SB 91 (FILE 2)

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The case for criminal justice reform

Jorge Marin and Jason Pye | Posted: Wednesday, September 2, 2015 12:00 am

News-Miner Community Perspective:

For 30 years, America's correctional policies put more people in prison and kept them there longer. This practice made our country the world's most enthusiastic jailer by far. We have roughly 2.3 million people behind bars today, or nearly one in every 100 American adults.

The painful legacy of our incarceration spree includes billions of dollars in costs, fractured families and disappointing results. Fortunately, a movement driven by facts and common sense is now steering the nation onto a wiser, more productive path.

Momentum is strongest in the states where lawmakers are overcoming political differences to unite behind cost-saving reforms that ensure violent and chronic offenders go to prison but punish those convicted of nonviolent crimes through more effective alternatives.

Texas led the way with pioneering changes back in 2007. Facing overwhelming prison growth, Texas scrapped plans to build more prisons and instead invested in approaches proven to reduce reoffending. Since then, the state's recidivism rate has dropped 25 percent, crime rates are at their lowest level since 1968, and the state has avoided nearly $3 billion in prison costs. The reforms have since spread coast to coast, from Mississippi in the Deep South to South Dakota in our country's heartland and Oregon out west.

Now Alaska is poised to join this growing list. We heartily applaud the state's decision to join the Justice Reinvestment Initiative, a data-

driven reform process that's been used by more than two dozen states to curb corrections costs while reducing offender recidivism and protecting public safety.

Under this initiative, the Alaska Criminal Justice Commission, a bipartisan, high-level group of practitioners and policymakers, has been taking a hard look at the state's approach to crime and punishment, and finding ways to improve performance — for taxpayers, citizens and offenders alike.

The need for change is clear. Alaska is known as the Last Frontier, a unique land of stunning natural beauty, rugged individualism and free thinkers. But like so many other states, Alaska is not receiving an adequate return on its public safety investment.

The numbers speak for themselves. Alaska's jail and prison system has grown by 27 percent in the last decade, nearly three times as fast as the growth of the state's resident population. The state currently spends $334 million per year on corrections, 50 percent more than a decade ago. Despite this substantial investment, nearly two out of every three offenders who leave Alaska's prisons return within three years.

Alaskans spent $250 million to build the Goose Creek prison, which opened its doors in 2012, and already the state's prisons and jails are approaching capacity, with no end in sight. Absent reform, the state's prison population is forecast to increase by more than 1,400 beds in the next decade, costing Alaskan taxpayers a minimum of $169 million in additional prison costs.

FreedomWorks and Americans for Tax Reform have united with other organizations to create the Coalition for Public Safety, a group dedicated to making our nation's sentencing and correctional approach more just, fair and effective. Our alliance, which includes progressives and conservatives often at odds over other policy questions, has raised eyebrows and made headlines, but it demonstrates that criminal justice reform is not a partisan issue.

Criminal justice reform is long overdue, and its potential to improve public safety, keep families intact and control costs has already been proven in more than two dozen states.

In a time of tight budgets, this wisdom is the right fit for Alaska, which deserves a correctional system that makes the best possible use of taxpayer dollars — and delivers the best public safety results.

Jorge Marin is the Policy Specialist for Criminal Justice Reform for Americans for Tax Reform. Jason Pye is the Director of Justice Reform for FreedomWorks.

Alaska Dispatch News

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Home > Alaska justice system review will save money, help families stay intact

Tony Perkins
June 19, 2015

OPINION: Alaska is now taking the first step down a path toward successful criminal justice reform, this proven process will lead to cost-saving improvements, as it has already done in other states.

On June 21, families across America will fire up their barbecues and take time out to honor dads. As a father of five children, I look forward eagerly to this annual paternal celebration we call Father's Day.

But I am also mindful that for over 2.5 million of our nation's children, Father's Day was just another day of separation from a parent who is out of reach -- serving time in jail or prison. A 2010 study by The Pew Charitable Trusts found that one in 28 children in the United States has a parent incarcerated, up from one in 125 just a quarter century ago.

This is a deeply troubling statistic, and it's one reason I'm a member of the conservative campaign movement known as Right on Crime. Launched in Texas, Right on Crime supports criminal justice policies that improve public safety, cut costs and help more nonviolent offenders return to their families and lead productive, law-abiding lives.

Our country's 30-year prison building boom and its fiscal impacts have been widely discussed. But one often-overlooked impact of America's high incarceration rates is the impact upon children and families, those innocent casualties left behind.

When I served in law enforcement earlier in my career, I had a front-row seat to observe the collateral damage our criminal justice policies can inflict on children with parents behind bars. The harm often starts when children experience the trauma of witnessing a parent's arrest, and grows from there.

A 2014 report by the National Academy of Sciences highlighted the problem, concluding that "fathers' incarceration and family hardship, including housing

insecurity, and behavioral problems in children, are strongly related." Rates of homelessness are higher among families with a father behind bars, and children of the incarcerated often land in foster care, have trouble in school and struggle to form attachments with peers.

Lacking authority figures and positive role models in their lives, too many of these kids engage in delinquency and wind up incarcerated themselves.

As a conservative, I certainly believe prison is the proper place for violent and career criminals, who present a threat to the rest of us. But a large majority of offenders who are parents are doing time for nonviolent crimes. For example, among female inmates, most of whom are mothers, 85 percent are in prison for nonviolent offenses.

For lower-level lawbreakers like these, we need to adjust our correctional approach in ways that take into account what's best for family preservation and the future of our children. That means expanding the use of alternative sanctions that enable offenders to pay their debt to society but also remain in the community, where they can stay on the job as parents to their kids.

As a part of the alternative, government must engage the help of nonprofit and faith-based organizations that can help these moms and dads understand their irreplaceable role in the life of their children.

Fortunately, leaders in more than two dozen states – from Texas to Georgia, South Dakota, Ohio, and Oregon – have launched reforms designed to create a criminal justice system more attuned to the importance of family unity. By strengthening proven options such as drug courts, probation supervision, and the use of today's sophisticated new monitoring technologies, states are holding offenders accountable for their crimes while also keeping more families intact.

I'm heartened to see that Alaska is now taking the first step down a path toward successful criminal justice reform traveled by numerous other states. The Alaska Criminal Justice Commission is launching a comprehensive review of the state's criminal justice system as part of the national Justice Reinvestment Initiative. I'm confident this proven process will lead to cost-saving improvements for Alaska, as it has already done in so many other states.

Alaska's jail and prison system has grown substantially in recent years, and the state now spends $334 million annually on corrections, up 50 percent in

the last decade alone. Despite this heavy cost, Alaskans are not getting a good return on their public safety spending. Nearly two out of every three offenders who leave the state's prisons are back behind bars within three years.

I look forward to watching Alaska move toward reforms that will help more fathers -- and mothers -- be at home for those important, life-enriching barbecues with their families.

Tony Perkins *is a former Louisiana legislator and is the president of the Family Research Council. He is a signatory of the Right on Crime campaign.*

*The views expressed here are the writer's own and are not necessarily endorsed by Alaska Dispatch News, which welcomes a broad range of viewpoints. To submit a piece for consideration, email*commentary(at)alaskadispatch.com [2].

Victims For Justice

February 10, 2016

Re: SB91

To: Senators Coghill, Ellis, McGuire, Costello, Bishop, Micciche

Dear Senators,

Thank you for the opportunity to share my thoughts on SB91. 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, trafficking, DUI, sexual assault, domestic violence and assisting families of homicide victims. We provide assistance to families, through grief support, emergency assistance funds, court advocacy and accompaniment, education and outreach as well as crime prevention.

While I am a huge proponent of change in our criminal justice system and am especially interested in the Criminal Justice Reinvestment movement, I am having a hard time with many aspects of SB91. In its current state it appears to be a bill about cost savings for the Department of Corrections by reducing time spent in jail (mainly pretrial jail time) by reducing many crimes from jailable offenses to minor offences (violations). What it does not adequately address is the reinvestment potion that would make these changes work. It takes away the bargaining chips for the prosecutors, limits the consequences for offenders by lowering sentencing terms, and releases offenders much earlier, all of which has a huge effect on victims. This bill does not consider crime from a victims' standpoint. Victims do not feel safe when a perpetrator is out on bail, let alone telling them that the offender won't be going to jail for more than 30 days or at all in some instances. Issues like early release, short probation terms for someone who may have assaulted them, or killed one of their family members, when there are such limited services for victims. The trial system is already biased towards offenders- the defense is allowed to make delay after delay causing more grief to the family and slowing their healing time during pretrial, the trial itself, and even afterwards for sentencing. This holds the victims hostage by the defense. But I digress.

