the offense or offenses to which the defendant is required to plead. If the
5 court accepts the agreement, the court shall enforce the terms of the agreement. The
6 court shall enter a judgment of conviction for the offense or offenses for which the
7 defendant has pleaded or an order finding that the defendant has violated probation, as
8 appropriate. A judgment of conviction or an order finding a probation violation must
9 set a schedule for payment of restitution owed by the defendant. In a judgment of
10 conviction and on probation conditions that the court considers appropriate, the court
11 may withhold pronouncement of a period of imprisonment or a fine to provide an
12 incentive for the defendant to complete recommended treatment successfully.
13 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any
14 mandatory minimum or other sentencing provision applicable to the offense.
15 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any
16 other provision of law, the court, at any time after the period when a reduction of
17 sentence is normally available, may consider and reduce the defendant's sentence,
18 **including imprisonment, fine, or license revocation,** based on the defendant's
19 compliance with the treatment plan; when reducing a sentence, the court (1) may not
20 reduce the sentence below the mandatory minimum sentence for the offense unless the
21 court finds that the defendant has successfully complied with and completed the
22 treatment plan and that the treatment plan approximated the severity of the minimum
23 period of imprisonment, and (2) may consider the defendant's compliance with the
24 treatment plan as a mitigating factor allowing a reduction of a sentence under
25 AS 12.55.155(a). A court entering an order finding the defendant has violated
26 probation may withhold pronouncement of disposition to provide an incentive for the
27 defendant to complete the recommended treatment successfully.

28 * **Sec. 89.** AS 28.35.030(k) is amended to read:

29 (k) Imprisonment required under (b)(1)(A) of this section shall be served [AT
30 A COMMUNITY RESIDENTIAL CENTER OR] by electronic monitoring at a
31 private residence **under AS 33.30.065.** If [A COMMUNITY RESIDENTIAL

1 CENTER OR] electronic monitoring [AT A PRIVATE RESIDENCE] is not available,
2 imprisonment required under (b)(1)(A) of this section shall [MAY] be served at a
3 private residence by other means determined by the commissioner of corrections
4 [ANOTHER APPROPRIATE PLACE DETERMINED BY THE COMMISSIONER
5 OF CORRECTIONS]. Imprisonment required under (b)(1)(B) - (F) of this section
6 may be served at a community residential center or at a private residence if approved
7 by the commissioner of corrections. Imprisonment served at a private residence must
8 include electronic monitoring under AS 33.30.065 or, if electronic monitoring is not
9 available, by other means as determined by the commissioner of corrections. The
10 cost of imprisonment resulting from the sentence imposed under (b)(1) of this section
11 shall be paid to the state by the person being sentenced. The [PROVIDED,
12 HOWEVER, THAT THE] cost of imprisonment required to be paid under this
13 subsection may not exceed \$2,000. Upon the person's conviction, the court shall
14 include the costs of imprisonment as a part of the judgment of conviction. Except for
15 reimbursement from a permanent fund dividend as provided in this subsection,
16 payment of the cost of imprisonment is not required if the court determines the person
17 is indigent. For costs of imprisonment that are not paid by the person as required by
18 this subsection, the state shall seek reimbursement from the person's permanent fund
19 dividend as provided under AS 43.23.065. A [WHILE AT THE COMMUNITY
20 RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A] person
21 sentenced under (b)(1)(A) of this section shall perform at least 24 hours of community
22 service work. A person sentenced under (b)(1)(B) of this section shall perform at least
23 160 hours of community service work, as required by the director of the community
24 residential center or other appropriate place, or as required by the commissioner of
25 corrections if the sentence is being served at a private residence. In this subsection,
26 "appropriate place" means a facility with 24-hour on-site staff supervision that is
27 specifically adapted to provide a residence, and includes a correctional center,
28 residential treatment facility, hospital, halfway house, group home, work farm, work
29 camp, or other place that provides varying levels of restriction.

30 * **Sec. 90.** AS 28.35.030(*l*) is amended to read:

31 (*l*) The commissioner of corrections shall determine and prescribe by

1 regulation a uniform average cost of imprisonment for the purpose of determining the
2 cost of imprisonment required to be paid under (k) of this section by a convicted
3 person. **The regulations must include the costs associated with electronic**
4 **monitoring under AS 33.30.065.**

5 * **Sec. 91.** AS 28.35.030(o) is amended to read:

6 (o) Upon request, the department shall review a driver's license revocation
7 imposed under **(b) or (n)(3)** of this section and

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

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

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

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

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

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

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

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

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

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

28 **(F) the person provides proof of financial responsibility.**

29 * **Sec. 92.** AS 28.35.032(o) is amended to read:

30 (o) Imprisonment required under (g)(1)(A) of this section shall be served **at a**
31 **private residence by electronic monitoring under AS 33.30.065. If electronic**

1 **monitoring** [AT A COMMUNITY RESIDENTIAL CENTER, OR IF A
2 COMMUNITY RESIDENTIAL CENTER] is not available, **imprisonment under**
3 **(g)(1)(A) of this section shall be served at a private residence by other means as**
4 **determined by the commissioner of corrections** [AT ANOTHER APPROPRIATE
5 PLACE DETERMINED BY THE COMMISSIONER OF CORRECTIONS].
6 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
7 community residential center or at a private residence if approved by the
8 commissioner of corrections. Imprisonment served at a private residence must include
9 electronic monitoring **under AS 33.30.065 or, if electronic monitoring is not**
10 **available, shall be served by other means as determined by the commissioner of**
11 **corrections**. The cost of imprisonment resulting from the sentence imposed under
12 (g)(1) of this section shall be paid to the state by the person being sentenced. **The**
13 [PROVIDED, HOWEVER, THAT THE] cost of imprisonment required to be paid
14 under this subsection may not exceed \$2,000. Upon the person's conviction, the court
15 shall include the costs of imprisonment as a part of the judgment of conviction. Except
16 for reimbursement from a permanent fund dividend as provided in this subsection,
17 payment of the cost of imprisonment is not required if the court determines the person
18 is indigent. For costs of imprisonment that are not paid by the person as required by
19 this subsection, the state shall seek reimbursement from the person's permanent fund
20 dividend as provided under AS 43.23.065. **A** [WHILE AT THE COMMUNITY
21 RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A] person
22 sentenced under (g)(1)(A) of this section shall perform at least 24 hours of community
23 service work. A person sentenced under (g)(1)(B) of this section shall perform at least
24 160 hours of community service work, as required by the director of the community
25 residential center or other appropriate place, or as required by the commissioner of
26 corrections if the sentence is being served at a private residence. In this subsection,
27 "appropriate place" means a facility with 24-hour on-site staff supervision that is
28 specifically adapted to provide a residence, and includes a correctional center,
29 residential treatment facility, hospital, halfway house, group home, work farm, work
30 camp, or other place that provides varying levels of restriction.

31 * **Sec. 93.** AS 29.10.200(21) is amended to read:

1 (21) AS 29.25.070(e) and (g) (penalties) [(NOTICES OF CERTAIN
2 CIVIL ACTIONS)];

3 * **Sec. 94.** AS 29.25.070(a) is amended to read:

4 (a) For the violation of an ordinance, a municipality may by ordinance
5 prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days,
6 except as limited by (g) of this section. For a violation that cannot result in
7 incarceration or the loss of a valuable license, a municipality may allow disposition of
8 the violation without court appearance and establish a schedule of fine amounts for
9 each offense.

10 * **Sec. 95.** AS 29.25.070 is amended by adding a new subsection to read:

11 (g) If a municipality prescribes a penalty for a violation of a municipal
12 ordinance, including a violation under (a) of this section, and there is a comparable
13 state offense under AS 11 or AS 28 with elements that are similar to the municipal
14 ordinance, the municipality may not impose a greater punishment than that imposed
15 for a violation of the state law. This subsection applies to home rule and general law
16 municipalities.

17 * **Sec. 96.** AS 33.05.020 is amended by adding new subsections to read:

18 (g) The commissioner shall establish an administrative sanction and incentive
19 program to facilitate a swift and effective response to a probationer's compliance with
20 or violation of the conditions of probation. The commissioner shall adopt regulations
21 to implement the program. At a minimum, the regulations must include

22 (1) a decision-making process to guide probation officers in
23 determining the suitable response to positive and negative offender behavior that
24 includes a list of sanctions for the most common types of negative behavior, including
25 technical violations of conditions of probation, and a list of incentives for compliance
26 with conditions and positive behavior that exceeds those conditions;

27 (2) policies and procedures that ensure

28 (A) a process for responding to negative behavior that includes
29 a review of previous violations and sanctions;

30 (B) that enhanced sanctions for certain negative conduct are
31 approved by the commissioner or the commissioner's designee; and

1 (C) that appropriate due process protections are included in the
2 process, including notice of negative behavior, an opportunity to dispute the
3 accusation and the sanction, and an opportunity to request a review of the
4 accusation and the sanction.

5 (h) The commissioner shall establish by regulation a program allowing
6 probationers to earn credits for complying with the conditions of probation. The
7 credits earned reduce the period of probation. Nothing in this subsection prohibits the
8 department from recommending to the court the early discharge of the probationer as
9 provided in AS 33.30. At a minimum, the regulations must

10 (1) require that a probationer earn a credit of 30 days for each month
11 served in which the defendant complied with the conditions of probation;

12 (2) include policies and procedures for

13 (A) calculating and tracking credits earned by probationers;

14 (B) reducing the probationer's period of probation based on
15 credits earned by the probationer;

16 (C) notifying the court at least 30 days before the earliest date
17 the probationer's period of probation will be served based on credits earned by
18 the probationer; and

19 (D) notifying a victim under AS 33.30.013.

20 * **Sec. 97.** AS 33.05.040 is amended to read:

21 **Sec. 33.05.040. Duties of probation officers.** A probation officer shall

22 (1) furnish to each probationer under the supervision of the officer a
23 written statement of the conditions of probation and shall instruct the probationer
24 regarding the same;

25 (2) keep informed concerning the conduct and condition of each
26 probationer under the supervision of the officer and shall report on the probationer to
27 the court placing the [SUCH] person on probation;

28 (3) use all suitable methods, not inconsistent with the conditions
29 imposed by the court, to aid probationers and to bring about improvements in their
30 conduct and condition;

31 (4) keep records of the probation work, including administrative

1 sanctions and incentives the probation officer imposes under AS 33.05.020(g),
2 keep accurate and complete accounts of all money collected from persons under the
3 supervision of the officer, give receipts for money collected and make at least monthly
4 returns of it, make the reports to the court and the commissioner required by them, and
5 perform other duties the court may direct;

6 (5) perform the [SUCH] duties with respect to persons on parole as the
7 commissioner shall request [,] and, in that [SUCH] service, shall be termed a parole
8 officer;

9 (6) use administrative sanctions and incentives developed under
10 AS 33.05.020(g) to respond to a probationer's negative and positive behavior,
11 including responses to technical violations of conditions of probation, in a way
12 that is intended to interrupt negative behavior in a swift, certain, and
13 proportional manner and support progress with a recognition of positive
14 behavior; and

15 (7) upon determining that a probationer under the supervision of
16 the officer meets the requirements of AS 12.55.090(g), recommend to the court as
17 soon as practicable that probation be terminated and the probationer be
18 discharged from probation.

19 * **Sec. 98.** AS 33.05.080 is amended by adding a new paragraph to read:

20 (3) "administrative sanctions and incentives" means responses by a
21 probation officer to a probationer's compliance with or violation of the conditions of
22 probation under AS 33.05.020(g).

23 * **Sec. 99.** AS 33 is amended by adding a new chapter to read:

24 **Chapter 07. Pretrial Services Program.**

25 **Sec. 33.07.010. Pretrial services program; establishment.** The commissioner
26 shall establish and administer a pretrial services program that provides a pretrial risk
27 assessment for all defendants, recommendations to the court concerning pretrial
28 release decisions, and supervision of defendants released while awaiting trial as
29 ordered by the court.

30 **Sec. 33.07.020. Duties of commissioner; pretrial services.** The commissioner
31 shall

1 (1) appoint and make available to the superior court and district court
2 qualified pretrial services officers;

3 (2) fix pretrial services officers' salaries;

4 (3) assign pretrial services officers to each judicial district;

5 (4) provide for the necessary supervision, training, expenses, including
6 clerical services, and travel of pretrial services officers;

7 (5) approve a risk assessment instrument that is objective,
8 standardized, and developed based on analysis of empirical data and risk factors
9 relevant to pretrial failure, that evaluates the likelihood of failure to appear in court
10 and the likelihood of rearrest during the pretrial period, and that is validated on the
11 state's pretrial population; and

12 (6) adopt regulations in consultation with the Department of Law, the
13 public defender, the Department of Public Safety, and the Alaska Court System,
14 consistent with this chapter and as necessary to implement the program; the
15 regulations must include a process for pretrial services officers to make a
16 recommendation to the court concerning a pretrial release decision and guidelines for
17 pretrial diversion recommendations.

18 **Sec. 33.07.030. Duties of pretrial services officers.** (a) Pretrial services
19 officers shall, in advance of a first appearance before a judicial officer under
20 AS 12.30, conduct a pretrial risk assessment on the defendant using an instrument
21 approved by the commissioner for the purpose of making a recommendation to the
22 court concerning an appropriate pretrial release decision and conditions of release. In
23 conducting a pretrial risk assessment and making a recommendation to the court, the
24 department shall follow the decision-making process established by regulation under
25 this chapter. The pretrial risk assessment shall be completed and presented to the court
26 in a pretrial release report that contains a risk assessment rating of low, moderate, or
27 high and a recommendation regarding release and release conditions before the
28 defendant's first appearance before a judicial officer.

29 (b) A pretrial services officer shall make a recommendation under (a) of this
30 section for pretrial release to the court based on factors that include the results of a
31 pretrial risk assessment, the offense charged, and the least restrictive condition or

1 conditions that will reasonably ensure the appearance of the person in court and the
2 safety of the victim, other persons, and the community. The recommendation must
3 take into account

4 (1) the defendant's risk rating;

5 (2) the appropriateness for release on the defendant's own
6 recognizance or upon the execution of an unsecured appearance bond, unsecured
7 performance bond, or both; and

8 (3) the appropriateness of nonmonetary release conditions permitted
9 under AS 12.30.011, 12.30.016, 12.30.021, and 12.30.027 and supervision of those
10 conditions by a pretrial services officer for defendants who are recommended for
11 release.

12 (c) A pretrial services officer shall recommend for release on personal
13 recognizance, upon execution of an unsecured appearance bond, or upon execution of
14 an unsecured performance bond, with nonmonetary conditions as appropriate, if a
15 defendant is charged with

16 (1) a misdemeanor, unless that misdemeanor is

17 (A) a crime involving domestic violence, as defined in
18 AS 18.66.990;

19 (B) a crime against the person under AS 11.41;

20 (C) an offense under AS 11.56.730 or 11.56.757;

21 (2) a class C felony unless that felony is

22 (A) a crime involving domestic violence, as defined in
23 AS 18.66.990;

24 (B) a crime against the person under AS 11.41;

25 (C) an offense under AS 11.56.730;

26 (3) an offense under AS 28.35.030 or 28.35.032, if the defendant has
27 been assessed as being low or moderate risk on the pretrial risk assessment.

28 (d) A pretrial services officer shall recommend release on personal
29 recognizance, upon execution of an unsecured appearance bond, or upon execution of
30 an unsecured performance bond, with nonmonetary conditions as appropriate, unless
31 the pretrial services officer finds

1 (1) by substantial evidence that no nonmonetary conditions of release
2 in combination with release on personal recognizance or upon execution of unsecured
3 bond can reasonably ensure public safety and appearance in court; and

4 (2) the defendant has been charged with

5 (A) an offense under AS 28.33.030 or 28.33.032, and the
6 offender has been assessed as high risk under a pretrial risk assessment;

7 (B) an offense under AS 11.56.730 or 11.56.757, and the
8 offender has been assessed as low to moderate risk under a pretrial risk
9 assessment; or

10 (C) any other offense, and the defendant has been assessed as
11 being low risk under a pretrial risk assessment.

12 (e) A pretrial services officer may supervise a defendant released during the
13 pretrial period, imposing the least restrictive level of supervision that will reasonably
14 ensure the appearance of the person in court and the safety of the victim, other
15 persons, and the community, and prioritizing higher levels of supervision for a
16 defendant accused of serious charges or assessed as moderate or high risk under a
17 pretrial risk assessment.

18 (f) A pretrial services officer may

19 (1) recommend pretrial diversion to the court and parties before
20 adjudication in accordance with the guidelines established by the commissioner under
21 AS 33.07.020(6);

22 (2) arrest a defendant who has been released pretrial without a warrant
23 if the officer has probable cause to believe the defendant has committed an offense
24 under AS 11.56.730 or 11.56.757 or has violated the defendant's release conditions;

25 (3) refer interested defendants for substance abuse screening,
26 assessment, and treatment on a voluntary basis; and

27 (4) coordinate with community-based organizations and tribal courts
28 and councils to develop and expand pretrial diversion options.

29 **Sec. 33.07.040. Pretrial services officers as officers of court.** (a) All pretrial
30 services officers shall be available to the superior and district courts and shall be
31 officers of the court.

1 (b) The appointment of a pretrial services officer shall be entered on the
2 journal of the court in the judicial district where the pretrial services officer is
3 assigned, and one copy of the journal entry shall be sent to the administrative director
4 of the Alaska Court System.

5 **Sec. 33.07.090. Definitions.** In this chapter,

6 (1) "commissioner" means the commissioner of corrections;

7 (2) "program" means the pretrial services program.

8 * **Sec. 100.** AS 33.16.010(c) is amended to read:

9 (c) A prisoner who is not eligible for special medical, administrative, or
10 discretionary parole, or who is not released on special medical, administrative, or
11 discretionary parole, shall be released on mandatory parole for the term of good time
12 deductions credited under AS 33.20, if the term or terms of imprisonment are two
13 years or more.

14 * **Sec. 101.** AS 33.16.010(d) is amended to read:

15 (d) A prisoner released on special medical, administrative, discretionary, or
16 mandatory parole is subject to the conditions of parole imposed under AS 33.16.150.
17 Parole may be revoked under AS 33.16.220.

18 * **Sec. 102.** AS 33.16.010 is amended by adding a new subsection to read:

19 (f) A prisoner eligible under AS 33.16.089 shall be released on administrative
20 parole by the board of parole.

21 * **Sec. 103.** AS 33.16.060(a) is amended to read:

22 (a) The board shall

23 (1) serve as the parole authority for the state;

24 (2) [UPON RECEIPT OF AN APPLICATION,] consider the
25 suitability for parole of a prisoner who is eligible for discretionary parole at least 90
26 days before the prisoner's first date of eligibility and upon receipt of the
27 prisoner's application for special medical [OR DISCRETIONARY] parole;

28 (3) impose parole conditions on all prisoners released under special
29 medical, administrative, discretionary, or mandatory parole;

30 (4) under AS 33.16.210, discharge a person from parole when custody
31 is no longer required;

- 1 (5) maintain records of the meetings and proceedings of the board;
- 2 (6) recommend to the governor and the legislature changes in the law
- 3 administered by the board;
- 4 (7) recommend to the governor or the commissioner changes in the
- 5 practices of the department and of other departments of the executive branch
- 6 necessary to facilitate the purposes and practices of parole;
- 7 (8) upon request of the governor, review and recommend applicants
- 8 for executive clemency; and
- 9 (9) execute other responsibilities prescribed by law.

10 * **Sec. 104.** AS 33.16 is amended by adding a new section to read:

11 **Sec. 33.16.089. Eligibility for administrative parole.** (a) A prisoner

12 convicted of a misdemeanor or a class B or C felony that is not a sexual felony as

13 defined in AS 12.55.185 who has not been previously convicted of a felony in this or

14 another jurisdiction and who has been sentenced to an active term of imprisonment of

15 at least 181 days shall be released on administrative parole by the board without a

16 hearing if

- 17 (1) the prisoner has served the greater of
- 18 (A) one-fourth of the active term of imprisonment imposed;
- 19 (B) the mandatory minimum term of imprisonment imposed; or
- 20 (C) a term of imprisonment imposed under AS 12.55.115;
- 21 (2) the prisoner is not excluded from eligibility for administrative
- 22 parole by court order;
- 23 (3) the prisoner has agreed to and signed the conditions of parole under
- 24 AS 33.16.050;
- 25 (4) the victim does not request a hearing to consider issues of public
- 26 safety under AS 33.16.120; and
- 27 (5) the prisoner has met the requirements of the case plan established
- 28 under AS 33.30.011(8).

29 (b) If a prisoner who is eligible for discretionary parole under AS 33.16.090

30 does not meet the criteria for release on administrative parole under (a) of this section,

31 the board shall consider the prisoner for discretionary parole.

1 (c) If a victim makes a timely request for a hearing under AS 33.16.120, the
2 board shall conduct the hearing not later than 30 days before the prisoner's earliest
3 parole eligibility date.

4 * **Sec. 105.** AS 33.16.090(a) is amended to read:

5 (a) A prisoner sentenced to an active term of imprisonment of at least 181
6 days **and who has not been released on administrative parole as provided in**
7 **AS 33.16.089** may, in the discretion of the board, be released on discretionary parole
8 if the prisoner

9 **(1)** has served the amount of time specified under (b) of this section,
10 except that

11 **(A)** [(1)] a prisoner sentenced to one or more mandatory 99-
12 year terms under AS 12.55.125(a) or one or more definite terms under
13 AS 12.55.125(l) is not eligible for consideration for discretionary parole;

14 **(B)** [(2)] a prisoner is not eligible for consideration of
15 discretionary parole if made ineligible by order of a court under AS 12.55.115;

16 **(C)** [(3)] a prisoner imprisoned under AS 12.55.086 is not
17 eligible for discretionary parole unless the actual term of imprisonment is more
18 than one year; **or**

19 **(2)** **is at least 55 years of age and has served at least 10 years of a**
20 **sentence for one or more crimes in a single judgment, notwithstanding a**
21 **presumptive, mandatory, or mandatory minimum term or sentence the prisoner**
22 **may be serving or any restriction on parole eligibility under AS 12.55.**

23 * **Sec. 106.** AS 33.16.090(b) is amended to read:

24 (b) A prisoner eligible under (a)**(1)** of this section who is sentenced

25 (1) to a single sentence under AS 12.55.125(a) or (b) may not be
26 released on discretionary parole until the prisoner has served the mandatory minimum
27 term under AS 12.55.125(a) or (b), one-third of the active term of imprisonment
28 imposed, or any term set under AS 12.55.115, whichever is greatest;

29 (2) to a single sentence within or below a presumptive range set out in
30 **AS 12.55.125(i)(1)(C) - (F)** [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)],
31 and has not been allowed by the three-judge panel under AS 12.55.175 to be

1 considered for discretionary parole release, may not be released on discretionary
2 parole until the prisoner has served the term imposed, less good time earned under
3 AS 33.20.010;

4 (3) to a single sentence under AS 12.55.125(i)(1)(C) - (F)
5 [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)], and has been allowed by the
6 three-judge panel under AS 12.55.175 to be considered for discretionary parole release
7 during the second half of the sentence, may not be released on discretionary parole
8 until

9 (A) the prisoner has served that portion of the active term of
10 imprisonment required by the three-judge panel; and

11 (B) in addition to the factors set out in AS 33.16.100(a), the
12 board determines that

13 (i) the prisoner has successfully completed all
14 rehabilitation programs ordered by the three-judge panel that were
15 made available to the prisoner; and

16 (ii) the prisoner would not constitute a danger to the
17 public if released on parole;

18 (4) to a single enhanced sentence under AS 12.55.155(a) that is above
19 the applicable presumptive range may not be released on discretionary parole until the
20 prisoner has served the greater of the following:

21 (A) an amount of time, less good time earned under
22 AS 33.20.010, equal to the upper end of the presumptive range plus one-fourth
23 of the amount of time above the presumptive range; or

24 (B) any term set under AS 12.55.115;

25 (5) to a single sentence under any other provision of law may not be
26 released on discretionary parole until the prisoner has served at least one-fourth of the
27 active term of imprisonment, any mandatory minimum sentence imposed under any
28 provision of law, or any term set under AS 12.55.115, whichever is greatest;

29 (6) to concurrent sentences may not be released on discretionary parole
30 until the prisoner has served the greatest of

31 (A) any mandatory minimum sentence or sentences imposed

1 under any provision of law;

2 (B) any term set under AS 12.55.115; or

3 (C) the amount of time that is required to be served under (1) -
4 (5) of this subsection for the sentence imposed for the primary crime, had that
5 been the only sentence imposed;

6 (7) to consecutive or partially consecutive sentences may not be
7 released on discretionary parole until the prisoner has served the greatest of

8 (A) the composite total of any mandatory minimum sentence or
9 sentences imposed under any provision of law, including AS 12.55.127;

10 (B) any term set under AS 12.55.115; or

11 (C) the amount of time that is required to be served under (1) -
12 (5) of this subsection for the sentence imposed for the primary crime, had that
13 been the only sentence imposed, plus one-quarter of the composite total of the
14 active term of imprisonment imposed as consecutive or partially consecutive
15 sentences imposed for all crimes other than the primary crime.

16 * **Sec. 107.** AS 33.16.100(a) is amended to read:

17 (a) The board may authorize the release of a prisoner **convicted of an**
18 **unclassified felony who is otherwise eligible under AS 12.55.115 and**
19 **AS 33.16.090(a)(1)** on discretionary parole if it determines a reasonable probability
20 exists that

21 (1) the prisoner will live and remain at liberty without violating any
22 laws or conditions imposed by the board;

23 (2) the prisoner's rehabilitation and reintegration into society will be
24 furthered by release on parole;

25 (3) the prisoner will not pose a threat of harm to the public if released
26 on parole; and

27 (4) release of the prisoner on parole would not diminish the
28 seriousness of the crime.

29 * **Sec. 108.** AS 33.16.100(b) is amended to read:

30 (b) If the board finds a change in circumstances in a prisoner's **preparole**
31 **reports listed in AS 33.16.110(a)** [PAROLE RELEASE PLAN SUBMITTED

1 UNDER AS 33.16.130(a)], or discovers new information concerning a prisoner who
2 has been granted a parole release date, the board may rescind or revise the previously
3 granted parole release date. In reconsidering the release date, the procedures set out in
4 AS 33.16.130 [AS 33.16.130(b) AND (c)] shall be followed.

5 * **Sec. 109.** AS 33.16.100 is amended by adding new subsections to read:

6 (f) The board shall authorize the release of a prisoner who has been convicted
7 of a class A, class B, or class C felony, or a misdemeanor, who is eligible for parole
8 under AS 12.55.115 and AS 33.16.090, has met the requirement of a case plan created
9 under AS 33.30.011(8), has agreed to and signed the condition of parole under
10 AS 33.16.150, and has not been released on administrative parole under AS 33.16.089,
11 unless the board finds by clear and convincing evidence on the record that the prisoner
12 poses a threat of harm to the public if released on parole. If the board finds that the
13 incomplete case plan is not the fault of the prisoner or that the prisoner would not pose
14 a threat of harm to the public if released on parole, the board may waive the case plan
15 requirement.

16 (g) When considering a prisoner for release on discretionary parole under
17 AS 33.16.090(a)(2), the board may release a prisoner if, taking into consideration the
18 prisoner's likelihood of recidivism given the prisoner's age, criminal history, behavior
19 in prison, participation in treatment, and plans for reentering the community, a
20 reasonable probability exists that

21 (1) the prisoner will live and remain at liberty without violating any
22 laws or conditions imposed by the board;

23 (2) the prisoner's rehabilitation and reintegration into society will be
24 furthered by release on parole;

25 (3) the prisoner will not pose a threat of harm to the public if released
26 on parole; and

27 (4) release of the prisoner on parole would not diminish the
28 seriousness of the crime.

29 * **Sec. 110.** AS 33.16.110(a) is amended to read:

30 (a) In determining whether a prisoner is suitable for discretionary parole, the
31 board shall consider the preparole reports including

- 1 (1) the presentence report made to the sentencing court;
- 2 (2) the recommendations made by the sentencing court, by the
- 3 prosecuting attorney, and by the defense attorney, and any statements made by the
- 4 victim or the prisoner at sentencing;
- 5 (3) the prisoner's institutional conduct history while incarcerated;
- 6 (4) recommendations made by the staff of the correctional facilities in
- 7 which the prisoner was incarcerated;
- 8 (5) reports of prior crimes, juvenile histories, and previous experiences
- 9 of the prisoner on parole or probation;
- 10 (6) physical, mental, and psychiatric examinations of the prisoner;
- 11 (7) information submitted by the prisoner, the sentencing court, the
- 12 victim of the crime, the prosecutor, or other persons having knowledge of the prisoner
- 13 or the crime;
- 14 (8) information concerning an unjustified disparity in the sentence
- 15 imposed on a prisoner in relation to other sentences imposed under similar
- 16 circumstances; [AND]
- 17 (9) other relevant information that may be reasonably available;
- 18 **(10) the case plan created under AS 33.30.011(8) for the prisoner,**
- 19 **including a compliance report on the case plan; and**
- 20 **(11) a reentry plan created under AS 33.30.011(9).**

21 * **Sec. 111.** AS 33.16.120(a) is amended to read:

22 (a) If the victim of a crime against a person or arson in the first degree

23 requests notice of a scheduled hearing to review or consider discretionary parole for a

24 prisoner convicted of that crime, the board shall send notice of the hearing to the

25 victim at least 30 days before the hearing. The notice must be accompanied by a copy

26 of the prisoner's **preparole reports listed in AS 33.16.110** [APPLICATION FOR

27 PAROLE SUBMITTED UNDER AS 33.16.130(a)]. However, the copy of the

28 **preparole reports** [APPLICATION] sent to the victim may not include the prisoner's

29 **confidential health information, information protected under AS 33.16.170,**

30 proposed residence, **or** [AND] employment addresses.

31 * **Sec. 112.** AS 33.16.120(f) is amended to read:

1 (f) Upon request of the victim, if a prisoner is released under AS 33.16.010(c),
2 33.16.089, or 33.16.090, the board shall make every reasonable effort to notify the
3 victim before the prisoner's release date. Notification under this subsection must
4 include the expected date of the prisoner's release, the geographic area in which the
5 prisoner is required to reside, and other pertinent information concerning the prisoner's
6 conditions of parole that may affect the victim.

7 * **Sec. 113.** AS 33.16.120(g) is amended to read:

8 (g) A victim of a crime involving domestic violence shall be informed by the
9 board at least 30 days in advance of a scheduled hearing to review or consider
10 [DISCRETIONARY] parole for a prisoner. The board shall inform the victim of any
11 decision to grant or deny [DISCRETIONARY] parole or to release the prisoner under
12 AS 33.16.010(c). If the prisoner is to be released, the victim shall be notified of the
13 expected date of the release, the geographic area in which the prisoner will reside, and
14 any other information concerning conditions of parole that may affect the victim. The
15 victim shall also be informed of any changes in the conditions of parole that may
16 affect the victim. The board shall send the notice required to the last known address of
17 the victim. A person may not bring a civil action for damages for a failure to comply
18 with the provisions of this subsection.

19 * **Sec. 114.** AS 33.16.120 is amended by adding a new subsection to read:

20 (h) A victim who has a right to notice under (a) of this section may request a
21 hearing before a prisoner is released on administrative parole under AS 33.16.089. The
22 notice to the victim must include the procedure and time frame for requesting a
23 hearing.

24 * **Sec. 115.** AS 33.16.130 is repealed and reenacted to read:

25 **Sec. 33.16.130. Parole procedures.** (a) The parole board shall hold a hearing
26 before granting an eligible prisoner special medical or discretionary parole. The board
27 shall also hold a hearing if requested by a victim under procedures established for the
28 request for a prisoner eligible for administrative parole. A hearing shall be conducted
29 within the following time frames:

30 (1) for prisoners eligible under AS 33.16.100(a) or (f), not less than 90
31 days before the first parole eligibility date, unless the prisoner is eligible for

1 administrative parole;

2 (2) for all other prisoners, not less than 30 days after the board is
3 notified of the need for a hearing by the commissioner or the commissioner's designee.

4 (b) The commissioner or the commissioner's designee shall furnish a copy of
5 the preparole reports listed in AS 33.16.110(a), and the prisoner shall be permitted
6 access to all records that the board will consider in making its decision except those
7 that are made confidential by law. The prisoner may also respond in writing to all
8 materials the board considers, be present at the hearing, and present evidence to the
9 board.

10 (c) If the board denies parole, the board shall state the reasons for the denial,
11 identify all of the factors considered relevant to the denial, and provide a written plan
12 for addressing all of the factors relevant to the denial. The board may schedule a
13 subsequent parole hearing at the time of the denial or at a later date as follows:

14 (1) for the first parole denial, within two years after the first parole
15 eligibility date;

16 (2) for the second and subsequent denials, within two years after the
17 most recent parole hearing.

18 (d) The board shall issue its decision in writing and provide a copy of the
19 decision to the prisoner.

20 * **Sec. 116.** AS 33.16.140 is amended to read:

21 **Sec. 33.16.140. Order for parole.** An order for parole issued by the board,
22 setting out the conditions imposed under AS 33.16.150(a) and (b) and the date parole
23 custody ends, shall be furnished to each prisoner released on special medical,
24 administrative, discretionary, or mandatory parole.

25 * **Sec. 117.** AS 33.16.150(a) is amended to read:

26 (a) As a condition of parole, a prisoner released on special medical,
27 administrative, discretionary, or mandatory parole

28 (1) shall obey all state, federal, or local laws or ordinances, and any
29 court orders applicable to the parolee;

30 (2) shall make diligent efforts to maintain steady employment or meet
31 family obligations;

1 (3) shall, if involved in education, counseling, training, or treatment,
2 continue in the program unless granted permission from the parole officer assigned to
3 the parolee to discontinue the program;

4 (4) shall report

5 (A) upon release to the parole officer assigned to the parolee;

6 (B) at other times, and in the manner, prescribed by the board
7 or the parole officer assigned to the parolee;

8 (5) shall reside at a stated place and not change that residence without
9 notifying, and receiving permission from, the parole officer assigned to the parolee;

10 (6) shall remain within stated geographic limits unless written
11 permission to depart from the stated limits is granted the parolee;

12 (7) may not use, possess, handle, purchase, give, distribute, or
13 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
14 drug for which a prescription is required under state or federal law without a
15 prescription from a licensed medical professional to the parolee;

16 (8) may not possess or control a firearm; in this paragraph, "firearm"
17 has the meaning given in AS 11.81.900;

18 (9) may not enter into an agreement or other arrangement with a law
19 enforcement agency or officer that will place the parolee in the position of violating a
20 law or parole condition without the prior approval of the board;

21 (10) may not contact or correspond with anyone confined in a
22 correctional facility of any type serving any term of imprisonment or a felon without
23 the permission of the parole officer assigned to a parolee;

24 (11) shall agree to waive extradition from any state or territory of the
25 United States and to not contest efforts to return the parolee to the state;

26 (12) shall provide a blood sample, an oral sample, or both, when
27 requested by a health care professional acting on behalf of the state to provide the
28 sample or samples, or an oral sample when requested by a juvenile or adult
29 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
30 released after a conviction of an offense requiring the state to collect the sample or
31 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

1 (13) from a conviction for a sex offense shall submit to regular
2 periodic polygraph examinations; in this paragraph, "sex offense" has the meaning
3 given in AS 12.63.100.

4 * **Sec. 118.** AS 33.16.150(b) is amended to read:

5 (b) The board may require as a condition of special medical, administrative,
6 discretionary, or mandatory parole, or a member of the board acting for the board
7 under (e) of this section may require as a condition of administrative or mandatory
8 parole, that a prisoner released on parole

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

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

16 (3) submit to reasonable searches and seizures by a parole officer, or a
17 peace officer acting under the direction of a parole officer;

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

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

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

25 (7) refrain from opening, maintaining, or using a checking account or
26 charge account;

27 (8) refrain from entering into a contract other than a prenuptial contract
28 or a marriage contract;

29 (9) refrain from operating a motor vehicle;

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

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

8 * **Sec. 119.** AS 33.16.150(e) is amended to read:

9 (e) The board may designate a member of the board to act on behalf of the
10 board in imposing conditions of administrative or mandatory parole under (a) and (b)
11 of this section, in delegating imposition of conditions of administrative or mandatory
12 parole under (c) of this section, and in setting the period of compliance with the
13 conditions of administrative or mandatory parole under (d) of this section. The
14 decision of a member of the board under this section is the decision of the board. A
15 prisoner or parolee aggrieved by a decision of a member of the board acting for the
16 board under this subsection may apply to the board under AS 33.16.160 for a change
17 in the conditions of administrative or mandatory parole.