SB91 specifically recommends that many class C felonies and Class B misdemeanors be reduced down to violations and/or probation in lieu of jail time. Items such as Burglary, Arson, Misconduct with a Weapon, Sex Trafficking, and the most heinous of all Violating Conditions of Release (VCR). An example of what could occur by reducing all VCR's to a violation is that a domestic violence offender could go to a victim's home contact her and it would not be a criminal offence. What would happen is a ticket and possible remand if the officer wanted to take him in for a bail hearing, all of which would have no impact on his criminal case or in any way provide the victim with any sense of safety. It also sends a message to offenders that even though the judge told you not to do certain things when you are released from jail or after your hearing, nothing will be done about it other than

1057 West Fireweed Lane, Suite 101 Anchorage, AK 99503 • Toll Free: 1-888-835-1213, P: 907.278.0977, F:907-258-0740 • www.victimsforjustice.org Caring for those affected by violent crime

potentially another fine, but they cannot be jailed. This is not supporting law enforcement. Where is the guarantee of public safety? Where is the comfort to the victims if the offenders will not be held accountable for their actions? This is blatantly violating a victim's constitutional right "to be treated with dignity, fairness and respect", and "to be reasonably protected from further harm by the accused through the imposition of appropriate bail or conditions of release by the court". (Alaska Constitution, Article 1, section 24) If you are reducing all of these crimes to minor offenses (no jury trials) how will victims be notified of the proceedings so they may be present, which is also within the victims' constitutional rights, "to obtain information about, and be allowed to be present at all criminal and juvenile proceedings where the accused has the right to be present".

Another concern is that if this bill were to be passed, there is no way to accomplish what's in it as both the pretrial and probation services would have to be set up and revamped and more Electronic Monitoring companies and infrastructure are necessary. That could take years, yet officers would have to start adhering to the law immediately. That makes no sense; where would the offenders go and how would they be held accountable? Again trampling on the victims' constitutional rights to be protected.

As to lower presumptive ranges (section 68 of the bill). I cannot imagine as a victim advocate having to comfort a mother whose son was killed by a drunk driver and tried as manslaughter (many DUI's are plead down to this) that the perpetrator may not get any jail time at all as the new sentence would be 0-3 years. Or if it's plead down to criminally negligent homicide, they would receive probation with a suspended term of imprisonment. I understand that no amount of time an offender spends in jail will bring back her son, but how is that a punishment to the offender for making a choice to drink and drive and ultimately kill someone. How would that be a deterrent to others not to do so? How is this being treated with dignity, fairness and respect? Where is the prevention part of this bill, or the substance abuse and mental health treatment centers that are so necessary already?

In short, I believe this bill is a start in the right direction, to change the system, but without spelling out the reinvestment portion and addressing victims' rights more clearly, it only appears as though the concern is with saving money. I urge you to really dig into this bill and make the needed modifications to protect crime victims. It's possible for this bill to save money, restructure our criminal justice process and support and protect crime victims. We should not allow the fiscal crisis to rush this process simply to save funds, at the expense to public safety.

Respectfully,

Robyn Langlie
Executive Director, Victims for Justice 907-278-0986

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NFIB

The Voice of Small Business®

ALASKA

February 5, 2016

The Honorable John Coghill
Alaska State Senate
State Capitol Building
Juneau, Alaska 99801-1182

RE: Senate Bill 91

Dear Senator Coghill:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully inform you of our concern about the felony threshold in Senate Bill 91. In a 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 you and to agreed to remove our opposition to an increase from $500 to $750. We still strongly believe the state shouldn't be making it easier for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. 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 misdemeanant crimes is particularly significant. He confirmed that businesses have reason to be concerned that misdemeanor thefts receive less police attention.

We believe that simply inflation-proofing crime is poor public policy. Our justice system ought to protect citizens and their property, not reduce the level of risk for thieves.

Sincerely yours,

Dennis L. DeWitt
Alaska State Director

Cc: Senate State Affairs 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.

Daniel George

From: Robert Ely <RE44@craigpd.com>
Sent: Monday, February 08, 2016 4:00 PM
To: Senate State Affairs
Subject: SB 91

If these proposed changes should take effect, what little deterrent there is, will be gone. Everyone who goes through the court system, parole system, probation system, as it stands, knows it's a joke, as is. Punishments no longer fix the crime. One could only image what they will think, if any of these proposed changes pass. I know people that have so much suspended jail time hanging over them, they could easily die in jail, if it were all imposed.

I understand jails are full, over full but we can't allow this to change the laws, to accommodate what space is available. PTR/P – Petition to Revoke Probation, I can only say WOW; if you're on probation and you violate, that in itself should show you that the person isn't willing to adhere to conditions and 3 days incarceration for first, 5 for 2nd, 10 for 3rd is no deterrent to have probationers comply.

Changing laws to have max 24 hours jail time, is no way going to send any message to any community that you will be punished for committing crimes. It is going to send the opposite massage, that being criminals will not be punished, if caught.

All proposed changes will greatly reduce any deterrent to stop people from committing crimes and criminals from reoffending.

Chief R.J. Ely

Craig Police Department

506 Second Street

P.O. Box 25

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Daniel George

From: MADD <enews@madd.org> on behalf of Douglas c jones <enews@madd.org>
Sent: Saturday, February 06, 2016 4:28 PM
To: Sen. Bill Stoltze
Subject: Please Support a Stronger Child Endangerment Law

Feb 6, 2016

State Senator Bill Stoltze
State Capitol, Room 125
120 Fourth Street
Juneau, AK 99801-1182

Dear State Senator Stoltze,

As a constituent, I strongly urge you to create and/or support an effective DUI law to protect our most vulnerable population, children.
Child endangerment, because it causes significant emotional and potentially physical harm to the child, is a form of child abuse.
Strengthening our child endangerment laws will keep our children safe from this child abuse.

In 2011, 226 child (under the age of 15) passengers died in drunk driving crashes. Children riding with a drunk driver are not only at risk from erratic, dangerous driving, they are also more than 40 percent less likely to be properly restrained in either a seat belt or a car seat.

MADD recommends a number of science-based solutions that should be taken to help stop DUI/DWI child endangerment:

- Adding administrative license revocation/suspension as a sanction
- Requiring alcohol/drug assessment and treatment (if necessary)
- Requiring the use of an ignition interlock device by offenders
- Considering the offense of DUI child endangerment to be a felony
- Eliminating eligibility of offenders for diversion programs that circumvent a record

I believe that passing child endangerment legislation that contains these components will help stop drunk driving and is vital to our children's future. Thank you in advance for your prompt consideration of creating a stronger DUI child endangerment law.

Sincerely,

Mr. Douglas c jones
PO Box 671666
Chugiak, AK 99567-1666
(907) 726-3381
djbabyhuey9@gmail.com

Daniel George

From: BARB GREENE <bkrekel@gci.net>
Sent: Thursday, February 11, 2016 7:52 PM
To: Senate State Affairs
Cc: BARB KREKEL
Subject: I oppose - SB91

I would like my comment to be considered as public testimony to oppose SB91.

In my opinion, trying to save the state money, by what clearly appears to be reducing jail/prison sentences down from felony convictions to misdemeanor offices to keep thieves and criminals and drug dealers out of the prison system...to save the state money...and make it "appear" crime is being reduced...is the WRONG approach! Citizens need to feel safe in their homes, out in public using local businesses...businesses and residents need to feel that thieves are paying the price when they choose to steal. This will NOT happen if they simply get their hands slapped and are back on the streets, no jobs...living what they know...selling drugs, stealing to purchase drugs...and more and more readily we are seeing firearms being stolen...homes broken into when people are and are not home...this needs to stop!

Find a better way to save the state money besides messing with road maintenance and this smoke and mirrors type prison overhaul.

Here are a few:
Tax plastic water bottles!
Require "receipts" for "all" state reimburse travel per diems!! I used to be a meeting planner for a company that had the state contract and I know this was not happening 80%-90% of the time.
Create a state income tax

Barbara Greene
Wasilla, AK
907-231-3395

Daniel George

From: Cathy Milazzo <milazzo@mtaonline.net>
Sent: Monday, March 30, 2015 2:15 PM
Sen. Kevin Meyer; Sen. John Coghill; Sen. Berta Gardner; Sen. Click Bishop; Sen. Mia Costello; Sen. Mike Dunleavy; Sen. Dennis Egan; Sen. Johnny Ellis; Sen. Cathy Giessel; Sen. Lyman Hoffman; Sen. Charlie Huggins; Sen. Pete Kelly; Sen. Anna MacKinnon; Sen. Lesil McGuire; Sen. Peter Micciche; Sen. Donny Olson; Sen. Bert Stedman; Sen. Gary Stevens; Sen. Bill Stoltze; Sen. Bill Wielechowski
Subject: SB 91

I understand the aim of SB 91 to be twofold, to reduce the prison population, and save the state money. In furtherance of these goals, I have a few suggestions.

In section 4, subsection (b) (3) (C) there is a list of reasons that a person on electronic monitoring would be allowed to leave their residence and still receive credit for the time spent on electronic monitoring. I propose that wording be added allowing a person on electronic monitoring to leave their residence in the custody of a court-approved and appointed third party. I know that the courts often order those released on bail on to electronic monitoring, and in to the custody of a third party on house arrest for most of the time, and only allowed to leave the residence in the custody of a third party. I believe that adding this wording would serve the purpose of the law change – allowing those with substantial restrictions placed upon their freedom of movement and behavior to receive credit – while allowing a larger percentage of those on electronic monitoring to be eligible for the proposed credit. Thus serving the purpose of reducing the prison population and saving money.

The next thing I'd like to suggest is that section 4, and section 26 be made retro-active. Currently they are set to apply only to sentences imposed on or after the effective date of the bill. A change applying these sections to offenses committed before, on, or after the effective date would affect retroactivity, as well as paralleling the language of section 4 with HB 15, which also proposes that credit be granted for time on electronic monitoring.

Additionally, retroactive application would alleviate any injustice created by the fact that credit was allowed for bail electronic monitoring, and good time credit on all sentences imposed before July 1, 2007. Then HB 90 took effect, and disallowed credit for bail electronic monitoring or electronic monitoring good time credit for any sentence imposed thereafter. Consequently, not passing SB 91 retroactively would disallow credit to be granted on electronic monitoring, and good time on electronic monitoring on any sentence imposed between 7/1/07 when HB 90 became effective, and whenever SB 91 becomes effective, irregardless of when the underlying crime was committed. Of course, the retroactive application would also serve the goal of reducing the prison population and saving the state money.

Simply put, if SB 91 is enacted in its current form, not retroactive, there will be no immediate reduction in the state's prison population and no immediate savings. The effects and savings will only slowly be realized as new sentences are imposed upon which the bill would be effective. Thus, the full benefit to the state of SB 91 would only be realized when the prison population was made up entirely of prisoners whose sentences were imposed after the effective date of SB 91. In marked contrast, if SB 91 were made retroactive then the full effect of the law changes would be immediate upon the whole prison population and the state would see an immediate decrease in the prison population and subsequent saving thereto.

As to the legality of making SB 91 retroactive, the *ex post facto* clause contained in Alaska Constitution Article I, § 15 bars the enactment of any law that punishes as a crime an act previously committed, which was innocent when done; which makes more burdensome the punishment for a crime, after its commission; or which deprives one charged with a crime of any defense available according to law at the time when the act was committed. In short, the *ex post facto* prohibition applies only to penal statutes. See *Doe v. State*, 189 P.3d 999, 1003 (Alaska 2008).

Thus, only law changes that disadvantage those convicted of a crime must be evaluated to determine if retroactive application would be punitive and therefore run afoul of the *ex post facto* prohibition. Whereas a law change such as the ones envisioned in SB 91, which is advantageous to those convicted of a crime, are constitutionally clear to be applied retroactively.

Kathy Milazzo

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JEFFERSONIAN PROJECT

Dear Members of the Alaska State Legislature,

My name is Ronald Lampard and I am the Criminal Justice Reform Task Force Director at ALEC. We are a membership organization and have members in the public sector, private sector, and in non-profits. ALEC's core principles are: limited government, free markets, and federalism. It is our sincere pleasure to write in support of S.B. 91.

ALEC supports alternatives to incarceration for *certain* nonviolent, low-risk offenders. The overall goal is to reduce state prison populations by focusing on those offenders who pose little to no risk to public safety. Other states, such as Texas, Georgia, Utah, Mississippi, and South Dakota have begun to address these issues and ALEC supports these efforts to reform and make improvements to the status quo via best-practices driven reforms. These reforms have demonstrated that it is possible to reduce their respective state's prison population, while simultaneously getting better outcomes on public safety.

The Alaska Criminal Justice Commission Justice Reinvestment Report of December of 2015 has several recommendations that are very similar to ALEC's model policy regarding sentencing reform. The report noted that 82% of individuals incarcerated in Alaska were incarcerated for nonviolent misdemeanors and that there were better alternatives to incarceration for these individuals. These alternatives provided for requiring these individuals to receive court-ordered drug treatment. Another recommendation provided for making simple possession of cocaine or heroin a misdemeanor. ALEC finds this recommendation to be suitable for first time offenders.

These reforms also provide for those incarcerated to earn good time for the purpose of having their sentences reduced, following the successful completion of substance abuse treatment programs or educational or vocational training programs. ALEC believes that allowing for a reduction of a nonviolent, low-risk offender's sentence following the completion of these programs is a smart alternative to incarceration.

Concentrating on providing alternatives to incarceration for nonviolent, low-risk offenders will allow for Alaska to have more resources available for combating violent offenders and drug dealers. ALEC believes that a central tenet of government is to provide public safety for all individuals. Simultaneously, by taking these measures to reduce prison population, the reforms would save the state of Alaska $424 million. Hence, S.B. 91 allows Alaska to be both tough on crime and tough on government spending.

ALEC recognizes the Alaska legislature for tackling these reforms and providing alternatives to incarceration for certain nonviolent, low-risk offenders.

FAITH & FREEDOM COALITION

January 26, 2016

The Honorable Kevin Meyer
The Honorable Mike Chenault
Alaska Legislature
Statehouse
Juneau, Alaska 99801-1182

Dear Senate President Meyer and Speaker Chenault:

As a partner organization of the national nonpartisan U.S. Justice Action Network, the Faith & Freedom Coalition supports comprehensive criminal justice reform that safely reduces jail and prison populations, reduces costs, and breaks down barriers for those attempting to lead productive lives after incarceration. Therefore, we support the policy reforms contained in Senate Bill 91 now being considered before the Alaska legislature.

As a faith-based organization, our members believe in a fair and just system that keeps communities safe, treats victims with respect and ensures offenders are not only held accountable, but are also provided opportunities to live productive, law-abiding lives after serving their time. SB 91 is a positive step in that direction.

Alaska's current prison system isn't working properly. Nearly two-thirds of offenders leaving prison return within three years. The Alaska Department of Corrections is projected to grow by an additional 27 percent over the next decade, adding an estimated 1,416 inmates and costing the state an additional $169 million in new corrections spending.

Senate Bill 91 would foster change and provide pathways for rehabilitation for those who choose to take it, so that individuals, families and communities can be restored. It provides incentives for offenders to engage in and complete rehabilitation treatment and programming, and allows for the release of older offenders who have already served more than a decade in prison.

This legislation would go further to support victims of crime by reinvesting a portion of the savings into violence prevention and victim services. It would also effectively strengthen probation and parole to ensure safer Alaska communities.

Alaska has joined numerous other states in collaborative attempts to implement data driven justice reform efforts such as those found in the recommendations from the Alaska Criminal Justice Commission, upon which SB 91 is based. The Commission undertook an exhaustive audit of Alaska's pretrial, sentencing and community supervision practices in compiling its 21 recommendations. Similar reforms were enacted in the state of Georgia in 2012 and 2013, and that state has since witnessed a dramatic decrease in recidivism and associated government and societal costs.

Consensus is a rare commodity in politics today, so let's seize this opportunity to reform Alaska's criminal justice system. We urge your support for SB 91.

Best regards,

Timothy R Head

Timothy Head

Dear Members of the Alaska State Legislature,

We are conservatives dedicated to helping government leaders apply conservative principles to the criminal justice system. Our organizations are very concerned about Alaska's costly and inefficient system. Senate Bill 91, which adopts the recommendations of the inter-branch Alaska Criminal Justice Commission, is an opportunity to pass conservative reforms that will keep our communities safe and cut hundreds of millions of dollars in ineffective state spending.

The recommendations make data-driven changes that will reduce recidivism, hold offenders accountable, and control the state's prison growth. If adopted, the reforms would reduce the state's average daily prison population by 21 percent over the next 10 years and would save the state $424 million.

The national Right on Crime initiative, American Conservative Union Foundation (ACUF), and the Alaska Public Policy Forum are impressed that Senate President Meyer, Speaker Chenault, and other legislative leaders have made smart on crime reform a priority. In return for the General Fund dollars the state spends on corrections, Alaskans deserve a system that works. However, under current law, the prison population has grown nearly three times faster than the state resident population, the state has built new prisons costing hundreds of millions of dollars, and there's no end to that prison growth in sight. Moreover, two out of three offenders leaving Alaska's prisons come back within three years.

Although conservatives are tough on crime, we also must be tough on criminal justice spending. It is imperative that we back cost-effective approaches that hold offenders accountable and protect public safety.

The Right on Crime initiative aims to raise awareness of the conservative position on criminal justice policy based on the core values of individual liberty, personal responsibility, free markets, and private property rights. Right on Crime is anchored by our Statement of Principles, signed by some of the nation's most respected conservative leaders, including Newt Gingrich, Jeb Bush, Rick Perry, Grover Norquist and more than 40 others.

The Center for Criminal Justice Reform at ACUF also works to inform policymakers and mobilize public support for sensible, proven criminal justice reforms based on fiscal responsibility.

We believe the question underlying every state dollar spent on corrections should be: Is this making the public safe? Across the nation, state corrections costs have skyrocketed over the years and have grown faster than every other state budget category besides Medicaid.

In 2007, Texas chose to stop spending more on building prisons and invested in programming proven to reduce recidivism. The state has now averted $3 billion in prison costs and has its lowest crime rate since 1968. States across the country, including Georgia, Mississippi, Utah, and South Dakota have

adopted data-driven reforms and are showing that it is possible to curb prison growth and get better public safety outcomes.

We applaud Senator Coghill and the Alaska Criminal Justice Commission for taking a comprehensive look at Alaska's criminal justice system. The policies included in SB 91 have a solid basis in the state's data and sound research on what works to change criminal offending behavior. They offer a path toward solvency and cost savings in an area of government where spending has been increasing unchecked for decades.

Sincerely,

Pat Nolan
Director, Center for Criminal Justice Reform
The American Conservative Union Foundation
pjnolan616@gmail.com

Marc Levin
Policy Director
Right On Crime
mlevin@texaspolicy.com

David Boyle
Executive Director
Alaska Policy Forum
dboyle@alaskapolicyforum.org

GREATER FAIRBANKS CHAMBER OF COMMERCE

February 9, 2016

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

Dear members of the Alaska State Legislature,

On behalf of the Greater Fairbanks Chamber of Commerce, I am writing to express support for the comprehensive criminal justice reform legislation, Senate Bill 91.