18 * **Sec. 120.** AS 33.16.150(f) is amended to read:

19 (f) In addition to other conditions of parole imposed under this section, the
20 board may impose as a condition of special medical, administrative, discretionary, or
21 mandatory parole for a prisoner serving a term for a crime involving domestic
22 violence (1) any of the terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a
23 requirement that, at the prisoner's expense, the prisoner participate in and complete, to
24 the satisfaction of the board, a program for the rehabilitation of perpetrators of
25 domestic violence that meets the standards set by, and that is approved by, the
26 department under AS 44.28.020(b); and (3) any other condition necessary to
27 rehabilitate the prisoner. The board shall establish procedures for the exchange of
28 information concerning the parolee with the victim and for responding to reports of
29 nonattendance or noncompliance by the parolee with conditions imposed under this
30 subsection. The board may not under this subsection require a prisoner to participate
31 in and complete a program for the rehabilitation of perpetrators of domestic violence

1 unless the program meets the standards set by, and is approved by, the department
2 under AS 44.28.020(b).

3 * **Sec. 121.** AS 33.16.150(g) is amended to read:

4 (g) In addition to other conditions of parole imposed under this section for a
5 prisoner serving a sentence for an offense where the aggravating factor provided in
6 AS 12.55.155(c)(29) has been proven or admitted, the board shall impose as a
7 condition of special medical, administrative, discretionary, and mandatory parole a
8 requirement that the prisoner submit to electronic monitoring. Electronic monitoring
9 under this subsection must provide for monitoring of the prisoner's location and
10 movements by Global Positioning System technology. The board shall require a
11 prisoner serving a period of probation with electronic monitoring as provided under
12 this subsection to pay all or a portion of the costs of the electronic monitoring, but
13 only if the prisoner has sufficient financial resources to pay the costs or a portion of
14 the costs. A prisoner subject to electronic monitoring under this subsection is not
15 entitled to a credit for time served in a correctional facility while the defendant is on
16 parole. In this subsection, "correctional facility" has the meaning given in
17 AS 33.30.901.

18 * **Sec. 122.** AS 33.16.180 is amended to read:

19 **Sec. 33.16.180. Duties of the commissioner.** The commissioner shall

20 (1) conduct investigations of prisoners eligible for administrative or
21 discretionary parole, as requested by the board and as provided in this section;

22 (2) supervise the conduct of parolees;

23 (3) appoint and assign parole officers and personnel;

24 (4) provide the board, within 30 days after sentencing, information on
25 a sentenced prisoner who may be eligible for administrative parole under
26 AS 33.16.089 or discretionary parole under AS 33.16.090;

27 (5) notify the board and provide information on a prisoner 120 days
28 before the prisoner's mandatory release date, if the prisoner is to be released on [TO]
29 mandatory parole; [AND]

30 (6) maintain records, files, and accounts as requested by the board;

31 (7) prepare preparole reports under AS 33.16.110(a);

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(8) notify the board in writing of a prisoner's compliance or noncompliance with the prisoner's case plan created under AS 33.30.011(8) not less than 30 days before the prisoner's next parole eligibility date or the prisoner's parole hearing date, whichever is earlier; and

(9) establish an administrative sanction and incentive program to facilitate a swift and certain response to a parolee's compliance with or violation of the conditions of parole and shall adopt regulations to implement the program; at a minimum, the regulations must include

(A) a decision-making process to guide parole officers in determining the suitable response to positive and negative offender behavior that includes a list of sanctions for the most common types of negative behavior, including technical violations of conditions of parole, and a list of incentives for compliance with conditions and positive behavior that exceeds those conditions;

(B) policies and procedures that ensure

(i) a process for responding to negative behavior that includes a review of previous violations and sanctions;

(ii) that enhanced sanctions for certain negative conduct are approved by the commissioner or the commissioner's designee; and

(iii) that appropriate due process protections are included in the process, including notice of negative behavior, an opportunity to dispute the accusation and the sanction, and an opportunity to request a review of the accusation and the sanction.

* **Sec. 123.** AS 33.16.200 is amended to read:

Sec. 33.16.200. Custody of parolee. Except as provided in AS 33.16.210, the board retains custody of special medical, administrative, discretionary, and mandatory parolees until the expiration of the maximum term or terms of imprisonment to which the parolee is sentenced.

* **Sec. 124.** AS 33.16.210 is amended to read:

Sec. 33.16.210. Discharge of parolee. (a) The board may unconditionally

1 discharge a parolee from the jurisdiction and custody of the board after the parolee has
 2 completed one year [TWO YEARS] of parole. A discretionary parolee with a residual
 3 period of probation may, after one year [TWO YEARS] of parole, be discharged by
 4 the board to immediately begin serving the residual period of probation.

5 (b) Notwithstanding (a) of this section, the board may unconditionally
 6 discharge a mandatory parolee before the parolee has completed one year [TWO
 7 YEARS] of parole if the parolee is serving a concurrent period of residual probation
 8 under AS 33.20.040(c), and the period of residual probation and the period of
 9 suspended imprisonment each equal or exceed the period of mandatory parole.

10 * **Sec. 125.** AS 33.16.210 is amended by adding a new subsection to read:

11 (c) Notwithstanding (a) of this section, the board may unconditionally
 12 discharge a parolee if the parolee

13 (1) has completed at least one year on parole;

14 (2) has completed all treatment programs required as a condition of
 15 parole;

16 (3) is currently in compliance with all conditions of parole; and

17 (4) has not been convicted of an unclassified felony offense, a sexual
 18 felony as defined by AS 12.55.185, or a crime involving domestic violence as defined
 19 by AS 18.66.990.

20 * **Sec. 126.** AS 33.16 is amended by adding a new section to read:

21 **Sec. 33.16.215. Sanctions for a technical violation of parole.** (a) If a parolee
 22 is serving a period of parole for an offense, the board may find that the parolee has
 23 committed a technical violation of parole. If the board finds that a parolee has
 24 committed a technical violation of parole that does not include absconding, the board
 25 may revoke parole and return the parolee to the custody of the commissioner and then
 26 place the person back on parole after the appropriate period of time below:

27 (1) three days for the first technical violation of parole filed with the
 28 board;

29 (2) five days for the second technical violation of parole filed with the
 30 board;

31 (3) 10 days for the third technical violation of parole filed with the

1 board; and

2 (4) up to the remainder of the sentence for a fourth or subsequent
3 technical violation of parole.

4 (b) If the board revokes a parolee's parole for absconding, the board may
5 impose a period of imprisonment not to exceed 30 days.

6 (c) The limits on length of imprisonment the board may impose under this
7 section if the board revokes a parolee's parole do not apply if the parolee is enrolled in
8 the program established under AS 33.16.060(c).

9 (d) In this section,

10 (1) "absconding" means failing to report within five working days after
11 release from custody under AS 33.20.030 or failing to report for a scheduled meeting
12 with a parole officer, as directed by the board or the parole officer, and failing to make
13 contact with the parole officer within 30 days following the missed meeting;

14 (2) "technical violation" means a violation of the conditions of parole
15 that does not result from

16 (A) an arrest for a new criminal offense; or

17 (B) failing to complete sex offender treatment.

18 * **Sec. 127.** AS 33.16.220(b) is amended to read:

19 (b) **If a parolee has been arrested for the commission of a new criminal**
20 **offense or for failing to complete a sex offender treatment program, except**
21 **[EXCEPT] as provided in (e) of this section, the board or its designee shall hold a**
22 **preliminary hearing** within 15 working days after the arrest and incarceration of a
23 parolee for violation of a condition of parole [, THE BOARD OR ITS DESIGNEE
24 SHALL HOLD A PRELIMINARY HEARING]. At the preliminary hearing, the board
25 or its designee shall determine if there is probable cause to believe that the parolee
26 violated the conditions of parole and, when probable cause exists, whether the parolee
27 should be released pending a final revocation hearing. A finding of probable cause at a
28 preliminary hearing in a criminal case is conclusive proof of probable cause that a
29 parole violation occurred.

30 * **Sec. 128.** AS 33.16.220(f) is amended to read:

31 (f) **If a parolee has had a preliminary hearing under (b) of this section, the**

1 [THE] board shall hold a final revocation hearing **not** [NO] later than 120 days after a
2 parolee's arrest, subject to restrictions arising under AS 33.36.110 and (g) of this
3 section.

4 * **Sec. 129.** AS 33.16.220(i) is amended to read:

5 (i) If, after the final revocation hearing, the board finds that the parolee has
6 violated a condition of parole imposed under AS 33.16.150(a), (b), or (f), or a law or
7 ordinance, the board may revoke all or a portion of the **remaining period of** parole
8 **subject to the limits set out in AS 33.16.215**, or change any condition of parole. **The**
9 **board cannot extend the period of parole beyond the maximum release date**
10 **calculated by the department on the parolee's original sentence.**

11 * **Sec. 130.** AS 33.16.220 is amended by adding a new subsection to read:

12 (j) If a parolee has been arrested for a technical violation of conditions of
13 parole, the board or its designee shall hold a final hearing within 15 working days.

14 * **Sec. 131.** AS 33.16.240 is amended by adding new subsections to read:

15 (h) A parolee arrested under this section for a technical violation shall be
16 released once the parolee has served the maximum number of days that could be
17 served for a technical violation under AS 33.16.215. Nothing in this subsection
18 prohibits the board or its designee from releasing a parolee sooner.

19 (i) The board or its designee may impose additional conditions necessary to
20 ensure the parolee's appearance at a hearing held under AS 33.16.220(h).

21 * **Sec. 132.** AS 33.16 is amended by adding a new section to read:

22 **Sec. 33.16.270. Earned compliance credits.** The commissioner shall establish
23 by regulation a program allowing parolees to earn credits for complying with the
24 conditions of parole. The earned compliance credits reduce the period of parole.
25 Nothing in this section prohibits the department from recommending to the board the
26 early discharge of the parolee as provided in AS 33.16. At a minimum, the regulations
27 must

28 (1) require that a parolee earn a credit of 30 days for each month
29 served in which the parolee complied with the conditions of parole;

30 (2) include policies and procedures for

31 (A) calculating and tracking credits earned by parolees;

1 (B) reducing the parolee's period of parole based on credits
2 earned by the parolee;

3 (C) notifying the court at least 30 days before the earliest date
4 the parolee's period of parole will be served based on credits earned by the
5 parolee; and

6 (D) notifying a victim under AS 33.30.013.

7 * **Sec. 133.** AS 33.16.900 is amended by adding new paragraphs to read:

8 (14) "administrative parole" means the release of a prisoner who is
9 eligible for administrative parole under AS 33.16.089 and who has satisfied the
10 criteria for release, subject to conditions imposed by the board and subject to its
11 custody and jurisdiction;

12 (15) "administrative sanctions and incentives" means responses by a
13 parole officer to a parolee's compliance with or violation of the conditions of parole
14 under AS 33.16.180.

15 * **Sec. 134.** AS 33.20.010(a) is amended to read:

16 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner
17 convicted of an offense against the state or a political subdivision of the state and
18 sentenced to a term of imprisonment that exceeds three days is entitled to a deduction
19 of one-third of the term of imprisonment rounded off to the nearest day if the prisoner
20 follows the rules of the correctional facility in which the prisoner is confined. A
21 prisoner is not eligible for a good time deduction if the prisoner has been sentenced

22 (1) to a mandatory 99-year term of imprisonment under
23 AS 12.55.125(a) after June 27, 1996;

24 (2) to a definite term under AS 12.55.125(l); [OR]

25 (3) for a sexual felony under AS 12.55.125(i)

26 (A) and has one or more prior sexual felony convictions as
27 determined under AS 12.55.145(a)(4); or

28 (B) that is an unclassified or a class A felony; or

29 **(4) to a definite term of imprisonment of not more than 10 days for**
30 **a technical violation of AS 12.55.110(c) or AS 33.16.215.**

31 * **Sec. 135.** AS 33.20.010(c) is amended to read:

1 (c) A prisoner may not be awarded a good time deduction under (a) of this
2 section for any period spent in a treatment program or [,] in a private residence. A
3 prisoner may be awarded a good time deduction under (a) of this section for any
4 period spent [, OR] while under electronic monitoring.

5 * **Sec. 136.** AS 33.20.010 is amended by adding a new subsection to read:

6 (d) Notwithstanding (a) and (c) of this section, the commissioner of
7 corrections shall award to a prisoner convicted of a sexual offense that is ineligible for
8 a deduction under (a)(3)(A) or (B) of this section and sentenced to a term of
9 imprisonment that exceeds three days a deduction of one-third of the term of
10 imprisonment rounded off to the nearest day for periods during which the prisoner
11 follows the rules of the correctional facility in which the prisoner is confined. The
12 commissioner may not award the deduction under this subsection until the prisoner
13 completes the treatment requirements in the prisoner's case plan.

14 * **Sec. 137.** AS 33.30.011 is amended to read:

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

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

21 (2) classify prisoners;

22 (3) for persons committed to the custody of the commissioner,
23 establish programs, including furlough programs that are reasonably calculated to

24 (A) protect the public and the victims of crimes committed by
25 prisoners;

26 (B) maintain health;

27 (C) create or improve occupational skills;

28 (D) enhance educational qualifications;

29 (E) support court-ordered restitution; and

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

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(4) provide necessary

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

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

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

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

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

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

(6) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; [AND]

(7) establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more and provide to the legislature, by electronic means, by January 15, 2017, and thereafter by January 15, preceding the first regular session of each legislature, a report summarizing the findings and results of the program;

(8) establish a procedure that provides for each prisoner required to serve an active term of imprisonment of 30 days or more a written case plan that

(A) is provided to the prisoner within 90 days after sentencing;

(B) is based on the results of the assessment of the prisoner's risks and needs under (7) of this section;

1 (C) includes a requirement to follow the rules of the
 2 institution;

3 (D) is modified when necessary for changes in classification,
 4 housing status, medical or mental health, and resource availability;

5 (E) includes participation in programming that addresses
 6 the needs identified in the assessment;

7 (9) establish a program to begin reentry planning with each
 8 prisoner serving an active term of imprisonment of 90 days or more; reentry
 9 planning must begin at least 90 days before release on furlough or probation or
 10 parole; the written reentry plan must be completed upon release on furlough or
 11 probation or parole and must include

12 (A) information on the prisoner's proposed

13 (i) residence;

14 (ii) employment or alternative means of support;

15 (iii) treatment options;

16 (iv) counseling services;

17 (v) education or job training services;

18 (B) any other requirements for successful transition back to
 19 the community, including electronic monitoring or furlough for the period
 20 between a scheduled parole hearing and parole eligibility; and

21 (10) establish minimum standards for electronic monitoring for
 22 offenders and procedures for approving electronic monitoring programs
 23 provided by private contractors.

24 * **Sec. 138.** AS 33.30.013(a) is amended to read:

25 (a) The commissioner shall notify the victim if the offender

26 (1) escapes from custody;

27 (2) is discharged from parole under AS 33.16; or

28 (3) is released to the community on a furlough, on an early release
 29 program, or for any other reason.

30 * **Sec. 139.** AS 33.30 is amended by adding a new section to read:

31 **Sec. 33.30.095. Duties of commissioner before release of prisoner.** (a) The

1 commissioner shall establish a program to prepare a prisoner who is serving a sentence
2 of imprisonment exceeding one year for the prisoner's discharge, release on parole or
3 probation, or prerelease furlough under AS 33.30.111 that begins 90 days before the
4 date of the prisoner's discharge, release, or furlough.

5 (b) The program established under (a) of this section must include

6 (1) instruction on

7 (A) obtaining state identification;

8 (B) community resources available for housing, employment,
9 and treatment;

10 (2) an individualized reentry plan under AS 30.30.011(9) for the
11 prisoner; and

12 (3) probation and parole orientation, if appropriate.

13 * **Sec. 140.** AS 33.30.151 is amended to read:

14 **Sec. 33.30.151. Correctional restitution centers.** (a) The commissioner shall
15 establish correctional restitution centers in the state. The purpose of the centers is to
16 provide certain offenders with rehabilitation through **comprehensive treatment for**
17 **substance abuse, cognitive behavioral disorders, and other criminal risk factors,**
18 **including aftercare support,** community service, and employment, while protecting
19 the community through partial incarceration of the offender, and to create a means to
20 provide restitution to victims of crimes.

21 (b) The commissioner shall adopt regulations setting standards for the
22 operation of the centers including

23 (1) requirements that the centers be secure and in compliance with
24 state and local safety laws;

25 (2) standards for disciplinary rules to be imposed on prisoners confined
26 to the centers;

27 (3) standards for the granting of emergency absence to prisoners
28 confined to the centers;

29 (4) standards for classifying prisoners to centers;

30 (5) standards for mandatory employment and participation in
31 community service programs in each center; [AND]

1 (6) standards for periodic review of the performance of prisoners
 2 confined to the centers and quality assurance measures to ensure centers are
 3 meeting state standards and contractual obligations;

4 (7) standards for the provision of treatment, including substance
 5 abuse treatment, cognitive behavioral therapy, and aftercare designed to address
 6 an offender's individual criminogenic needs; and

7 (8) standards and a process to assess an offender's risk of
 8 recidivating and the criminal risk factors and needs that reduce the risk of
 9 recidivating and ensure that

10 (A) high risk offenders with moderate to high needs are a
 11 priority for acceptance into a correctional restitution center; and

12 (B) centers establish internal procedures to limit the mixing
 13 of low and high risk prisoners.

14 * **Sec. 141.** AS 34.03.360(7) is amended to read:

15 (7) "illegal activity involving a controlled substance" means a violation
 16 of AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) - (8) [11.71.020(a), 11.71.030(a)(1)
 17 OR (2)], or 11.71.040(a)(1), (2), or (5);

18 * **Sec. 142.** AS 43.23.065(b) is amended to read:

19 (b) An exemption is not available under this section for permanent fund
 20 dividends taken to satisfy

21 (1) child support obligations required by court order or decision of the
 22 child support services agency under AS 25.27.140 - 25.27.220;

23 (2) court ordered restitution under AS 12.55.045 - 12.55.051,
 24 12.55.100, or AS 47.12.120(b)(4);

25 (3) claims on defaulted education loans under AS 43.23.067;

26 (4) court ordered fines;

27 (5) writs of execution under AS 09.35 of a judgment that is entered

28 (A) against a minor in a civil action to recover damages and
 29 court costs;

30 (B) under AS 09.65.255 against the parent, parents, or legal
 31 guardian of an unemancipated minor;

1 (6) a debt owed by an eligible individual to an agency of the state,
2 including the University of Alaska, unless the debt is contested and an appeal is
3 pending, or the time limit for filing an appeal has not expired;

4 (7) a debt owed to a person for a program for the rehabilitation of
5 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
6 AS 25.20.061(3), or AS 33.16.150(f)(2);

7 (8) a judgment for unpaid rent or damage owed to a landlord by an
8 eligible individual that was a tenant of the landlord; in this paragraph, "tenant" has the
9 meaning given in AS 34.03.360;

10 **(9) court-ordered forfeiture of an appearance or performance**
11 **bond under AS 12.30.075.**

12 * **Sec. 143.** AS 44.19.645 is amended to read:

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

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

27 (2) sentencing practices of the judiciary, including use of presumptive
28 sentences;

29 (3) means of promoting uniformity, proportionality, and accountability
30 in sentencing;

31 (4) alternatives to traditional forms of incarceration;

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

3 (6) the adequacy, availability, and effectiveness of treatment and
4 rehabilitation programs;

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

9 (8) the relationship between sentencing priorities and correctional
10 resources;

11 (9) the effectiveness of the state's current methodologies for the
12 collection and dissemination of criminal justice data; and

13 (10) whether the schedules for controlled substances in AS 11.71.140 -
14 11.71.190 are reasonable and appropriate, considering the criteria established in
15 AS 11.71.120(c).

16 (b) The commission may

17 (1) recommend legislative and administrative action on criminal justice
18 practices; [AND]

19 (2) select and retain the services of consultants as necessary;

20 **(3) appoint a working group to review and analyze the**
21 **implementation of the recommendations made in the justice reinvestment report**
22 **in December 2015, and other recommendations issued by the commission, and**
23 **regularly report to the commission on the status of the implementation; a**
24 **working group may include representatives of criminal justice agencies and key**
25 **constituencies who are not members of the commission; and**

26 **(4) enter into data-sharing agreements with the Justice Center at**
27 **the University of Alaska, the Alaska Judicial Council, or other research**
28 **institutions for the purposes of analyzing data and performance metrics.**

29 * **Sec. 144.** AS 44.19.645 is amended by adding new subsections to read:

30 (c) The commission shall

31 (1) receive and analyze data collected by agencies and entities charged

1 with implementing the recommendations of the 2015 justice reinvestment report and
2 other recommendations issued by the commission and who are collecting data during
3 the implementation and management of specific commission recommendations;

4 (2) track and assess outcomes from the recommendations the
5 commission has made and corresponding criminal justice reforms; and

6 (3) request, receive, and review data and reports on performance
7 outcome data relating to criminal justice reform.

8 (d) Agencies and entities reporting data to the working group authorized in
9 (b)(3) of this section under (e) - (g) of this section shall

10 (1) report data individually by case number, including an identifier
11 number such as the Alaska Public Safety Information Network number, the court case
12 number, the Alaska Corrections Offender Management System number, and the arrest
13 tracking number, as available;

14 (2) include demographic information necessary for tracking
15 individuals across multiple databases, including the individual's first name, last name,
16 middle initial as available, and date of birth; and

17 (3) include information necessary to measure possible disparate effects
18 of criminal justice laws and policies, such as race and gender as available.

19 (e) The judiciary shall report quarterly to the working group authorized in
20 (b)(3) of this section. The report shall include criminal case processing data, including

21 (1) the date, type, and number of all charges disposed within the
22 quarter;

23 (2) the disposition of each charge, whether convicted, dismissed,
24 acquitted, or otherwise disposed;

25 (3) the date of the disposition for each charge; and

26 (4) for each charge or conviction, the sentence, including the length of
27 active incarceration, the amount of suspended time, the length of any probationary
28 term, and whether a suspended imposition of sentence or suspended imposition of
29 judgment was given.

30 (f) The Department of Public Safety shall report quarterly to the working
31 group authorized under (b)(3) of this section. The report shall include the following

1 information:

2 (1) data on citations and arrests for criminal offenses, including the
3 offense charged and reason for arrest if an arrest was made;

4 (2) data on all criminal convictions and sentences during the quarter;
5 and

6 (3) criminal history information for selected offenders as agreed on by
7 the department and the working group authorized in (b)(3) of this section.

8 (g) The Department of Corrections shall report quarterly to the working group
9 authorized in (b)(3) of this section. The report shall include the following information:

10 (1) data on pretrial decision making and outcomes, including
11 information on pretrial detainees admitted for a new criminal charge; detainees
12 released at any point before case resolution; time spent detained before first release or
13 case resolution; pretrial defendant risk level and charge; pretrial release
14 recommendations made by pretrial service officers; pretrial conditions imposed on
15 pretrial detainees by judicial officers, including amount of bail, and supervision
16 conditions; and information on pretrial outcomes, including whether or not the
17 defendant appeared in court or was re-arrested during the pretrial period;

18 (2) data on offenders admitted to the Department of Corrections for a
19 new criminal conviction, including the offense type, number of prior felony
20 convictions, sentence length, length of stay, and the number of offenders earning a
21 good time deduction under AS 33.20.010(d);

22 (3) data on the population of the Department of Corrections, using a
23 one-day snapshot on the first day of the first month of each quarter, broken down by
24 type of admission, offense type, and risk level;

25 (4) data on offenders on probation supervised by the Department of
26 Corrections, including the total number of offenders supervised using a one-day
27 snapshot on the first month of each quarter; admissions to probation; assignments to a
28 program under AS 33.05.020(f); probation sentence length; time served on the
29 sentence; whether probation was successfully completed, any new convictions for a
30 felony offense, and any sentences to a term of imprisonment while on probation;

31 (5) data on parole, including the number of offenders supervised on

1 parole, using a one-day snapshot on the first month of each quarter; the number of
2 parole hearings; the parole grant rate and number of parolees released on
3 administrative, discretionary, and special medical parole; and information on parolees,
4 including time spent on parole, whether parole was successfully completed, any new
5 convictions for a new felony offense, and any sentences to a term of imprisonment
6 while on parole;

7 (6) data on the implementation of policies from the 2015 justice
8 reinvestment report, including the number and percentage of offenders who earn
9 compliance credits under AS 33.05.020(g) in one or more months, and the total
10 amount of credits earned; the average number of sanctions issued under
11 AS 33.05.020(g) before a petition to revoke probation or parole is filed; and the most
12 common violations of probation or parole; and

13 (7) data on probation and parole revocations, including information on
14 probationers and parolees admitted for a supervision violation pre-case and post-case
15 resolution; probationers and parolees admitted solely for a technical violation;
16 probationers and parolees admitted for a new arrest; the number of previous
17 revocations on the current sentence, if any; the length of time held pre-case resolution;
18 the length of time to case resolution; and the length of stay.

19 * **Sec. 145.** AS 44.19.647 is amended to read:

20 **Sec. 44.19.647. Annual report and recommendations.** The commission shall
21 submit to the governor and the legislature an annual report. **The report must include**

22 **(1) a description** of its proceedings for the previous calendar year;

23 **(2) a summary of savings and recommendations on how savings**
24 **from criminal justice reform should be reinvested to reduce recidivism;**

25 **(3) performance metrics and outcomes from the recommendations**
26 **the commission made in its December 2015 report, including recidivism rates,**
27 **defined as**

28 **(A) the percentage of inmates who return to prison within**
29 **three years after release, broken down by offense type and risk level; and**

30 **(B) the percentage of inmates who return to prison within**
31 **three years after release for a new criminal conviction, broken down by**

1 **offense type and risk level; and**

2 **(4) recommendations for additional reforms, which may include**

3 [AND MAY SUBMIT] recommendations for legislative and administrative action.
4 [REPORTS AND RECOMMENDATIONS PROVIDED UNDER THIS SECTION
5 SHALL BE SUBMITTED NOT LATER THAN FEBRUARY 1 OF EACH YEAR].

6 * **Sec. 146.** AS 44.19.647 is amended by adding a new subsection to read:

7 (b) The commission shall submit the reports and recommendations provided
8 under (a) of this section not later than November 1 of each year.

9 * **Sec. 147.** AS 44.66.010(a)(12) is amended to read:

10 (12) Alaska Criminal Justice Commission (AS 44.19.641) - **June 30,**
11 **2021** [JUNE 30, 2017];

12 * **Sec. 148.** AS 47.27.015 is amended by adding a new subsection to read:

13 (i) A person convicted after August 22, 1996, of an offense that is classified as
14 a felony under AS 11.71.010 - 11.71.040 or by the law of another jurisdiction that has
15 as an element the possession, use, or distribution of a controlled substance, as defined
16 in AS 11.71.900, is disqualified from receiving temporary assistance under this
17 chapter or food stamps under AS 47.25 unless the person demonstrates, to the
18 satisfaction of the department, that the person

19 (1) is satisfactorily serving, or has successfully completed, a period of
20 probation or parole;

21 (2) is in the process of serving, or has successfully completed,
22 mandatory participation in a drug or alcohol treatment program; or

23 (3) has taken action toward rehabilitation, including participation in a
24 drug or alcohol treatment program.

25 * **Sec. 149.** AS 47.37.040 is amended to read:

26 **Sec. 47.37.040. Duties of department.** The department shall

27 (1) develop, encourage, and foster statewide, regional, and local plans
28 and programs for the prevention of alcoholism and drug abuse and treatment of
29 alcoholics, intoxicated persons, drug abusers, and inhalant abusers in cooperation with
30 public and private agencies, organizations, and individuals, and provide technical
31 assistance and consultation services for these purposes;

1 (2) coordinate the efforts and enlist the assistance of all public and
2 private agencies, organizations, and individuals interested in prevention of alcoholism,
3 drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, drug
4 abusers, and inhalant abusers;

5 (3) cooperate with the Department of Corrections in establishing and
6 conducting programs to provide treatment for alcoholics, intoxicated persons, drug
7 abusers, and inhalant abusers in or on parole from penal institutions;

8 (4) cooperate with the Department of Education and Early
9 Development, school boards, schools, police departments, courts, and other public and
10 private agencies, organizations, and individuals in establishing programs for the
11 prevention of alcoholism, drug abuse, and inhalant abuse, and treatment of alcoholics,
12 intoxicated persons, drug abusers, and inhalant abusers, and preparing curriculum
13 materials for use at all levels of school education;

14 (5) prepare, publish, evaluate, and disseminate educational material
15 dealing with the nature and effects of alcohol and drugs, and the misuse of hazardous
16 volatile substances;

17 (6) develop and implement, as an integral part of treatment programs,
18 an educational program for use in the treatment of alcoholics, intoxicated persons,
19 drug abusers, and inhalant abusers that includes the dissemination of information
20 concerning the nature and effects of alcohol, drugs, and hazardous volatile substances;

21 (7) organize and foster training programs for all persons engaged in
22 treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and
23 establish standards for training paraprofessional alcoholism, drug abuse, and inhalant
24 abuse workers;

25 (8) sponsor and encourage research into the causes and nature of
26 alcoholism, drug abuse, and inhalant abuse, and the treatment of alcoholics,
27 intoxicated persons, drug abusers, and inhalant abusers, and serve as a clearinghouse
28 for information relating to alcoholism, drug abuse, and inhalant abuse;

29 (9) specify uniform methods for keeping statistical information by
30 public and private agencies, organizations, and individuals, and collect and make
31 available relevant statistical information, including number of persons treated,

1 frequency of admission and readmission, and frequency and duration of treatment;

2 (10) conduct program planning activities approved by the Advisory
3 Board on Alcoholism and Drug Abuse;

4 (11) review all state health, welfare, and treatment plans to be
5 submitted for federal funding, and advise the commissioner on provisions to be
6 included relating to alcoholics, intoxicated persons, drug abusers, and inhalant
7 abusers;

8 (12) assist in the development of, and cooperate with, alcohol, drug
9 abuse, and inhalant abuse education and treatment programs for employees of state
10 and local governments and businesses and industries in the state;

11 (13) use the support and assistance of interested persons in the
12 community, particularly recovered alcoholics, drug abusers, and inhalant abusers, to
13 encourage alcoholics, drug abusers, and inhalant abusers to voluntarily undergo
14 treatment;

15 (14) cooperate with the Department of Public Safety and the
16 Department of Transportation and Public Facilities in establishing and conducting
17 programs designed to deal with the problem of persons operating motor vehicles while
18 under the influence of an alcoholic beverage, inhalant, or controlled substance, and
19 develop and approve alcohol information courses required to be taken by drivers under
20 AS 28.15 or made available to drivers to reduce points assessed for violation of traffic
21 laws;

22 (15) encourage hospitals and other appropriate health facilities to
23 admit without discrimination alcoholics, intoxicated persons, drug abusers, and
24 inhalant abusers and to provide them with adequate and appropriate treatment;

25 (16) encourage all health insurance programs to include alcoholism
26 and drug abuse as a covered illness;

27 (17) prepare an annual report covering the activities of the department
28 and notify the legislature that the report is available;

29 (18) develop and implement a training program on alcoholism and
30 drug abuse for employees of state and municipal governments, and private institutions;

31 (19) develop curriculum materials on drug and alcohol abuse and the

1 misuse of hazardous volatile substances for use in grades kindergarten through 12, as
2 well as a course of instruction for teachers to be charged with presenting the
3 curriculum;

4 (20) develop and implement or designate, in cooperation with other
5 state or local agencies, a juvenile alcohol safety action program that provides alcohol
6 and substance abuse screening, referral, and monitoring of persons under 18 years of
7 age who have been referred to it by

8 (A) a court in connection with a charge or conviction of a
9 violation or misdemeanor related to the use of alcohol or a controlled
10 substance;

11 (B) the agency responsible for the administration of motor
12 vehicle laws in connection with a license action related to the use of alcohol or
13 a controlled substance; or

14 (C) department staff after a delinquency adjudication that is
15 related to the use of alcohol or a controlled substance;

16 (21) develop and implement, or designate, in cooperation with other
17 state or local agencies, an alcohol safety action program that provides [ALCOHOL
18 AND SUBSTANCE ABUSE SCREENING, REFERRAL, AND MONITORING]
19 services to persons who have been referred by a court [IN CONNECTION WITH A
20 CHARGE OR CONVICTION OF A MISDEMEANOR INVOLVING THE USE OF
21 A MOTOR VEHICLE, AIRCRAFT, OR WATERCRAFT AND ALCOHOL OR A
22 CONTROLLED SUBSTANCE, REFERRED BY A COURT] under AS 28.35.028,
23 28.35.030, or 28.35.032, or referred by an agency of the state with the responsibility
24 for administering motor vehicle laws in connection with a driver's license action
25 involving the use of alcohol or a controlled substance;

26 (22) whenever possible, apply evidence-based, research-based, and
27 consensus-based substance abuse and co-occurring substance abuse and mental health
28 disorders treatment practices and remove barriers that prevent the use of those
29 practices;

30 (23) collaborate with first responders, hospitals, schools, primary care
31 providers, developmental disability treatment providers, law enforcement, corrections,

1 attorneys, the Alaska Court System, community behavioral treatment providers,
2 Alaska Native organizations, and federally funded programs in implementing
3 programs for co-occurring substance abuse and mental health disorders treatment.

4 * **Sec. 150.** AS 47.37.130(h) is amended to read:

5 (h) The department shall

6 (1) inspect, on a regular basis, approved public and private alcohol
7 safety action programs at reasonable times and in a reasonable manner; [AND]

8 (2) maintain a list of approved public and private alcohol safety action
9 programs; and

10 (3) develop regulations for the operation and management of
11 alcohol safety action programs that ensure

12 (A) assessments are conducted using a validated risk and
13 needs assessment tool; and

14 (B) supervision of participants is appropriate to the
15 assessed risk of re-offense of the participant.

16 * **Sec. 151.** AS 47.37.130 is amended by adding a new subsection to read:

17 (k) The public and private alcohol safety action programs established under
18 AS 47.37.040(21) shall provide

19 (1) assessment of eligible participants to determine the risk of the
20 person to re-offend and the criminal risk factors that are contributing to the risk; and

21 (2) supervision of participants based on the assessed risk to re-offend.

22 * **Sec. 152.** The uncodified law of the State of Alaska is amended by adding a new section
23 to read:

24 DIRECT COURT RULE AMENDMENT. Rule 38, Alaska Rules of Criminal
25 Procedure, is amended by adding new subsections to read:

26 (d) **Hearing Notice.** The court shall provide a notice to a defendant of the
27 date, time, and place of a scheduled hearing at which the defendant is required to
28 appear in a form and manner established by the court.

29 (e) **Hearing Reminder.** In addition to the notice required under (d) of this
30 rule, the court shall provide a reminder notification to a defendant who is not in
31 custody and to the Department of Corrections at least 48 hours prior to a scheduled

1 hearing at which the defendant is required to appear regarding the date, time, and
2 place of the scheduled hearing and the potential consequences of failure to appear, in a
3 form and manner established by the court.

4 * **Sec. 153.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 DIRECT COURT RULE AMENDMENT. Rule 41, Alaska Rules of Criminal
7 Procedure, is amended by adding a new subsection to read:

8 (j) **Misdemeanor and Felony Bail Schedules.** No bail schedule shall be
9 established for misdemeanors or felonies.

10 * **Sec. 154.** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 REPEAL OF COURT RULES. Rules 41(d) and (e), Alaska Rules of Criminal
13 Procedure, are repealed.

14 * **Sec. 155.** AS 11.46.140(a)(3), 11.46.220(c)(2)(B); AS 11.71.020, 11.71.040(a)(3),
15 11.71.050(a)(2); AS 12.55.135(j); and AS 33.16.100(e) are repealed.

16 * **Sec. 156.** The uncodified law of the State of Alaska is amended by adding a new section
17 to read:

18 INDIRECT COURT RULE AMENDMENT. (a) AS 12.30.006(h), enacted by sec. 50
19 of this Act, has the effect of changing Rule 6, Alaska Rules of Criminal Procedure, by
20 directing the court to arraign a person within 24 hours after arrest, and in no instance later
21 than 48 hours after the person's arrest.

22 (b) AS 12.30.011, as amended by sec. 51 of this Act, and AS 12.30.011(e) - (i),
23 enacted by sec. 52 of this Act, have the effect of changing Rule 41, Alaska Rules of Criminal
24 Procedure, by changing and establishing release conditions for certain defendants, providing
25 for recommendations by pretrial services officers of release conditions based on a pretrial risk
26 assessment score, providing that a court shall order the release of a person under certain
27 circumstances upon execution of an appearance or performance bond, and providing new
28 procedures for use of appearance, surety, and performance bonds.

29 (c) AS 12.55.055(g), enacted by sec. 66 of this Act, has the effect of changing Rule
30 32, Alaska Rules of Criminal Procedure, by directing the court to include a provision in the
31 judgment that community work hours that are not completed shall be converted to a fine as

1 provided in AS 12.55.055(h), added by sec. 66 of this Act.

2 (d) AS 12.55.078, enacted by sec. 67 of this Act, has the effect of changing Rule 43,
3 Alaska Rules of Criminal Procedure, by creating an alternate procedure for when the court
4 may dismiss charges.

5 (e) AS 12.55.135(p), enacted by sec. 81 of this Act, has the effect of changing Rule
6 32.1, Alaska Rules of Criminal Procedure, by changing the procedure for notice of
7 aggravating factors.

8 (f) AS 33.07, enacted by sec. 99 of this Act, has the effect of changing Rule 41,
9 Alaska Rules of Criminal Procedure, by establishing pretrial services officers and procedures
10 and duties for pretrial services officers as officers of the superior and district courts, for the
11 purposes of performing risk assessments and making pretrial recommendations to the court
12 regarding a person's pretrial release and bail conditions.

13 * **Sec. 157.** The uncodified law of the State of Alaska is amended by adding a new section
14 to read:

15 **APPLICABILITY.** (a) The following sections apply to offenses committed on or after
16 the effective date of those sections:

- 17 (1) AS 11.46.130(a), as amended by sec. 3 of this Act;
- 18 (2) AS 11.46.140(a), as amended by sec. 4 of this Act;
- 19 (3) AS 11.46.150(a), as amended by sec. 5 of this Act;
- 20 (4) AS 11.46.220(c), as amended by sec. 6 of this Act;
- 21 (5) AS 11.46.260(b), as amended by sec. 7 of this Act;
- 22 (6) AS 11.46.270(b), as amended by sec. 8 of this Act;
- 23 (7) AS 11.46.280(d), as amended by sec. 9 of this Act;
- 24 (8) AS 11.46.285(b), as amended by sec. 10 of this Act;
- 25 (9) AS 11.46.295, as amended by sec. 11 of this Act;
- 26 (10) AS 11.46.360(a), as amended by sec. 12 of this Act;
- 27 (11) AS 11.46.482(a), as amended by sec. 14 of this Act;
- 28 (12) AS 11.46.484(a), as amended by sec. 15 of this Act;
- 29 (13) AS 11.46.486, as amended by sec. 16 of this Act;
- 30 (14) AS 11.46.530(b), as amended by sec. 17 of this Act;
- 31 (15) AS 11.46.620(d), as amended by sec. 18 of this Act;

- 1 (16) AS 11.46.730(c), as amended by sec. 19 of this Act;
- 2 (17) AS 11.46.980, as amended by sec. 20 of this Act;
- 3 (18) AS 11.56.730(c), as amended by sec. 23 of this Act;
- 4 (19) AS 11.61.110(c), as amended by sec. 28 of this Act;
- 5 (20) AS 11.61.145(d), as amended by sec. 29 of this Act;
- 6 (21) AS 11.66.200(c), as amended by sec. 32 of this Act;
- 7 (22) AS 11.71.030(a), as amended by sec. 33 of this Act;
- 8 (23) AS 11.71.040(a), as amended by sec. 36 of this Act;
- 9 (24) AS 11.71.050, as amended by sec. 38 of this Act;
- 10 (25) AS 11.71.311(a), as amended by sec. 40 of this Act;
- 11 (26) AS 28.15.291(a), as repealed and reenacted by sec. 86 of this Act;
- 12 (27) AS 28.15.291(b), as repealed and reenacted by sec. 87 of this Act;
- 13 (28) AS 29.10.200(21), as amended by sec. 93 of this Act;
- 14 (29) AS 29.25.070(a), as amended by sec. 94 of this Act;
- 15 (30) AS 29.25.070(g), enacted by sec. 95 of this Act; and
- 16 (31) AS 47.27.015(i), enacted by sec. 148 of this Act.

17 (b) The following sections apply to offenses committed before, on, or after the
18 effective date of those sections:

- 19 (1) AS 11.46.460, as amended by sec. 13 of this Act;
- 20 (2) AS 11.56.757(b), as amended by sec. 26 of this Act; and
- 21 (3) AS 11.61.150(c), as amended by sec. 31 of this Act.

22 (c) The following sections apply to offenses committed before, on, or after the
23 effective date of those sections for contacts with peace officers occurring on or after the
24 effective date of those sections:

- 25 (1) AS 12.25.150(a), as amended by sec. 41 of this Act;
- 26 (2) AS 12.25.180, as amended by sec. 42 of this Act; and
- 27 (3) AS 12.25.190(b), as amended by sec. 44 of this Act.

28 (d) The following sections apply to sentences imposed on or after the effective date of
29 this Act for conduct occurring before, on, or after the effective date of those sections:

- 30 (1) AS 12.55.027(d), as amended by sec. 61 of this Act;
- 31 (2) AS 12.55.125(c), as amended by sec. 76 of this Act;

- 1 (3) AS 12.55.125(d), as amended by sec. 77 of this Act;
- 2 (4) AS 12.55.125(e), as amended by sec. 78 of this Act;
- 3 (5) AS 12.55.135(a), as amended by sec. 79 of this Act;
- 4 (6) AS 12.55.135(b), as amended by sec. 80 of this Act;
- 5 (7) AS 12.55.135(l) - (p), enacted by sec. 81 of this Act;
- 6 (8) AS 33.20.010(a), as amended by sec. 134 of this Act; and
- 7 (9) AS 33.20.010(c), as amended by sec. 135 of this Act.

8 (e) The following sections apply to sentences imposed on or after the effective date of
9 this Act for conduct occurring before, on, or after the effective date of those sections:

- 10 (1) AS 12.55.025(a), as amended by sec. 59 of this Act;
- 11 (2) AS 12.55.025(c), as amended by sec. 60 of this Act;
- 12 (3) AS 12.55.115, as amended by sec. 75 of this Act;
- 13 (4) AS 28.35.030(k), as amended by sec. 89 of this Act;
- 14 (5) AS 28.35.032(o), as amended by sec. 92 of this Act;
- 15 (6) AS 33.16.010(f), enacted by sec. 102 of this Act;
- 16 (7) AS 33.16.089, enacted by sec. 104 of this Act; and
- 17 (8) AS 33.20.010(d), enacted by sec. 136 of this Act.

18 (f) AS 12.30.055(b), enacted by sec. 58 of this Act, applies to persons in custody for a
19 probation violation on or after the effective date of this Act for a probation violation that
20 occurred before, on, or after the effective date of sec. 58 this Act.

21 (g) The following sections apply to community work service imposed on or after the
22 effective date of those sections for offenses committed on or after the effective date of those
23 sections:

- 24 (1) AS 12.55.055(a), as amended by sec. 64 of this Act;
- 25 (2) AS 12.55.055(c), as amended by sec. 65 of this Act; and
- 26 (3) AS 12.55.055(g) and (h), enacted by sec. 66 of this Act.

27 (h) AS 12.55.078, enacted by sec. 67 of this Act, applies to prosecutions occurring on
28 or after the effective date of this Act for offenses committed before, on, or after the effective
29 date of sec. 67 of this Act.

30 (i) The following sections apply to probation ordered on or after the effective date of
31 this Act for offenses committed before, on, or after the effective date of those sections:

1 (1) AS 12.55.051(a), as amended by sec. 62 of this Act;

2 (2) AS 12.55.090(c), as amended by sec. 69 of this Act.

3 (j) The following sections apply to probation ordered on or after the effective date of
4 this Act for offenses committed before, on, or after the effective date of those sections:

5 (1) AS 12.55.090(b), as amended by sec. 68 of this Act;

6 (2) AS 12.55.090(f), as amended by sec. 70 of this Act;

7 (3) AS 12.55.090(g) - (m), enacted by sec. 71 of this Act;

8 (4) AS 12.55.100(a), as amended by sec. 72 of this Act;

9 (5) AS 12.55.110(c) - (g), enacted by sec. 74 of this Act;

10 (6) AS 33.05.020(h), enacted by sec. 96 of this Act; and

11 (7) AS 33.05.040, as amended by sec. 97 of this Act.

12 (k) The following sections apply to a revocation of a driver's license, privilege to
13 drive, or privilege to obtain a license occurring on or after the effective date of those sections
14 for conduct occurring before, on, or after the effective date of those sections:

15 (1) AS 28.15.165(e), enacted by sec. 83 of this Act;

16 (2) AS 28.15.181(f), as amended by sec. 84 of this Act;

17 (3) AS 28.15.201(g) and (h), enacted by sec. 85 of this Act; and

18 (4) AS 28.35.030(o), as amended by sec. 91 of this Act.

19 (l) The following sections apply to parole granted on or after the effective date of
20 those sections for conduct occurring before, on, or after the effective date of those sections:

21 (1) AS 33.16.010(c), as amended by sec. 100 of this Act;

22 (2) AS 33.16.010(d), as amended by sec. 101 of this Act;

23 (3) AS 33.16.060(a), as amended by sec. 103 of this Act;

24 (4) AS 33.16.090(a), as amended by sec. 105 of this Act;

25 (5) AS 33.16.100(a), as amended by sec. 107 of this Act;

26 (6) AS 33.16.100(b), as amended by sec. 108 of this Act;

27 (7) AS 33.16.100(f), enacted by sec. 109 of this Act;

28 (8) AS 33.16.130, as repealed and reenacted by sec. 115 of this Act;

29 (9) AS 33.16.140, as amended by sec. 116 of this Act;

30 (10) AS 33.16.150(a), as amended by sec. 117 of this Act;

31 (11) AS 33.16.150(b), as amended by sec. 118 of this Act;

- 1 (12) AS 33.16.150(e), as amended by sec. 119 of this Act;
- 2 (13) AS 33.16.150(f), as amended by sec. 120 of this Act;
- 3 (14) AS 33.16.150(g), as amended by sec. 121 of this Act;
- 4 (15) AS 33.16.180, as amended by sec. 122 of this Act;
- 5 (16) AS 33.16.200, as amended by sec. 123 of this Act;
- 6 (17) AS 33.16.210, as amended by sec. 124 of this Act;
- 7 (18) AS 33.16.210(c), enacted by sec. 125 of this Act;
- 8 (19) AS 33.16.215, enacted by sec. 126 of this Act;
- 9 (20) AS 33.16.220(b), as amended by sec. 127 of this Act;
- 10 (21) AS 33.16.220(f), as amended by sec. 128 of this Act;
- 11 (22) AS 33.16.220(i), as amended by sec. 129 of this Act;
- 12 (23) AS 33.16.220(j), enacted by sec. 130 of this Act;
- 13 (24) AS 33.16.240(h) and (i), enacted by sec. 131 of this Act; and
- 14 (25) AS 33.16.270, enacted by sec. 132 of this Act.

15 (m) AS 11.56.730(d) and (e), enacted by sec. 24 of this Act, and secs. 152 - 154 of
16 this Act apply to offenses committed on or after the effective date of secs. 24 and 152 - 154 of
17 this Act.

18 (n) The following sections apply to an offense committed on or after the effective date
19 of those sections:

- 20 (1) AS 12.30.006(b), as amended by sec. 46 of this Act;
- 21 (2) AS 12.30.006(c), as amended by sec. 47 of this Act;
- 22 (3) AS 12.30.006(d), as amended by sec. 48 of this Act;
- 23 (4) AS 12.30.006(f), as amended by sec. 49 of this Act;
- 24 (5) AS 12.30.006(h), enacted by sec. 50 of this Act;
- 25 (6) AS 12.30.011, as amended by sec. 51 of this Act;
- 26 (7) AS 12.30.011(e) - (i), enacted by sec. 52 of this Act;
- 27 (8) AS 12.30.016(b), as amended by sec. 53 of this Act;
- 28 (9) AS 12.30.016(c), as amended by sec. 54 of this Act;
- 29 (10) AS 12.30.021(a), as amended by sec. 56 of this Act;
- 30 (11) AS 12.30.021(c), as amended by sec. 57 of this Act;
- 31 (12) AS 12.55.051(k), enacted by sec. 63 of this Act;

1 (13) AS 33.07, enacted by sec. 99 of this Act; and

2 (14) AS 43.23.065(b), as amended by sec. 142 of this Act.

3 * **Sec. 158.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 **CONDITIONAL EFFECT.** (a) AS 11.56.730(e), enacted by sec. 24 of this Act, takes
6 effect only if sec. 152 of this Act receives the two-thirds majority vote of each house required
7 by art. IV, sec. 15, Constitution of the State of Alaska.

8 (b) AS 12.30.006(h), added by sec. 50 of this Act, takes effect only if sec. 156(a) of
9 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
10 Constitution of the State of Alaska.

11 (c) AS 12.30.011, as amended by sec. 51 of this Act, takes effect only if sec. 156(b)
12 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
13 Constitution of the State of Alaska.

14 (d) AS 12.30.011(e) - (i), added by sec. 52 of this Act, take effect only if sec. 156(b)
15 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
16 Constitution of the State of Alaska.

17 (e) AS 12.55.055(g), enacted by sec. 66 of this Act, takes effect only if sec. 156(c) of
18 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
19 Constitution of the State of Alaska.

20 (f) AS 12.55.078, enacted by sec. 67 of this Act, takes effect only if sec. 156(d) of this
21 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
22 Constitution of the State of Alaska.

23 (g) AS 12.55.135(p), enacted by sec. 81 of this Act, takes effect only if sec. 156(e) of
24 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
25 Constitution of the State of Alaska.

26 (h) AS 33.07, added by sec. 99 of this Act, takes effect only if sec. 156(f) of this Act
27 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
28 of the State of Alaska.

29 * **Sec. 159.** Sections 1 - 21, 28 - 40, 61, 62, 65, 67, 69, 73, 76 - 88, 91, 93 - 95, 134, 135,
30 143 - 151, and 155 of this Act take effect July 1, 2016.

31 * **Sec. 160.** Sections 58 - 60, 66, 68, 70 - 72, 74, 75, 89, 90, 92, 96 - 98, 100 - 133, and 136 -

1 140 of this Act take effect July 1, 2017.

2 * **Sec. 161.** If AS 11.56.730(e), enacted by sec. 24 of this Act, and sec. 152 of this Act take
3 effect, they take effect January 1, 2018.

4 * **Sec. 162.** Sections 22 - 27, 41 - 57, 63, 99, 142, 152 - 154, and 156(f) of this Act take
5 effect January 1, 2018.

Pretrial

House Judiciary Hearing - HB205

March 16, 2016

Citation vs. Arrest

Recommendation One

Sections Addressed:

- ▶ **Sec.42:** Presumption to cite
- ▶ **Sec.43:** Civil protection for officers
- ▶ **Sec.44:** Notice to appear - 2 days
- ▶ **Sec.45:** Notice to appear -5 days

The Commission recommended expanding the use of citations in place of arrest for lower level non-violent offenses, with broad discretion for officer to arrest when a person presents a danger to self or others, a flight risk, or harm to property.

- ▶ 76% of pretrial admissions to prison are for misdemeanor charges.
- ▶ 56% of pretrial admissions to prison are for non-violent misdemeanor charges.

Risk-Based Release Decision-Making

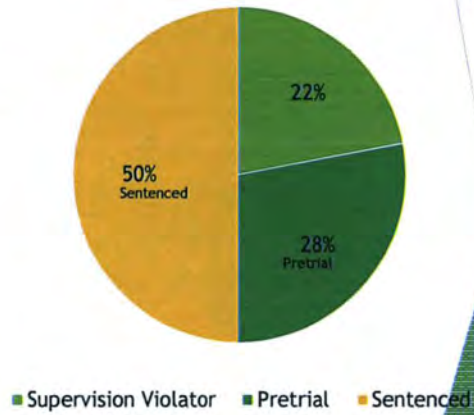
Recommendation Two

Sections Addressed:

- ▶ **Sec.41:** Court appearance in 24 hours
- ▶ **Sec.47:** Judicial review & reconsideration conditions of release
- ▶ **Sec.48:** Inability to pay considered
- ▶ **Sec.49:** Pretrial officers can arrest for violating court order
- ▶ **Sec.50:** Court appearance in 24 hours
- ▶ **Sec.51:** Limits judicial discretion to detain low- and moderate-risk pretrial defendants with non-violent, non-DUI misdemeanors/Class C Felony
- ▶ **Sec.52:** Presumption of release on OR or UB for low-risk defendants
- ▶ **Sec.53:** Pretrial services officer can search for alcohol
- ▶ **Sec.54:** Pretrial services officer can search for drugs, drug test
- ▶ **Sec.56/57:** Limits 3rd party custodian
- ▶ **Sec.63/142:** PFD garnishment

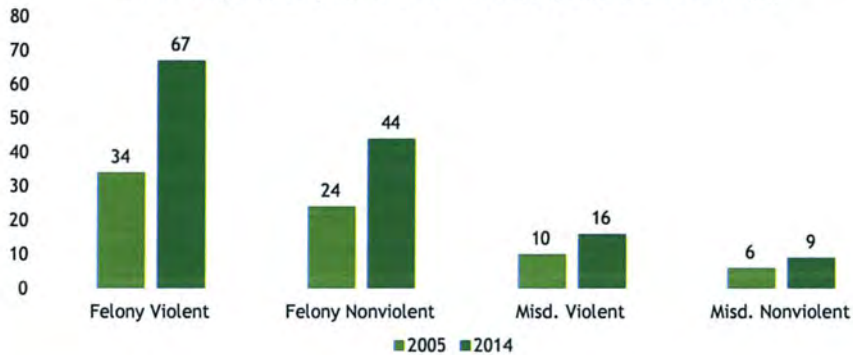
- ▶ 81% growth in the pretrial inmate population in the last decade
- ▶ 56% of pretrial admissions are for nonviolent misdemeanor charges.
- ▶ 28% of the prison population is pretrial

Prison Population by Status



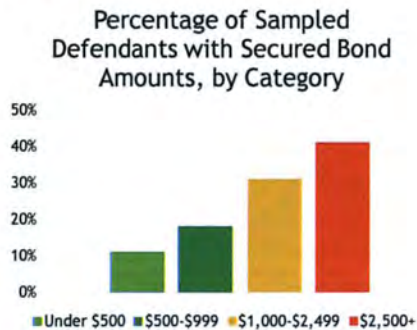
Defendants Staying Longer Pretrial Than In Past

Mean Length of Stay for Pretrial Detainees, 2005 and 2014 (Days)



Monetary Bail Leads to Detention on Low Bond Amounts

41% of Bonds Set At \$2,500 or More



Lower Release Rates For Higher Secured Bond Amounts:

- ▶ Under \$500: 36% unable to post
- ▶ \$500-\$999: 57% unable to post
- ▶ \$1,000-\$2,499: 62% unable to post
- ▶ \$2,500 or more: 66% unable to post bond.

Risk Assessment Tool Lacking in Release Decisions

▶ Release Linked to Ability to Pay Rather Than Defendant's Risk

- ▶ Pretrial risk assessment not used in decisions about whether to release or detain, or in setting conditions of release.
- ▶ Because secured bond is ordered in the majority of cases, release is often linked to ability to pay rather than the defendant's risk of pretrial failure.

Pretrial Supervision of Higher Risk Defendants Released Pending Trial

Recommendations Three and Four

Sections Addressed:

- ▶ Sec.99: Establishes pretrial services division & pretrial services officers
- ▶ Sec.152: Hearing reminders for defendants

Implement Pretrial Supervision

- ▶ Minimal supervision with court date reminders
- ▶ Basic supervision (in-office appointments, phone calls, field visits)
- ▶ Enhanced supervision (higher frequency contacts, drug and alcohol testing, electronic monitoring)

Research shows that enhanced supervision should be focused on those who are most likely to fail pretrial.

Questions?

Alaska Legislature Representative Charisse Millett

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District 25

TO: Grace Abbott, Legislative Assistant, House Judiciary Committee
FROM: Mary Geddes, Staff Attorney, Criminal Justice Commission
DATE: March 16, 2016
RE: Additional Information pertinent to Judiciary Committee Members' Questions on 3/14/16 on DOC Credit Given for pretrial time spent in CRC and Private Treatment

Is someone held pretrial in (1) a CRC or (2) a private treatment program eligible for time-served credit against a prison sentence later imposed ?

If an in-custody pretrial defendant is "held" (meaning, placed by DOC) in a CRC, that individual will later, automatically, get both day-for-day credit and good-time credit against a prison sentence.

However, a defendant is not automatically entitled to day-for day credit if he is residing in the CRC because he asked the court to place him there as a bail arrangement. (The CRC in this circumstance is a third-party custodian.) The defendant will have to apply to the court if he seeks day-for-day credit. Day for day credit will only be given if the defendant makes a timely request and satisfies the criteria of AS §12.55.027 ("Credit for time spent toward service of a sentence of imprisonment.")ⁱ

This is also true if the defendant has been permitted as a bail arrangement to reside in a private treatment program during the pretrial or presentencing phase of the case.

An application must be made in advance of sentencing under AS § 12.55.027 for day-for-day credit, and the defendant must show he is eligible. Anecdotally, this procedure gives rise to a lot of court hearings.

Under current law, good-time credit is not available for a bail arrangement, whether the defendant is in a CRC, in a private treatment program, or under restrictions of house arrest or EM.

-
- ii (a) A court may grant a defendant credit toward a sentence of imprisonment for time spent in a treatment program or under electronic monitoring only as provided in this section.
- (b) A court may grant a defendant one day of credit toward a sentence of imprisonment for each full day the defendant resided in the facility of a treatment program and observed the rules of the treatment program and the facility if
- (1) the court finds that the treatment program meets the standards described in (c) of this section;
 - (2) before the defendant entered the treatment program, the court ordered the defendant to reside in the facility of the treatment program and participate in the treatment program as a condition of bail release or a condition of probation; and
 - (3) the court has received a written report from the director of the program that
 - (A) states that the defendant has participated in the treatment plan prescribed for the defendant and has complied with the requirements of the plan; and
 - (B) sets out the number of full days the defendant resided in the facility of the treatment program and observed the rules of the treatment program and facility.
 - (c) To qualify for credit against a sentence of imprisonment for a day spent in a treatment program, the treatment program and the facility of the treatment program must impose substantial restrictions on a person's liberty on that day that are equivalent to incarceration, including the requirement that a participant in the program
 - (1) must live in a residential facility operated by 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
 - (A) court appearances;
 - (B) meetings with counsel;
 - (C) employment, vocational training, or community volunteer work required by the treatment program; and
 - (D) periods during which the resident is permitted to leave the facility for rehabilitative purposes directly related to the person's treatment, so long as the periods during which the resident is permitted to leave the facility are expressly limited as to both time and purpose by the treatment program;
 - (3) is subject to disciplinary sanctions by the program if the participant violates rules of the program and facility; sanctions must be in writing and available for court review; and
 - (4) is subject to immediate arrest, without warrant, if the participant leaves the facility without permission.
 - (d) A court may grant credit against a sentence of imprisonment for time spent under electronic monitoring if the person has not committed a criminal offense while under electronic monitoring and the court imposes restrictions on the person's freedom of movement and behavior while under the electronic monitoring program, including requiring the person to be confined to a residence except for a
 - (1) court appearance;
 - (2) meeting with counsel; or
 - (3) period during which the person is at a location ordered by the court for the purposes of employment, attending educational or vocational training, performing community volunteer work, or attending a rehabilitative activity or medical appointment.
 - (e) If a defendant intends to claim credit toward a sentence of imprisonment for time spent in a treatment program or under electronic monitoring either as a condition of probation or as a condition of bail release after a petition to revoke probation has been filed, the defendant shall file notice with the court and the prosecutor 10 days before the disposition hearing. The notice shall include the amount of time the defendant is claiming. The defendant must prove by a preponderance of the evidence that the credit claimed meets the requirements of this section. A court may not consider, except for good cause, a request for credit made under this subsection more than 90 days after the disposition hearing.

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District 25

TO: Grace Abbott, Majority Aide, Rep. Millett
FROM: Mary Geddes, Staff Attorney, Criminal Justice Commission
DATE: March 16, 2016
RE: Additional Information pertinent to Judiciary Committee Members' Questions concerning ACJC Report and Recommendations

What do pretrial assessments measure?

A helpful discussion of the topic is found at this link, [Pretrial Risk Assessment 101: Science Provides Guidance on Managing Defendants](#). "Unlike other [types of] risk/needs assessments, the pretrial risk assessment instrument contains factors that are associated with increased chances of only two types of failure during a short period of time: failure to appear for all court hearings and re-arrest on a new charge.

Typically, instruments weigh such factors as nature of the current charge, any pending charges, number of prior convictions resulting in jail time, prior violent convictions, failure to appear history, residential stability, employment/caregiver history, and drug abuse history. Which factors are predictive, and the weight of each risk factor, varies by jurisdiction. Some of this variation is based on differences in statutes, data quality, availability of supervision resources, etc. It is important to validate any instrument on your population and revalidate on a regular basis."

Are prisoners eligible for Medicaid/Medicare?¹

Federal law prohibits states from using federal Medicaid funds to pay for care provided to incarcerated individuals, even if they are eligible and enrolled. The **inmate exclusion rule** results in most health care provided in jails and prisons being financed by the state or local corrections agency, rather than by the state Medicaid program.

¹ Most of the information I provide is taken from an excellent article dated December 2013 on the Council on State Governments website. Here is the link: [Medicaid and Financing Health Care for Individuals Involved with the Criminal Justice System.](#)

However, there is an **important exception**. Medicaid will reimburse states for “inpatient” medical care provided to enrolled Medicaid recipients. This allows federal funds to be used when the incarcerated individual is admitted as an inpatient in a hospital, nursing facility, juvenile psychiatric facility, or qualifying care facility if it is separate from the corrections system, after the first 24 hours.

Therefore, incarcerated offenders who are already enrolled in Medicaid should not be terminated – only suspended - by a State program because the state may thereafter bill Medicaid for all medically-necessary (covered) services provided to that individual.

“States that make full use of opportunities to enroll eligible individuals in their criminal justice systems in Medicaid and appropriately leverage the program to finance eligible care can realize considerable cost savings by diverting more individuals to treatment—which is significantly less costly than incarceration—and by reducing reliance on state-funded health care services for the uninsured.”

At least 14 states—Arkansas, California, Colorado, Delaware, Louisiana, Michigan, Mississippi, Nebraska, New York, North Carolina, Oklahoma, Pennsylvania, Vermont, and Washington— currently bill Medicaid for at least some eligible inpatient health services provided to incarcerated individuals, and additional states are exploring this option.

An additional benefit of only suspending the benefits of incarcerated person, and of a State encouraging Medicaid enrollment of eligible persons while they are incarcerated, is that individuals can more easily access Medicaid services following release, which can be critical to a successful reentry.

What are earned compliance credits? (Referencing Recommendation 14: Establish a system of earned compliance credits)

In Recommendation 14, the Commission proposed “earned compliance credits” for individuals who are under DOC supervision, i.e. probationers and parolees. Earned compliance credits are a type of performance incentive which can reduce the length of probation or parole. Supervisees who are compliant each month with every condition of their supervision (e.g. make meetings, pay restitution, participate in treatment, stay drug free, obtain employment) can have the length of their supervision reduced by as much as one-half.

This policy incorporates incentives to enhance offender motivation and deter violations; moves successful offenders off supervision so that probation and parole officers can focus on high-risk offenders; and frontloads supervision resources during the time period that offenders are most likely to commit a new crime or break the rules.

Why implement this change? Certainly, the current system isn’t working. Recidivism (while declining) remains outrageously high, at close to two out of three offenders recidivating within three years. The number of admitted but unsentenced supervision violators is up 135% in the last decade. Although the length of a revocation sentence has shortened slightly over the same time frame, the net effect is that supervision violators now represent 22%, nearly one-quarter, of the Alaska incarcerated population.

Research has shown that parolees and probationers are at the highest risk of recidivism during the first days and weeks of supervision and that recidivism rates decline subsequently. Therefore effectively front-loading supervision resources, for that first year in particular, and highly-incentivizing compliance during the same period serves to quickly separate the proverbial wheat from the chaff. It also heightens personal

accountability. Those who can be motivated and have the ability to self-rehabilitate will do so. However, those who cannot meet such incentivized benchmarks are clearly higher-risk individuals who do really need supervision.

Research also shows that moderate- to high-risk offenders gain the most benefit from supervision and that lower-risk offenders often do worse under these conditions. By allowing lower-risk offenders to reduce their sentences if they have fulfilled their obligations and conditions, and be done, probation can focus their resources on those who need it most.

Right on Crime notes "Providing incentives for meeting case-specific goals of supervision is a powerful tool to enhance individual motivation and promote positive behavior change. Research on human behavior indicates that offenders attempting to change behavior are even more motivated by positive reinforcement than negative. Specifically, earned compliance credits motivate supervised individuals can be more motivated to participate in appropriate programs, stay sober, and retain a job."

In general, what do we know about the effectiveness of sex offender treatment and whether sex offenders can be rehabilitated?

A meta-analysis by the Washington State Institute of Public Policy found that sex offender treatment during incarceration saves money (i.e., had a positive benefit to cost ratio). WSIPP found that funds spent on sex offender treatment programs were offset by decreases in future sex offender recidivism, fewer victims and decreases in costs to victims. (Report can be accessed at <http://www.wsipp.wa.gov/BenefitCost/Program/112>).

A slightly different analysis performed in 2009 by Alaska's Institute of Social and Economic Research (using Alaska data in WSIPP's framework) found that sex institutional offender programs do reduce recidivism, although they do not necessarily save money because they can be expensive to operate. Nevertheless, ISER recommended that the Alaska Department of Corrections expand institutional sex offender treatment programs because of the recidivism reduction benefit. (The report is available at <http://www.aic.state.ak.us/sites/default/files/imported/acjc/economics/isercost.pdf>).

Sex offenders can be rehabilitated through programming focused on appropriate boundaries and cognitive behavioral programming that identifies thinking errors (justifications that place blame for antisocial behaviors on someone else or something else), that holds offenders accountable in group settings for those thinking errors, and that builds an offender's ability to make better choices. This, along with safeguards in community supervision conditions (restrictions on residency, travel, and internet use) plus the public shaming associated with sex offender registries, are extremely effective at reducing sex re-offending.

A recidivism report published by the Alaska Judicial Council in 2011 used a representative two-thirds sample of 22,813 people convicted of a felony or Class A misdemeanor to document recidivism rates. Nine per cent of these offenders had been convicted of a sex offense. All of the offenders in the study had returned to the community in 2008 and 2009. The chart below shows that sexual offenders had substantially lower rates of recidivism than other types of offenders, which is consistent with national data. Notably, rearrests and reconvictions refer to any crime, not just sex offenses.

Recidivism Rates by Type of Felony Offender Alaska Judicial Council Recidivism Study (2011)			
	Re-arrests within one year	Remands within one year	Reconvictions within two years
Violent offense	36%	50%	38%
"Other" offense	36%	37%	19%
Property offense	34%	46%	37%
Drug offense	24%	35%	25%
Felony driving & alcohol related	21%	36%	25%
Sexual offense	18%	32%	20%

The sexual offenders in the AJC study who did recidivate were not very likely to be convicted of another sex offense (only one felon in this study who had originally been convicted of a sex offense was convicted of another sex offense).

ALASKA STATE LEGISLATURE

Representative Gabrielle LeDoux,
Chair

Representative Wes Keller,
Vice Chair



Representative Charisse Millett
Representative Neal Foster
Representative Bob Lynn
Representative Matt Claman
Representative Jonathan Kreiss-Tomkins

HOUSE JUDICIARY COMMITTEE

Alaska State Capitol, Room 120
Juneau, AK 99801
907-465-4998 • 907-465-4419 (fax)

HOUSE BILL 205 HEARING SCHEDULE

Monday 3/14 at 12:30pm

- Explanation of Alaska Criminal Justice Commission's Justice Reinvestment Report policy recommendations by Commissioners
- Sectional Analysis of HB 205 by Grace Abbott, staff to Rep. Millett

Wednesday 3/16 at 12:30pm – Consideration of Pre-trial Policies in HB 205 (recs 1-4)

Friday 3/18 at 12:30pm – Consideration of Sentencing Policies in HB 205 (recs 5-11)

Monday 3/21 at 12:30pm – Consideration of Community Supervision Policies in HB 205 (recs 12-18)

Monday 3/21 at 5:00pm – Consideration of Re-Entry Policies in HB 205 (items not in report)

Tuesday 3/22 at 5:00pm – Invited & Public Testimony

- Invited testimony from victims' groups first
- Public testimony will be opened after invited testimony

Wednesday 3/23 at 12:30pm – Consideration of Reinvestment Policies (rec 21)

- These provisions are not in CS for HB 205, Version H
- The forthcoming language will be provided in draft form for consideration, inclusion in a new CS

Friday 3/25 at 1:00pm – *not hearing HB 205*

Monday 3/28 at 12:30pm-3:00pm – Amendments

- All amendments or proposed changes to be discussed in this meeting
- Amendment deadline for committee members is Friday 3/25



Sentencing

House Judiciary Hearing - HB205

March 18, 2016



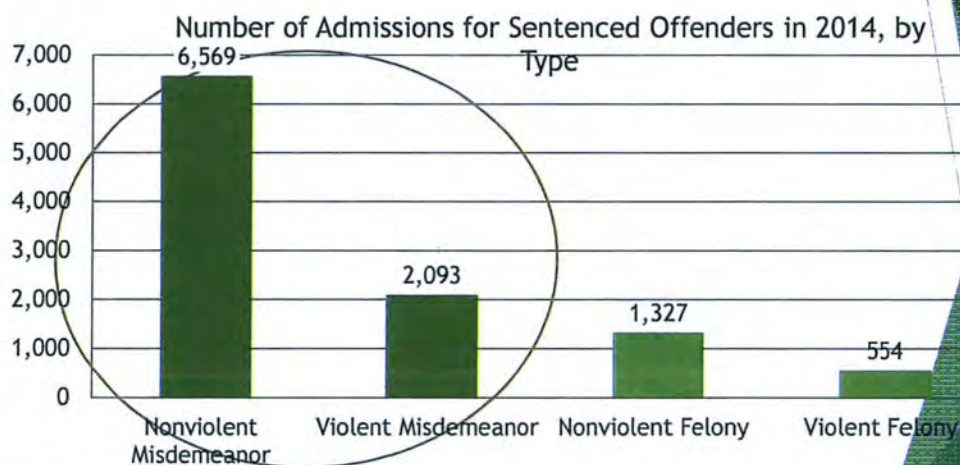
Limit the use of prison for lower-level misdemeanor offenders

Recommendation 5

Sections Addressed:

- ▶ Sec.13/30/31: Highway obstruction = violation
- ▶ Sec.22/23/24: Failure to appear = violation
- ▶ Sec.25/26/27: Violation of condition of release = violation
- ▶ Sec.28: Disorderly conduct penalty no longer 10 days
- ▶ Sec.29: Attending animal fights = violation
- ▶ Sec.32: Unlawful gambling = violation
- ▶ Sec.79: Presumptive range of 0-30 days for class A misdemeanors (exceptions)
- ▶ Sec.80: Max. imprisonment for class B misdemeanors is 10 days
- ▶ Sec.81: Sentences of imprisonment for misdemeanors
- ▶ Sec.86/87: 2nd time DWLS mandatory min. is 10 days, no mandatory for 1st time
- ▶ Sec.89: 1st time DUI serves EM
- ▶ Sec.92: 1st time refusal to submit to chemical test serves EM
- ▶ Sec.93/94/95: Municipality can't levy a greater penalty than the state

Vast Majority of Admissions to Prison Are Misdemeanants



Source: Alaska Dept. of Corrections

Limit the Use of Prison For Lower Level Misdemeanor Offenders

- ▶ **Emphasize alternatives to prison for lower-level misdemeanor offenders, including:**
 - ▶ Diverting first- and second-time theft under \$250 dollar offenders from prison;
 - ▶ Requiring first-time DUI offenders to serve their sentences on electronic monitoring;
 - ▶ Reclassifying certain low-level misdemeanors as violations;
- ▶ **Lower the penalty for misdemeanor Bs to 10 days;**
- ▶ **Presumptively set a zero to thirty day sentencing range for misdemeanor As, allowing courts to sentence above this range if an aggravating factor is proven**

Source: Alaska Criminal Justice Commission

Revise drug penalties to focus severe punishments on higher-level drug offenders

Recommendation Six

Sections Addressed:

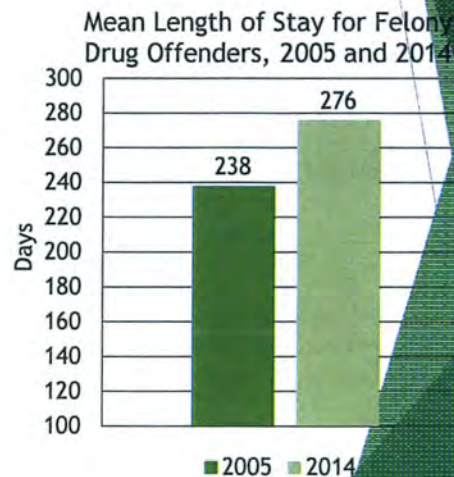
- ▶ Sec.1/2/40/55/141: Conforming
- ▶ Sec.33/34/35: Manufacture or delivery of >2.5 grams of a IA, IIA, or IIIA or manufacture of methamphetamine or methamphetamine precursors are MICS 3rd Degree
- ▶ Sec.36/37: Manufacture or delivery of less <2.5 grams of a IA, IIA, or IIIA controlled substance, or any amount of a schedule IVA or VA controlled substance are MICS 2nd Degree
- ▶ Sec.38/39: Consolidates simple possession of IA, IIA, IIIA, IVA and VA controlled substances into MICS 5th degree

Over Last Decade, More Offenders Entering Prison for Drug Crimes, Staying Longer

Over past 10 years-

- admissions to prison for drug offenses have grown by 35%,
- length of stay for Alaska's felony drug offenders has increased by 16%.