The Legislature has looked to business leaders for guidance on how to manage the state's current fiscal crisis. Facing a multi-billion dollar budget shortfall, it is vital that each dollar spent is cost effective, and targeted in a manner that gets the best return on investment.

Alaska's corrections spending has grown unchecked for decades, now costing the state over $300 million each year, and hundreds of millions more each time Alaska builds a new prison. Despite this extraordinary cost, the state is not getting a good return on investment. Two out of three offenders released from Alaska's prisons return within three years. A two-thirds failure rate would not be tolerated in any other area of government spending.

Every dollar the state spends on corrections is a dollar that is unavailable for priorities of the business community like education and economic revitalization. Thanks to the inter-branch Alaska Criminal Justice Commission, we now know that the state can spend less on corrections and actually get better public safety outcomes. The Commission tracked the best research in the field on what works – and what doesn't work – to change criminal offending behavior, and has provided the Legislature with 21 recommendations for statutory changes that will get better outcomes while safely reducing the prison population and saving the state an estimated $424 million. We **applaud** Senator Coghill for incorporating these recommendations **into SB 91,** and encourage you to pass them into law.

Public safety is directly correlated with healthy, vibrant, and economically sound communities. Prison, however, is not the only path to public safety, particularly for low-level crimes. Too many Alaskans are taken out of the workforce for involvement in minor nonviolent crimes. This comprehensive package of criminal justice reforms will help ensure that our workforce can remain productive members of society, and not become financial burdens on the state.

We have seen this Legislature work aggressively to ensure that state dollars are not being wasted. The time to extend that cost-benefit approach to the state's prison system is now. We hope you'll join us in viewing corrections reform as a legislative priority this session.

Sincerely,

Lisa Herbert

Lisa Herbert
President and CEO

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

ALASKA FEDERATION OF NATIVES

February 9, 2016

Honorable Kevin Meyer
Senate President, Alaska Senate
Juneau, Alaska

Honorable Mike Chenault
Speaker, Alaska House of Representatives
Juneau, Alaska

Re: Support for SB 91 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 SB 91, an act relating to criminal law and procedure and geared toward 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 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.

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%, netting an estimated savings of $424 million over the next decade for the state.

The Commission found that a disproportionate number of Alaska Natives are being confined. While Alaska Natives represent 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.

SB 91 is a comprehensive bill that will go a long way toward reforming criminal justice in Alaska. This bill incorporates the recommendations made by the Commission, and goes further by including reentry provisions that create a path for offenders to earn back their driver's licenses and their eligibility for food stamps. We believe that the provisions in SB 91 will reduce recidivism rates and help to create opportunities for people to be productive members of society. We strongly urge you to pass SB 91 into law.

If you have any questions or require further clarification about the content of this letter, please contact me directly at (907) 274-3611 or nevakitka@aol.com.

Sincerely,

Julie E. Kitka

Julie Kitka
President

cc: AFN Board of Directors
Governor Bill Walker
Lt. Governor Byron Mallott
Rep. Bryce Edgmon, Bush Caucus

Dear Alaska Legislative Member, STOLTZE CHAIR FINANCE COMMITTEE Dec. 27, 2015

I and many of my friends got a chance to read the Alaska Criminal Justice Commissions, Reinvestment Report. We were very happy with the Ideas they put forth. We are concerned with ~~the~~ THE image Alaska has been getting with all the bad press about the DOC and the inmates dying and the corruption and such. This is a very positive aspect and will help keep Alaska going forward, and help with the budget also. Our tourist income is highly affected by how those in the lower 48 see us. Bad press hurts our income!

Further, with how many people are in prison or on probation or parole, it seems we all know at least one person that is affected directly by that report. It will help some of the people at our church whom have 2 sons that are in prison for the first time, and also a person whom is on probation. These people are good people, that made mistakes, and need to be given the opertunity to turn their lives around. We spent part of our last Bible study session talking about this proposed bill and we all think that the 21 points will be good, especially if the probation officers get training to help those on probation, and we also agree that the sex offenders deserve a break. One of the guys at our church is a sex offender, and he says he will always have that label, even after 20 years of doing his time for the mistake, that cost him most of his privacy and dignity. After we talked with him and learned what type of offenses are sex crimes, in our state, we asked him to help us put together some ideas to help. He said he would help with an idea for the suggestion #4. Because we think you need to also include and pass that with the 21 other points. Please do this to help ALL offenders that need it. Please do it because its the right thing to do. All the sentences in Alaska are too long. We looked online and saw how long first time sex offenders can get, compared to those that kill people, and its crazy. Killers get less time, that even the lowest of the sex offenders. That tells us, that the ranges need to be adjusted.

Please Pass the 21 points and Suggested Additional point #4, because its the right thing to do, and whats BEST for Alaska and all its citizens.

Bruce Peters
Thank you.

PS. Have you ever considered some of the sentencing laws in otherstates? Maybe Calif? Cal Pen Code §311.1, §311.2, §311.11 Might help with ideas.

Daniel George

From: Bruce <brcvndsn@aol.com>
Sent: Friday, February 12, 2016 12:37 PM
To: Senate State Affairs
Subject: SB 91

My name is Bruce Van Dusen. I live in Juneau, Alaska. I am the Executive Director of Polaris House. Polaris House is dedicated to adults recovering from mental illness. I support SB 91.
Too many times I see beneficiaries released from incarceration with no plans for support. This leads to more crime and a high recidivism rate.
Too many times I see beneficiaries cutoff from mental health care while incarcerated. When released some are in worse mental state than when they entered this system.
This bill will go a long way to solving these problems. One word of caution, the funds saved from intensive reductions and changes must be placed in the community to provide the services and supports cited in the bill. These funds are vital to the success of these efforts.
Thank you,
Bruce Van Dusen

Daniel George

From: ewsmagge <ewsmagge@gmail.com>
Sent: Friday, February 12, 2016 12:14 PM
To: Senate State Affairs
Subject: in support of sb91

Good afternoon my name is Edward Smagge I live in fairbanks Alaska. I have just recently completed wellness court here in Fairbanks an would like to see sb91 become stronger in our communities. in my own experiences involved in the courts I believe a person striving to better them selves an that has made an met many positive goals they have set is exiting their old life styles an have genuinely made a community stronger with trust, honesty, an becoming a productive citizen. Giving people an achievable goal in life to remain in sobriety an continue to be a leader, a positive example, a mentor to others is how I believe sobriety grasps an individual to stay on a healthy life style. having hope to be able to travel an commute them selves to work, to be able to see their children at school when an unexpected circumstances arrives, to be able to maintain employment an arrive on time, these are some incentives of living a productive life an given a chance of driving legally. I have been seeing more people give into their addiction because their goals were met but not recognized an we see what is on paper but not what was achieved. this bill that is constructed properly can reduce criminal behavior..
Thank you
sincerely

Sent from my GCI Smartphone.

Daniel George

From: Lou (Linda) Brown <lsbrown@alaska.edu>
Sent: Friday, February 12, 2016 9:49 AM
Senate State Affairs
Subject: Attn State Senate Affairs Chair Bill Stoltz

Re: SB 91

Dear Chairman Stoltz,

I urge you to pass SB 91 which incorporates recommendations made by the the Alaska Criminal Justice Commission. I have been personally involved in an effort spearheaded by the University of Alaska Fairbanks Justice Department to create a pre-trial diversion program that would include (in appropriate cases) Victim Offender Reconciliation processes. These kinds of efforts show tremendous promise to reduce the number of cases that end up in court and re-direct them to more appropriate services while simultaneously proving the opportunity for victims and offenders to create mutually satisfactory plans to "make right" the harm that has been done, thereby greatly increasing the chances that offenders will make necessary personal and lifestyle changes that, it is to be hoped, will keep them out of future encounters with the Criminal Justice system.

Similar efforts are included in SB 91 and it is for these reasons that I am very excited about the possibilities for reform in the CJ system promised by that bill. I urge its passing.

Sincerely,

Lou Brown
2630 Home Run
Fairbanks, AK 99709

"As far as we can discern, the sole purpose of human existence is to kindle a light in the darkness of mere being."
CG Jung

Daniel George

From: Reece Burk <reece449@gci.net>
Sent: Friday, February 12, 2016 10:36 AM
To: Senate State Affairs
Subject: SB91

Senate State Affairs committee:

This is a request of your support for a bill to grant a limited license for me and folks like myself. I have a felony DUI, that's three DUIs over a ten-year period. Now, I and folks like myself have completed an 18 month, court approved, treatment program. Wellness court.

A limited license with an interlock device or also called a breathalyzer, would allow me to go to and from work, my support group, the grocery store, doctor's appointments, maybe even something as normal as a haircut. Just a haircut is a small thing to most, but the ability to drive is such a huge boost to someone's dignity, self-respect, and the feeling of being part of the community again is huge.

In the 18 month treatment program we were taught to recognize and confront our stressors. And in doing that, manage and overcome the triggers that could cause a relapse. Some of the biggest stressors are frustration, resentment, and the loss of self-respect.

The frustration of relying on or imposing on someone for a ride. The resentment of being looked upon as a burden. The loss of self-respect because you are unable, or less able, to support yourself, or your family.