Source: Alaska Dept. of Corrections



Long Prison Sentences for Drug Offenders Are Ineffective

▶ Low deterrent value

- ▶ The chances of a typical street-level drug transaction being detected are about 1 in 15,000, providing a limited deterrent.

▶ Little impact on recidivism

- ▶ Studies show that for many offenders, serving longer sentences has little impact on recidivism. In addition, severe punishments such as felony convictions and prison terms may have criminogenic effects, causing offenders to be more likely to commit crimes in the future.

Source: Alaska Dept. of Corrections

Revise Drug Penalties to Focus on Higher-Level Offenders

▶ Reclassify simple possession as a misdemeanor offense

- ▶ Limit the maximum penalty for first- and second-time possession to one and six month suspended sentences, respectively;

▶ Create a tiered commercial drug statute: more than 2.5 grams is a more serious offense than sale of less than 2.5 grams

▶ Align penalties for sale of heroin with penalties for sale of other serious drugs, such as methamphetamine and cocaine.

Source: Alaska Criminal Justice Commission

Utilize inflation-adjusted property thresholds

Recommendation Seven

Sections Addressed:

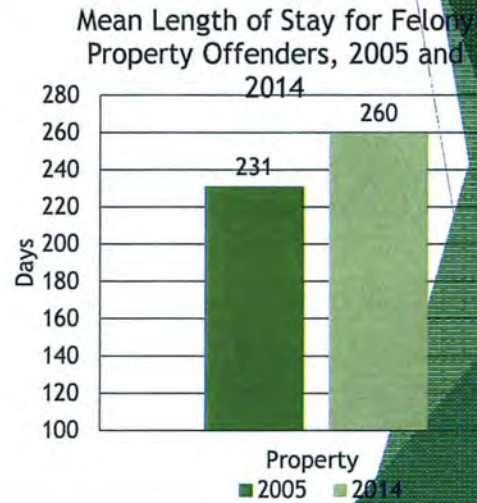
- ▶ Sec.14/15/16: Increases the threshold value for criminal mischief to \$2,000
- ▶ Sec.17: Increases the threshold value for criminal simulation to \$2,000
- ▶ Sec.18: Increases the threshold value for misapplication of property to \$2,000
- ▶ Sec.19: Increases the threshold value for defrauding creditors to \$2,000
- ▶ Sec.20: Court to reference most recent property threshold set by the AJC
- ▶ Sec.21: AJC annual calculation of inflation adjustment

Over Last Decade, More Offenders Entering Prison for Property Crimes, Staying Longer

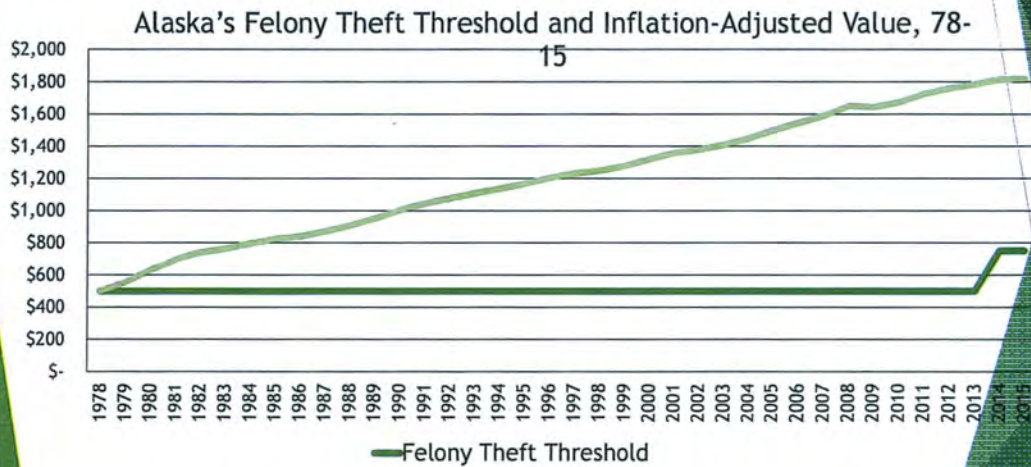
Over past 10 years-

- admissions to prison for property offenses have grown by 16%; and
- length of stay for Alaska's felony property offenders has increased by 13%.

Source: Alaska Dept. of Corrections



Felony Theft Threshold Has Not Kept Pace with Inflation



Source: Bureau of Labor Statistics

Raising the Felony Theft Threshold Does Not Increase Crime Rate

- ▶ **Increases in felony theft threshold not linked to crime**
 - ▶ Between 2001 and 2011, 23 states raised their felony theft thresholds. In these 23 states, the change in threshold had no impact, up or down, in the state's overall property crime rate.
 - ▶ In fact, property and larceny crime rates *fell* slightly more in the states that raised their thresholds than the 27 states that did not.

Source: Alaska Criminal Justice Commission

Align non-sex felony presumptive ranges with prior presumptive terms

Recommendation Eight

Sections Addressed:

- ▶ Sec.76: Class A felony presumptive ranges
- ▶ Sec.77: Class B felony presumptive ranges
- ▶ Sec.78: Class C felony presumptive ranges

In 2005, Alaska Moved From Presumptive Terms to Presumptive Ranges

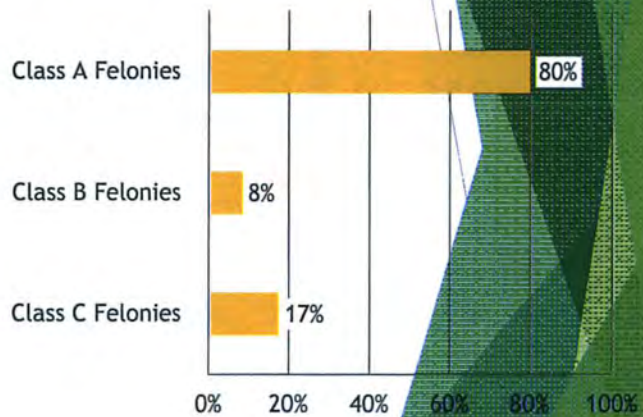
Felony Class	Presumptive Term (2005)	Presumptive Ranges (Current)
A Felony		
First	[5] - 20 years	[5 - 8] - 20 years
First/Enhanced	[7] - 20 years	[7 - 11] - 20 years
Second	[10] - 20 years	[10 - 14] - 20 years
Third	[15] - 20 years	15 - 20 years
B Felony		
First	[n/a] - 10 years	[1 - 3] - 10 years
First/Enhanced	[n/a] - 10 years	[2 - 4] - 10 years
Second	[4] - 10 years	[4 - 7] - 10 years
Third	[6] - 10 years	6 - 10 years
C Felony		
First	[n/a] - 5 years	[0 - 2] - 5 years
Second	[2] - 5 years	[2 - 4] - 5 years
Third	[3] - 5 years	3 - 5 years

Source: Alaska Criminal Justice Commission

2005 Change in Felony Sentencing Led to Increases in Length of Stay Behind Bars

From 2004 to 2014, average length of stay for:

- Class A felonies grew 80 percent;
- Class B felonies grew 8 percent; and
- Class C felonies grew 17 percent.



Source: Alaska Dept. of Corrections

Align Ranges with Prior Terms

Felony Class	Presumptive Term	Presumptive Ranges (Current)	ACJC Recommendation
A Felony			
First	[5] - 20 years	[5 - 8] - 20 years	[3 - 6] - 20 years
First/Enhanced	[7] - 20 years	[7 - 11] - 20 years	[5 - 9] - 20 years
Second	[10] - 20 years	[10 - 14] - 20 years	[8 - 12] - 20 years
Third	[15] - 20 years	15 - 20 years	13 - 20 years
B Felony			
First	[n/a] - 10 years	[1 - 3] - 10 years	[0 - 2] - 10 years
First/Enhanced	[n/a] - 10 years	[2 - 4] - 10 years	[1 - 3] - 10 years
Second	[4] - 10 years	[4 - 7] - 10 years	[2 - 5] - 10 years
Third	[6] - 10 years	6 - 10 years	4 - 10 years
C Felony			
First	[n/a] - 5 years	[0 - 2] - 5 years	[0 - 18 months susp.] - 10 years
Second	[2] - 5 years	[2 - 4] - 5 years	[1 - 3] - 5 years
Third	[3] - 5 years	3 - 5 years	2 - 5 years

Source: Alaska Criminal Justice Commission

Expand and streamline the use of discretionary parole

Recommendation Nine

Sections Addressed:

- ▶ Sec.59: Administrative parole in sentencing reports
- ▶ Sec.62: Probation revocation process
- ▶ Sec.75: Restrict eligibility for administrative parole
- ▶ Sec.100: Mandatory parole not limited by administrative/special medical parole
- ▶ Sec.101: Condition of parole
- ▶ Sec.102: Eligibility for administrative parole, release
- ▶ Sec.103: Conditions for prisoners on parole
- ▶ Sec.104: Creation of administrative parole
- ▶ Sec.106: Expansion of discretionary parole
- ▶ Sec.107: Eligibility for discretionary parole
- ▶ Sec.108/109: Granting of discretionary parole, revocation
- ▶ Sec.110: Inmate case plan, re-entry plan pre-parole
- ▶ Sec.111: Parole application process

- ▶ Sec.112/113/114/138: Victim Notification
- ▶ Sec.115: Hearing process for discretionary parole
- ▶ Sec.116: Conditions of release for administrative parole
- ▶ Sec.117/118/119/120/121: Mandatory conditions of parole
- ▶ Sec.122: Commissioner responsible for implementing administrative parole
- ▶ Sec.123: Parole Board custody of parolees
- ▶ Sec.124: Reduces the period of time before a parolee becomes eligible for unconditional discharge from parole

Parole Eligibility Applied Inconsistently

Current Parole Eligibility

Offense	No prior felony	One prior felony	Two prior felonies
Unclassified Felony	Eligible	Eligible	Eligible
A Felony	Not eligible	Not eligible	Not eligible
B Felony	Eligible	Not eligible	Not eligible
C Felony	Eligible	Eligible	Not eligible

Source: Alaska Criminal Justice Commission

For Those Who are Eligible, Parole Underutilized

- On any given month in 2014, an average of 463 inmates were eligible for discretionary parole, and an average of only 15 parole hearings were held.
- Anecdotal reports point to long waits for parole hearings and archaic and confusing application procedures as reasons why offenders choose not to apply for parole.

Source: Alaska Dept. of Corrections

Expand and Streamline Discretionary Parole

- ▶ Extend discretionary parole eligibility to all felony offenders except class A and Unclassified felony offenders with prior felony convictions;
- ▶ Streamline parole hearings for lower-level felonies (first time class C and B felony offenders); and
- ▶ Require that any other offender who is parole eligible receives a hearing at least 90 days before his or her eligibility date.

Source: Alaska Criminal Justice Commission

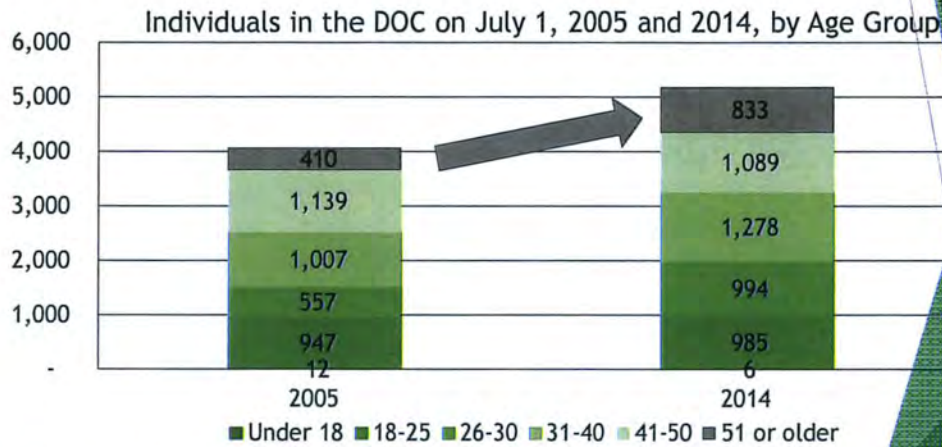
Implement a specialty parole option for long-term geriatric inmates

Recommendation 10

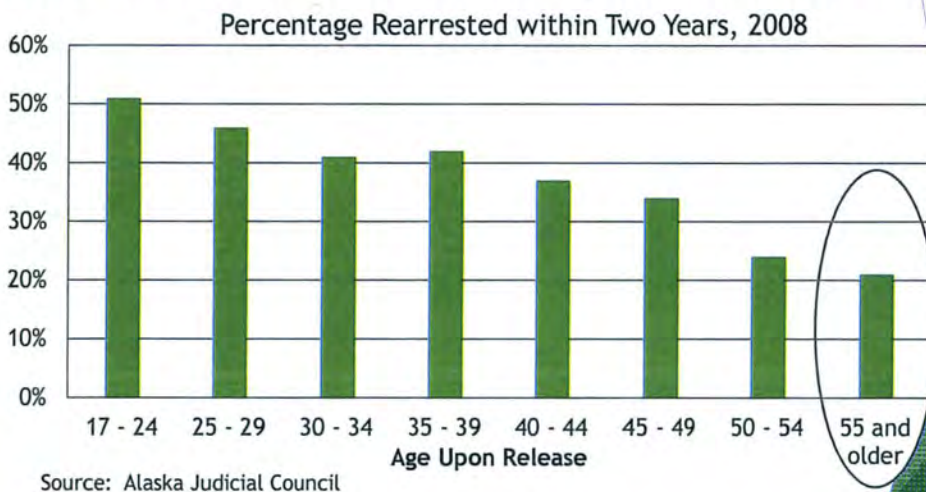
Sections Addressed:

- ▶ **Sec.105:** Expansion of discretionary parole to inmates at 55 years of age after 10 years of their sentence

Alaska's Prison Population Aging Quickly Over Last 10 Years



Oldest Offenders Expensive to House, Least Likely to Recidivate Upon Release



Implement a specialty parole valve for long-term geriatric inmates

- ▶ Provide for automatic parole hearings for offenders who are over 55 and have served more than 10 years of their sentence.
- ▶ Still discretionary - up to parole board

Source: Alaska Criminal Justice Commission

Incentivize completion of treatment for sex offenders with an earned time policy

Recommendation Eleven

Sections Addressed:

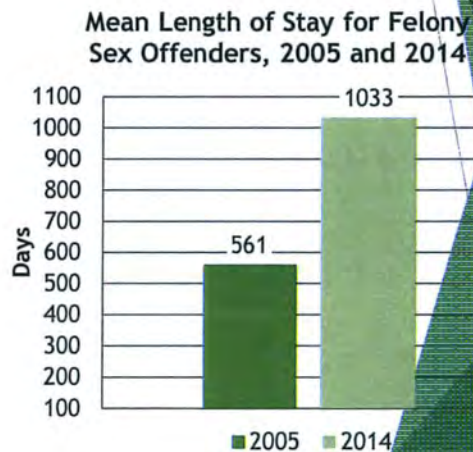
- ▶ Sec.136: Earned credit for treatment

Over Last Decade, Sex Offender Length of Stay Nearly Doubled

Over past 10 years-

- length of stay for Alaska's felony sex offenders has increased by 86%; and
- Alaska's sex offender population has grown by 38%.

Source: Alaska Dept. of Corrections



Sex Offender Treatment Proven to Work, But Underfunded in Alaska

- ▶ **Sex offender treatment proven to work**

- ▶ A cost-benefit analysis compiling all credible evaluations of sex offender treatment found that in-prison treatment had a cost-benefit ratio of \$1.87 (i.e. for every \$1 spent on treatment, there is a \$1.87 dollar benefit returned to the state and state residents).

- ▶ **In Alaska, need for treatment outstrips supply**

- ▶ Currently, the waitlist for in-prison sex offender treatment is at least four years long - need more beds

Source: Alaska Criminal Justice
Commission

Questions?

Alaska Legislature

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District 25

ACJC-JRI RECOMMENDATION 6: DRUG REFORMS

The Alaska Criminal Justice Commission was asked by the Legislature to find safe ways of reducing the prison population. It reviewed the state's drug laws, changes in sentences over time and relevant research, and developed the following in response.

The availability and use of dangerous illegal drugs has increased in the general population, despite decades of get-tough-on-crime measures and even though tens of thousands of drug offenders have served long, costly terms in state and federal prisons. Indeed, there's no evidence that incarceration is an effective way to interrupt drug markets, reduce drug use, or curb the rise of new drug epidemics.

This three-part recommendation is intended to focus law enforcement and correctional resources on interdiction and incarceration of the most serious offenders, importers and large commercial distributors, and recommend more cost-effective measures for all drug offenders.

a. Keep simple possession a crime, but reduce it to a class A misdemeanor to limit jail time and get substance abusers into community-based treatment.

The research clearly shows that neither felony classification nor lengthy jail terms mandated by felony sentencing structures has been effective in deterring the population in general from drug use nor in reducing the recidivism of individual drug abusers.

The Recommendation is to stop using these two costly countermeasures (felony conviction and lengthy prison terms) for simple drug possessors and substitute more effective measures for this group. Thus ACJC-JRI Recommendation 6, subpart a., proposes reclassifying the simple possession of heroin, methamphetamine, and cocaine from a class C felony to class A misdemeanor offense. Also, sentences for simple possession would be capped for first-time and second-time simple possession, at one-month and six-month suspended sentences, respectively. Thus, a first-time offender who fails to satisfy conditions of probation (such as treatment) can receive up to 30 days in jail. A second-time offender who fails on probation can thereafter receive up to six months in jail. For any other repeats, the maximum one-

year penalty maintains the threat of significant jail time. Unfortunately, many addicts do require multiple interventions and sanctions.

This structure utilizes suspended sentences to incentivize rehabilitation but allows for increasing sanctions for non-compliance. The Commission recommendations also seek to avoid pretrial stays for this group because there no treatment in jail. Treatment needs to be available to drug abusers when they need it, not weeks or months after a crisis. Thus reinvestment in other interventions, i.e. detox and community based treatment, is an absolutely essential element of this package of reforms.

The current statute punishing the simple possession of schedule IA and IIA drugs has not specified a quantity for which more severe punishment would be required. Similarly, the Commission did not recommend any cap for the reclassified possession. The pertinent question is intent, not quantity. Law enforcement and prosecutors are fully capable and extensively experienced in discerning whether personal use or commercial distributions were intended or had occurred.

b. Re-align the more serious drug distribution classifications because the current classification results in longer sentences than justified by the research, and the structure allows for unreasonable outcomes.

Classifications determine maximums and sentencing ranges. Currently the distribution of heroin (and other opioids in schedule IA) is a higher (class A) felony and the distribution of methamphetamine and cocaine is a lower (class B) felony. Recommendation 6 b. proposes that these distribution offenses be similarly classified at the lower felony level. There are two good reasons for realignment.

First, realignment at the same (lower) felony level is appropriate because research has shown that longer prison stays do not reduce recidivism more than shorter prison stays for many offenders.

Second, classification based solely on a drug type – and not on quantity as well - does not reflect the relative harms involved and can led to unreasonable disparities in sentencing. For example, the distribution of a 2.5 grams of heroin as a class A felony is currently subject to greater penalties than distribution of a kilo (1000 grams) of cocaine or meth, a class B felony. This is a significant concern because most (68% in a recent study) of Alaska’s class A felony drug distributions involve only small quantities. Even though the courts can adjust class A felony sentences to account for small quantities, reductions are limited to 50% of the low end of the presumptive range.

According to a recent two-year study, Class A drug offenders receive, on average, 42 months more of active incarceration time than received by class B drug felony offenders.

c. Maintain felony status for all drug dealers but provide greater penalties for the higher-volume dealers.

According to subpart c of the Recommendation 6, all distribution (and possession with intent to distribute) offenses are still punished as felonies, but higher penalties are provided when there are greater quantities of drugs. The intent is to distinguish the higher-volume distributor from the low-volume distributor. Thus

the higher classification (class B) applies to quantities over a certain threshold and the lower classification (class C) applies to quantities under the threshold.

A realignment in the classifications for smaller-quantities also takes into account both the reported prosecutorial practice of sometimes downwards 'adjusting' a classification (to an attempt) for less serious distributions, as well as the Alaska courts' experience of having to mitigate a majority of the drug distribution sentences due to smaller quantities. Thus the realignment promotes transparency in charging and proportionality in sentencing.

The Commission did engage in extensive consideration as to what quantity of heroin /cocaine/meth would trigger the higher of the two felony classifications. While there was majority support for using a 5 gram threshold, all Commissioners could agree on using half of that quantity, i.e. 2.5. grams, as the break-point between the higher B felony and the lower C felony for all three drugs (heroin, cocaine and methamphetamine). There was no subsequent proposal to assign different thresholds for the different drugs.

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District 25

TO: Grace Abbott, Legislative Assistant, House Judiciary Committee
FROM: Mary Geddes, Staff Attorney, Criminal Justice Commission
DATE: March 16, 2016
RE: Data Required for Development of A Pretrial Risk Assessment Instrument

In Recommendation 2, the Alaska Criminal Justice Commission urged the use of risk-based decision-making for pretrial release. More specifically, the Commission recommended that the Legislature direct the DOC, in consultation with the Department of Law ("DOL"), Public Defender, Department of Public Safety ("DPS"), and Alaska Court System ("ACS"), to create an evidence-based pretrial release decision-making grid that strengthens the presumption of release on personal recognizance or unsecured bond for defendants with less serious charges and lower risk scores. This Recommendation was discussed on Monday, March 14, and in a memo submitted to Judiciary Committee staff on March 16.

House Judiciary Committee Member Representative Kreiss-Tomkins wondered what information is required for the development of a pretrial risk assessment instrument and how it's validated for a specific population. He asked me (1) what kind of data has been used by other jurisdictions in creating pretrial risk assessment instruments, and (2) does Alaska have the requisite data needed to create a good instrument.

Following the meeting today, I contacted staff at the Pretrial Justice Institute whose paper I had previously quoted. PJI consults with states and other localities in developing such instruments. PJI has provided the ACJC with a comprehensive list of all possible data that could be used to develop a pretrial risk assessment instrument, as well as an updated May 2015 discussion of the latest science on pretrial risk assessment. See [http://www.pretrial.org/download/advocacy/Issue%20Briefpretrial%20Risk%20Assessment%20\(May%202015\).pdf](http://www.pretrial.org/download/advocacy/Issue%20Briefpretrial%20Risk%20Assessment%20(May%202015).pdf)¹ PJI materials explain that a valid tool can be designed without everything on the list, although generally more data options are better than fewer.

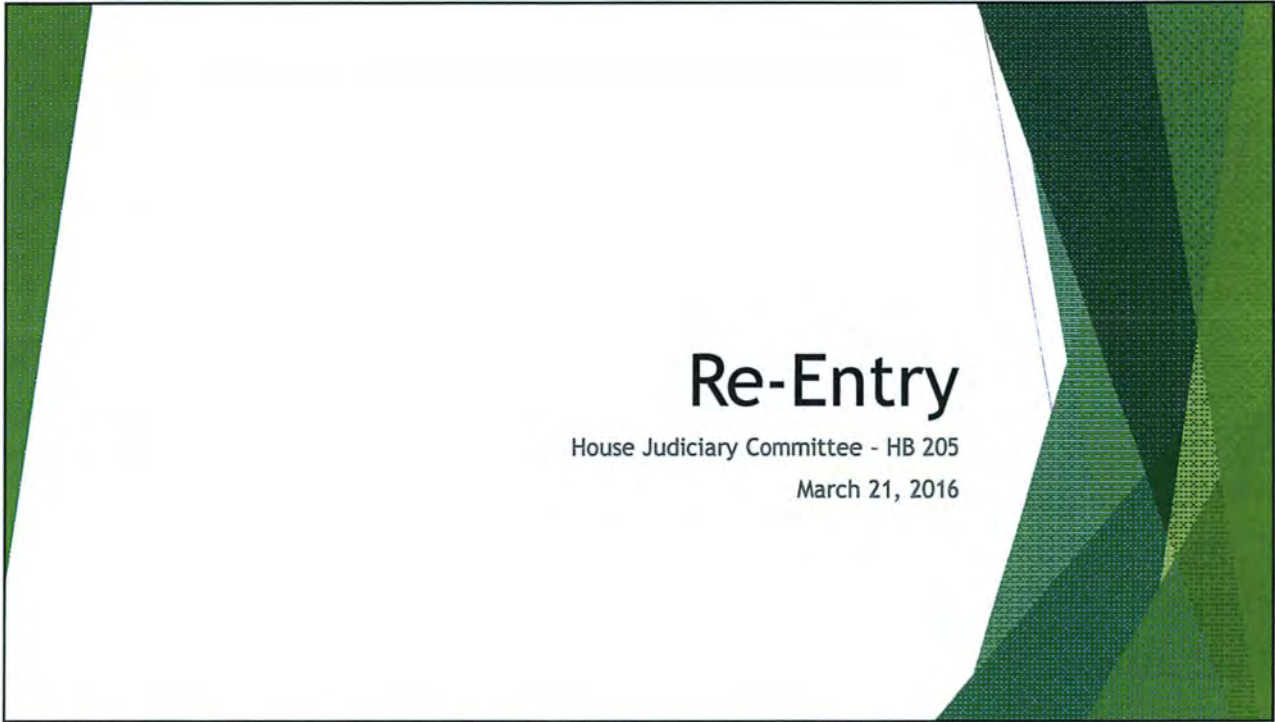
¹ Pretrial Risk Assessment: Science Provides Guidance on Assessment Defendants, Pretrial Justice Institute, May 2015.

Based on what Commission staff know so far about the data requirements of valid pretrial risk assessment tools, it seems likely that Alaska will be found to have adequate, reliable information necessary to create a solid tool. Data used in a pretrial risk assessment could be drawn from any available and reliable information systems (DOC, courts, prosecutor's office, pretrial services agency). James Austin, Ph.D. and the President of the JFA Institute,² consulted by this attorney, also perceives that Alaska courts and DOC should have sufficient data for this purpose.

Once Alaska agencies determine which data items on the list can reliably be obtained, analysts would run statistical tests (usually binary logistic regression, among a few other tests) to determine which of the available data items are factors predictive of pretrial misconduct - and which are not - for Alaska's particular offender population(s).

Alaska's development process likely also will be able to draw on the work of the Arnold Foundation, which is currently developing an actuarial assessment instrument for national pretrial use and testing it on large populations.

² Dr. Austin is presently developing a prototype pretrial risk assessment tool for the State of Nevada.

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Re-Entry

House Judiciary Committee - HB 205

March 21, 2016

The slide features a white background with a large, abstract green graphic on the right side. The graphic consists of several overlapping, semi-transparent green shapes in various shades, creating a layered, geometric effect.

Limited Driver's Licenses

Sections Addressed

- ▶ Sec.84: Court can terminate a revocation if the person has successfully completed the therapeutic court program, has not been convicted of DUI, and has successfully driven under the limited license for three years without being revoked
- ▶ Sec.85: Limited license available for person who has completed the therapeutic court program, has proof of insurance, and an installed ignition interlock device
- ▶ Sec.88: Court can reduce license revocation
- ▶ Sec.91: DMV must issue limited license if directed

Administrative License Revocations

Sections Addressed

- ▶ **Sec.83:** Requires the DMV to restore a person's driver's license if all charges have been dismissed or if the person has been acquitted of driving while under the influence.

Food Stamps

Sections Addressed

- ▶ Sec.148: Lifts the restriction on eligibility for food stamps for persons convicted of drug felonies, provided the individual is compliant with conditions of probation, has completed treatment, or is working toward rehabilitation.

Re-Entry Program

Sections Addressed

- ▶ Sec.139: Requires the Department of Corrections to establish a program to prepare a prisoner for re-entry that begins 90 days before the date of release. The program must include a re-entry plan and instruction on resources available in the community and obtaining state identification.

Community Work

Sections Addressed

- ▶ Sec.64: Limits the court to imposing community work service only for offenses where community work is a mandatory component of the penalty for the offense.
- ▶ Sec.65: Increases the value of an hour of community work from three dollars to the state's minimum wage. If the defendant is unable to pay the fine and the court offers the defendant the option of performing community work in lieu of a fine.
- ▶ Sec.66: Prevents the court from converting community work service into a sentence of imprisonment or offering the defendant the option of serving jail time in lieu of completing community work service.

Suspended Entry of Judgement

Sections Addressed

- ▶ Sec.67: Establishes a process for suspending an entry of judgment, whereby if a person pleads guilty to a crime, the court may, with the consent of the defense and prosecution, impose conditions of probation without imposing or entering a judgment of guilt. Upon successful completion of probation, the court shall discharge the person and dismiss the case after one year.

Community Supervision

House Judiciary Hearing - HB 205

March 21, 2016

1

Graduated Sanctions and Incentives

Recommendation Twelve

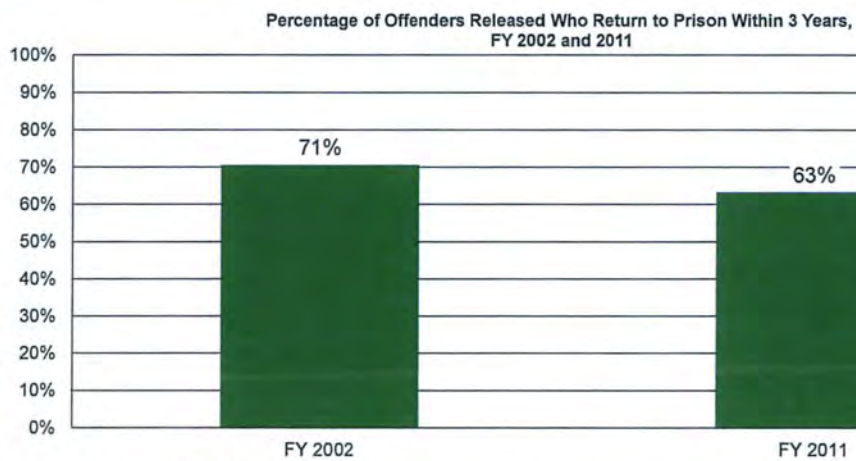
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Sections Addressed:

- ▶ Sec.72: Probationers requires to comply with graduated sanctions
- ▶ Sec.96: Commissioner to establish an administrative sanction and incentive program
- ▶ Sec.98: Defines administrative sanctions and incentives
- ▶ Sec.134: Conforming

3

Almost Two-Thirds of Offenders Released Return to Prison Within Three Years



Source: Alaska Dept. of Corrections

4

Swift, Certain, and Proportional Sanctions Effective at Changing Offender Behavior

- ▶ Research shows that responding to violations quickly, certainly, and proportionally is the most effective way to change offender behavior. Key elements of a successful system include:
 - ▶ Developing a range of sanctions - from the less serious (i.e. increased drug testing, curfews) to the more serious (i.e. electronic monitoring, prison time), and apply according to the frequency and seriousness of the violations;
 - ▶ Communicating a credible and consistent threat of sanctions to the supervisee; and
 - ▶ Streamlining procedures to allow the probation officer to swiftly respond to the violation.

Source: Alaska Criminal Justice Commission

5

Recommendation: Implement Graduated Sanctions and Incentives

- ▶ Authorize the DOC to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses, and to follow the matrix when responding to technical violations of supervision.

Source: Alaska Criminal Justice Commission

6

Cap Technical Violation Stays

Recommendation Thirteen

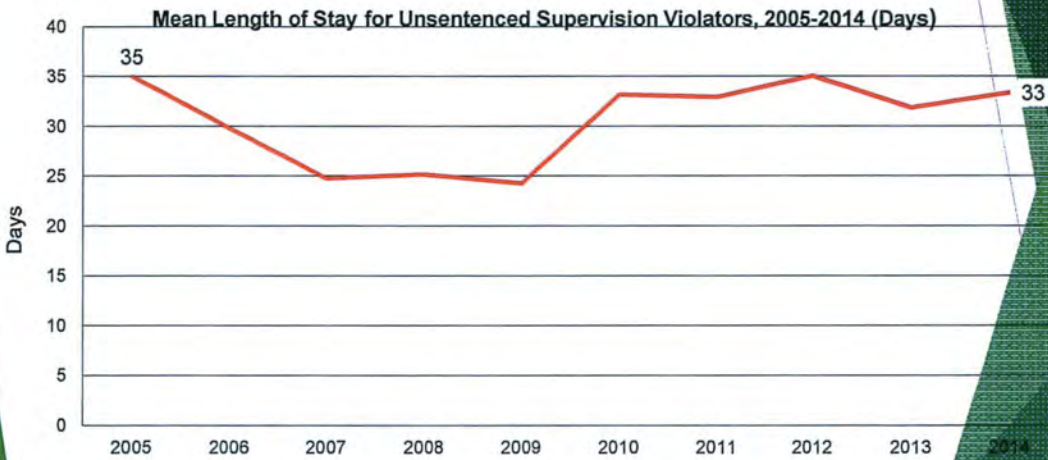
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Sections Addressed

- ▶ Sec.58: Persons Appearing on Petition to Revoke
- ▶ Sec.60: Credit for time in custody for violation
- ▶ Sec.74: Limit max. sentence for technical violations of probation - 3,5,10, rest
- ▶ Sec.126: “ “ for parole
- ▶ Sec.127: New offense or failing to complete a sex offender treatment program require hearings
- ▶ Sec.128: Hearings occur within 15 days
- ▶ Sec.129: Conforming
- ▶ Sec.130: Revocation hearings must be within 15 days
- ▶ Sec.131: Release after serving maximum days

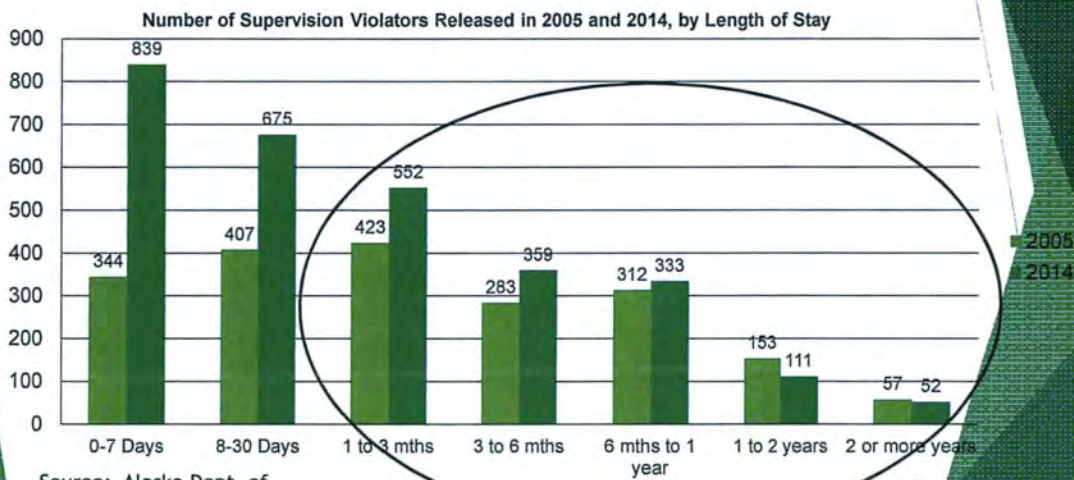
8

Petitions to Revoke Take a Month to Resolve



Source: Alaska Dept. of Corrections

Once Sentenced, Nearly Half of Revocations Staying More than One Month



Source: Alaska Dept. of Corrections

Recommendation - Cap Incarceration Time for Technical Violations of Supervision

- ▶ For offenders not participating in PACE program, limit revocations to prison for technical violations as follows:
 - ▶ First revocation: Up to 3 days
 - ▶ Second revocation: Up to 5 days
 - ▶ Third revocation: Up to 10 days
 - ▶ Fourth and subsequent revocation: Up to the maximum remaining suspended time
 - ▶ Revocation for absconding: Up to 30 days

Source: Alaska Criminal Justice Commission

11

Earned Compliance Credits

Recommendation Fourteen

12

Sections Addressed

- ▶ Sec.70: Conforming to new early discharge and earned compliance credit policies
- ▶ Sec.73: Conforming
- ▶ Sec.97: Probation officers may grant earned compliance credits, administrative sanctions, and early discharge
- ▶ Sec.132: Parolees may earn compliance credits
- ▶ Sec.133: Defines “administrative sanctions and incentives”

13

To Change Offender Behavior, Rewards More Effective than Sanctions

- ▶ Research shows that states achieve higher successful supervision rates when rewards outnumber sanctions. Successful supervision programs provide incentives for meeting case-specific goals
- ▶ For example, rewarding an offender with a drug addiction for participating in an out-patient drug treatment program, thereby enhancing supervisees’ motivation

Source: Alaska Criminal Justice Commission

14

Recommendation: Establish a System of Earned Compliance Credits

- ▶ Establish an earned compliance policy that grants probationers and parolees one month credit towards their supervision term for each month that they are in full compliance with the conditions of their supervision.