After my second DUI I was required to install an interlock. During the training of how it works and how to use it, the gentleman told me do not use cologne or after shave. Both are very high in alcohol. It's on your hands from putting it on, it's on your neck and or upper body. Now, when you take that deep breath so you can blow for the 6 to 8 seconds, you pull in all of those alcohol laden vapors. The interlock cannot tell the difference between Brut and Budweiser, or the difference between Old Spice and Old Crow. It's just alcohol vapors.

I found this out the hard way the second or third week I had a interlock in after my second DUI. I got up late, turn on the coffee, fixed lunch, quick shower and after shave, and run out the door, 10 minutes or less. Turned on the key and waited for the interlock to warm up. When the screen said blow, I did and waited. Then it said I failed!! WOW!! I knew I had not had any alcohol for several months by this time. But I was locked out for 30 minutes and I'm already late. I went back inside and got out the owners manual. That's when I remembered what I was told. Not to use Cologne!! I usually have 30 to 45 minutes between my shower and leaving the house. But not that day.

Now, after a long day of beating up your opponents across the aisle or even each other, you and some friends and colleagues go across the street to Pizza Hut, a pizza and a picture. Those 8 or 9 ounce glasses you are given with that pitcher, don't drink that second one and then go right to your car if you have an interlock. Order up some wings or something, because you're going to be there for 45 minutes to an hour if you have that second glass of beer.

Or maybe over to the Olive Garden for spaghetti and meatballs. That 6 ounce glass of wine, and one is all you get, if you drink any more than that, better orders some breadsticks, or again you will get locked out for 30 minutes, if you go out try to blow and start your car.

With a limited license and interlock, the ability to drive, is such a huge step in regaining the feeling normal again, helping to maintain my sobriety, to lessen some very large stressors. To move forward again.

Please help me, and others like me, become a productive, functioning, self-supporting citizen again.

A limited license after completion of a court approved treatment program is badly needed in this state, and for that matter, badly needed FOR the state.

Thank you,

Reece W Burke

2000 Carr Ave

Fairbanks AK 99709

Daniel George

From: Beth Hazen <bhazen27@gci.net>
Sent: Friday, February 12, 2016 11:57 AM
To: Senate State Affairs
Cc: Sen. Kevin Meyer
Subject: Prison Reform SB91

Attn: Senate State Affairs Chairman Bill Stoltz

Although we are not able to attend the legislature hearing in Juneau, we would like to express our support for Prison Reform. We have reviewed the Prison Reform Recommendations that were released in December 2015, and believe that the recommendations are sensible, practical, and would not only save the state money, but would benefit many of the incarcerated by giving them incentives to earn parole by good behavior and by participating in programs that would help them to re-enter society as productive citizens. We have also attempted to review the current bill, and support the bill to the extent that it includes all of the recommendations included in the Prison Reform Recommendations document.<?xml:namespace prefix = "o" ns = "urn:schemas-microsoft-com:office:office" />

K. Richard and Elizabeth Hazen

1925 Brandilyn St.

Anchorage, AK 99516

Beth Hazen

STATE OF ALASKA
OFFICE OF VICTIMS' RIGHTS

February 18, 2016

RE: Senate State Affairs Committee Hearing on Senate Bill 91

Thank you Mr. Chairman and committee members for the opportunity to provide written testimony in addition to oral testimony earlier today on SB 91.

My name is Taylor Winston. I am the executive director of the Alaska Office of Victims' Rights and chief advocate for crime victims statewide. OVR is the only organization which represents crime victims across the full spectrum of crimes in this state. We represent victims of Robbery, Burglary, Thefts, Sex Offenses, Assaults, Homicides and even child victims of Drug Crimes.

I want to take a moment to describe my background, and my experience. I have been in the trenches of our criminal justice system for nearly 20 years. After graduating from Georgetown Law. I began my legal career as a law clerk for an Anchorage Superior Court criminal judge. I went on to work for the Department of Law as an Assistant District Attorney for 13 years. After an initial year prosecuting misdemeanors in Anchorage, I transferred to Bethel for 2 years where I primarily prosecuted DV and sex offense crimes. I spent the remaining 10 years in the Anchorage DAs Office. Over that decade I prosecuted felony level violent crimes including homicide cases and spent 8 years in the sexual offense unit. I supervised that unit for 6 of those 8 years. For the last 4 years I have been with the Office of Victims' Rights. Additionally, before becoming an attorney I worked for almost 7 years as an analyst in Washington DC for the U.S. General Accountability Office evaluating government programs for waste, fraud and abuse.

This written testimony is long because this bill is huge. SB 91 embodies dramatic and extensive changes to the criminal justice system that could cost lives. For those who are not lawyers and especially for those who have not had the opportunity to

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be submerged in the criminal justice system, I feel it is important to describe some of the real life consequences of this bill.

One of the primary responsibilities of government and this legislature is to keep people safe. Whatever form SB 91 takes over the weeks to come it is imperative that this legislation first and foremost protects the safety of our citizens and does not sacrifice safety to save a buck.

OVR, on behalf of victims statewide, is concerned that the current version of SB 91 sacrifices public safety and that numerous sections of the bill violate crime victims' constitutional and statutory rights.

While the bill may achieve its goal to reduce prison population by 25%, there is little in it to hold criminals accountable and keep Alaskans safe. It is apparent that a lot of hard work went into drafting this bill, but it is clearly lop-sided for criminals and against victims. It is being touted as a reinvestment bill but focuses primarily on how to get people out of jail to save DOC money. The bill provides lots of specifics about eliminating or reducing consequences for criminals but fails to provide specifics on actual reinvestment and other key areas of needed reform. There should be concrete plans in place with attached dollar amounts for these reinvestment ideas, as well as the commitment from the legislature to fund, before we overhaul the criminal justice system in the way SB 91 proposes.

There is no doubt that our criminal justice system is flawed and change is warranted, but change should not come at the expense of Alaskans' safety. Change should not further trample on the rights of 1000s of people victimized by crime every year. Change should not subject victims to further victimization by a justice system that claims to hold criminals accountable and keep people safe.

This bill hands gifts to the criminals while it steals away the rights of victims. It is the equivalent of a parent telling a child "well instead of your usual weekend grounding I am going to give you a 5 minute timeout and then take you for an ice cream cone."

There was a public outcry a few years ago when Jerry Active murdered 2 people and raped a small child. People wanted to know why he was out and blamed the Dept of Law. If SB 91 becomes law, there will be many more Jerry Active stories and the blame will more fairly fall at the feet of the legislature.

SB 91 gives a criminal reductions at every level of the system - layer upon layer reductions in what's charged, in bail, in jail sentences, in lengths of probation

periods, in lengths of parole periods, in sentences for both probation and parole violations, in the amount of time served before being eligible for parole, and in the requirements to get parole that let criminals out easier and faster. Let's look more closely at some of the specifics in the current SB 91.

1) Charges :The seriousness or "class" of many crimes will be reduced

Under SB 91, many crimes will have a new reduced classification. Here are a few examples.

In Section 31, giving narcotics to kids will drop a felony level; possession of all drugs including heroin will drop from felonies to a misdemeanor; and crimes like Failure to Appear (FTA) and Violating Conditions of Release (VCR) won't even be crimes anymore – just tickets.

Our youth are put at significant risk already because of the drug trade and drug abuse in this state. I cannot fathom why any legislator believes lowering the penalties for criminals who dope up kids, use kids in the manufacturing of drugs or manufacture their poison where kids live is a good idea. Just look at a recent ADN article that describes a surprising spike in just four years in the number of Alaskan kids in foster care, which is believed to be linked with drug abuse especially heroin. The legislature should do everything it can to protect one of the most vulnerable segments of our society.

In Section 34, dropping the possession of heroin from a felony to a misdemeanor, punishable by no more than 30 days, is also shocking. What incentive will there be for someone to get treatment? The consequences for not using, not doing treatment, or not following probation are so inconsequentially they become meaningless at a misdemeanor level.

Drug crimes, especially heroin related crimes, are a huge problem. Calling these crimes non-violent is naïve and misleading. With drug crimes come robberies, assaults, child abuse, and homicides, not to mention thefts and burglaries. Tell a family whose home has been ransacked by burglars, whose irreplaceable family possessions have been stolen and whose sanctity of their home destroyed, that the act "was just a property crime." Victims of property crimes are often left out of consideration as crime victims.

Turning to Sections 21and 22; reducing VCRs from a crime to just a ticket, puts victims at risk. A defendant who has threatened to kill a victim and then shows up at victim's home in the middle of the night, violating a judge's bail order to not go

there would not be charged with a new offense and may or may not be arrested in this situation. In fact police may not even respond since a crime isn't being committed. The victim's constitutional rights to be protected from the accused and to be treated with dignity fairness and respect during all phases of the criminal justice process will be violated to save a dollar. Proponents will argue that the 125 requested state employed Pre-Trial Supervisors added by SB 91 will be able to supervise the criminals and arrest if they violate a judge's orders. It will take more than 125 people to supervise all the pre-trial defendants statewide at a level that effectively protects the public. By comparison, the current level of felony probation officers is inadequate to fully supervise convicted criminals. This reduction will place more victims at risk, and lower the consequences to violators to the point of being ineffective.

In Sec 18 through 20, felony and misdemeanor crimes of Failure to Appear drop to a ticket too. Because there will be even less incentive to show up for court give much lower bails and no criminal consequence for failing to appear, this will add to the already wretched problem of continuances and delays in the system. Victims will have less certainty, suffer more delays and become further demoralized by this so called justice system. Not only their right to be treated fairly will be violated, but their constitutional right to a timely disposition of the case also will be violated.