Source: Alaska Criminal Justice Commission

15

Maximum Probation Terms & Earned Discharge

Recommendation Fifteen

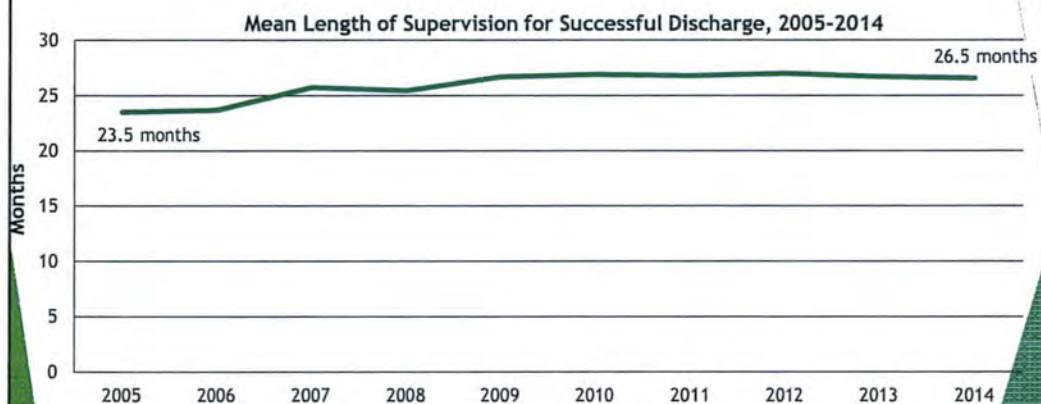
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Sections Addressed

- ▶ Sec.68: Conforming
- ▶ Sec.69: Limits probation for felonies and misdemeanors
- ▶ Sec.71: Early discharge is recommended if in compliance, good behavior - victim must be notified
- ▶ Sec.125: Parole board may initiate early discharge

17

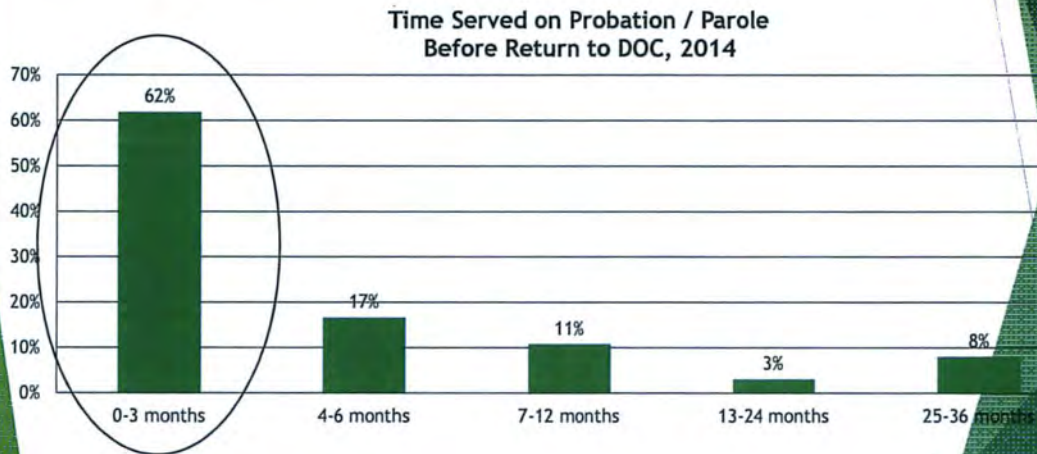
Average Length of Stay on Community Supervision Up 13% Over Past Decade



Source: Alaska Dept. of Corrections

18

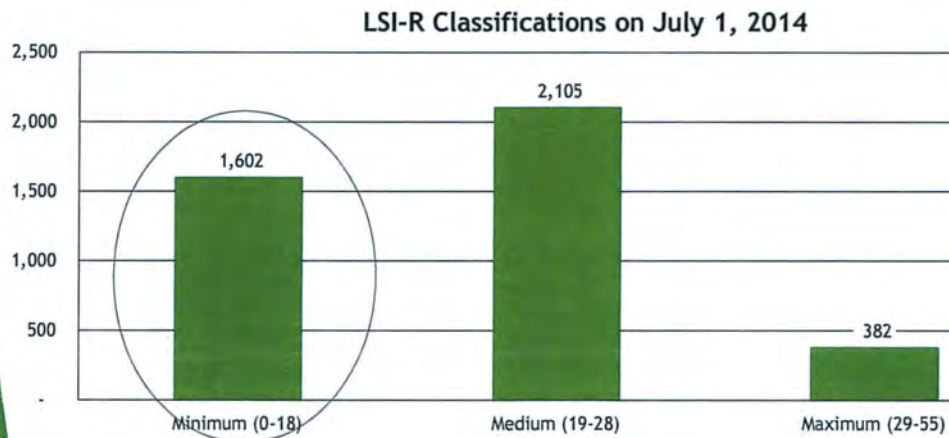
Failure Most Likely to Happen Within Three Months



Source: Alaska Dept. of Corrections

19

Large Portion of Supervision Population Low-Risk



Source: Alaska Dept. of Corrections

20

Frontload and Focus Supervision Resources

- ▶ Research shows that supervision resources provide the greatest public safety returns when focused on those most likely to reoffend: high-risk offenders and those recently released from prison. Key elements of a successful system include:
 - ▶ Identifying offenders who warrant enhanced supervision and those who do not, including reducing reporting requirements for those who are succeeding; and
 - ▶ Deterring future crime and technical violations by changing offender behavior in the first few days, weeks, and months after release.

Source: Alaska Criminal Justice Commission

21

Recommendation—Reduce Maximum Lengths for Probation Terms and Standardize Early Discharge

- ▶ Cap maximum probation terms at-
 - ▶ 5 years for felony sex offenders and Unclassified felony offenders;
 - ▶ 3 years for all other felony offenders
 - ▶ 2 years for 2nd DUI and DV assault misdemeanor offenders; and
 - ▶ 1 year for all other misdemeanor offenders.
- ▶ For certain offenders, reduce the minimum time needed to serve on probation or parole prior to being eligible for early discharge to 1 year.
- ▶ For certain offenders, require the DOC to recommend early termination of probation or parole for any offender who has completed all treatment programs and is in compliance with all supervision conditions.

Source: Alaska Criminal Justice Commission

22

Good Time on Electronic Monitoring

Recommendation Sixteen

23

Sections Addressed

- ▶ Sec. 135: Allows good time credit for time spent on electronic monitoring

24

Unlike Those in Prison, Offenders on EM Unable to Earn Good Time

- ▶ The ACJC found that, while most offenders who are housed within an institution have the opportunity to earn “good time” up to one-third off their sentences in acknowledgement of positive behavior, offenders on electronic monitoring are currently banned from earning this incentive.

Source: Alaska Criminal Justice Commission

25

Recommendation - Extend Good Time Eligibility to Offenders Serving Sentences on Electronic Monitoring

- ▶ Allow offenders on electronic monitoring to qualify for good time credits under the same conditions set forth for offenders in DOC institutions.

Source: Alaska Criminal Justice Commission

26

Focus ASAP Resources

Recommendation Seventeen

27

Sections Addressed

- ▶ Sec.149: Conforming to DUI statutes
- ▶ Sec.150: Regulations for ASAP, includes pre-ASAP risk assessment
- ▶ Sec.151: ASAP provide risk assessments

28

Increases in Referrals to ASAP Have Limited Program's Effectiveness

- ▶ Alaska's Alcohol Safety Action Program ("ASAP") provides needed screening and treatment referral services for thousands of misdemeanor offenders who are referred by the court.
- ▶ However, the Commission found that increases in the number of referrals to ASAP have not correlated with increased funding for the program, resulting in limited program effectiveness.
 - ▶ In fiscal year 2015, ASAP received nearly 7,250 referrals. 57% of which were statutorily mandated referrals (DUI and MCA). The remaining 43% were referrals that were not mandated by statute.

Source: Alaska Criminal Justice Commission

29

Recommendation - Focus ASAP Resources to Improve Program Effectiveness

- ▶ Focus ASAP resources on offenders for which the program was originally created (DUI and MCA).
- ▶ Require ASAP to expand current services to include using a validated assessment tool to screen for criminogenic risk, performing a brief behavioral health screening, and providing referrals to treatment programs designed to address offenders' individual criminogenic needs.
- ▶ Require ASAP to provide increased case supervision for moderate- to high-risk offenders.

Source: Alaska Criminal Justice Commission

30

CRC Resources

Recommendation Eighteen

31

Sections Addressed

- ▶ Sec. 140: Requires CRC's to provide treatment, reduce mixing low and high risk offenders, and adopt quality assurance measures, including standards for assessing risk levels.

32

CRCs Mixing High- and Low-Risk Offenders; Not Providing Evidence-Based Treatment

- ▶ The Commission found that CRCs, otherwise known as halfway houses, are likely mixing high- and low-risk offenders, which research has shown can lead to increased recidivism for low-risk offenders.
- ▶ Additionally, the Commission found that CRCs would be more effective at reducing recidivism if the facilities offered evidence-based treatment for offenders in addition to supervision.

Source: Alaska Criminal Justice Commission

33

Recommendation- Improve Treatment Offerings in CRCs and Focus CRC Resources on High-Risk Offenders

- ▶ Require CRCs to provide treatment (cognitive-behavioral, substance abuse, aftercare and/or support services) designed to address offenders' criminogenic needs.
- ▶ Implement admission criteria for CRCs that would:
 - ▶ Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment; and
 - ▶ Minimize the mixing of high- and low-risk offenders.

Source: Alaska Criminal Justice Commission

34

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District 25

ACJC RECOMMENDATION:

REPEAL LIFETIME BAN ON FOOD STAMPS FOR FORMER DRUG OFFENDERS

The Alaska Criminal Justice Commission was asked by the Legislature to make recommendations for improving criminal justice practices, including rehabilitation. The Commission reviewed the state's laws, including those sanctioning nonviolent crimes, looked at changes in sentences over time, other states' experience, and the relevant research, and developed the following in response.

In 2015, the Commission recommended that the Alaska Legislature enact an 'opt-out' from a federal law¹ that permanently excludes any person convicted of a drug felony from eligibility for federal food assistance, known as Food Stamps. State legislatures can maintain, outright repeal, or modify the ban. The Commission recommends an outright repeal.

Alaska is one of only six states that have maintained a lifetime ban for any person convicted after August 1996 of any state or federal drug felony, including possession. Twenty-six states have modified the ban. Eighteen states have completely repealed the ban.

The Commission concluded that the lifetime exclusion of otherwise eligible drug offenders from food stamp benefits is counter-productive in several significant ways.

- First, the lifetime exclusion of all drug felons from food assistance benefits is unduly punitive. It persists after an offender has served his or her sentence and completed any probation and/or parole requirements. And the ban applies no matter how old the offense, how short the sentence, nor how well rehabilitated the ex-offender.
- Second, the lifetime exclusion of all drug felons is unfair.² Persons who are convicted for any other kind of non-violent crime are always eligible, as are persons who committed felony crimes of violence before 2013.

¹ Section 862a(a)(2) of Title 21, United States Code. Section 862a(a)(2)

² During the War on Drugs, there were concerns that food stamps were being traded by addicts for drugs, hence the penalty. "Food stamps" now comes in the form of an electronic debit card carrying a photo ID which has made the benefit hard if not nearly impossible to traffic. Furthermore, any singling out of ex drug offenders is especially unwarranted today because the issuance of electronic cards with the recipient's photo have significantly reduced

- Third, the specific exclusion of former drug offenders from federal food assistance upon their release from prison does not solve a problem, but rather exacerbates one. Many former offenders re-entering their communities are destitute. They almost always need forms of temporary assistance to help them reintegrate back into the community, seek work and search for permanent housing. Convicted felons face great obstacles in obtaining stable, long-time employment and may need food stamps for the short periods of time (usually 3 months) permitted.
- Fourth, researchers posit that the lifetime ban may hurt victims of domestic violence. There is a growing recognition and evidence of a connection between drugs, sexual assault and domestic violence. Denying food assistance to former drug felons may make it more likely that these individuals may return to situations of sexual exploitation and domestic violence.
- Fifth, the ban undercuts family reunification, not supports it. A person convicted of a drug felony cannot receive food stamps even when the remainder of her household is eligible. Even though the ex-offender may not be "counted" as a member of an otherwise eligible household, any income she earns will nevertheless be "counted" as a family asset. The practical result is a decreased food assistance benefit for the family.

The Commission also determined that expansion of federal food assistance could be provided at little cost to the State of Alaska. Food Stamps are a fully funded federal benefit, with the federal government assuming half of the relatively minor administrative costs. The Commission was also aware that the United States Department of Agriculture has estimated a State will realize an economic benefit of \$1.79 for every dollar of federal food assistance received.

Finally, the Commission considered the experiences of other states in determining whether the food stamp ban should be repealed outright or modified. The Commission concluded that modified bans create additional administrative burdens on the state and often unnecessary burdens on ex-offenders with little demonstrable benefit.

Program requirements imposed on parolees and probationers seemed often duplicative of conditions already monitored by a court or agency. For individuals who had completed their sentences or treatment a decade ago, or in another state, proving 'rehabilitation' may be an unfairly burdensome requirement. And while there remains a great deal of interest in conditioning the receipt of governmental benefits on passing drug tests, tests imposed without regard to individualized suspicion of illicit drug use are vulnerable to constitutional challenge.

any perceived risk that federal food benefits might be bartered for drugs. And those few persons who still manage to engage in food-drug trafficking are subject to a lifetime SNAP exclusion under a different law.

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District 25

ACJC-JRI RECOMMENDATION 7: UTILIZE INFLATION-ADJUSTED THRESHOLDS FOR PROPERTY OFFENSES

The Alaska Criminal Justice Commission was asked by the Legislature to find safe ways of reducing the prison population. The Commission reviewed the state's laws, including those sanctioning nonviolent property crimes, looked at changes in sentences over time, other states' experience, and the relevant research, and developed the following in response.

Most incarcerated property offenders have been charged with theft. For theft and for a few other types of property offenses such as criminal mischief, the offense classification and related penalties depends upon the value of the item taken or damaged, or the amount of the loss experienced by a victim. A "felony threshold" is the dollar amount that is used to determine whether a person is chargeable with a felony or misdemeanor classification. Alaska's felony property offense threshold is \$750.¹

Thirty-one states have felony thresholds greater than Alaska. Twenty-nine states have thresholds at \$1,000 or more. Six states – all with lower costs-of-living than Alaska's – have felony thresholds at \$2000 or more. Texas now has a felony threshold of \$2,500.

After reviewing the research, the Commission recommends *increasing* the Alaska felony threshold amount to \$2,000. The reasons for the Commission's recommendation are:

- Alaska's felony property offense threshold has not kept pace with inflation. Originally set at \$500 in 1978, the equivalent value in today's dollars would be over \$1800. Thus, over time, Alaska's felony-theft laws have become more punitive, allowing the state to felonize more conduct than it did in the past. Less-serious thefts which were misdemeanors at the time the law was written would now be felonies.
- A logical consequence of the failure to adjust for inflation would be an upwards creep over time in the incarceration rate as less-serious thefts become felonies. This is wholly consistent with the data. Over the last decade, the number of property offenders admitted to prison has increased by 16%, driven in large part by a 56% growth in admissions for theft in the second degree (C Felony) offenders.

¹ If the amount of the loss is \$750 up to \$25,000, the conduct is a class C felony which is punishable by a five-year maximum sentence.

- Thirty other States have raised felony theft thresholds since 2001 as a way to take inflation into account. Three states (Alabama, Colorado and Mississippi) have raised the threshold twice. Yet notably, there has been no impact on crime rates when states have acted to increase their felony thresholds. Long-term trends in property crime and larceny rates shows year-over-year fluctuations within many of the 23 states that raised their felony theft thresholds between 2001 and 2011. For all but four of the 23 states—Nevada, New Mexico, South Dakota, and Washington—property crime and larceny rates were lower in 2014 than in the year in which each state raised its threshold.
- The value of states' felony theft thresholds is not correlated with property crime and larceny rates, whether the threshold is set at \$500, \$1,000, or \$2,000. Florida, for example, treats theft as a felony if the value of stolen money or goods exceeds \$300, but its property crime and larceny rates are considerably higher than those in Pennsylvania, where the threshold is \$2,000.
- Changes in state felony theft thresholds have not interrupted the long nationwide decline in property crime and larceny rates that began in the early 1990s. The U.S. property crime rate fell 36 percent from 1998 to 2014, the most recent year for which data are available.²
- The research also indicates that longer sentences - such as those resulting from felony penalties - have no effect on individual recidivism. It has also been reported that, among first-offenders, incarceration of any length may have only a negative criminogenic effect.

Recommendation 7 – urging that the felony threshold be increased from \$750 to \$2,000 – is appropriate because it is the dollar value that determines the applicable punishment, the conduct is in all instances nonviolent, the research does not suggest any adverse effects from making this adjustment, and the projected bed impacts are significant for reducing the incarcerated population.

This Recommendation is also consistent with the direction provided in SB 64 to consider “proportionality” in sentencing. Because the current statutory range of loss is so broad for class C felonies (\$750-25,000), the classification prescribes equivalent penalties for a theft of a cart of groceries – especially in a rural location - and that more sophisticated offense which involves a \$20,000 asset or item.

Which Property Offenses Would Not Be Effected

This Recommendation to change the felony threshold does not reach robbery, nor burglary and felony trespass offenses. Nor does it alter the felony classifications for forgery, nor for first-degree criminal impersonation. Criminal impersonation in the first degree, a class B felony, punishes the use of another’s access device (including credit, debit or ATM cards) to either obtain a false ID or property no matter the value, if the result is to recklessly damage the financial reputation of the other person.

Also unaffected by this Recommendation are felony recidivist offenses in these categories. Those charged with vehicle theft who have a prior conviction are subject to class C felony charges, instead of class A misdemeanor charges. Those charged with a theft or concealment of merchandise at the class A misdemeanor level who have two priors will be instead facing class C felony penalties.

Why Indexing the Threshold is Consistent with Fiscal Austerity

² Experts attribute the nation’s sustained drop in crime rates to a host of factors, which include: better policing; better technology in surveillance and detection; the incarceration of certain repeat offenders; and more private security personnel.

The Commission also recommends that the thresholds for property offenses be indexed to the Consumer Price Index, allowing the level to be adjusted automatically. Given the limitations of a ninety-day legislative session, an automatic adjustment would help conserve the expensive resource of incarceration for the more serious crimes.

ALASKA BOARD OF PAROLE
550 West 7th Ave., Suite 1800
Anchorage, AK 99501

- APPLICATION FOR DISCRETIONARY PAROLE -
INSTRUCTIONS AND INFORMATION

1. **BEFORE APPLYING:** Prior to completing this discretionary parole application read the following information regarding the discretionary parole process. Please see Helpful Information A, below.
2. **INK OR TYPEWRITTEN:** The discretionary parole application must be fully completed in ink or typewritten to the best of your ability.
3. **APPLICANT'S RESPONSIBILITIES:** The completed application must be turned in to the assigned parole officer a minimum of seven weeks before the week of the scheduled board hearing. Letters of support of the discretionary parole applicant may be submitted. Please see Helpful Information B, below.
4. **HEARING INFORMATION:** Parole hearings are held in-person or by teleconference. Persons attending the hearing will be Parole Board members and staff, the applicant and the parole officer. If the conviction was for a crime against a person, the victim may attend the hearing or may comment in writing. The applicant may have an attorney present at the applicant's expense. Please see Helpful Information C, below.
5. **GUIDELINES INFORMATION:** The Board uses numerical guidelines they have developed to help guide them in exercising discretion under AS 33.16.100. If an applicant has not completed the minimum guideline range the applicant should be prepared to explain to the Board why parole should be granted below the guidelines. Please see Helpful Information D, below.
6. **RELEASE PROCEDURES:** All discretionary parole releases are subject to an approved parole plan and conditions of parole. Parole does not become effective until the parole plan has been verified by the Department of Corrections and the Order of Parole from the Parole Board has been signed. If the prisoner refuses to sign the discretionary order of parole the prisoner will not be released to parole. Please see Helpful Information E and F, below.

HELPFUL INFORMATION

- A. See the Alaska Administrative Code (Title 22AAC 20, Article 1, ***Eligibility for Discretionary Parole***). Also available to applicants is an informational booklet titled "Parole Handbook." See page 3 "Who Should Apply for Discretionary Parole" and page 4, "How to Apply for Discretionary Parole." The booklet is available from the Board of Parole and correctional facilities throughout the state of Alaska.
- B. See the Alaska Administrative Code (Title 22 Chapter 20, Article 4, Section 150, ***Applicant's Responsibilities and Procedural Opportunities***).
- C. See the Alaska Administrative Code (Title 22, Chapter 20, Article 2, Section 95, ***Attendance at Hearings*** and pages 4-5 of the "Parole Handbook").
- D. See the Alaska Administrative Code (Title 22, Chapter 20, Article 4, section 142, ***Numerical Guidelines***). A Guidelines Handbook for Parole Applicants is available from the Board of Parole or at each correctional law library.
- E. See the Alaska Administrative Code (Title 22, Chapter 20, Article 5, ***Conditions of Supervision***; also see AS 33.16.150) and pages 5-6 of the "Parole Handbook."
- F. See the Alaska Administrative Code (Title 22, Chapter 20, Article 6, ***Discretionary Parole Release Procedures***) and page 5 of the "Parole Handbook."

3. **WHAT WILL YOU NEED ASSISTANCE WITH IF YOU ARE PAROLED?** For example: housing, employment, transportation, treatment/programming, education, support system, maintaining sobriety, etc.

Housing:

Employment:

Transportation:

Schooling/Education:

Treatment/Programming:

Support System:

Other Assistance:

This application will become part of the record that will be considered by the Alaska Board of Parole when reviewing your case for discretionary parole. I understand the Alaska Board of Parole has access to all records when considering this parole application. The Alaska Board of Parole may examine all Department of Corrections records as well as records generated by contract facilities or program providers. I further understand that it is a Class A misdemeanor crime under AS 11.56.210 to submit a false written or recorded statement regarding this parole application. I acknowledge I must state the exact and complete truth in this written application as well as at my parole hearing. Providing a false or misleading statement may be grounds for denying parole or rescinding parole.

SIGNATURE OF APPLICANT

SIGNATURE OF STAFF WITNESS

DATE: _____

DATE: _____

Rev. 04/2014; Alaska Board of Parole

Parole Eligibility Applied Inconsistently

Current Parole Eligibility

Offense	No prior felony	One prior felony	Two prior felonies
Unclassified Felony	Eligible	Eligible	Eligible
A Felony	Not eligible	Not eligible	Not eligible
B Felony	Eligible	Not eligible	Not eligible
C Felony	Eligible	Eligible	Not eligible

Source: Alaska Criminal Justice Commission

March 22, 2016

Written Testimony for HB 205 (version 29-LS0896\H work draft)
Prepared for the House Judiciary Committee
by Katherine J. Hansen, Acting Director, Office of Victims' Rights

The Alaska Office of Victims' Rights (OVR) submits this written feedback to the House Judiciary Committee as it considers HB 205. The OVR has worked extensively with the Senator Coghill as the companion bill, SB 91, has made its way through the Senate State Affairs and Senate Judiciary Committees. OVR has a staff of bar-certified attorneys who have practiced criminal law as both former prosecutors and as victims' rights attorneys. OVR has carefully reviewed the work draft of HB 205, version 29-LS0896, to recommend changes to the committee that, in OVR's view, should be made to prevent public safety or victims' rights problems in the application of the bill while still preserving the intent of the sentencing commission to the extent feasible. For efficiency and ease of discussion, OVR has compiled this written list of recommendations for specific changes.

Section 22 –

Page 12; This section was removed from SB 91 (version 29-LS0541\I) and OVR recommends that it be removed from HB 205 as well so that Failure to Appear remains a misdemeanor crime.

Sections 33 – 39 –

Pages 14 – 21; OVR does not support the reductions in penalties for drug offenses proposed in these sections. Alaska, along with the rest of the nation, is in the midst of a heroin epidemic with corresponding increases in crime, child neglect, and deaths from overdose. For recent articles in the media, see <http://www.adn.com/article/20160213/dramatic-spike-foster-children-overwhelming-state-agencies> and <http://www.adn.com/article/20150714/public-health-officials-find-steep-rise-alaska-heroin-deaths-overdoses> (last accessed March 14, 2016). Despite dramatic increases in child neglect and crime associated with heroin, the effect of these sections, by reducing penalties, would be to limit the court's ability to require those possessing heroin and other hard drugs to obtain treatment. Many innocent people in our community are victimized by burglaries and thefts by drug addicts. Under these sections, possession of heroin and other drugs would be reduced to a misdemeanor and the most likely sentence would be a few days in jail, if any. There would be no way to mandate a defendant to complete treatment when a misdemeanor defendant is not supervised by a probation officer. The community would have to wait for the addiction and addiction-related crime to escalate. Additionally, those *dealing* heroin would receive no jail if caught unless they are dealing more than 2.5 grams which is about 25 doses.

The bill also reduces the penalty for those manufacturing methamphetamine. It was only a few years ago that Alaska was in the midst of a serious methamphetamine problem. Under these sections, someone who runs a methamphetamine lab in a residential neighborhood would be sentenced from zero to two years in jail. Significantly reducing the penalty for *dealing* heroin and *manufacturing* methamphetamine will not aid in combatting this epidemic.

The proposed changes to drug offenses in SB 91 curtail existing efforts to stem the tide of overdoses, property crime, and child neglect associated with drug abuse in Alaska. OVR's experience with victims of crime committed by drug addicts is that victims *do not* support legislative efforts to decriminalize and minimize penalties for drug related offenses.

Section 42 –

Page 22, lines 18, substitute “may” for “shall” and line 22, substitute “should presumptively” for “shall” to change the mandate to a legal presumption that release is appropriate without completely removing judicial discretion; the victim is entitled to a meaningful opportunity to be heard at all bail hearings, otherwise the provision is an unconstitutional violation of the Alaska Constitution, Article I, § 24.**

Section 51 –

Page 25, line 22, substitute “should presumptively” for “shall” to change the mandate to a legal presumption that release is appropriate without completely removing judicial discretion; the victim is entitled to a meaningful opportunity to be heard at all bail hearings, otherwise the provision is an unconstitutional violation of the Alaska Constitution, Article I, § 24.**

Section 52 –

Page 30, line 1, substitute “should presumptively” for “shall” to change the mandate to a legal presumption that release is appropriate without completely removing judicial discretion; the victim is entitled to a meaningful opportunity to be heard at all bail hearings, otherwise the provision is an unconstitutional violation of the Alaska Constitution, Article I, § 24.**

OVR recommends that the list of crimes developed as exceptions in this section by the Senate State Affairs Committee for SB 91 be retained. Additionally, OVR recommends additional crimes be added, including “sex offenses defined by AS 12.63.100(a)(6),” “AS 11.46.360” to include C felony vehicle theft, “AS 28.35.182” to include C felony eluding to the list of exceptions for crimes that the judge has discretion to set appropriate, additional bail release conditions.

Page 31, line 20, to end of sentence add “and may impose additional conditions of release, including requiring supervision of those conditions of release by a pretrial services officer to ensure compliance with the conditions of release, if the conditions are the least restrictive conditions that will reasonably ensure the appearance of the person in court and the safety of the victim and the community.” OVR believes this change is necessary so that judges retain ultimate discretion to set appropriate bail conditions.

Adding these crimes to the enumerated list would permit a judicial officer to consider additional bail options as appropriate. These recommended changes fall in line with changes made by the bill sponsor in the Senate State Affairs Committee to ensure victim and community safety for certain classes of offenders who might need to be arrested and/or have more stringent bail release conditions than other types of offenders.

Section 58 –

Page 34, line 19, substitute “should presumptively” for “shall” to change the mandate to a legal presumption that release is appropriate without completely removing judicial discretion; it is unconstitutional to release a criminal defendant from jail without prior victim notice and an opportunity to be heard per the Alaska Constitution, Article I, § 24.** This mandatory release provision also presents practical problems. Defendants, released after serving maximum potential jail time, will have no incentive to admit the violations; the prosecutors may not have the additional resources needed to litigate all probation violation charges. If the charges are dismissed for lack of resources, the defendants will have time served as a “get out of jail free” pass for the next probation violation. This provision, then, may actually provide incentive for offenders who would repeatedly violate their probation. It may also “socialize” the offenders to intentionally violate probation, anticipating short jail sentences at state expense during which the offender could bring in contraband to other prison inmates.

Add a new section after section 58, page 4 –

OVR requests that a “truth-in-sentencing” amendment passed in the Senate State Affairs Committee for SB 91 also be added to HB 205. The amendment would allow victims at sentencing to be given written information by the sentencing judge as to how an offender’s sentence may be reduced under the various provisions proposed in this bill and in existing law. The victims may disagree with the sentence and potential post-sentence reductions, but at least they would have written information that explains the process and the potential changes rather than being surprised and feeling betrayed by the system at some future date. The advance notice provides a victim with time to make a safety plan, make other life decisions, and have confidence about whether and when an offender will be released from jail.

Section 61 –

Page 38, line 13

OVR recommends that the added language “of not more than 120 days” should remain in the bill. There was some discussion by House Judiciary Committee members about why this phrase appears in the proposed bill and whether it should be retained. OVR worked with the bill sponsor to request the 120-day cap. A criminally negligent homicide in Fairbanks, committed by Eddie Ahyakak, brought this concern to OVR’s attention. Ahyakak killed another driver while under the influence of prescription drugs. He was summonsed to court and released on his own recognizance. At his change of plea hearing for B felony criminally negligent homicide, he requested his bail be *increased* to a private electronic monitor to he “could start serving his sentence.” But there is no guarantee that DOC will approve his application for electronic monitoring after he is sentenced. A similar DOC electronic monitoring application was denied recently in Anchorage in the Alexandra Ellis case, who killed Jeff Dusenbury, and has garnered much media and community attention. See <http://www.adn.com/article/20160317/ellis-gets-8-months-credit-toward-sentence-hit-and-run-killing-cyclist> The 120-day cap is requested to solve several problems. It prevents defendants from being able to “pre-serve” all their time on an electronic monitor and circumvent DOC’s application process and classification decision as to

whether to allow a prisoner to serve their sentence on an electronic monitor after considering factors listed in AS 33. 30.065. It prevents defendants from gaming the system by requesting pretrial delays long enough to ensure that offenders can serve their entire sentence on a pretrial electronic monitor; the 120-day time limit would ensure offenders can receive pretrial electronic monitoring credit and have the full 120-day “speedy trial” time to prepare for trial. Offenders are still eligible for electronic monitoring credit post-sentencing when approved by DOC, so the proposal does not prevent any offenders from serving a sentence on an electronic monitor when appropriate. There is also a real concern that persons with means could premeditate and intentionally commit a heinous crime, like murder, get caught, claim a lesser homicide crime through a high-priced defense attorney, pay for a private pretrial electronic monitor, and delay the case for years knowing they won’t have to go to jail (think drug dealers, someone who wants their spouse killed for the insurance money and commits murder but makes it look like an accident, “hunting accidents,” murder for hire, etc.). Representative Tammie Wilson’s bill last session, while a cost-saving measure, has a loophole that needs to be closed. The defense bar may argue that it might cost the state money to include the cap, because it might result in DOC paying more for post-sentencing electronic monitoring. However, OVR believes the state will actually save more money when defendants decide not to delay their cases knowing they can’t receive any additional electronic monitoring credit beyond 120 days. Defendants would be motivated to resolve the cases sooner. The 120-day cap is an important public safeguard to preserve the intent and integrity of Representative Tammie Wilson’s bill.

OVR also recommends the committee consider changing this section to add exceptions to an offender’s eligibility for pretrial electronic monitoring credit for jail time when the offender has committed a crime that results in the death of another or for other specified classes of the most serious offenders that the legislature deems appropriate. When an offender is permitted to serve jail time on an electronic monitor, there is a public safety concern because the offender is integrated into the community rather than housed in a traditional jail. Currently, there is no mechanism for the public to have notice of whether or where offenders are serving jail time within their community. And it is OVR’s understanding that DOC’s current electronic monitoring equipment does not track its offenders in real time. When offenders on DOC electronic monitors leaves their residences, whether authorized or unauthorized, the offenders must return to their residence and their electronic monitors must reconnect to a modem before information about the offenders whereabouts is downloaded and stored. This is a potentially dangerous situation and high level offenders may not be a suitable for this arrangement. Finally, electronic monitoring does not address the punishment and community condemnation aspect of a criminal sentence, which is a critical piece of criminal justice for offenders who cause the death of another or commit the most serious crimes. In an ordered society, crime victims, who are the reason the justice system was created, and did not choose to become crime victims, must feel that justice has been done.

Section 69 –

Page 40; OVR recommends the legislature adopt the SB 91 version of this section to provide for longer probation periods (10 years for unclassified felonies under AS 11.41 and sex felonies, 5 years for all other felonies, four years for misdemeanor domestic violence crimes, 2

years for DUI/refusals, and 1 year for other misdemeanor crimes) to promote public safety by allowing for longer probation periods to be utilized when appropriate.

Section 74 –

Page 43, line 16, after “impose a sentence of imprisonment” add a period. Then add, “The presumptively appropriate term of imprisonment for a technical violation is a sentence of imprisonment” of not more than; this change is needed to ensure constitutionality under Alaska Constitution, Article I, § 24.**

Page 43, line 26 after “period of imprisonment” add a period and insert “The presumptively appropriate term of imprisonment should” not exceed 30 days; this change is needed to ensure constitutionality under Alaska Constitution, Article I, § 24.**

Page 44, line 18, amend the definition of “technical violation” to be a definition of inclusion, for example, technical violation means 1) failure to report to probation, 2) failure to submit to a required drug test, 3) positive drug test, etc. This eliminates the possibility that factual situations not intended to be treated as “technical violations” will slip through the crack to the detriment of the crime victim and the public. This definition of inclusion will cover the vast majority of probation violations and carry out the intent of the sentencing commission while still protecting victim and public safety.