In addition, if FTAs (which currently include A misdemeanor and class C felony offenses) and VCRs are not crimes, they will not show up on a defendant's criminal history. This creates a problem because any failures to appear or any violation of conditions of release the defendant has committed, if only violations, would not be known to judges in another jurisdiction, prosecutors, police who may come in contact with the defendant or known to potential future pre-trial services officers who are tasked with assessing the risk the defendant presents.

2)It will be more difficult for police to make arrests. For crimes like Vehicle thefts, felony Thefts, Eluding, Possessing Child Pornography, Arson, and Endangering children and vulnerable adults, the general rule will be for police to give them a citation.

On the surface crimes like vehicle thefts and eluding seem non-violent but that is far from true. Just look at some of the stories we have seen already this year ....

Dozens of vehicle thefts in a single week in Anchorage

K9 unit apprehends car thief after stolen Subaru strikes police car

Vehicle eluding trooper in Fairbanks results in officer involved shootout

Even a UAA Justice Study found that 37% of all officer involved shootings in Anchorage from 1993-2013 started as a traffic stop, stolen vehicle, eluding, or a burglary.

It makes no sense given the dangerous of such crimes, that a person fleeing police and ultimately stopped would be given just a citation to come to court in a few days. If police want to arrest the person, police will have to find a "significant" risk to the public before making the arrest (Section 37). This is a high threshold for officers in the field to meet and could subject them to lawsuits. Such litigation would not only be very expensive and time-consuming for law enforcement agencies but would lead to far fewer arrests, even when appropriate for safety reasons, because of the fear of a lawsuit. Police, the true guardians of our safety should not be handcuffed this way. Many of these crimes the bill considers harmless and non-violent present a true safety issue for law enforcement and the public.

3) Judges authority over bail is being reduced. Low to moderate risk defendants will be mostly released on their own recognizance or unsecured bond. If a judge wants an offender to post money that judge will be required to legally justify it with a higher level of proof.

Section 39 requires judges to revise/lessen any bail condition which may have prevented a defendant from bailing out unless the judge finds there is clear and convincing evidence that the lessened or revised bail cannot ensure the defendant's appearance or the safety of the victim or community. This section raises the level of proof/evidence needed for judges to be able to make more restrictive bail decisions.

Section 43 requires judges to release defendants on their own recognizance (OR) or unsecured bond for many crimes if deemed low/mod risk on misdemeanors or low risk on C felonies. For victims of those crimes, even if allowed to address a court, their input would be meaningless because the judge would be required to release the person OR or on unsecured bond. This law again would eviscerate the victim's constitutional right to be heard and would violate the victim's constitutional right to be protected from the accused. Therefore the section is unconstitutional. The section also fails to recognize that any 2 offenders arrested

for the same crime may present very different risks to the community based on prior charged and uncharged conduct and the facts of the underlying case.

Judges will also be required to consider the pre-trial services officers recommended conditions of release. It is absurd because the pre-trial service officer will not have sufficient factual information to make appropriate recommendations. In fact, that officer will have less information than the prosecutor, the defense attorney and possibly the judge.

Proponents will say that defendants are innocent until proven guilty and so should be released on their own recognizance. This is a nonsensical argument. If a person is presumed innocent then the type of crime charged, their prior history or the facts of the crime would mean nothing. If one adheres to this logic then the first-time murderer should be released OR just like the person who stole a roast from Carrs. To assess dangerousness you have to consider the facts of the crime with which the person is charged.

4) **Sentences and penalties across all categories of crimes would be reduced including those for murderers and sex offenders. Reductions will be seen in sentencing ranges, probation lengths, and parole lengths.**

Examples of sentences affected by SB 91

Sentences will be reduced for misdemeanor crimes

One of the most dramatic changes is seen in sentences for A class misdemeanors, like Assault. Currently, a person can be sentenced up to a year in jail and be placed on probation up to 10 years. In Section 71 of SB 91, unless the state proves to the court that a defendant has previous convictions for the same behavior or there are other specific mandatory minimums like for the crime of an assault on an officer, the maximum sentence allowed would only be 30 days, and with mandatory "good time" that's is only 20 actual days. So punching someone and breaking their nose would only mean a maximum time of 20 days in jail. Possessing ANY amount of heroin would only be a maximum 20 days. Moreover, the way in which the statute is written designates that most misdemeanor defendants will not be on probation and will have no requirements. With a specified sentence of no more than 30 days, an offender sentenced to 15 days could not receive any more than 15 days of suspended time. Putting someone of supervised probation when they have only 5 , 10 or even 30 days suspended, an utter waste of resources, clog the court system with unnecessary hearings and require a lot more in administrative costs.

Sentences for almost all felonies would drop under Sections 68-70.

For a first-time defendant convicted of Possession of Child Pornography, a C Class Felony, he would get a probationary sentence called an SIS of 0 to 18 months.

A defendant, like one I prosecuted once here in Anchorage, who possessed an old video of himself raping a little boy in another state, and had 15,000 other images of child porn would only be put on probation.

Yet, under SB 91, a Fish and Game first-time defendants of a class C would get 1-2 years jail.

The sentence of a first-time Class B felony offender such as Criminally Neglient Homicide would also drop.

For example, a defendant points a gun at a person's head and pulls the trigger thinking the gun is a toy yet kills the victim, the defendant faces between as little as NO time in jail and no more than 2 years to serve for killing a person.

A sentence for first-time Class A felony offender like Assault 1st Degree would also go down.

An example, a defendant who runs a red light and hits your child in the crosswalk crippling him for life would only face 3-6years to serve in jail.

Probation lengths and penalties for probation violations will go down too

Section 60 describes how the bill will shorten lengths of probation for criminals.

Many think this bill won't affect sentences for sex offenders or murderers but they are mistaken.

Maximum probation lengths for sex offenders will drop from 25 years to just 5yrs
Maximum probation lengths for murderers will drop from 10 years to just 5 years.
Maximum probation lengths for all other felonies will drop from 10 years to 3 years .
Maximum probation lengths for misdemeanor DV or DUI (with previously DUI convictions) offenses will drop from 10 years to 2 years.
Maximum probation lengths for all other misdemeanors will drop from 10 years to 1 year.

Section 62 violates the constitution. It says the court can limit the number of victims addressing the court regarding reducing or terminating probation. The court has no authority to violate the constitution. Each victim of a crime has a constitutional right to address the court regarding a defendant's sentence. Whether there are 1 or 100 victims, they have a protected right to address the court even if inconvenient for the court.

When criminals violate their probation, SB 91 will give them another gift. Instead of a judge being able to determine the appropriate amount of time warranted, this statute will dictated just a few days stripping the judge's discretion almost completely away. The type of violation will matter little. Clearly the defendant's criminal history and the defendant's underlying don't matter at all because the bill basically treats these sentences as a one size fits all. The bill is silent to about whether a defendant with 4 violations would get the same 1-3 days that and an offender with one violation would get. The judge's need to consider the *Cheney* criteria in sentencing appears moot under this bill essentially. At least for PTR purposes, it would be meaningless for the judge to consider the offender's criminal history, the need for isolation, deterrence of the offender, and community condemnation.

The bill merely slaps probationers on the wrist for what is called a "technical" probation violation. Their penalty:
No more than 3 days for their 1st violation
No more than 5 days for their 2nd violation.
No more than 10 days for their 3rd violation.
After the 4th reported violation the judge will be allowed to give them significantly more or all of their suspended time.

Currently offenders can get up to all their suspended time imposed on their first violation, but generally get 30 -60 days if it is not a new crime or other dangerous behavior. Section 62 creates a huge safety risk for victims and the public at large. It also violates the victim's right to be protected from the accused, eviscerates their right to be heard regarding release, and their right to be heard regarding sentencing

Proponents of the bill paint this a section to deal with those probationers who report a couple of hours late and end up not making bail and sitting in jail for months over being tardy a few hours. Show me that case, where an offender was a couple hours late , had no other violations, and wasn't a repeat violator that had a PTR filed and sat for months before release. In 13 years I never saw a PTR filed on an allegation of being a few hours or a day late. I never saw a defendant sit in jail

for months for any violation similar to this. In fact so many of the delays with PTRs are caused by defense continuances, so the sitting in jail is defense driven not state driven. Moreover, in Anchorage bail on PTRs based on violations not involving new crimes often have low bail or no required bail if defendant goes to a halfway house or treatment program. It is a false narrative that is being promoted.

Do you know what a "technical" violation is, anything that is not a new crime? A child molester on probation and ordered not to have contact with kids is found on a home visit by his PO to be naked in a room with a naked toddler...that would be a "technical violation" worthy of only a couple days in jail.

Once the felon has done the maximum number of days allowed under this section, even if they have not had a hearing yet, they must be released. Again, another constitutional violation of a victims' right to be heard before release.

Probationers could see up to another 50% knock off their probation time if they stay in compliance. Probation officers will be required to recommend to the court probation reduction incentives for good behavior. This "incentive " will amount to a day for day...meaning if you are on probation and good one day, then you get a day knocked off of your probation length.
There are so many problems with this idea. It will be an accounting nightmare. Nowhere is it explained how this really works. If the offender is good on January 1 but violates on January 2 and goes to jail for 3 days, has he been "bad" 1 day or 4 days. What if he commits 4 probation violations on one day, does it just count as 1 "bad" day when another offender who only had 1 violation on a day is also "bad" one day.