Sections 76 – 78 --

OVR does not support sections 76 – 78 which reduce felony presumptive prison terms. The presumptive terms for sentences currently in effect in these sentencing statutes should remain unchanged. A judicial council report, anticipated to be released soon but not yet available for distribution, shows that most offenders are currently sentenced at or below the presumptive ranges currently in place. The legislature should reserve decision on these sections until the judicial council report can be considered. Additionally, the sentencing goals of offender rehabilitation should not be given focus to the exclusion of all other sentencing goals including community condemnation and reaffirmation of societal norms. The sentences that reduce felony sentences to zero when the crimes cause the death of another are especially troubling.

Section 79 –

Page 47, line 30, suggest adding a new section (D) that adds a non-*Blakely* aggravator (does not require a jury trial verdict to make the finding) modeled after felony aggravator AS 12.55.155(c)(31) so that a misdemeanor offense is automatically considered aggravated for offenders who have five or more prior misdemeanor convictions on their record.

Add a new section after Section 82, page 50 –

Add back in Section 74 of SB 91 that ensures that defendants granted a suspended entry of judgment will have their cases appear on Courtview since their case is still active.

Section 99 –

Page 61, line 13 after “Department of Public Safety” add “Alaska Office of Victims’ Rights.” If the Pretrial Services Program is implemented, a main function will be to develop recommendations for and monitor bail release of criminal defendants. Victims have constitutional and statutory rights in connection with offender bail release and victim safety is an important consideration. OVR should be included in the process to develop these recommendations because a major function of OVR is to ensure that crime victims’ legal rights under Alaska law and procedure are not denied in connection with an offender’s bail release. Currently, OVR serves on several committees designed to improve the criminal justice system including the statewide criminal justice working group, the statewide criminal rules committee, the Anchorage domestic violence fatality review team, and the Anchorage domestic violence caucus.

The OVR also has general concerns, probably best reserved for the House Finance Committee, whether the cost to add the pretrial service program employees is a justified reinvestment expense or whether the goals to be accomplished by a pretrial services program could be implemented in other less costly ways.

Section 104 –

page 65, line 15, substitute “should presumptively” for “shall” to change the mandate to a legal presumption that release is appropriate without completely removing discretion not to release; the victim is entitled to a meaningful opportunity to be heard at all proceedings at which the offender’s release from custody is considered, otherwise the provision is an unconstitutional violation of the Alaska Constitution, Article I, § 24.**

Section 106 –

Page 66, line 30, change “AS 12.55.125(i)(1)(C)-(F)” to “AS 12.55.125(i)”; page 67, line 4, change “AS 12.55.125(i)(1)(C)-(F)” to “AS 12.55.125(i).” This would exclude all sex offenders from eligibility for discretionary parole and fall in line with other changes by the bill sponsor to ensure victim and public safety by continuing to protect the public from sex offenders. Sex offenders would still separately be eligible to earn good time credit under proposed section 128 amending AS 33.20.010 for good behavior and after completing the treatment requirements of their prisoner case plan.

Section 111 –

Page 70, line 22, after the word “victim” delete “of a crime against a person or arson in the first degree.” This statute has not been updated since 1996 and should include all victims whose perpetrators are facing potential release from prison on parole. This change would fall in line with other provisions giving specific rights for victim notice and opportunity to be heard that have been added by the bill sponsor and required by the Alaska Constitution, Article I, § 24 rights of crime victims to be heard at any proceedings, before or after conviction, at which an offender’s release from custody is considered.**

Section 113 –

Page 71, line 8, after the word “victim” delete “of a crime involving domestic violence.” This change would fall in line with other provisions giving specific rights for victim notice and opportunity to be heard that have been added by the bill sponsor and required by the Alaska Constitution, Article I, § 24 rights of crime victims to be heard at any proceedings, before or after conviction, at which an offender’s release from custody is considered.**

Section 122 –

Page 77, line 24, add “truth-in-sentencing” amendment to the end of this section consistent with amendment offered in Senate State Affairs to SB 91, Section 115, page 74, lines 5 – 9. This change would require DOC, within 30 days of an offender’s sentencing, to notify the crime victim in writing information about the earliest dates an offender could be released on furlough, probation, or parole, including deductions or reductions for good time or other good conduct incentives, and the process for release including contact information for the decision makers. The victims may disagree with the sentence and potential post-sentence reductions, but at least they would have written information that explains the process and the potential changes rather than being surprised and feeling betrayed by the system at some future date. The advance notice provides a victim with time to make a safety plan, make other life decisions, and have confidence about whether and when an offender will be released from jail.

Section 126 –

page 78, line 21; for this section, ensure that the victim has notice and an opportunity to be heard in connection with release after parole violations and prevent an unconstitutional violation of victims’ rights under the Alaska Constitution, Article I, § 24;**

page 79, line 14, amend the definition of “technical violation” to be a definition of inclusion, for example, technical violation means 1) failure to report to probation, 2) failure to submit to required drug test, 3) positive drug test, etc. This eliminates the possibility that factual situations not intended to be treated as “technical violations” will slip through the crack to the detriment of the crime victim and the public. Alternatively, have the Department of Corrections develop regulations to decide situations that should be considered technical violations.

This list of recommended changes to HB 205/SB 91 is designed to address OVR’s remaining concerns. But this list is not meant to supersede the overarching general concerns provided in the written testimony of OVR director Taylor Winston submitted to the Senate State Affairs Committee on February 18, 2016. A copy of Taylor Winston’s written testimony is included for convenience.

OVR has grave concerns that the bill provides only reduced penalties in the form of cost savings without specific provision or means for reinvestment. When the state had a period of prosperity from oil revenue, reinvestments were not made. Now in lean times, the means for

reinvestment will be necessarily absent. The bill is designed to stem rising future costs to maintain Alaska's criminal justice system, so there is no real cost savings. The bill only curbs future spending. Thus, there are no resources to reinvest. Although probably better addressed by the House Finance committee, it must be mentioned here because the bill should not be supported in principal without guaranteed reinvestment.

Finally, OVR has grave concerns that this bill focuses too heavily on the well-intentioned hope that offenders will be rehabilitated, but does not recognize or plan for the possibility that offenders will not be rehabilitated. Generally, the bill focuses primarily on offender rehabilitation to the detriment of crime victims and general public safety.

** Alaskan voters, in 1994, overwhelmingly approved changes to the Alaska Constitution that expressly added constitutional rights for crime victims. Article I, Section 12, was amended to add "the rights of crime victims" as an explicit principle of criminal administration in Alaskan courts. Alaska Const., art. I, § 12. At the same time, a new section, Article I, Section 24, was added, titled "Rights of Crime Victims" that enumerates eight separate constitutional rights for crime victims. Section 24 includes a guarantee that crime victims in Alaska shall have the "right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process." *Id.* Alaska Constitution, Article I, § 24 also provides constitutional rights to crime victims, including "the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered." *Id.* The constitutional rights created in section 24 are self-executing. *See* Alaska Const. art. XII § 9 ("The provisions of this constitution shall be construed to be self-executing whenever possible."); *and see Landon v. State*, 1999 WL 46543 (Alaska App. 1999) (unpublished decision examining Alaska Constitution, Article I Section 24, and concluding that it must be construed as self-executing as mandated by Article XII, Section 9). Thus, these constitutional provisions have effect regardless of whether a state statute is enacted to implement them. And statutes that contradict the plain language of the constitutional provision would be struck as unconstitutional. Information that a victim would provide to the court at a proceedings at which a defendant's release from custody is considered, such as a bail hearing, sentencing hearing, and adjudication hearing on a probation violation, or a parole hearing, might be new information not previously available to law enforcement, to the prosecutor, to a pretrial services officer, or to the court. Information provided by the victim might affect whether and under what conditions a defendant should be released from custody. The victim may have additional information because of his or her familiarity with a defendant who is often an intimate partner, family member, or a person whom the victim knows well. The information a crime victim provides to the court at these proceedings might have a profound effect on community and victim safety. If the release is predetermined by statutory mandate, the victim's right to provide input would be rendered meaningless and judicial officers and parole/probation officers would have no discretion to act on the information supplied by the crime victim. OVR's suggested amendments, creating a legal presumption in place of a mandate, are constitutionally required, and would strengthen the integrity of the bill by preserving victims' rights and protecting community safety in limited circumstances while still providing the cost savings in the vast majority of cases.

From: Kelly Mazzei [mailto:kamazzei@gmail.com]

Sent: Monday, March 21, 2016 8:41 AM

To: Rep. Charisse Millett <Rep.Charisse.Millett@akleg.gov>; Rep. Matt Claman <Rep.Matt.Claman@akleg.gov>; Rep. Geran Tarr <Rep.Geran.Tarr@akleg.gov>; Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>

Subject: HB 205 SUPPORT

I strongly support this House Bill 205 and hope it passes this year, since it is in year 2. I feel very strongly about this bill and think it will benefit the state in so many ways, financially and by making it an option for driving legally for the ones who deserve it, and especially for providing driving options for the folks who have had DUIs and gone through Wellness Court programs and have changed their lives. By taking licenses away from people for life, or even 10 years, is not solving the problems that will come with that. The ones who have changed and want to change, must be able to drive to work, take care of their kids, go to appointments, and be able to be good community members. The flipside is that because driving in Alaska is a necessity, people will drive anyway. they will not be legal, they will not get insurance, they will probably have low self esteem, start drinking again, and continue the cycle, maybe killing themselves or innocent people. By allowing limited licenses or to get licenses back, you are providing a way to regulate driving, force insurance, maybe ignition devices and allowing the person to maintain employment and feel rewarded perhaps for continuing to do well and be responsible. Wellness Court graduates deserve this chance to be participating and active community members and to continue striving for success.

I urge you to please continue to support this bill but to also try and push it through this year.

Thank you for your time,

Kelly Mazzei

Testimony on HB 205
March 22, 2016
Presented by Anne Seymour
National Crime Victim Advocate

Good afternoon Chair LeDoux and members of the House Judiciary Committee, and thank you for the opportunity to testify on behalf of HB 205. I helped facilitate the outreach to crime victims, survivors and victim service professionals last year in the early stages of the Alaska Criminal Justice Commission's reform initiative, and I'd like to talk briefly today about this process.

I've been a national crime victim advocate for 33 years and, in the 1980s, co-founded what is now the National Center for Victims of Crime. I have worked in all 50 states and at the Federal level to improve victims' rights and services. I currently serve on the Board of Directors of five national organizations that promote pretrial justice; safety and crime prevention on college campuses; victim services in corrections; and international victim assistance. I am also a member of the Victims Committees of all three major national corrections associations, and had the honor of serving on the DC Sentencing Commission for nearly a decade. Over the past two decades, I've worked in Alaska on behalf of the U.S. Department of Justice on efforts that helped create your Department of Corrections victim services program; and that helped ensure that victim safety and concerns are addressed through sex offender management and policy.

I offer this brief background as a way of showing that I have been quite "deep in the weeds" in criminal justice and corrections reform efforts for my entire career, and this involvement has been to simply assure that victims' voices are heard, and that when we speak often about "public safety," that we also consider the "individual safety" of victims, survivors and members of our communities.

I recall with great frustration and sadness my early days as a victim advocate, when victims had virtually no rights. They were an "afterthought" in justice processes if they were thought about at all – the mother of a murdered child in Texas spoke of the need for victims' rights when she said: "Just about the only right a victim of crime has is to be present at the commission of the crime." We watched from the sidelines as justice reform efforts passed in state after state with little or no consideration of victims' concerns.

To say "times have changed" is an understatement. To me, the most significant change in justice reform and reinvestment efforts *is the strategic, proactive involvement of crime victims, survivors and those who serve them.*

Over the past five years, I've been involved in justice reinvestment efforts in almost 20 states, and I've learned that the needs of victims vary widely from state-to-state. South Dakota's reinvestment is helping to build a statewide victim notification system. In Pennsylvania, one of the outcomes now provides victim advocates for victims of juvenile offenders. Hawaii's reinvestment overhauled that state's victim restitution program to the point that it is now considered the "standard" for our field. And in Oregon, JRI doubled the amount of money available in its Domestic and Sexual Violence Services Fund, among other provisions.

Yet what *is* consistent is that states that reduce their prison population have also reduced their crime rates. For example, in the first two states I worked in:

- In 2010, South Carolina reduced its prison population by 20 percent and has seen a reduction in its crime rate of over 12 percent.
- In 2011 in Kentucky, the 1.6 percent reduction in the state's prison population has been accompanied by a 17.1 percent reduction in its crime rate.

Which brings me to the Commission's work here in Alaska and HB 205: I applaud *any* justice reform effort that is bipartisan in nature, and I give "bonus points" when the needs of crime survivors are given the attention they so rightfully deserve.

I want to recognize the Commission's efforts and the fact that it included an amazing victim advocate, Brenda Stanfill, on the Commission itself. The Commission's early and strong commitment to hearing the voices of victims in Alaska is where I came in.

My work in Alaska began last summer, first reviewing a rich body of research in your state that showed that while Alaska has some of the finest victim assistance programs in the Nation, there are still many victims who remain un-served or under-served: victims of child abuse and neglect; the majority of Alaska women who experience at least one incident of intimate partner or sexual violence in their lifetimes; and so many victims whose need for legal assistance far outweighs Alaska's capacity to provide it.

We reached out to over 50 survivors and victim advocates to inform them about the Commission's efforts and to invite them to join discussions to clarify victims' most important needs and concerns.

Over a week in September, I had the opportunity to speak personally with seven crime survivors and finally got to meet Butch and Cindy Moore in person, having learned of and appreciated their efforts to pass Bree's Law from 5000 miles away. I heard from domestic violence survivors for whom "personal safety" is an oxymoron. And I interviewed victim assistance professionals who simply struggle to provide quality services to the many victims in Alaska who need them.

Instead of hosting one Victim/Advocate Roundtable as we do in most states, we held two Roundtables in Alaska last September: in Fairbanks, and in Bethel (where we flew in tribal elders and survivors to ensure that we learned about the needs of victims in Alaska's bush communities). Overall, 29 survivors and victim advocates joined the Roundtable discussions. It's important to note that their input truly informed the Commission's work and the bill you have before you today.

The Roundtables presented 10 priorities to the Commission and, while you can read the Summary Report I wrote (which has been provided under separate cover to the Committee), I'd like to highlight three of them for you:

1. There was strong consensus about the need to strengthen victim assistance services in remote and bush communities to promote justice, healing, wellness and crime prevention.
2. Participants emphasized the need to focus on crime prevention and bystander intervention, with a goal of less crime and fewer victims in Alaska.
3. Finally, there was strong support for evidence-based and culturally-competent programming and supervision for convicted offenders, including batterers' intervention and restorative community service.

I believe that HB 205 offers both a foundation and reinvestment funding that can make the Roundtables' recommendations a reality. In addition, this bill's emphasis on involving victims and providing them with rights to information, notification, input, safety and restitution across the entire criminal justice spectrum – from pre-trial through parole consideration – equates to one of the most victim-centered pieces of legislation I've seen over the past decade.

I have never sought to speak on behalf of victims and survivors because each victim is unique and it's impossible to paint them with a broad brush. Instead, my work over the past three decades and in Alaska over the past eight months is to make sure that the voices of victims and those who serve them are heard, and respected and reflected in public policy that affects their lives.

I believe HB 205 accomplishes this, and I thank each of you and the Alaska Criminal Justice Commission for validating the voices of victims and their advocates through this important bill.

Thank you very much.

From: Butch Moore [mailto:sushores@gmail.com]

Sent: Tuesday, March 22, 2016 3:59 PM

To: Rep. Charisse Millett <Rep.Charisse.Millett@akleg.gov>

Cc: Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>; Rep. Wes Keller <Rep.Wes.Keller@akleg.gov>; Rep. Neal Foster <Rep.Neal.Foster@akleg.gov>; Rep. Bob Lynn <Rep.Bob.Lynn@akleg.gov>; Rep. Matt Claman <Rep.Matt.Claman@akleg.gov>; Rep. Jonathan Kreiss-Tomkins <Rep.Jonathan.Kreiss-Tomkins@akleg.gov>; Rep. Kurt Olson <Rep.Kurt.Olson@akleg.gov>; Natasha McClanahan (GOV) <natasha.mcclanahan@alaska.gov>; Lacy Wilcox -Governor's office <lacy.wilcox@alaska.gov>; Rep. Bob Lynn <Rep.Bob.Lynn@akleg.gov>; moorecindy1@gmail.com

Subject: HB205 "UPDATED" - Please make my request part of the record. Adding sections & Mandatory minimum for Murder

Representative Millett,

Here are my proposed amendments to your HB205, some of which Senator Coghill has adopted as amendments to his SB91, excluding Murder's and Violent offenders.

1. Probation: HB205-Page # 40 Increase the maximum term of probation from five years to ten years for unclassified felonies or felony sex offenses (currently 25 years); increase the maximum term of probation from three years to five years (currently 10 years) for all other felonies except domestic violence; and increase to four years for all domestic violence offenses.
2. Probation: HB205-Page # 66 At the end of line #18 as (D) & at the end of Line #22 Add: and has not been convicted of an unclassified felony offense, a sexual felony as defined by AS 12.55.185, or a crime involving domestic violence as defined by AS 18.66.990." (This then will not allow murder's to get out of reduced probation.)
3. Victim Notification: Add From SB91 Page # 30 Line 19 Sec. 48. AS 12.55.011 is amended by adding a new subsection to read: (b) At the time of sentencing, the court shall provide the victim with a form that (1) provides information on (A) whom the victim should contact if the victim has questions about the sentence or release of the offender; (B) the potential for release of the offender on furlough, probation, or parole or for good time credit; and (2) allows the victim to update the victim's contact information with the court and with the Department of Corrections.
4. Victim Notification: Add From SB91 Page # 74 Line 5 Sec. 115. AS 33.16.180 is amended to read: Sec. 33.16.180. Duties of the commissioner. (12) within 30 days after sentencing of an offender, provide the victim of a crime information on the earliest dates the offender could be released on furlough, probation, or parole, including deductions or reductions for good time or other good conduct incentives and the process for release, including contact information for the decision-making bodies.
5. Please increase the minimum mandatory sentences for murder, **by adding 15-20 years to each minimum sentence**, So that MURDER is equal to Rape sentencing. **Current Law AS 12.55.125. Sentences of Imprisonment For Felonies.) RAPE "sexual assault"** in the first degree if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, **25 to 35 years; MURDER - (a) A defendant convicted of "murder in the first degree" AS 11.41.150 (a)(1) shall be sentenced to a definite term of imprisonment of at least 20 years, (Change to 35 years) A defendant convicted of**

"murder in the second degree" shall be sentenced to a definite term of imprisonment of at least **10 years (Change to 25 years)**

6. Please add a section that requires an offender who is paroled and/or on probation with an "Alcohol Restriction", to surrender their drivers license. They must then, at their expense, pay for a new one with the "Red Bars" that say "Alcohol Restricted", thus preventing them from buying alcohol. On 6/26/14, my daughter, Bree Moore, age 20, was Murdered by Joshua Almeda who was on probation with an alcohol restriction and was not required to surrender his license for one that restricted alcohol. Joshua walked into a liquor store, bought alcohol, got drunk and shot Bree in the head. Josh later told us if he had not been drinking, Bree would be alive today.

7. Electronic monitoring-The State monitoring reports the GPS locations only one time per day, (At night) and does not alert authorities when someone is "Out of Bounds". Please ask Law enforcement if they are ever notified if an offender is away from their designated location.

The Alaska Office of Victims' Rights recommends that death related crimes, should be in line with the sentences for other crimes, based on the significant harm done. Murder 1 – 35 yrs mandatory min. Murder 2 – 25 yrs mandatory min. Manslaughter – 10 yrs mandatory min. Criminally negligent homicide – presumptive range of 5-10 yrs. With a statutory aggravator or a sentence enhancer that would add no less than 5 yrs to any crime in which a firearm was used and the person used a firearm in the commission of the offense and 1) the person could not legally possess a firearm, 2) the firearm used had no identification marks (ie serial numbers) or 3) the firearm used had been previously reported stolen.

On 6/26/14, my daughter, Breanna Moore, age 20, was Murdered by Joshua Almeda who is guilty of Second Degree Murder for killing Bree, at his home, with a stolen handgun, while drunk, (he was both #1 & #3 above).

The Laws you make now, Will determine the release of Joshua Almeda and other violent offenders like him.

Thank you for considering my request for these amendments,

Butch Moore, Bree's Dad sushores@gmail.com



Denali Electronic Monitoring Services, LLC (DEMS)
1150 South Colony Way Suite 3-237
Palmer, AK 99645
907-745-3367

March 15, 2016

Dear Legislators and Judiciary Committees,

We are an Electronic Monitoring (EM) company. We are one of the original private EM companies in Alaska operating out of Palmer since 2009. We have successfully implemented a program that has allowed defendants to maintain compliance with the courts pretrial process. In addition to EM we have always offered drug and alcohol testing. Due to the process in which 24/7 was brought into Alaska and run we are almost to the point of shutting our doors due to the appointment of the 24/7 Program to Alaska Pretrial Services (APS) a private EM company. The free market has been stifled and a monopoly created. Going forward I am concerned that SB 91 and its companion bill HB 205 will further hinder the free market process.

We have been unable to have our concerns about the 24/7 program addressed. I have attached my log notes concerning the information we have gathered. We are concerned with the lack of an open bid process that was used to assign APS, Intoximeters (which APS did not have before this program started) and the ASAP Manager to the 24/7 pilot program. The 24/7 Program has not been accountable for the allocation of use of funds. Where are the accounting records? I know for a fact they have been out of funds since October 2015, per Tony Piper. It is alarming that APS is still getting all the assignments from the Judges, while out of funding, so to me they are charging the clients the same as we do. Our prices have consistently been lower than theirs through the years of our service even without subsidization. We have been comparable to DOC EM in pricing and procedure. We have mirrored the DOC EM program maintaining contact with Officer Mercer. The resuming of an improper bid or grant process for equipment vendors and EM companies, without accountability will surely line someone's pockets at the cost to the State of Alaska and defendants. We need a better vendor procedure assuming more than one EM company can be a vendor. Tony Piper admitted the funds were not used appropriately and the vendor selection was exclusive to fill the third party requirements set by the courts. As for the funds use such as new cars and expensive light bars purchased by APS when the funds were first given to APS, I believe it is not what the State of Alaska had in mind for those funds. Piper said the process of equipment selection and bid process could have been better, so let's make it better!

With implementation of SB91 we see the complete takeover of private EM by APS under the umbrella of DOC/ASAP. Although we see and understand the need for standardizing EM procedure and would be more than happy to comply with any licensing or educational requirements relating to this process. We do not understand how legislation can categorically promote one private company over another. We must acknowledge that we have lost our ability to continue to do business in the state of Alaska as a result of unfair legislative practices.

We have been informed that this is a legislative issue and the Judges have no control over 24/7 assignments at arraignments. Defendants no longer have the option of which company to choose and they are not able to have a bail hearing to determine what is the best release plan. We know that this program has been state funded and APS has acknowledged that the funding has been overused and no subsidization for defendants has occurred since October of 2015 (per Tony Piper at ASAP). This means that this program continues to receive preference within the courts without subsidization. We have also determined that judges have been asked to make these assignments to 24/7 program as a result of state legislation based on this funding, yet the funding is gone and appointments to APS continue. This determination, as explained by Mr. Piper, is based on the assumption that no other private agencies provide alcohol or drug testing, which is completely unfounded.

We have a program that is equivalent and perhaps in many cases better. We provide alcohol and drug testing on site as well as through BI's Soberlink, testing up to 16 times per day that can travel with the client without additional cost. The Soberlink gives a time stamp, picture with facial recognition, GPS point, and alcohol level. BI also provides equipment to the Alaska DOC EM program. Tony Piper plans to limit this to a specific piece of equipment called Intoximeters. This device would not only stop providers from coming into the state of Alaska, but also limit program options. I implore the Legislature, if there is to be this type of limitation with EM to have a bid process just like DOC had for their equipment.

The 24/7 program has a very limited window of effectiveness with clearly defined testing schedules which allows many opportunities for alcohol consumption between tests. Having a set testing schedule disallows the random testing for drugs and alcohol. It results in many low level positive tests and repeat recidivism. Also we have tried to call APS during the hours outside of the testing windows without response. This limits other agencies and defendants from speaking to a 24/7 representative. This program is being used in place of third party, but no actual 24-hour monitoring is occurring. The requirement of travel to a specific office can be less cost effective for many without a driver's license. Defendants are noncompliant due to the travel costs and limited testing times, which is not due to willful violations. It happens because they cannot meet the requirements of the 24/7 program.

We understand that it doesn't matter that DEMS has a better 24/7 program as we have lost the ability to provide it as a competitive service to defendants because we are no longer given the opportunity to offer it in an equal setting. Please help us to have equal representation at arraignment and eliminate this continued bias with assignments or make the process mirror that of DOC's equipment selection process along with giving every EM company the ability to offer these services. We have a long standing record of successful monitoring in the community and have always reported to the courts and law enforcement. We would appreciate your consideration in the changes to the process for EM moving forward.

Sincerely,
Heather Betts
Owner/CEO



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Administration

VIOLENT CRIMES COMPENSATION BOARD

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doa.vccb@alaska.gov

April 7, 2016

Senator Coghill
Chair, Senate Judiciary Committee
Juneau, AK 99801

Dear Senator Coghill

RE: Senate Bill 91

As a victim advocacy entity some may find it surprising that the Violent Crimes Compensation Board would support this crime bill, a major element of which promotes reduced jail time for criminal offenders.

Here's why the Board does support this bill.

Alaska's prison population has been growing fast. In 1994 the incarceration rate was 293 inmates per 100,000 residents; in 2015 it was 690 inmates per 100,000 residents. Recidivism is at 64%. Based on those statistics alone it is fair to conclude that locking people up is not acting as a deterrent to crime. Moreover, 64% of Alaska inmates are non-violent offenders. The Board does not agree with releasing violent offenders early – a violent crime should be met with an appropriate sentence that protects the victimized individual and the community from the violent offender. But it doesn't appear to be helping anyone to keep non-violent offenders locked up for extended periods of time, time during which they are likely learning anti-social behaviors and ways of coping with their stressful circumstances, which will not serve them or society at large favorably when they are eventually released.

Moreover, my experience of being on this Board means I can't overlook the fact that victimization, addiction and criminal activity are inextricably linked. As an advocacy group, one of our major goals is to promote the healing of crime victims and help them to not fall prey to victimization again. And we want to prevent the vicious cycle that we have unfortunately seen time and again where a young victim of crime, particularly sexual abuse, goes on themselves to become a predator and perpetrator of abuse. Incarceration on its own has not been effective in cutting into that cycle, or impacting an individual's behavior.

The reinvestment provisions of this bill are vitally important. Funding more treatment programs; funding violence prevention programs; providing direct services to victims; funding

re-entry programs to help people coming out of the corrections system to find gainful employment and housing and escape the lifestyle they were in previously. These are all types of reinvestment that have been demonstrated by experience in other states as having a positive impact on recidivism rates.

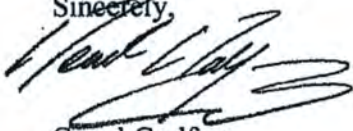
Evidence from other states such as South Carolina and Colorado supports the underlying philosophy of this bill, that certain practices and policies can reduce recidivism including:

- Using risk and needs assessments to inform case management, sorting individuals based on their assessed risk levels in a consistent manner, tailoring interventions and prioritizing resources for those at highest risk of reoffending.
- Improved community supervision, informed by an individual's risk level, to provide greater support and access to services, with parole and probation officers given a range of options for swift and certain sanctions and incentives that are proportionate to the event and appropriate to the individual under supervision.
- Investing in community based treatment such as Alaska's Alcohol Safety Action Program – so much crime is linked to drug and alcohol abuse and addiction. An increased emphasis on supported sobriety can help see an impact on criminal activity.

At the same time, the Board is very cognizant of the constitutional rights of victims and wants to ensure that crime victims are heard in this process. The Board was invited to participate and did indeed participate in the victim round table discussion that informed the Alaska Criminal Justice Commission recommendations. The Board believes that victims must continue to have the opportunity to give their input into release conditions, sentencing and should also have the same ability to provide input into the initial risk assessment of an individual.

Finally, the lengthy pendency of criminal cases is an area which must also be addressed. Crime victims and their families can endure further trauma and suffering as they see court date after court date delayed due to motion practice, scheduling conflicts or simple casework overload on the part of public defenders and the court system. This is an area where crime victims feel most let down by "the system", and as the Commission's recommendations make clear, the length of pre-trial incarceration is contributing significantly to overall costs. Without rushing to trial, a more streamlined process would benefit everyone involved.

Sincerely,



Gerard Godfrey

Chairman

Violent Crimes Compensation Board



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Administration

VIOLENT CRIMES COMPENSATION BOARD

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April 7, 2016

Representative Millett
Capitol Building, Room 204
Juneau, AK 99801

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Finally, the lengthy pendency of criminal cases is an area which must also be addressed. Crime victims and their families can endure further trauma and suffering as they see court date after court date delayed due to motion practice, scheduling conflicts or simple casework overload on the part of public defenders and the court system. This is an area where crime victims feel most let down by "the system", and as the Commission's recommendations make clear, the length of pre-trial incarceration is contributing significantly to overall costs. Without rushing to trial, a more streamlined process would benefit everyone involved.

Sincerely,



Gerard Godfrey

Chairman

Violent Crimes Compensation Board



NEWT GINGRICH

March 31, 2016

RE: Support for SB 91

To the Honorable Members of the Alaska State Legislature:

Keeping the public safe is one of the primary responsibilities of government. We need prisons to separate dangerous offenders from our communities. However, as with all government programs, Alaska's prisons have expanded to include many low risk offenders, and prison costs have skyrocketed without a similar increase in public safety.

Like many other states, Alaska is at a crossroads. Saddled with an unprecedented budget shortfall, the state faces the daunting task of figuring out how to spend less on government services while getting a better return on investment.

Addressing state spending on prisons is a critical part of that challenge. Over the past decade, Alaska's prison population has increased by 27 percent, rising almost three times faster than the resident population. Costs have skyrocketed right along with that growth, and Alaska now spends more than \$300 million annually on corrections.

With all that spending, you'd think the state would get impressive results. Yet two out of three Alaskans released from prison are returned to custody within three years. That failure rate is simply unacceptable, and government must be held accountable to do a better job with tax dollars – especially in lean times.

This is why I am asking you to support SB 91, which will hold offenders accountable and protect public safety, and also produce cost savings in an area of government where spending has been increasing unchecked for decades.

These reforms have already been tried in several states, and have produced lower crime rates and saved billions of tax dollars. I am part of Right on Crime which is dedicated to helping government leaders apply conservative principles to the criminal justice system. Our movement is anchored by a Statement of Principles signed by some of the nation's most respected conservative leaders, including Rick Perry, Grover Norquist, David Keene, and more than 40 others.

We advocate proven ways to reduce recidivism and improve public safety, and draw on successful policies enacted in other states. We recognize that unless we create a system dedicated to changing criminal behavior, we will never stop the cycle of victimization that causes so much human suffering.

Alaska crime victims understand that such reforms are necessary if we are to have fewer victims in the future. Victims were actively engaged in shaping these reforms from the beginning. Many crime victims testified in favor of SB 91, which makes a priority of victim services and violence prevention programs.

Brenda Stanfill, a victims' advocate who also served on the Alaska Criminal Justice Commission, summed up her support in testimony before the Senate Judiciary Committee: "One less victim to me is worth a tremendous amount. This is why I truly stand behind what we are doing here and I think we are on the right track to making something different happen in a safe way."

By passing SB 91, Alaska will join many other conservative states in implementing criminal justice reform to improve safety while saving money. Texas, for instance, decided to stop spending its taxpayers' money building prisons and put it instead into programs proven to reduce recidivism. The state has now averted \$3 billion in prison costs and has its lowest crime rate since 1968. Georgia, South Carolina, Pennsylvania, Mississippi, Utah, and South Dakota are among the other states that have adopted research-based reforms and are proving it is possible to curb prison growth and keep crime rates low.

In fact, in the last five years, a majority of states in the U.S. have reduced both imprisonment and crime. As a conservative, I see that as a major achievement. States are successfully reining in a hugely expensive government program while making neighborhoods safer. And while prisons will always play an essential role in punishing dangerous criminals, we are finding better, more cost-effective ways to sanction lower level offenders.

For a conservative like me, the choice is obvious. SB 91 will give Alaskans more safety for their tax dollars. This is right on crime.

Sincerely,



Newt Gingrich
Former Speaker of the U.S. House of Representatives

Policy	Differences between SB 91 and HB 205	Code Section
Theft	Inflation adjustment of felony property crime threshold.	11.46.130(a)
Theft	Felony theft threshold set at \$1000 (vs \$2000 in Senate).	Multiple
Failure to Appear	FTA as violation or Class A; no upgrade to Class C Felony.	11.56.730
Drugs	Does not reduce threshold differentiating felony b from felony c commercial offenses for IA substances to 1g. Does not take into account dosage units or aggregate weight.	11.71.030(a) 11.71.030(a)
Pretrial EM credit	Does not cap pretrial EM credit at 120 days.	12.55.027
Probation Term Lengths	Has lower probation term limits for assault; limit applies to all assault and not only DV-related assault.	12.55.090(c)
Technical Violations	No carve-out for batterers intervention, failure to complete specialty sex offender supervision conditions.	12.55.110

Murder Sentences	Has lower mandatory minimums for murder I and murder II.	12.55.125(a)
		12.55.125(b)
Misdemeanor A	Limits carve-out from misdemeanor-A policy to DV-related assault 4's only (not all assault 4's).	12.55.135(a)
Court records for suspended entries of judgement	Requires records for suspended entries of judgement not be on CourtView.	22.35.030(b)
Pretrial services	Does not include OVR as an agency that DOC consults with in adopting regulations for pretrial services.	33.07.010
		33.07.030
Pretrial services	Does not grant DOC the authority to enter into contracts for the supervision of pretrial defendants who have been released.	
Admin Parole	Does not restrict eligibility for administrative parole for misdemeanants, those convicted of criminally negligent homicide.	33.16.089

Geriatric Parole	Age of eligibility is 55 (versus 60 in Senate.) House version does not exclude sex or unclassified offenders from eligibility.	33.16.090(a)
Discretionary parole for sex offenders	Does not exclude unclassified sex offenders from eligibility; maintains eligibility for discretionary parole at 1/3 of sentence for other sex offenders (versus eligibility at one half of sentence in Senate version).	33.16.090(b)
Consultation before parole	Does not require parole board to consult with a corrections officer before granting parole.	33.16.130
24/7 for parole	Does not grant parole board the authority to place parolees on the 24/7 program.	33.16.150
Early discharge	Does not exclude misdemeanants from eligibility for early discharge recommendation; does not require a offender to be in compliance for a set period of time before becoming eligible for early discharge recommendation, although does specify that offender should "currently be in compliance."	33.16.210
Technical Violations	Does not exclude failing to complete batterers intervention or violating special sex offender conditions from definition of technical violation.	33.16.215
Earned time credit for sex offenders	Allows sex offenders to earn good time credit if they have completed required treatment.	33.20.010
Reentry supports	Does not require DOC to create partnership with nonprofits to assist with offenders' reentry.	33.30.095
Marijuana taxes	Does not provide for 50% of marijuana excise tax to be dedicated to recidivism reduction fund.	43.61.010



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February 23, 2016

The Honorable John Coghill
State Capitol Room 119
Juneau, AK 99801
Senator.John.Coghill@akleg.gov

Dear Senator Coghill,

I am writing today to discuss a matter of much import to my members, the employees of the Anchorage Police Department. Many of us have been monitoring the efforts related to Senate Bill 91 and associated impacts on the work we do. The common theme is that many of the desired legislative changes would likely have negative impacts on our ability, as a component of the criminal justice system, to keep our community safe. Therefore, I write to you today in opposition to the bill.

I understand this work began in 2014 with the formation of the Alaska Criminal Justice Commission. The initial goals were to explore ways to reduce the growing prison population while reducing recidivism and assuring that the state is achieving the best public safety return on its corrections spending. Since then, we have heard it suggested that the proposed changes would also make our communities safer. All of these stated goals are justified and desired by all, including the employees of the Anchorage Police Department. Unfortunately, however, it seems the original intent of the effort has been redirected in a manner we feel will ultimately compromise the safety of our Alaska communities.