Victims will have absolutely no certainty about how long defendant will be in custody or on probation or on parole because the ultimate date of release will be a moving target. There will be no truth in sentencing. I cannot imagine how difficult and confusing it will be to explain all the various probation-parole possibilities to a victim, not to mention how demoralizing it will be to hear from the criminal justice system again that the system is more concerned about the offenders rights and well-being that theirs. Victims will also have no input on this sentence modification, which violates their constitutional right to be heard on sentencing because every probation adjustment is in fact a resentencing.

Murderers and sex offenders will also be given behavior rewards which can also reduction the length of their probation up to 50 percent.

Earlier parole releases

First-time low and mid level felons, who have met the requirements of their case plan will automatically be paroled after serving 25% of their jail sentence. This is a whole new type of parole called administrative parole, letting criminals out sooner and with greater ease. (Section 96). There will be no hearing unless a victim specifically requests it. OVR is troubled by putting the onerous on the victims to have to request a hearing and what good will it do. The statute does not appears to allow the parole board to deny a convicts administrative parole if other requirements are satisfied. If this is the case, a victims words will be meaningless. The hearing would be just lip service to try to make the victim feel as though someone cares.

Discretionary parole will be available to more criminals and sooner. Currently, the highest level sex offenders, those Class A and unclassified felons, cannot get discretionary or mandatory parole, but under SB 91 they will be eligible. Those 55 years old or older will be considered "geriatrics" and allowed parole if they have served 10 years.

Therefore, the 45 year old child molester who has raped 2 little girls repeated and was sentenced to 50 years jail will be able to get out under SB 91 on parole in just 10 years, when he turns 55. A most heinous of criminals who only serve a small portion of a lengthy and worthy sentence on the false premise that at 55 they are unlikely to reoffend. Many sex offenders, especially child molesters are first convicted of such crimes in their 50s, 60s and even 70s so the idea that the geriatric sex offender no longer present a risk due to age is a fallacy.

Most alarming is a new provision in Section 117, that says regardless of your crime or your sentence, if paroled, the offender can be unconditionally discharged from parole after only 1 year if the offender has behaved on parole for the year, and completed any ordered treatment. If passed this will apply to any criminal not already paroled.

For example, if an offender murdered his girlfriend and receives a sentence of 50 years active jail, but he was paroled after only serving 20 years, he could be off parole altogether after only 1 year. One year of good behavior could wipe 30 years

off his sentence just like that. This provision will apply to any offender no matter when convicted if parole is granted after the bill's effective date.

While the bill finds many ways to let defendants out of jail at every turn to save money, it also builds in many new administrative costs and adds new state employees to the state payroll.

Section 91 describes a pre-trial services program that will be expensive and not cost effective. As I understand, the Department of Corrections has indicated it will need to add 125 new state employees for this program at a cost of $3.9 million. Even if these officers, who will have arrest powers, are only paid $15 per hour the cost is approximately $3.7 million. That figure does not include overtime, travel expenses, training for this newly created office, clerical assistance, benefits including very costly health care coverage and future pension liability.

Regarding bail, these pre-trial services officers will have less information available to them to make assessments about flight risk and dangerousness than prosecutors will have. They likely will have less experience than judges, prosecutors and defense attorneys to fashion appropriate bail recommendations. These 125 employees will also be tasked with supervising all pre-trial released defendants across the state. I submit they will not be able to adequately supervise this population to the degree needed to keep the public safe. As it is DOC has too few felony probation/parole officers to provide the supervision needed for convicted felons.

The emphasis should not be adding a state employee program to the system. If the $3.9 million is to be spent it should be invested in treatment beds and more felony probation/parole officers. Judges, prosecutors and defense attorneys are sufficiently intelligent, informed and experienced to assess bail needs. Private sector programs like electronic monitoring or the 24/7 program could provide supervision for released defendants. These private companies should be required to be licensed by the state, be required to be insured and have required to adhere to standards provided in regulation. This would ensure consistency and reliability of the programs so that they in fact keep the public safe in a manner expected by the courts, the prosecutors and the community.

Even the chair of the commission told this committee that public safety will not be protected under SB 91 without companion legislation reinvesting in needed programs. I agree but call me cynical...because for all the years this state was fat and happy with its oil revenues, the investment was not made for more probation

officers to intensely supervise offenders; investment wasn't made for needed treatment beds for those who might succeed at breaking the cycle of addiction and recidivism; and the investment for more beds for treatment and isolation of mentally ill criminals who pose a significant risk to are communities was not made. And now when the state has no money we are being asked to trust that adequate reinvestment to protect the public will be done.

Treatment and intense probation supervision is key to first time and maybe second time felony drug and property offenders. Incentives coupled with significant deterrence is needed. Ultimately, reinvestment is critical to reducing crime and keeping the public safe. Streamlining the system, reducing duplicative programs and having government offices working together with private companies and non-profits is the way to achieve the goals sought. An efficient system allows committed efforts and resources used to have the biggest impact.

For all that SB 91 changes in the criminal justice system, the bill does not address the significant and costly problem of the length of pendency of criminal cases in the Alaska courts . Lengthy pendency not only violates victims' constitutional right to a timely disposition but cost the system significant amounts of money. Shortening pendency would reduce costs for the court system, DOC, Dept. of Law, Dept. of Administration and the community. Many who have not been in the trenches of the criminal justice system may think SB 91 provisions will shorten pendency times…I submit their belief is misguided. Throughout the bill, new layers of litigation and hearings are added which will only compound the pendency problem, not improve it. The costs of continuances and delays are financial, physical and emotional. It is not unheard of for a felony case to be in pre-trial status for 3, 4, 5 years, even some as long as 6 years. Consider that and then consider that the Boston Marathon Bomber was tried, convicted and sentenced to death faster than many felonies are tried in Anchorage.

This bill tries to address the increase in the number of offenders in custody pre-trial with a quick fix of making sure fewer people go to jail or stay in jail but it fails to address some of the main causes for the growth in pre-trial incarceration. The bill doesn't address or solve so many of the problems already in the system. The bill only addresses that which the Commission was tasked with reducing jail numbers to save money. It certainly does nothing to prevent situations where an offender not only commits one felony but then bails out repeatedly to go on to commit 2,3,4, or even 5 more felonies before the first one is ever resolved.

Solve the length of pendency issues and you solve much of the problem of increased number of pre-trial offenders taking up bed space. By simply shortening the length of time between an offender's arraignment on a PTR (petition to revoke probation) and the first substantive hearing on the violation and limiting continuances, you can easily reduce the number of probationers taking up jail space. Inefficiencies in the system, lengthy delays and lack of true deterrents are some of the biggest culprits of a failed system. Many of the bill's sections have the potential to worsen the problem of delays, the time it takes to resolve cases and lead to fewer criminal prosecutions, and more dismissals of cases. If this happens it will exclude more victims for receiving justice in the system and hold fewer offenders accountable for their criminal acts.

OVR is not opposed to thoughtful development of and gradual passage of statutes designed to specifically remedy inefficiencies, problems and costs associated with the criminal justice system. OVR submits however that many of the things SB 91 achieves by changing laws and making the system less flexible could be achieved through policy changes in the DOL, DOC and Dept. of Administration, or changed by utilizing laws already on the books. SB 91 carves into stone changes making the system less flexible to respond to the negative ramifications which could come. This notion that the sky is falling and we must make all the profound changes is a false narrative. Much can be accomplished by taking smaller steps. The Commission and Pew's research found that higher prison costs are associated with misdemeanors, and pre-trial holds. Then by addressing only those two areas with precision policies and statutory changes, savings would be realized. Our leaders should protect us. They should proceed cautiously and thoughtfully when making changes that could mean life or death for someone.

OVR will gladly sit down with any policymaker or legislator to discuss the bill and offer specific suggestions 1) to protect the constitutional rights of victims; 2) to help achieve goals sought, and 3) to keep our communities safe. We are thankful that Senator Coghill has given OVR an opportunity to present possible chances to SB 91 which could reduce its negative effects. We hope other legislators will do the same. We believe the efforts in drafting SB 91 were sincere and that the efforts may result in the intended goal of reducing the jail population. However, the practical application of the SB 91's changes will have far-reaching and devastating consequences, we believe the drafters did not intend.

Unfortunately, the current version of SB 91 does not meet these goals. Therefore OVR opposes SB 91 in the current version at this time. OVR is committed to protecting the rights of crime victims. OVR hopes to see a bill which holds criminals accountability; protects the community; improves the criminal justice system and recognizes the constitutional rights of victims. OVR looks forward to an ongoing dialogue with the legislature.

Thank you for your time and consideration.

APDEA
Anchorage Police Department Employees Association

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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, lets 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

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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,

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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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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

SB 91 public testimony to SSTA
packet #2 (45 pgs)

Daniel George

From: Don Suttie <donsuttie@hotmail.com>
Sent: Wednesday, February 10, 2016 7:40 AM
To: Senate State Affairs
Subject: SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senators,

Please DO NOT pass SB 91 as it will increase crime and costs and decrease law enforcements capabilities.

This bill is NOT in the best interests of law abiding Alaskans.