In the midst of the Commission's work on this bill, additional legislative direction was given that shifted the conversation to emphasize cost savings while compressing the timeline in anticipation of this legislative session. This shift has, in effect, changed the focus from one of reform that creates long-term sustainable programs to reduce recidivism through reinvestment of cost savings, to an exercise that solely targets ways to reduce the budget. I suggest that every dollar "saved" through these changes should be put back into the system in other areas to help mitigate the recurrent commission of crime and the associated victimization of our citizens. More plainly stated, if we are going to change from "plan A" which has been developed and in place for many years, let's have a fully vetted "plan B" in place. While decriminalizing offenses and decreasing sentencing thresholds may save money and "lower crime" from a purely statistical standpoint, what does it do to actually reduce the commission of crime?

Since the release of the Alaska Criminal Justice Commission Justice Reinvestment Report, I have been meeting with numerous colleagues who work directly and indirectly in the field. The sentiments I am expressing are commonly held by a broad spectrum of those who participate in the work daily in the areas of law enforcement, prosecution and victim

advocacy. I have been surprised to hear how little actual practitioners were consulted during the development of the final report and Senate Bill 91 that followed. While I respect and appreciate the work of the Commission members, I can't help but observe that many of them do not directly do the work on a daily basis; therefore unforeseen flaws exist in the final product. Many of the recommendations were based on an evaluation of surface level statistics without a full recognition and understanding of the processes that created the statistics.

Fundamentally, many in the criminal justice system feel that the current system is already overly lenient on offenders. Offenders often share, amongst themselves and to us, their disregard for the system because they know they will soon be released – often before we can even complete the paperwork. I have already heard that inmates are commenting positively on SB91 because they feel it will get them out of jail. We should look critically at what message we are sending to offenders with the passage of this bill.

I would like to discuss some specific issues we feel deserve particular evaluation.

- This legislation largely removes an officer's discretion on making physical arrests vs. issuing a summons for many criminal offenses. Currently, officers will routinely take advantage of the option to issue a summons if appropriate, but they are still able to conduct a physical arrest if there is further concern for the public's safety. SB91 will remove an officer's discretion in these cases, thereby eliminating an important tool used to aide in maintaining the safety to the community.
- The idea that any Violations of Conditions of Release, or any other offense which is a violation of a judge's order, would be merely a violation is troubling. I suggest that a person who commits a criminal offense, then is released with an order from the court but chooses to violate that order, is a person who has demonstrated a disregard for lawful behavior and represents a risk to all of us.
- In the past, I have worked with the Department of Corrections on finding solutions to problems we are seeing with the Community Residential Centers (CRCs). Many of those problems continue to persist. Right now, in Anchorage, one prisoner escapes custody from a CRC every other day; this fact should worry us all. There have been repeated reports of drug activity occurring in and associated with the CRCs and their intersection with DOC and the court system. To further compound the issue, the risk assessment protocol and the already expanded use of these facilities have caused un-sentenced felons and repeat misdemeanants to be placed in these unsecure facilities, some of whom promptly escape causing danger to our community and the victims who we should be protecting. Continuing to expand the use of an already fractured system is problematic.
- The legislation creates a new section in the DOC that will be charged with conducting risk assessments and monitoring of pre-trial detainees. We all are aware of the challenges that the DOC has been facing in recent years with decreased staffing,

management instability and deaths of inmates. We respect the work being done by our brothers and sisters in corrections but we worry about putting more responsibility on their already taxed resources. Further, it seems problematic to have DOC charged with affecting whether an individual should remain in custody or not; that seems to be a conflict of interest without the necessary checks and balances, for both the government and the detainees.

- There are some structural problems with the concept of lowering the current levels of crimes. The ability of officers to enforce laws and the possible need for and lawfulness of uses of force are directly tied to the level of offense being investigated. In the scenario of responding to a call for Disorderly Conduct where two people are fighting in public, we will be hampered in our ability to stop the action since what they are doing would now be considered a violation rather than an arrestable misdemeanor offense. In today's environment, we need to provide our officers more tools, not less.
- I have worked personally with the PACE Program which has established sentencing guidelines to create swift and certain punishment for select offenders on probation. This program has been seen as a model and has grown in the past couple years. Many of the sentencing guidelines in SB91 will be in contradiction to what is being done in that program.
- The DOC has had problems with offenders who abscond from probation. Our officers routinely come across these individuals who represent a danger to our community. It is troubling that these individuals who are choosing to not only ignore the orders of the court but of their probation officer as well would be capped at a 30-day sentence.
- Offenses relating to "cyber-bullying", harassment and illegal use of the telephone should remain as misdemeanors. The underlying nature of these offenses often involves a crime against a person but isn't always treated that way.

As a way to illustrate an overriding concern, please place yourself in the shoes of a citizen whose car is broken into and personal belongings stolen. If the suspect is caught and is issued either a summons or, more likely, a citation for a violation, what is the deterrence for the suspect or justice for the victim? I suggest that in this scenario, crime and victimization will only increase. Put more simply, if someone steals your car, does it seem adequate to merely issue the offender a summons to appear and then let him or her go? Would the average citizen see this as an adequate response? In reality, people involved in the theft of vehicles are often involved in other issues.

I ask that our legislators slow down this entire process and consult in an unbridled way with current practitioners who use the processes we are seeking to change. I am left with an impression that the desired changes started with well-placed intent, but the focus shifted with alarming results. We can't just "reform", we must reinvest. I am certain that none of us



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P.O. Box 230330, Anchorage, AK 99523
907-561-7500 | www.apdea.net

desire unintended consequences while we selectively unravel an elaborate system that has been in place for a long time.

Thank you for your consideration on this matter. If desired, I can make myself available for additional discussions with you or any other interested legislators.

Sincerely,

Sergeant Gerard Asselin
President
Anchorage Police Department Employees Association

PO Box 230330
Anchorage, AK 99523
(907) 561-7500
president@apdea.org



April 1, 2016

The Honorable Representative Gabrielle LeDoux, Chair
The Honorable Representative Wes Keller, Vice Chair
House Judiciary Committee
Alaska House of Representatives
State Capitol
Juneau, AK 99801

by email: Representative.Gabrielle.LeDoux@akleg.gov
Representative.Wes.Keller@akleg.gov

**Re: House Bill 205: Omnibus Criminal Justice Reform Bill
ACLU of Alaska Review**

Dear Chair LeDoux and Vice Chair Keller:

Thank you for the opportunity to share our feedback on House Bill 205, an ambitious endeavor to enact much-needed reform of Alaska's criminal justice system. The American Civil Liberties Union of Alaska represents thousands of members and activists throughout Alaska who seek to preserve and expand the individual freedoms and civil liberties guaranteed by the Alaska and United States Constitutions. While we understand that a House Judiciary Committee Substitute of HB 205 will be released soon, we wanted to offer our thoughts on—along with our overall support for—the H version of HB 205.

1. Support from the ACLU

Of particular note, the ACLU approves of Alaska's joining those states that have set up a way for people who have been convicted of certain drug felonies to re-qualify for public benefits rather than being exiled to a lifetime ban. For people struggling with addiction who otherwise qualify for assistance, a lifetime ban is not only unduly punitive, it is counter-productive. Rehabilitative programs such as Alaska would now use to re-qualify someone for assistance, plus the lifeline that public assistance can represent, together represent a much more constructive option of breaking the cycle of recidivism and enabling individuals with drug and alcohol problems to use public assistance to put their lives back together.

The ACLU also approves of, unlike the G version of the Senate Judiciary Committee Substitute of Senate Bill 91, not tying requalification for public assistance to a drug-testing regime that raises constitutional concerns about privacy and the intrusiveness of government searches.

Additionally, we are encouraged that HB 205 requires the Alaska Criminal Justice Commission to annually report on the progress of criminal justice reform and recommend additional improvements. It is essential to the pursuit of justice that the issues HB 205

addresses today continue to be addressed tomorrow, lest Alaska forsake the opportunity to learn from ongoing experience.

And we are pleased that HB 205 expands the use of citations in lieu of arrest for lower-level nonviolent offenses.

2. Recommendations from the ACLU

As generally pleased as the ACLU is with the H version of HB 205, we suggest the bill include the following recommendations from the Alaska Criminal Justice Commission:

A. HB 205 should include three consensus recommendations of the Alaska Criminal Justice Commission's December 2015 Justice Reinvestment Report.

Three consensus recommendations of the Alaska Criminal Justice Commission's December 2015 Justice Reinvestment Report are not included in HB 205. We suggest that HB 205 include them:

Consensus Recommendation #13 included limits of 3, 5, and 10 days for first, second, and third revocations to prison, respectively, for technical violations of probation or parole. HB 205 incorporates this part of the recommendation. But the recommendation also included that revocations for fourth and subsequent technical violations should be limited to 10 days and a referral to PACE supervision if such a program is available in the jurisdiction, or that the sanction be up to the judge or parole board in jurisdictions where it is not. This has not been incorporated in HB 205. We recommend that it be.

Recommendation #6 included making the sentences for first- and second-time possession offenses *suspended* sentences. We note that HB 205 downgrades simple possession to an A misdemeanor and reduces the applicable maximum sentence for an A misdemeanor conviction to 30 days. We welcome this change. But HB 205 does not *suspend* the sentences for first- and second-time possession offenses. We recommend that it do so.

Recommendation #20 would have required 10-year fiscal impact statements to accompany future sentencing and correction legislation. We recommend that HB 205 incorporate this.

B. HB 205 should include six majority-approved recommendations from the Justice Reinvestment Report.

Additional Recommendation #1: We agree with the recommendation that electronic monitoring at a private residence or alternative monitoring sentencing is the appropriate punishment for anyone convicted of driving under the influence. HB 205 only provides such prison alternatives for first-time DUI offenders, leaving that option at the discretion of the commissioner of corrections for re-offenders. We recommend making electronic monitoring at a private residence the standard form of punishment for re-offenders, too.

Additional Recommendation #2: We agree with the recommended threshold of 5 grams to distinguish between more serious (B felony) and less serious (C felony) commercial drug offenses. HB 205 uses a lower 2.5 grams threshold. We recommend using a 5 grams threshold.

Additional Recommendation #3: We agree with the recommendation to bring all presumptive sentencing ranges below the ceiling of the relevant presumptive terms as they stood in 2005. But HB 205 straddles the 2005 maximums. For example, the 2005 presumptive sentence for a first class A felony was 5 years. The presumptive range today is 5–8 years. HB 205 reduces it to 3–6 years.

Also, we agree with the recommendation to extend presumptive probation to both first- and second-time class C felony convictions. HB 205 only provides presumptive probation for first-time class C felonies. Second convictions under HB 205 would carry a presumptive range of 2–4 years.

Additional Recommendation #4: We agree with the recommendation to return sentence lengths for B and C felony sex offenses to 2005 levels. HB 205 does not change the relevant sentences, which are generally 2, 3, or 4 times as long as other felonies of the same class.

Additional Recommendation #5: We agree with the recommendation to expand the availability of Medicaid for substance abuse treatment for indigent persons. HB 205 does not incorporate it.

Additional Recommendation #6: We agree with the recommendation to limit use of multiple misdemeanor revocations for the same instance of program noncompliance. HB 205 does not incorporate these provisions.

C. HB 205 should incorporate select reclassifications of class B misdemeanors subject to incarceration to criminal violations subject to arrest.

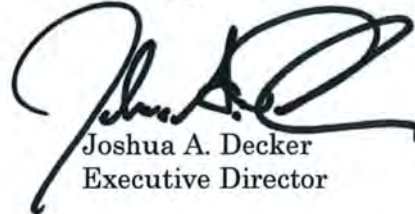
Early versions of the Senate's corollary to HB 205, Senate Bill 91, reduced four class B misdemeanors to criminal violations subject to arrest: (1) criminal trespass in the second degree, (2) criminal mischief in the fifth degree, (3) disorderly conduct, and (4) harassment in the second degree. Reclassifying these nonviolent offenses so that persons convicted of them are not subject to incarceration would spare Alaska undue expense, both by reducing incarceration and by reducing reliance on public defenders, and would reflect the overriding purpose of reforming Alaska's criminal justice system to mete out justice in a more just and proportional manner. We recommend that HB 205 include these reclassifications.

Chair Gabrielle LeDoux & Vice Chair Wes Keller
ACLU Review of HB 205
March 31, 2016
Page 4 of 4

Thank you for the opportunity to share our thoughts on HB 205 with you. We look forward to working with the committee to help the Legislature enact meaningful and effective improvements to Alaska's criminal justice system.

Please let us know if you have any questions or if we may offer any additional information.

Sincerely,



Joshua A. Decker
Executive Director

cc: Rep. Neal Foster	Representative.Neal.Foster@akleg.gov
Rep. Bob Lynn	Representative.Bob.Lynn@akleg.gov
Rep. Charisse Millett	Representative.Charisse.Millett@akleg.gov
Rep. Matt Claman	Representative.Matt.Claman@akleg.gov
Rep. Jonathan Kreiss-Tomkins	Representative.Jonathan.Kreiss-Tomkins@akleg.gov
Rep. Kurt Olson	Representative.Kurt.Olson@akleg.gov



March 31, 2016

Honorable Kevin Meyer
Senate President, Alaska Senate
Juneau, Alaska

Honorable Mike Chenault
Speaker, Alaska House of Representatives
Juneau, Alaska

Re: Support for HB 205 and Criminal Justice Reform in Alaska

Dear Senate President Meyer and House Speaker Chenault:

The Alaska Federation of Natives submits this letter in support of HB 205, an act relating to criminal law and procedure and geared towards criminal justice reform.

AFN is the largest statewide Native organization in Alaska. Our membership includes 185 federally recognized Alaska Native tribes, 153 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortiums that compact and contract to run federal and state programs. Formed fifty years ago, AFN continues to be the principle forum and voice of Alaska Natives in dealing with critical issues of public policy and government.

In 2014, the Alaska Legislature established the bi-partisan, interbranch Alaska Criminal Justice Commission ("Commission") and it was tasked with "develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars." In addition, you and other legislative leaders requested that, because the state's difficult budget situation rendered reinvestment in evidence-based programs and treatment possible only with significant net savings, the Commission forward policy options that would not only avert future prison growth, but would also reduce the prison population between 15 and 25 percent below current levels.

The Commission developed a comprehensive package of policy recommendations that would protect public safety, hold offenders accountable, and reduce the state's average daily prison population by 21%, saving the state an estimated \$424 million over the next decade.

The Commission found that a disproportionate number of Alaska Natives are being confined. While Alaska Natives represent about 15 percent of the state resident population, they represent 36 percent of the state's pretrial inmates, 34 percent of the state's sentenced prisoners, and 42 percent of the probation and parole violators in prison. Measures recommended in the Criminal Justice Commission report aimed at safely reducing pretrial incarceration, diverting low-level offenders from prison, adjusting criminal penalties to get better outcomes, and making penalties for probation and parole

violations more proportional will have a disproportionately positive effect on Alaska Natives, who are overrepresented in the state's incarcerated population.

Alaska Natives are also overrepresented among crime victims. Effective practices that reduce reoffending and result in fewer victims, as well as reinvestments into victims' services, will directly improve the lives of Alaska Natives.

HB 205 is a great start towards criminal justice reform in Alaska. I testified in the House Judiciary Committee hearing on March 22, and we listened in on the continuation of the hearing on March 23. We were happy to hear that the bill's sponsors intend to add a reinvestment component to help offenders with re-entry back into society. There is a severe lack of alcohol and drug rehabilitation beds in this state, and a lack of programs that would help get offenders into jobs upon release or help victims get back on their feet. We strongly believe that rather than simply locking people away, the system should focus on targeting the causes of the behavior and helping to make offenders productive members of society.

We urge legislators to amend HB 205 to match the Commission's sentencing recommendations for Class A and B misdemeanors. The bill language, as currently written, has carved out exceptions that significantly reduce the savings associated with the reform package, making reinvestment more difficult. It has also departed from the evidence base, which shows that shorter jail sentences and alternatives to jail can effectively manage the risks low-level offenders pose to the community, while avoiding the harmful effects of mixing those low-level offenders in prison with more serious, violent offenders. We believe these changes will produce more savings for the state, reduce recidivism, and help build and support healthy communities in Alaska.

If you have any questions or require further clarification about the content of this letter, please contact me directly at (907) 274-3611 or mblair@nativefederation.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maude Blair', with a stylized flourish at the end.

Maude Blair
Vice President

cc: AFN Board of Directors
Governor Bill Walker
Lt. Governor Byron Mallott
Rep. Bryce Edgmon, Bush Caucus



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March 23, 2016

The Honorable Senator Coghill and Representative Millett
Alaska State Legislature
Juneau, AK

via : e-mail to: jordan.shilling@akleg.gov, grace.abbott@akleg.gov, and kalyssa.maile@akleg.gov

RE: Support for SB91 and HB205 and Opposing the Amendment Concerning Public Assistance

Dear Senator Coghill and Representative Millett:

As President/CEO of Kawerak, Inc., the regional non-profit tribal consortium in the Bering Strait Region of Alaska, and also as co-chair of AFN's Council for Advancement of Alaska Natives, I write to you today in support of SB91 and HB205, which would provide criminal justice reform in Alaska. Please do not allow these bills to be "watered down."

In the Bering Strait Region of Alaska, the majority of those incarcerated for crimes are low-income Alaska Natives. The majority of those who have committed crimes have done so under the influence of alcohol and/or other substances. The bills as you have introduced them, will provide an avenue to break the vicious cycle of social ills that contributes to the high rates of incarceration. Your bills will help restore healthy communities, improve public safety, save the state money, and expand treatment and supportive services to reduce recidivism.

However, denying public assistance to one class of criminals, as suggested by Senator Bill Stoltze's amendment to SB91 to ban convicted drug offenders from receiving food stamps if they test positive for drugs, is contrary to the overall intent to provide people the assistance they need to become productive, law-abiding citizens. Food, water, and shelter are the basic necessities for life. Punishing people who are addicted to drugs by denying them access to food is both morally and logically incomprehensible. People addicted to drugs should be provided treatment options, not denied food.

Other states that had implemented a similar provision have already repealed the ban (18 states), and 26 other states have modified it. Please ensure the Alaska State Legislature does not allow this amendment to your bills.

Thank you for your sponsorship of SB91 and HB205; please do not allow any amendments that will contradict the overall intention of the actual bills.

Sincerely,

A handwritten signature in black ink, appearing to read "Melanie Bahnke". The signature is fluid and cursive, with the first name "Melanie" written in a larger, more prominent script than the last name "Bahnke".

Melanie Bahnke, President
Kawerak, Inc.

cc: Senator Donny Olson
Representative Neal Foster

From: All Suchness <allsuchness@yahoo.com>

Date: January 19, 2016 at 21:42:11 AKST

To: "Representative.Charisse.Millett@akleg.gov" <Representative.Charisse.Millett@akleg.gov>, "Representative.Gabrielle.LeDoux@akleg.gov" <Representative.Gabrielle.LeDoux@akleg.gov>, "Representative.Wes.Keller@akleg.gov" <Representative.Wes.Keller@akleg.gov>, "Representative.Neal.Foster@akleg.gov" <Representative.Neal.Foster@akleg.gov>, "Representative.Bob.Lynn@akleg.gov" <Representative.Bob.Lynn@akleg.gov>, "Representative.Matt.Claman@akleg.gov" <Representative.Matt.Claman@akleg.gov>, "Representative.Max.Gruenberg@akleg.gov" <Representative.Max.Gruenberg@akleg.gov>, "Representative.Kurt.Olson@akleg.gov" <Representative.Kurt.Olson@akleg.gov>

Subject: HB 205

Reply-To: All Suchness <allsuchness@yahoo.com>

January 19, 2016

My name is JD Alex; I am of Alaska Native decent with Denaina and Ahtna Athabascan Indian, I am a chairman for a nonprofit board Ikluat Inc. (which is in good standing with its members & currently trying to provide better direction for the nonprofit organization).

My Grandfather was the last real Chief of Eklutna. Now, I am being groomed for a board position with Eklutna Inc. I moved into your district last April, I purchased a four-unit property and have been managing it with great success.

I'm contacting you to show you my support for HB 205, I myself in 2006 was pulled over for my fifth DUI. I forfeited the ability to obtain a license indefinitely. I served 25 months of jail time, five years' probation, I've been clean, sober & tobacco free for almost ten years now.

With the Lord's Grace I was able to get into the Carpenter's Union in 2009.

I got myself out of \$50,000 debt. There was an accounting error that was just found this past August; apparently I still owe \$20,000. So now I am starting to pay that off.

I've lived a life fulfilling my potential like I've always thought I could. I've been able to check off my bucket list goals. I've picked up new hobbies like bowling, golf, and softball. I'm attending church once a week for five years now. Attending Alcoholics Anonymous /Narcotics Anonymous for four years and have gained a great deal of understanding and strength through these programs.

Through the Grace of God & some will power I've been able to do this with continued progress. I've had to learn to network and have enjoyed the last 10 years of my life from the amazing support of my family, friends & new friendships I've formed. I'm not too shy or proud to take the city bus and I've also maintained good physical and mental shape.

I've been a productive citizen this entire time, paying taxes on time, and I've helped build a Child Development Center, built troop training grounds, renovate an armory, and vital member in the new addition to the Buckner building....all on JBER. I also became a Millwright, which I helped assemble all motors, pumps, fans, and align all turbines in the new Southcentral Power plant. I helped with the diesel/natural gas engines for the MEA Power plant in Eklutna. (I have a very special connection to this project, since my grandfather was the last real Chief of Eklutna who had worked on the last Eklutna Power plant).

I went to Sitka and worked on Blue Lake Dam assembling three hydro turbines (I am now 1 of 8 union personnel in all of the U.S. to assemble new hydro turbines). I've been able to rise above and be a functional member of society despite my many mistakes, which I own and understand the consequences of my actions.

Now I have a terrible stigma that most will never shake. I have diligently trudged my way here. I'm getting older, more tired. I have built myself into a way of life that is sustainable and now I want to be a Dad that can support my family in every which way possible.

The current laws say that after ten years I can reapply for my license but there is no definite or resolute way to get it back on my own. It seems to me to be at the discretion of the court. HB 205 will change parts of the legal process for so many people that are in the same shoes I'm in. To have a viable way to get our driver's license back on our own and jumping through legitimate legal hoops. I have friends who are in my shoes that see no hope and are thinking and believing the legal system is beating them down unfairly, therefore don't see a reason to fight for their rights. I have friends who do the best they can, also believing there is no hope but continues to do what they can to survive and be good. I have one friend (in my shoes) who has done better than me I believe who I am keeping him up to date on this bill and my process to support it.

I know this bill is a hard sell. Giving charged criminals of misdemeanors and felonies a way to legitimately bring them back into society. I feel there are those that want to be apart and a positive productive member of society. It is possible to rejuvenate and change life to better suit society. One common thing I see we all are in the same age group too. We all lived our late teens & early twenties rebelliously and now paying for it. Do we have to pay for it for the rest of our lives?

We are capable of change within our legal system. I believe it's supposed to be a positive guide and path with opportunities. All I'm asking for is give me a chance and let me show you that I can be a productive member, possibly be a leader too & if I'm lucky enough to fulfill my dream of being a dad & having a loving family. I support HB 205

Thank you for your time

Respectfully

Joshua (JD) Alex

March 10, 2016

The Honorable Lesil McGuire
The Honorable Gabrielle LeDoux
Alaska State Legislature
Juneau, Alaska 99801

Regarding: SB91/HB205

Dear members of the Judiciary Committees,

The ONLY provision in this pro-crime bill, benefiting both inmates and the public, is housing violent and non violent offenders separately. SB91/HB205 contains: NO incentive for criminals to change their behavior, NO effective "advancing crime victim priorities", NO increase in law enforcement officers, NO new or expanded addiction treatment, NO mental health treatment, NO education, NO family counseling, NO job training, NO reintegration programs, NO real accountability. The only offenders eligible for any type of programs, which SB91 mandates but does not fund, are those who make it to a halfway house...from prison.

This bill effectively eliminates prison for A LOT of criminals. Nearly all non violent criminals (which is anyone who didn't murder, rape, or maim) would be placed on electronic monitoring, thus not eligible for programs. Electronic monitoring allows the offender relative freedom to "look for a job", and attend to "personal business" for several hours each day. Private EM companies have already demonstrated a gross lack of oversight and reporting of violations, and a government run EM system will be worse. SB91/HB205 does NOT require tougher penalties for these types of issues.

Probation, half way houses, & electronic monitoring are considered "incarceration" by the State of Alaska, even though the definition of incarceration is, "the state of being confined in prison; imprisonment.". I don't see how lounging on mom's couch playing xbox all day, and partying with loser friends all night is incarceration. Making life more comfortable for criminals with less real incarceration, dismissed charges, lighter sentences, and reduced bail conditions will NOT convince criminals to clean up their act.

Can we successfully cut the budget, reduce crime, and increase public safety? Not without changing criminal behavior, which SB91/HB205 does NOT accomplish. *When the pain of staying the same is greater than the pain of change, people change.* Criminals prey on society because it's the easy road. Their thinking & decision making processes, and values are not the same as a law abiding citizen. You cannot change behavior without education, training, and treatment for addiction and mental health. Spending money on effective programs is an investment in our future. What we're doing now DOES NOT WORK. The state may make their stats look good on paper, but we'll never save money if we don't address the root of the problem. **Cutting costs by throwing criminals right back into the community, without changing their mind set and behavior, is a gross injustice to both offenders and law abiding citizens.**

I've listed suggestions for changes that will cut costs in the long run, reduce crime, and increase public safety.

1. Chronic offenders, sexual predators, and violent criminals should be spending a minimum of $\frac{3}{4}$ of their prison sentences IN PRISON. Sitting in prison for less than 6 months of a 5 year sentence does not instill the desire to change behavior. Neither does the comfort and freedom of electronic monitoring.
2. Prisons are a taxpayer funded necessity, they should NOT be for profit, EVER. Take the profit out of prisons and make them self sufficient.
3. Prisons can become nearly self sufficient by:
 - *Producing their own electricity, via treadmills, solar power, wind power, etc. Excess electricity can be sold back to power companies for the grid.
 - *Growing, preserving, and cooking the majority of their own food. Supplement with beans, rice,

sugar, flour, salt, and coffee as needed.

*Selling furniture and other hand made goods, butchering services, and excess produce will provide jobs, and the extra income needed to purchase necessities for the prison.

*Allow prison work crews to bid jobs for construction and road work, which will give prisoners critical job skills and experience.

4. Require prisoners, as a stipulation of release, to acquire their GED, and complete classes in parenting, anger management, relationship building, coping skills, job training, budgeting and finance, personal responsibility, citizenship, etc.
5. Cut out television, video games, and junk food. Studies show these changes improve overall behavior. Encourage reading and listening to books. If prisoners are engaged in self sufficiency and educational activities they won't have a lot of idle time to cause trouble.
6. Rehab should be voluntary, and administered in prison concurrent with the prisoner's requirements above. It should not be used as a get out of jail free card like it is now.
7. Prisoners should be paid the federal minimum wage for working, and be required to pay a 1/3 of their salary toward room and board. 1/3 toward savings to help them get on their feet after they've served their sentence. And 1/3 toward court ordered restitution to their victims. All of this would be part of budgeting, finance, and personal responsibility training.
8. **I believe the absolute best alternative to no consequences (which is essentially what SB91/HB205 is), and overcrowded prisons is a 3 step process made up of: Clean Camp, Development Station, and a Reintegration Program.**

I. Clean Camp's focus is detox & rehab, identifying and treating mental health issues, and learning the value of hard work by offering opportunities for success in a controlled environment. Camp would be remotely located, and mostly self sufficient. It could be voluntary to avoid legal hassles. Offenders could choose prison instead. It would only be offered to non violent first or second time offenders. Camp would be minimally staffed with administrators, teachers/mentors, and medical personnel. There are no walls or fences, only wilderness. Offenders would wear ankle monitors to track their location. Electricity would only be available full time in staff areas, and perhaps part time in the kitchen and offender gathering area. It could easily be generated by wind and solar. This camp would address a multitude of needs.

*First, it would remove the offender from society, preventing continued crime and eliminating the distraction of friends and relatives who encourage their behavior.

*Second, it would provide the opportunity for rehabilitation without the temptation of acquiring drugs, which are readily available in Alaska's prisons now. Additionally mental health issues would be diagnosed and treated.

*Third, offenders would learn valuable character building, and job skills by building shelters, growing, cooking, and preserving their food (including raising livestock), chopping and gathering wood, etc.

*Fourth, offenders would not move to the second stage of the program until they complete goals set for them after evaluation by DOC staff. Studies show it takes a 60 days of rehab for an addict's brain function to begin returning to normal. If the offender chooses to learn, they'll move forward faster. If the offender does not improve they'll stay in Camp until they meet their goals, or choose to return to prison. Camp is meant to be tough to give the offender a sense of accomplishment.

II. Development Station is phase two. Offenders move closer to town and live in military style barracks. The focus of Development Station is learning necessary skills for successfully navigating in society, such as: personal finance, anger management, coping skills, communication, relationship building, learning to set boundaries, parenting, writing a resume and interviewing, GED, continued mental health evaluation & treatment, etc. In this phase offender crews may take on jobs and divide pay as laid out in suggestion #7 above. When the offender meets their individual goals for phase two, they'll move to phase three.

III. Phase three, the Reintegration Program, would move offenders back into the community.

Offenders would be closely monitored by PO's, and referred to non profit organizations to receive help in meeting their goals. When offenders have completed goals for this phase, and stayed on track for 1-2 years, they'll graduate from the program. Goals for this program include:

- *Securing housing.
- *Job training and placement.
- *Volunteering in the community 5+ hours per week.
- *Mandatory family counseling.
- *Actively seek a healthy hobby.
- *Continued mental health treatment.
- *Required participation in an addiction recovery program, which includes finding a mentor/sponsor.

IV. At any time the inmate may choose to go back to a previous camp, or go to prison to complete their sentence. If the prisoner chooses to return to prison they cannot move back to camp during their sentence. This plan would be a challenge to set up initially, but would ultimately save the state, and public money by addressing the root of the problem. It cannot cost more than we spend now for inmates to lay around all day biding their time before returning to the same bad choices.

The revolving door of crime costs victims, LE, court personnel, DOC, and every taxpayer. Invest in programs that stop the revolving door and we all save money. I believe the community will support those who are honestly trying to straighten out their lives. As it is now, we have no hope or expectation that criminals will change their ways, that crime will decrease, or that anything will improve.

Alaska ranks #1 in the nation for Per Capita spending. If the Legislature is serious about cutting the budget:

- Limit legislative employee salaries and benefits to the average national median.
- Cap per diam state employee spending, and require valid receipts before reimbursement.
- Cut education spending by 10% across the board. Alaska ranks #2 in the U.S. for education spending, but #49 for education quality and student success. Overspending for embarrassingly poor results is not sustainable. It's time to fix the problem, not continue throwing money at it.
- Institute a capped state sales tax. Why should Alaskans bear 100% of the burden when tourism is quickly replacing oil for generating the highest revenue? Do not saddle hard working residents with an income tax.

Sincerely,
Heidi Deadmond
Palmer Alaska
snippycat2@yahoo.com

From: msherk <msherk@gci.net>

Date: February 25, 2016 at 22:29:07 AKST

To: <Representative.Gabrielle.LeDoux@akleg.gov>

Subject: Good Question

I've been in Alaska for over 45 years now.

They say I am a "pioneer" now but I doubt that.

My question is this,... with all the assorted events that are capitol crimes? Why do we "warehouse" those that did or do that?

WE need to remove them from our neighborhoods, our children, our families, our wives, our schools, our girlfriends, our husbands, our boyfriends, even our pets.

THEY have to go! Adjudicated by thorough law practice this:

- 1) lethal injection
- 2) firing squad
- 3) electrocution
- 4) gas chamber
- 5) what the legislation dictates.

We cannot afford to give these murders the "Holiday Inn".

NOW try to sense what can be done to overturn this refusal to deal with these things. I find all that to be uncomfortable and not right for the community.

Those malfunctioned HAVE to be properly dealt with appropriately! even if it means death sentences. They kill a child, an adult, or kill the spirit of a child they do not deserve to exist.

My thoughts are they are.

Michael Sherk

179 Oklahoma Street

Apt #9

Anchorage, Alaska

99504-1254

929-0558



The Voice of Small Business

ALASKA

March 14, 2016

The Honorable Charisse Millett
Alaska State House of Representatives
State Capitol Building
Juneau, Alaska 99801-1182

RE: House Bill 205

Dear Representative Millett:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully inform you of our opposition to the felony threshold in the current draft H for House Bill 205. In an NFIB/Alaska member ballot our membership voted overwhelmingly to oppose any increase in the felony theft threshold. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

NFIB/AK members recognize that \$750 is a significant amount to a small business. Your proposed increase to \$2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska Leadership Council worked with Senator Coghill and agreed to remove our opposition to an increase from \$500 to \$750. We still strongly believe the state should not be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level.

A recent Pew Charitable Trust study shows an increase in the crime rate in our neighboring state, Washington, after increasing their felony level to \$750. South Dakota, Nevada and New Mexico experienced similar increase in crime after increasing their felony threshold levels.

Our members believe 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, Alaska businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

I have attached testimony on this issue from the February 25, 2013 Senator Judiciary Committee. It includes testimony by Chris Nettels, a representative of NFIB as well as Detective Ross Plummer. You will see Mr. Nettels concern, having been a victim of theft – a victim we ought not forget in this legislation. The acknowledgement by Detective Plummer relative to treatment of misdemeanor

Representative Charisse Millett

March 14, 2016

Page 2

crimes is particularly significant. He confirmed that businesses have reason to be concerned that misdemeanor thefts receive less police attention.

NFIB/AK appreciates the need to reform many parts of the criminal justice system. We also understand the need to reduce state expenditures. We believe that there are several proposals within HB 205 that will accomplish those goals and encourage their consideration. Among the proposals in HB 205, only the felony threshold has been addresses in the past two years. We believe it is time for other areas to be reformed prior to revisiting the felony threshold.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

Cc: House Judiciary Committee
NFIB/AK Leadership Council

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE
February 25, 2013
1:34 p.m.

1:51:41 PM

CHRIS NETTELS, President, GeoTek Alaska, Inc., Anchorage, AK, said he was also testifying on behalf of the National Federation of Independent Businesses to ask the committee not to pass SB 43, which would increase the \$500 felony threshold for theft and property offenses. He reported numerous incidents of stealing at his business property, four of which were thefts valued at \$500 or more. In the past two or three years he has seen a significant increase in the numbers of petty thefts valued at \$200 to \$300, but in the last year there have been several thefts valued between \$1,000 and \$3,500.

MR. NETTELS expressed concern that increasing the felony threshold will have the unintended consequence of increasing the numbers of some crimes. He said he understands the argument for increasing the felony threshold because of inflation, but wonders if all laws will be similarly inflation proofed. He also asked if the penalties would drop if deflation occurs. He concluded that the \$500 felony threshold has served well and he did not support passage of SB 43.

1:56:49 PM

CHAIR COGHILL asked if he'd had trouble making a case to the police or courts in felony theft cases.

MR. NETTELS said no, although he had never received a follow up call or had any property returned in any of the five reports he filed with the police.

CHAIR COGHILL asked Detective Plummer if the police were more likely to respond to a felony theft report as opposed to a misdemeanor theft report.

1:58:34 PM

DETECTIVE ROSS PLUMMER, Anchorage Police Department (APD)* Municipality of Anchorage* Anchorage, AK, said yes. He explained that APD detectives work felony cases and patrol officers are responsible for follow up on misdemeanor cases, but call volumes leave little time for follow up. If a misdemeanant suspect isn't caught right away or if there isn't a tip that locates the suspect, the chance of closing the case is very small.

CHAIR COGHILL asked if a felony theft would receive more detective-level involvement.

DETECTIVE PLUMMER said yes; felony thefts receive two screenings, one by patrol and the second by detectives, whereas misdemeanor thefts receive just one screening by patrol.

CHAIR COGHILL asked if businesses had a valid fear that raising the felony threshold would cause misdemeanor thefts to receive less police attention.

DETECTIVE PLUMMER acknowledged that there was that chance.

From: Kelly Mazzei [<mailto:kamazzei@gmail.com>]

Sent: Monday, March 21, 2016 8:41 AM

To: Rep. Charisse Millett <Rep.Charisse.Millett@akleg.gov>; Rep. Matt Claman <Rep.Matt.Claman@akleg.gov>; Rep. Geran Tarr <Rep.Geran.Tarr@akleg.gov>; Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>

Subject: HB 205 SUPPORT

I strongly support this House Bill 205 and hope it passes this year, since it is in year 2. I feel very strongly about this bill and think it will benefit the state in so many ways, financially and by making it an option for driving legally for the ones who deserve it, and especially for providing driving options for the folks who have had DUIs and gone through Wellness Court programs and have changed their lives. By taking licenses away from people for life, or even 10 years, is not solving the problems that will come with that. The ones who have changed and want to change, must be able to drive to work, take care of their kids, go to appointments, and be able to be good community members. The flipside is that because driving in Alaska is a necessity, people will drive anyway. they will not be legal, they will not get insurance, they will probably have low self esteem, start drinking again, and continue the cycle, maybe killing themselves or innocent people. By allowing limited licenses or to get licenses back, you are providing a way to regulate driving, force insurance, maybe ignition devices and allowing the person to maintain employment and feel rewarded perhaps for continuing to do well and be responsible. Wellness Court graduates deserve this chance to be participating and active community members and to continue striving for success.

I urge you to please continue to support this bill but to also try and push it through this year.

Thank you for your time,

Kelly Mazzei

Testimony on HB 205
March 22, 2016
Presented by Anne Seymour
National Crime Victim Advocate

Good afternoon Chair LeDoux and members of the House Judiciary Committee, and thank you for the opportunity to testify on behalf of HB 205. I helped facilitate the outreach to crime victims, survivors and victim service professionals last year in the early stages of the Alaska Criminal Justice Commission's reform initiative, and I'd like to talk briefly today about this process.

I've been a national crime victim advocate for 33 years and, in the 1980s, co-founded what is now the National Center for Victims of Crime. I have worked in all 50 states and at the Federal level to improve victims' rights and services. I currently serve on the Board of Directors of five national organizations that promote pretrial justice; safety and crime prevention on college campuses; victim services in corrections; and international victim assistance. I am also a member of the Victims Committees of all three major national corrections associations, and had the honor of serving on the DC Sentencing Commission for nearly a decade. Over the past two decades, I've worked in Alaska on behalf of the U.S. Department of Justice on efforts that helped create your Department of Corrections victim services program; and that helped ensure that victim safety and concerns are addressed through sex offender management and policy.

I offer this brief background as a way of showing that I have been quite "deep in the weeds" in criminal justice and corrections reform efforts for my entire career, and this involvement has been to simply assure that victims' voices are heard, and that when we speak often about "public safety," that we also consider the "individual safety" of victims, survivors and members of our communities.

I recall with great frustration and sadness my early days as a victim advocate, when victims had virtually no rights. They were an "afterthought" in justice processes if they were thought about at all – the mother of a murdered child in Texas spoke of the need for victims' rights when she said: "Just about the only right a victim of crime has is to be present at the commission of the crime." We watched from the sidelines as justice reform efforts passed in state after state with little or no consideration of victims' concerns.

To say "times have changed" is an understatement. To me, the most significant change in justice reform and reinvestment efforts *is the strategic, proactive involvement of crime victims, survivors and those who serve them.*

Over the past five years, I've been involved in justice reinvestment efforts in almost 20 states, and I've learned that the needs of victims vary widely from state-to-state. South Dakota's reinvestment is helping to build a statewide victim notification system. In Pennsylvania, one of the outcomes now provides victim advocates for victims of juvenile offenders. Hawaii's reinvestment overhauled that state's victim restitution program to the point that it is now considered the "standard" for our field. And in Oregon, JRI doubled the amount of money available in its Domestic and Sexual Violence Services Fund, among other provisions.

Yet what *is* consistent is that states that reduce their prison population have also reduced their crime rates. For example, in the first two states I worked in:

- In 2010, South Carolina reduced its prison population by 20 percent and has seen a reduction in its crime rate of over 12 percent.
- In 2011 in Kentucky, the 1.6 percent reduction in the state's prison population has been accompanied by a 17.1 percent reduction in its crime rate.

Which brings me to the Commission's work here in Alaska and HB 205: I applaud *any* justice reform effort that is bipartisan in nature, and I give "bonus points" when the needs of crime survivors are given the attention they so rightfully deserve.

I want to recognize the Commission's efforts and the fact that it included an amazing victim advocate, Brenda Stanfill, on the Commission itself. The Commission's early and strong commitment to hearing the voices of victims in Alaska is where I came in.

My work in Alaska began last summer, first reviewing a rich body of research in your state that showed that while Alaska has some of the finest victim assistance programs in the Nation, there are still many victims who remain un-served or under-served: victims of child abuse and neglect; the majority of Alaska women who experience at least one incident of intimate partner or sexual violence in their lifetimes; and so many victims whose need for legal assistance far outweighs Alaska's capacity to provide it.

We reached out to over 50 survivors and victim advocates to inform them about the Commission's efforts and to invite them to join discussions to clarify victims' most important needs and concerns.

Over a week in September, I had the opportunity to speak personally with seven crime survivors and finally got to meet Butch and Cindy Moore in person, having learned of and appreciated their efforts to pass Bree's Law from 5000 miles away. I heard from domestic violence survivors for whom "personal safety" is an oxymoron. And I interviewed victim assistance professionals who simply struggle to provide quality services to the many victims in Alaska who need them.

Instead of hosting one Victim/Advocate Roundtable as we do in most states, we held two Roundtables in Alaska last September: in Fairbanks, and in Bethel (where we flew in tribal elders and survivors to ensure that we learned about the needs of victims in Alaska's bush communities). Overall, 29 survivors and victim advocates joined the Roundtable discussions. It's important to note that their input truly informed the Commission's work and the bill you have before you today.

The Roundtables presented 10 priorities to the Commission and, while you can read the Summary Report I wrote (which has been provided under separate cover to the Committee), I'd like to highlight three of them for you:

1. There was strong consensus about the need to strengthen victim assistance services in remote and bush communities to promote justice, healing, wellness and crime prevention.
2. Participants emphasized the need to focus on crime prevention and bystander intervention, with a goal of less crime and fewer victims in Alaska.
3. Finally, there was strong support for evidence-based and culturally-competent programming and supervision for convicted offenders, including batterers' intervention and restorative community service.

I believe that HB 205 offers both a foundation and reinvestment funding that can make the Roundtables' recommendations a reality. In addition, this bill's emphasis on involving victims and providing them with rights to information, notification, input, safety and restitution across the entire criminal justice spectrum – from pre-trial through parole consideration – equates to one of the most victim-centered pieces of legislation I've seen over the past decade.

I have never sought to speak on behalf of victims and survivors because each victim is unique and it's impossible to paint them with a broad brush. Instead, my work over the past three decades and in Alaska over the past eight months is to make sure that the voices of victims and those who serve them are heard, and respected and reflected in public policy that affects their lives.

I believe HB 205 accomplishes this, and I thank each of you and the Alaska Criminal Justice Commission for validating the voices of victims and their advocates through this important bill.

Thank you very much.

From: Butch Moore [<mailto:sushores@gmail.com>]

Sent: Tuesday, March 22, 2016 3:59 PM

To: Rep. Charisse Millett <Rep.Charisse.Millett@akleg.gov>

Cc: Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>; Rep. Wes Keller <Rep.Wes.Keller@akleg.gov>; Rep. Neal Foster <Rep.Neal.Foster@akleg.gov>; Rep. Bob Lynn <Rep.Bob.Lynn@akleg.gov>; Rep. Matt Claman <Rep.Matt.Claman@akleg.gov>; Rep. Jonathan Kreiss-Tomkins <Rep.Jonathan.Kreiss-Tomkins@akleg.gov>; Rep. Kurt Olson <Rep.Kurt.Olson@akleg.gov>; Natasha McClanahan (GOV) <natasha.mcclanahan@alaska.gov>; Lacy Wilcox -Governor's office <lacy.wilcox@alaska.gov>; Rep. Bob Lynn <Rep.Bob.Lynn@akleg.gov>; moorecindy1@gmail.com

Subject: HB205 "UPDATED" - Please make my request part of the record. Adding sections & Mandatory minimum for Murder

Representative Millett,

Here are my proposed amendments to your HB205, some of which Senator Coghill has adopted as amendments to his SB91, excluding Murder's and Violent offenders.

1. Probation: HB205-Page # 40 Increase the maximum term of probation from five years to ten years for unclassified felonies or felony sex offenses (currently 25 years); increase the maximum term of probation from three years to five years (currently 10 years) for all other felonies except domestic violence; and increase to four years for all domestic violence offenses.
2. Probation: HB205-Page # 66 At the end of line #18 as (D) & at the end of Line #22 Add: and has not been convicted of an unclassified felony offense, a sexual felony as defined by AS 12.55.185, or a crime involving domestic violence as defined by AS 18.66.990." (This then will not allow murder's to get out of reduced probation.)
3. Victim Notification: Add From SB91 Page # 30 Line 19 Sec. 48. AS 12.55.011 is amended by adding a new subsection to read: (b) At the time of sentencing, the court shall provide the victim with a form that (1) provides information on (A) whom the victim should contact if the victim has questions about the sentence or release of the offender; (B) the potential for release of the offender on furlough, probation, or parole or for good time credit; and (2) allows the victim to update the victim's contact information with the court and with the Department of Corrections.
4. Victim Notification: Add From SB91 Page # 74 Line 5 Sec. 115. AS 33.16.180 is amended to read: Sec. 33.16.180. Duties of the commissioner. (12) within 30 days after sentencing of an offender, provide the victim of a crime information on the earliest dates the offender could be released on furlough, probation, or parole, including deductions or reductions for good time or other good conduct incentives and the process for release, including contact information for the decision-making bodies.
5. Please increase the minimum mandatory sentences for murder, **by adding 15-20 years to each minimum sentence**, So that MURDER is equal to Rape sentencing. **Current Law AS 12.55.125. Sentences of Imprisonment For Felonies.) RAPE "sexual assault"** in the first degree if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, **25 to 35 years**; **MURDER - (a)** A defendant convicted of "**murder in the first degree**" AS [11.41.150](#) (a)(1) shall be sentenced to a definite term of imprisonment of at least **20 years, (Change to 35 years)** A defendant convicted of

"murder in the second degree" shall be sentenced to a definite term of imprisonment of at least **10 years (Change to 25 years)**

6. Please add a section that requires an offender who is paroled and/or on probation with an "Alcohol Restriction", to surrender their drivers license. They must then, at their expense, pay for a new one with the "Red Bars" that say "Alcohol Restricted", thus preventing them from buying alcohol. On 6/26/14, my daughter, Bree Moore, age 20, was Murdered by Joshua Almeda who was on probation with an alcohol restriction and was not required to surrender his license for one that restricted alcohol. Joshua walked into a liquor store, bought alcohol, got drunk and shot Bree in the head. Josh later told us if he had not been drinking, Bree would be alive today.

7. Electronic monitoring-The State monitoring reports the GPS locations only one time per day, (At night) and does not alert authorities when someone is "Out of Bounds". Please ask Law enforcement if they are ever notified if an offender is away from their designated location.

The Alaska Office of Victims' Rights recommends that death related crimes, should be in line with the sentences for other crimes, based on the significant harm done. Murder 1 – 35 yrs mandatory min. Murder 2 – 25 yrs mandatory min. Manslaughter – 10 yrs mandatory min. Criminally negligent homicide – presumptive range of 5-10 yrs. With a statutory aggravator or a sentence enhancer that would add no less than 5 yrs to any crime in which a firearm was used and the person used a firearm in the commission of the offense and 1) the person could not legally possess a firearm, 2) the firearm used had no identification marks (ie serial numbers) or 3) the firearm used had been previously reported stolen.

On 6/26/14, my daughter, Breanna Moore, age 20, was Murdered by Joshua Almeda who is guilty of Second Degree Murder for killing Bree, at his home, with a stolen handgun, while drunk, (he was both #1 & #3 above).

The Laws you make now, Will determine the release of Joshua Almeda and other violent offenders like him.

Thank you for considering my request for these amendments,

Butch Moore, Bree's Dad sushores@gmail.com



Denali Electronic Monitoring Services, LLC (DEMS)
1150 South Colony Way Suite 3-237
Palmer, AK 99645
907-745-3367

March 15, 2016

Dear Legislators and Judiciary Committees,

We are an Electronic Monitoring (EM) company. We are one of the original private EM companies in Alaska operating out of Palmer since 2009. We have successfully implemented a program that has allowed defendants to maintain compliance with the courts pretrial process. In addition to EM we have always offered drug and alcohol testing. Due to the process in which 24/7 was brought into Alaska and run we are almost to the point of shutting our doors due to the appointment of the 24/7 Program to Alaska Pretrial Services (APS) a private EM company. The free market has been stifled and a monopoly created. Going forward I am concerned that SB 91 and its companion bill HB 205 will further hinder the free market process.

We have been unable to have our concerns about the 24/7 program addressed. I have attached my log notes concerning the information we have gathered. We are concerned with the lack of an open bid process that was used to assign APS, Intoximeters (which APS did not have before this program started) and the ASAP Manager to the 24/7 pilot program. The 24/7 Program has not been accountable for the allocation of use of funds. Where are the accounting records? I know for a fact they have been out of funds since October 2015, per Tony Piper. It is alarming that APS is still getting all the assignments from the Judges, while out of funding, so to me they are charging the clients the same as we do. Our prices have consistently been lower than theirs through the years of our service even without subsidization. We have been comparable to DOC EM in pricing and procedure. We have mirrored the DOC EM program maintaining contact with Officer Mercer. The resuming of an improper bid or grant process for equipment vendors and EM companies, without accountability will surely line someone's pockets at the cost to the State of Alaska and defendants. We need a better vendor procedure assuming more than one EM company can be a vendor. Tony Piper admitted the funds were not used appropriately and the vendor selection was exclusive to fill the third party requirements set by the courts. As for the funds use such as new cars and expensive light bars purchased by APS when the funds were first given to APS, I believe it is not what the State of Alaska had in mind for those funds. Piper said the process of equipment selection and bid process could have been better, so let's make it better!

With implementation of SB91 we see the complete takeover of private EM by APS under the umbrella of DOC/ASAP. Although we see and understand the need for standardizing EM procedure and would be more than happy to comply with any licensing or educational requirements relating to this process. We do not understand how legislation can categorically promote one private company over another. We must acknowledge that we have lost our ability to continue to do business in the state of Alaska as a result of unfair legislative practices.

We have been informed that this is a legislative issue and the Judges have no control over 24/7 assignments at arraignments. Defendants no longer have the option of which company to choose and they are not able to have a bail hearing to determine what is the best release plan. We know that this program has been state funded and APS has acknowledged that the funding has been overused and no subsidization for defendants has occurred since October of 2015 (per Tony Piper at ASAP). This means that this program continues to receive preference within the courts without subsidization. We have also determined that judges have been asked to make these assignments to 24/7 program as a result of state legislation based on this funding, yet the funding is gone and appointments to APS continue. This determination, as explained by Mr. Piper, is based on the assumption that no other private agencies provide alcohol or drug testing, which is completely unfounded.

We have a program that is equivalent and perhaps in many cases better. We provide alcohol and drug testing on site as well as through BI's Soberlink, testing up to 16 times per day that can travel with the client without additional cost. The Soberlink gives a time stamp, picture with facial recognition, GPS point, and alcohol level. BI also provides equipment to the Alaska DOC EM program. Tony Piper plans to limit this to a specific piece of equipment called Intoximeters. This device would not only stop providers from coming into the state of Alaska, but also limit program options. I implore the Legislature, if there is to be this type of limitation with EM to have a bid process just like DOC had for their equipment.

The 24/7 program has a very limited window of effectiveness with clearly defined testing schedules which allows many opportunities for alcohol consumption between tests. Having a set testing schedule disallows the random testing for drugs and alcohol. It results in many low level positive tests and repeat recidivism. Also we have tried to call APS during the hours outside of the testing windows without response. This limits other agencies and defendants from speaking to a 24/7 representative. This program is being used in place of third party, but no actual 24-hour monitoring is occurring. The requirement of travel to a specific office can be less cost effective for many without a driver's license. Defendants are noncompliant due to the travel costs and limited testing times, which is not due to willful violations. It happens because they cannot meet the requirements of the 24/7 program.

We understand that it doesn't matter that DEMS has a better 24/7 program as we have lost the ability to provide it as a competitive service to defendants because we are no longer given the opportunity to offer it in an equal setting. Please help us to have equal representation at arraignment and eliminate this continued bias with assignments or make the process mirror that of DOC's equipment selection process along with giving every EM company the ability to offer these services. We have a long standing record of successful monitoring in the community and have always reported to the courts and law enforcement. We would appreciate your consideration in the changes to the process for EM moving forward.

Sincerely,
Heather Betts
Owner/CEO



March 23, 2016

Re: HB205

To: Judiciary Committee; Representatives LeDoux, Keller, Foster, Lynn, Millett, Claman, Kreiss-Tomkins

Cc: Sponsors; Representative Millet, LeDoux, Tarr

Dear Representatives,

Thank you for the opportunity to share my thoughts on HB205. My name is Robyn Langlie, I am the Executive Director for Victims for Justice. We are a nonprofit based in Anchorage, but serving all Alaskans. Our mission is caring for those affected by violent crime, violent crime being; assault, robbery, arson, child abuse, kidnapping, trafficking, DUI/OUI, sexual assault, domestic violence, attempted homicide, and supporting families of homicide victims. We provide assistance to families, through grief support, emergency assistance funds, court advocacy and accompaniment, Assistance with Violent Crimes Compensation Board, referrals, education and outreach as well as crime prevention.

I am a big proponent of the Criminal Justice Reinvestment Movement and truly believe that our system is broken here in Alaska. More people being incarcerated, yet crime is still headed upwards. I can't profess to know all of the answers, but what I do know is that HB205 and SB91 are not spelling out what exactly they will be reinvesting in. I have been told by Senator Coghill and his staff as well as by the Judiciary Committee today while giving my verbal testimony that this will be addressed. I only want to keep reminding you that we expect it. Reinvestment in mental health, substance and alcohol abuse treatments, sex offender treatments, prison reentry programs to reduce recidivism, crime prevention programming, safe houses for victims in rural villages, victim restitution, notification to victims regarding the status of the offender, and proper supervision while on probation and parole. Victims' lives are affected in more ways than you can imagine after a violent crime and they deserve respect and dignity even after their perpetrator is jailed as it can take years to rebuild their lives. I agree that nonviolent offenders need to be rehabilitated so they do not escalate and create even more victims. This can only happen if everyone, including prosecutors, DA's, Department of Corrections, Judges, Legislators, Victims' Rights advocates, prisoner reentry coalitions, mental health professionals, and police departments work together to revamp the system.

We worked closely with the Office of Victims' Rights while discussing changes with Senator Coghill on SB91 and we urge you to read his amendments as they relate to HB 205. If I understand the legislative process it would appear both the House and Senate have bills, but would aim to combine the best of both into one bill to be voted on near the end of the session this year. I believe that Representative Lynn will be introducing an amendment regarding Truth in Sentencing which we are very interested in seeing become part of this law. This



was added into SB91 by an amendment through Senator Stoltze. This would bring more clarity to victims via a handout in court at the time of sentencing as well detailed information regarding their perpetrator within 30 days of incarceration. Understanding the terms of their offenders' incarceration and potential release is vital for victims to ensure their safety.

One major issue still needing to be addressed in my opinion would be Victim Notification. Right now, Victims can sign up through VINE for information relating to their perpetrator's incarceration. However, through these new bills that notification doesn't appear to be available for discretionary, administrative, or geriatric parole. Judges will be able to auto-release prisoners without taking into account any information provided by victims. What if that prisoner had been contacting the victim while incarcerated? Do you think that victim might need to know the prisoner is being released? Or perhaps if the judge knew that information they wouldn't release them, but if they don't know they can't make a good decision. Victims must be included in the process.

In short, I believe this bill is a start in the right direction, to change the system, but without spelling out the reinvestment portion, allocating the funds for it, and addressing victims' rights more clearly, it only appears as though the concern is with saving money. We should not allow the fiscal crisis to rush this process simply to save funds, at the expense to public safety.

Respectfully,

A handwritten signature in blue ink, appearing to read "Robyn Langlie".

Robyn Langlie
Executive Director, Victims for Justice 907-278-0986

From: Bart Johnson
Sent: Thursday, March 24, 2016 12:13 PM
To: Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>; Sen. Lesil McGuire <Sen.Lesil.McGuire@akleg.gov>
Subject: I oppose SB91 & HB205

Since Christmas of 2011 till now, thieves have continually devastated my life. I am a single person working on the North Slope. I had my gate and (7) locks cut and (3) snowmachines and stolen and never recovered and not insured. My boat vandalized twice, one of those they cut out my fuel tank. I had (2) complete sets of mag wheels and tires stolen, until last week when they again stole my nice summer 20" wheels and tires rite in downtown Anchorage. These damn thieves are not in the least afraid of being caught because they know they will be released rite away.

Merlin Johnson
907-982-0457

From: Garry Rasmussen
Sent: Thursday, March 24, 2016 2:23 PM
To: Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>
Subject: SB91/HB205

Miss Ledoux

I have been hearing in the news and seen on facebook, that Alaska lawmakers are considering laws that would reduce the sentence for offenders of property crime.

I can not and do not support this. We need tougher laws, not laws that will not teach a lessen to the offender.

In my opinion offenders should be put in jail for longer and provided with a reason to not re-offend. Property crime is out of control and at this time offenders are already getting off easy by making deals and plea bargains. After they serve the time given by the courts, they are right back at it again. Many Times the offender is already on probation for similar crimes.

This idea of letting an offender off easy and or re-defining what a felony vs misdemeanor is a slap in the face to every victim of these crimes.

Thank you for your time

Garry Rasmussen

From: michelle.kaitlyn@gmail.com
Sent: Thursday, March 24, 2016 2:21 PM
To: Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>; Sen. Lesil McGuire <Sen.Lesil.McGuire@akleg.gov>
Subject: Opposition to SB91 & HB205

I oppose SB91 & HB205. Anyone who has had their residence broken into will likely tell you that it's hard to feel safe in their own home. It's difficult to sleep.

From: KC
Sent: Thursday, March 24, 2016 1:13 PM
To: Sen. Lesil McGuire <Sen.Lesil.McGuire@akleg.gov>; Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>
Subject: sb91and hb205

Please hear my voice! i do not want the law to be any easier on the criminals. it is getting out of hand as it is due to the increase in heroin epidemic!
thank you

karen cleveland
po box 874171
wasilla, ak 99687
907 376 0613

From: Barbara Faeo-Yount
Date: March 24, 2016 at 14:51:21 AKDT
To: <representative.Gabrielle.LeDoux@akleg.gov>, <Sen.Lesil.McGuire@akleg.gov>
Subject: SB91/HB205
I am strongly opposed to the proposed subject bills.

Barbara Faeo-Yount
907-715-8468
5010 E Fetlock Drive
Wasilla, AK

From: Paula McCarroll
Date: March 24, 2016 at 16:12:05 AKDT
To: <representative.gabrielle.ledoux@akleg.gov>
Subject: I oppose SB91 & HB205

I oppose SB91 & HB205
Paula McCarroll
poggy72@aol.com

From: Scott Glover
Date: March 24, 2016 at 16:02:17 AKDT
To: <representative.gabrielle.ledoux@akleg.gov>
Subject: SB91/HB205

Just a note to let you know I am opposed to these bills. I can tell you from years of experience as a Disciplinary Sgt with the AK DOC that behavior does NOT change until it becomes too painful to continue. I proved this consistently through progressive sanctions against habitually noncompliant prisoners. This easing of penalties for purely financial reasons only increases crime and flies in the face of your primary responsibility of providing for public safety above all else.

Our actions should **always** have consequences. Without fear of fines and jail time (aka "consequences"), offenders will continue offending. More people will offend and at a greater rate.

You also are not immune to consequences; in fact, your consequences are greater because your decisions impact mass of people . . . a great number of victims. As a public servant, your duty is to protect those you serve. Do you serve the victims or the offenders?

Think hard on that one. The people of Alaska need protection, not revolving doors in our courthouses.

From: Jared Noll
Date: March 24, 2016 at 16:29:38 AKDT
To: "representative.gabrielle.ledoux@akleg.gov" <representative.gabrielle.ledoux@akleg.gov>
Subject: I oppose HB205/SB91

This will merely breed anarchy. We already have some of the highest crime rates in the country followed by ridiculously low sentencing. The answer isn't lower penalties for the criminals.

From: Mike & Donna Adams
Sent: Thursday, March 24, 2016 8:04 PM
To: Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>
Subject: SB91 and HB205

We strongly oppose SB91 and HB205. Request your support in not allowing these to become part of our legal system.

Sincerely,

Donna L. Adams
Wasilla, AK

From: Ted Bryant
Date: March 25, 2016 at 13:10:00 AKDT
To: "Senator.John.Coghill@akleg.gov" <senator.john.coghill@akleg.gov>, "Representative.Charisse.Millett@akleg.gov" <representative.charisse.millett@akleg.gov>, "Representative.Gabrielle.LeDoux@akleg.gov" <representative.gabrielle.ledoux@akleg.gov>

"Sen.Lesil.McGuire@akleg.gov" <sen.lesil.mcguire@akleg.gov>

Subject: Oppose SB91/HB 205.

Please note for the record that I am adamantly opposed to SB91/HB 205. We have been constant victims of crime and when you lower the penalties for committing a crime, then you are essentially encouraging or emboldening criminals to commit those crimes.

Theodore Bryant
Wasilla, AK

From: Karen Kirkpatrick <ka.kirk818@gmail.com>

Date: March 25, 2016 at 13:24:52 AKDT

To: <representative.gabrielle.ledoux@akleg.gov>, <sen.lesil.mcguire@akleg.gov>, <Senator.John.Coghill@akleg.gov>, <Representative.Charisse.Millett@akleg.gov>

Subject: Oppose SB91/HB 205 - my statement of opposition and commentary on such

Imprisoning criminals hasn't been working for a few reasons. A) They aren't in there long enough, and B) they are far too comfortable for what a prison should actually be.

Our society is entirely too lenient and soft-hearted to make prison a place so horrid a place to be, that would-be criminals don't think twice before doing something that will land them there. I know that there will be a good number of folks who will comment and say I'm wrong. That's fine, you're entitled to your opinion. But before you do, stop and think about the following.

Once upon a time, there were facilities to house the insane and mentally ill. A large proportion (not all) of the homeless have severe mental illness and simply can't support themselves. They were shut down because there wasn't enough oversight to make sure the inhabitants were treated humanely, so they just shut the facilities down and released the inhabitants. New generations of the mentally ill were left to fend for themselves as best they could. Crime statistics and homelessness started to rise.

Treatment facilities for mental illness and drug/alcohol abuse became progressively more expensive and out of reach for the majority of those who needed them. Crime statistics started rising, impaired driving accidents and fatalities started to rise and lives unraveled (due to little help available for dealing with addiction) rose, homelessness rose.

The more "tender-hearted" of our society, starting a few decades ago, started fighting for the "rights" of prisoners to have services and facilities that basically defeat the purpose of making prison a severely uncomfortable place to be, so the thought of going to prison isn't the deterrent it used to be. Crime rose. Sentences became less strict. Ways were developed to shorten imposed sentences in order to combat prison overcrowding, (there we go with the making prison a more comfortable place to be). This opened the revolving prison door.

The sixth amendment of our constitution - the right to a speedy trial - is but a memory. Far too many delays and appeals are allowed for justice to be truly served. Because of the delays in trials, and the

appeal processes, court dockets are backed up for months, even years. Meanwhile, a defendant who has physically harmed someone, damaged property or stolen property, is released on bail...and too often re-offends while they are out on bail. Even when the criminal is caught red-handed, and there can be no doubt of their guilt, the crime is only "alleged" pending the outcome of the trial that keeps getting postponed, even while the defendant is out committing other crimes and being re-arrested over and over again for those crimes. Just as bad if not worse, the trial happens and because of a ridiculous technicality (that should never be allowed in the first place), the case is thrown out of court and the criminal is free to go on his or her merry way. The criminals thumb their noses at the justice system and society and continue to be menaces to society. The police, after all their hard work to apprehend these criminals, are justifiably frustrated that their hard work, and the risking of their lives, is for naught. The public excoriates the police for not keeping offenders in jail. It is not the fault of the police...they are only in charge of apprehending law-breakers, not jailing them. Put the blame where it belongs...on the criminal themselves, the court system, the law-makers, and the public that votes the law-makers into office. Yep...that's right...John Q. Public needs to step up and accept responsibility for his part in today's deteriorating society. Don't you dare say that it isn't your fault because you didn't vote any of those judges or law-makers into office. If you don't vote, you don't have the right to complain. Now...I've at length said what I see is wrong, so in order to satisfy that old saying about don't complain without providing an idea for a solution, here is my proposal:

1) First and foremost, have facilities to house the mentally ill who will never get better (in a humane manner, unlike the old days). Take that money that is provided to the prison system for luxuries for the prisoners (TV, internet, etc.) to put towards the cause.

2) Provide easily accessible mental health services (to include treatment for drug and alcohol abuse). This will pay for itself in the long run by decreasing the number of people who are unable to hold a job because of their mental illness or addiction. Addiction should not be a reason for getting social security disability. That would save a considerable amount of the rapidly dwindling social security money that most of us have paid into our entire working lives.

3) Provide some sort of work for able-bodied people on welfare and make it mandatory. For mothers of school-age children, part-time jobs while the children are in school would be appropriate.

4) Make prisons more self-sufficient by having their own industry (agriculture, manufacturing, etc.). The prisoners do not - and should not - make the same kind of wages they would on the outside. Maybe a small allowance to be used in the prison "canteen", but by and large, they would be paying for their housing, food and medical care with their labor.

What must NOT happen, is for SB91/HB205 to pass. The courts are already way too lenient on crime in Alaska. This is self-evident simply by reading or watching news reports.

For Representative Gabrielle LeDoux to say, "We shouldn't be putting people in jail just because we are mad at them" is absolutely ludicrous!!! I suppose that were her home to be robbed or vandalized or a loved one hurt or killed because of criminal intent (or by someone who chooses to drive impaired), she would not have a problem with letting the perpetrator(s) go without punishment. Punishment should

also be a deterrent to future acts of criminality, by either the same perpetrator or other would-be criminals. Ms. LeDoux, I don't think you will be in office next go around, if indeed you are allowed to finish out this term.

Trust me, Alaskans are paying much closer attention to what their elected officials are up to these days. We are sick and tired to death of those who criminally take advantage of others. If you make the mistake of passing SB91/HB205, there is a very real chance of vigilantism rising as a response to increased lawlessness. Alaskans will voice their anger at the polls and a very high number of judges, lawmakers and other elected officials will finally get a reality check when they are no longer in office. Will that be you?

Sincerely,

Karen Kirkpatrick
PO Box 1189
Willow, AK 99688
907-495-2854

From: K Taylor

Date: March 25, 2016 at 13:00:19 AKDT

To: <Representative.Mike.Chenault@akleg.gov>, <Representative.Matt.Claman@akleg.gov>, <Representative.Jim.Colver@akleg.gov>, <Representative.Harriet.Drummond@akleg.gov>, <Representative.Bryce.Edgmon@akleg.gov>, <Representative.Neal.Foster@akleg.gov>, <Representative.Les.Gara@akleg.gov>, <Representative.Lynn.Gattis@akleg.gov>, <Representative.Max.Gruenberg@akleg.gov>, <Representative.David.Guttenberg@akleg.gov>, <Representative.Mike.Hawker@akleg.gov>, <Representative.Bob.Herron@akleg.gov>, <Rep.Shelley.Hughes@akleg.gov>, <Representative.Craig.Johnson@akleg.gov>, <Representative.Andy.Josephson@akleg.gov>, <Representative.Scott.Kawasaki@akleg.gov>, <Representative.Wes.Keller@akleg.gov>, <Representative.Sam.Kito.III@akleg.gov>, <Representative.Jonathan.Kreiss-Tomkins@akleg.gov>, <Representative.Gabrielle.LeDoux@akleg.gov>, <Representative.Bob.Lynn@akleg.gov>, <Representative.Charisse.Millett@akleg.gov>, <Representative.Cathy.Munoz@akleg.gov>, <Representative.Benjamin.Nageak@akleg.gov>, <Representative.Mark.Neuman@akleg.gov>, <Representative.Kurt.Olson@akleg.gov>, <Representative.Dan.Ortiz@akleg.gov>, <Representative.Lance.Pruitt@akleg.gov>, <Representative.Lora.Reinbold@akleg.gov>, <Representative.Dan.Saddler@akleg.gov>, <Representative.Paul.Seaton@akleg.gov>, <Representative.Louise.Stutes@akleg.gov>, <Representative.Dave.Talerico@akleg.gov>, <Representative.Geran.Tarr@akleg.gov>, <Representative.Steve.Thompson@akleg.gov>, <Representative.Cathy.Tilton@akleg.gov>, <Representative.Chris.Tuck@akleg.gov>, <Representative.Liz.Vazquez@akleg.gov>, <Representative.Tammie.Wilson@akleg.gov>, <Representative.Adam.Wool@akleg.gov>, <Senator.Click.Bishop@akleg.gov>, <Senator.John.Coghill@akleg.gov>, <Senator.Mia.Costello@akleg.gov>, <Senator.Mike.Dunleavy@akleg.gov>, <Senator.Dennis.Egan@akleg.gov>, <Senator.Johnny.Ellis@akleg.gov>, <Senator.Berta.Gardner@akleg.gov>, <Senator.Cathy.Giessel@akleg.gov>, <Senator.Lyman.Hoffman@akleg.gov>, <Senator.Charlie.Huggins@akleg.gov>, <Senator.Pete.Kelly@akleg.gov>, <Senator.Anna.Mackinnon@akleg.gov>, <Senator.Lesil.McGuire@akleg.gov>, <Senator.Kevin.Meyer@akleg.gov>, <Senator.Peter.Micciche@akleg.gov>.

<Senator.Donny.Olson@akleg.gov>, <Senator.Bert.Stedman@akleg.gov>, <Senator.Gary.Stevens@akleg.gov>, <Senator.Bill.Stoltze@akleg.gov>, <Senator.Bill.Wielechowski@akleg.gov>

Subject: regarding Alaska raising the theft threshold from \$750 to \$2000

Lawmakers,

Whoever supports the theft threshold amount increase not only supports career criminals going job to job stealing our credit card numbers and charging less than \$750 on each, they are also giving career criminals their blessing to start charging up to \$1999.99 on each one they steal.

APD said they receive 300-400 reports of this a month. Currently a single thief could steal thousands of credit card numbers and not be classified as a felon because each theft is treated individually and closed out. Do you realize how much combined money each thief is currently being given the go ahead to steal?

Instead of ignoring each charge, if one of our resources would use databases to start tracking reports and find the common charges then thieves could start to be identified. Then all identified credit card fraud of this level should start being prosecuted by groups, perhaps in quarterly court actions. This would get their crime(s) on their court records so future employers will be better able to protect themselves and their customers. Correctional facilities should also be tightening up their credit card acceptance practices so they have positive identity of those who are using stolen credit card numbers to fund inmates. If contract vendors are enabling stolen credit cards to be used to fund inmates then they should be removed as a vendor.

The act of stealing a credit card and charging on it is theft and fraud no matter how much is charged. DON'T INCREASE THE THEFT THRESHOLD! REMOVE IT! And support finding solutions.

Please.

Kellie Taylor
krtaylor@alaska.net

From: Ted or Shelly Bryant
Sent: Friday, March 25, 2016 1:14 PM
To: Sen. John Coghill <Sen.John.Coghill@akleg.gov>; Rep. Charisse Millett <Rep.Charisse.Millett@akleg.gov>; Rep. Gabrielle LeDoux <Rep.Gabrielle.LeDoux@akleg.gov>; Sen. Lesil McGuire <Sen.Lesil.McGuire@akleg.gov>
Subject: I Oppose SB91/HB 205.

I want it on record that I vehemently oppose SB91/HB205. We need to do more, not less, to reduce the crime in our state. Lowering the penalties for crimes just emboldens criminals to commit more crimes without fear of repercussions.

Michele Bryant

Wasilla, AK

From: Steve Skinner <steve@ftrich.com>
Date: March 25, 2016 at 14:51:26 AKDT
To: <representative.gabrielle.ledoux@akleg.gov>
Subject: HB205

Representative LeDoux

As a victim of a residential property crime, I strongly oppose HB205. Nothing good can come from this becoming law.

The state may save some money in the near term but with crime already skyrocketing to support drug habits and residents becoming more disgruntled with the lax justice system relaxing punishment may cause the situation to explode.

I urge you to kill this bill while you and your colleagues still have the opportunity.

Thank you

Steve Skinner
Wasilla AK
(907) 357-7653