Thank you,

Don Suttie
3210 N. Oronoco Ct.
Wasilla, Ak 99654
907-376-4723

Daniel George

From: ajsupply1@gmail.com
Sent: Saturday, February 13, 2016 9:25 AM
To: Senate State Affairs
Subject: please support sb91. andy boyle. ninilchik

Sent from Windows Mail

Daniel George

From: Stacey Wright <swrong@yahoo.com>
Sent: Monday, February 08, 2016 8:38 PM
To: Senate State Affairs; Sen. Peter Micciche
Subject: Senate Bill 91

Follow Up Flag: Follow up
Flag Status: Flagged

Senate Bill 91 MUST STOP! Has everyone gone crazy? Criminals are already essentially getting a slap on the wrist, and you want to go even lighter? Has any of you ever been a victim of crime? What about the law abiding citizens? Where is our protection? This bill will decrease offenses, jail and probabion times, bail, arrests, etc. Why? So they realize that there's really no punishment, essentially just a little vacation from crime (if even that), and they'll be right back victimizing more people? How in the world does this possibly make sense? We work hard for what we have, where is our protection from the criminals? What are you people telling criminals? That it's "not that bad"? Do you realize how traumatizing it is to us, who've been victims? I'll know who NOT to vote for at election time, and will pass this information on to all family and friends, who will pass it on to others, and so on. Will someone tell me when exactly, that the world lost it's sense of justice and common sense?

Stacey

Daniel George

From: Perry R. Ahsogeak <pahsogeak@fairbanksnative.org>
Sent: Friday, February 12, 2016 4:16 PM
To: Senate State Affairs
Subject: Omnibus Crime Bill SB 91

As a representative of Fairbanks Native Association we would like to provide our support towards Senate Bill 91. We see this as an opportunity to reforming criminal justice here in Alaska especially considering the rather large disproportionate number of Alaska Natives being confined. We see that the provisions will help reduce recidivism rates and help to create opportunities for Alaskan residents to be productive members of our society. By reducing the number of prison beds we also recognize that this will provide funds for other resources in community services and that's helps returning Alaskans move forward in obtaining a healthy lifestyle and being able to contribute to their community. We ask for your support in moving forward SB 91 and its implementation so that our people have the support to lead stable, productive, and crime free in their communities.

Perry R. Ahsogeak

Director, FNA Behavioral Health

452-6251 ext 6411

fax (907-456-4849

email: pahsogeak@fairbanksnative.org

Daniel George

From: Sierra Hunsaker <shunsaker@hotmail.com>
Sent: Sunday, February 14, 2016 11:30 AM
To: Senate State Affairs
Subject: SB91

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Completed

Senators: Coghill, Ellis, McGuire, Costello, Bishop and Micciche

I understand the necessity of prison reform, and the importance of budget restrictions on what we can do to reform it. Your intentions to change a broken and wasteful system are well placed, but your methods are reckless.

Please understand that the cost of crime will not be cut in our great state, but shifted to the shoulders of the victims to whom this bill would offer no aid or recourse. SB91 as you have presented it only addresses the financial implications to the state and is clearly a cost cutting effort for YOU that violates the principles of responsibility and holds no one accountable for anything.

I expect more out of you than this reckless dump of your responsibilitis. It is your job to ensure that our laws are in the best interest of our people. Such disregard for my safety, for criminal rehabilitation or for their ability to legally provide for themselves upon reentry into our society is a shortsighted negligence that I cannot and will not overlook.

Many folks agree that the time served and the expense of the current system isn't reducing or deterring crime. I don't know anyone who thinks that it is. So I ask WHY are you watering down the same[redacted] soup and serving it up cold? THIS IS NOT REFORM!

To make a true reform, you must consider the people of the system you wish to change, AND the effects the proposed changes would have on their rights.

This bill is a fail on so many levels that it is offensive. I am offended that my safety and the safety of my children mean less to you than a budget line, and that you are willing to dump thousands of criminals out into my community without holding them accountable for their crimes in any way.

I get it. Time is expensive, but we have already established that time doesn't rehabilitate criminals. So, why is there no attempt in this bill to hold them financially accountable, or physically accountable or at the very least socially accountable?

What guarantee do I have that these folks will have learned anything from being caught, and what recourse do I have as a citizen to protect myself from being a victim again upon their release?

What opportunities and motivations will our prisoners have to reenter our system of laws and function accordingly?

I feel betrayed by this bill, and I am angry. I deserve better from you and I demand better for my children.

Responsibility MUST be a consideration in this bill, and I don't mean the victim's responsibility. If nothing is changed, and this bill passes as it stands, chaos will reign and my rights and the rights of my children will be trampled by your reckless rule.

Please tell me this isn't the best you can do.

Sincerely,

Sierra Hunsaker
(907) 376-3507

Daniel George

From: Saraswatirose <saraswatirose@aol.com>
Sent: Friday, February 12, 2016 4:25 PM
To: Senate State Affairs
Subject: SB 91

I just received something from a friend saying that there was going to be a hearing tomorrow discussing a change in the usual treatment of Natives when it comes to imprisonment and probation. I won't be able to attend, but I'd still like to voice my support for the change. I've seen first hand (in homeless shelters) what the effects of current laws have had on too many Native ex-cons and I just think they should be better.

Thank you,

Arlene Smith

Daniel George

From: Boyd Muzzana <bmuzzana@live.com>
Sent: Friday, February 12, 2016 10:06 AM
To: Senate State Affairs
Subject: Attn: Mr. Stoltze, Criminal Reform Bill Testimony

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Stoltze,

Thank you for this opportunity to have a say in this "groundbreaking" Bill brought forth by Senator Coghill.

I am a 55 year old white male who has had an extensive past record of offenses (mainly DUIs). I am not proud of my past record, but have been held accountable and paid the price for my past episodes of "poor judgment". People can change as long as they have the will to change and it comes from within oneself...I consider myself to be one of those. Life is all about choices, both good and bad ones.

I have not taken a drink of alcohol in over 10 years, I am a productive member of society and co-owner of Mr. Prime Beef in Anchorage, and have fully paid my debt to society. I owe this all to the willingness for change.

I must admit that I do have an ulterior motive for my support of this Bill, shown by the attachments in this e-mail...possible reinstatement of my driving privileges. Maybe there is useful information in these attachments...maybe not.

As we can all recognize, society these days is no doubt plagued by the epidemic proportions of drug addiction, alcoholism, violence, and non-accountability. I am all for any action that can help alleviate these problems in our society and help balance our state budget.

I am impressed with Senator Coghill's credentials...mainly that he has served in Prison Ministry. He has experienced discernment between good and bad in that environment.

Please don't hesitate to let me know if any of this has been of any help to you and if you should need anything that I can help you with. This Bill has my full support as a registered voter and makes perfect sense to me in every way.

I must apologize for the short testimony, but I need to go to work. **The attachments will be in the form of a forwarded e-mail that I sent to Senator Coghill.**

Thank you and God Bless,

Boyd G. Muzzana

Construction/Maintenance Engineer

Mr. Prime Beef

Anchorage, AK

Daniel George

From: channcie bean <channcie@yahoo.com>
Sent: Saturday, February 13, 2016 11:12 AM
To: Senate State Affairs
Subject: SB 91 Public Testimony

I am in support of SB 91. I feel that this a good way to reduce the prison population. After reading the Justice Reinvestment Report they are wanting to expand parole for non-sex offenders. Another way that can expand parole is amending how unsuspended jail time is calculated. Per AS 12.55.105(g) offender receives 1/3 of good time, and is eligible to go to discretionary parole once they serve 1/3 of there time, but that 1/3 is calculated off the entire sentence not of the remainder of the sentence after the good time is received. This change would not need legislative approval but a simple change of DOC policies. Under current policy an inmate with a 99 year sentence would serve 32 and half years before they are eligible for discretionary parole. If policy was changed to above recommendation the the inmate would be eligible for parole after serving ((99-32.5)*33%) 21 year and 9 months. Please review this information as a way to reduce prison population.

Channcie Bean
P. O. Box 3797
Palmer, AK 99645
907-745-6711

Daniel George

From: City Of Kasaan Council Seat G <councilseatg@cityofkasaan.net>
Sent: Monday, February 15, 2016 10:16 AM
To: Senate State Affairs
Subject: Prison reform

Follow Up Flag: Follow up
Flag Status: Completed

So far, these proposed reforms look useful, since prison isn't always the best solution for those who offend while mentally unstable. In my home village of Kasaan, we have had a number of such offenders who were threatening and frightening others while experiencing psychotic episodes, and we had difficulty getting one such person to appropriate mental health care, since by the time he was brought into Ketchikan for his court ordered psych evaluation, he was being quite rational again. He returned to the village, and he ended up in another psychotic episode, barged into a neighbor's home, and ended up being shot, but luckily not seriously injured! Thankfully, he ended up moving away, much to our relief!

There have been several cases of people becoming deranged from Delerium Tremens, and in one case, committed arson, but was exonerated as being temporarily insane. He did finally sober up, but died before his time, partly from drinking too much alcohol for too many years. One of his sons went on to be a meth user, and committed Domestic Violence and Weapons Misconduct twice while under the influence of that dangerous chemical.

In the late 1980, another of the sons uncles when under the influence of a dangerous substance shot and killed his small child, his wife, and then himself! He was a 3rd generation alcoholic, and there may or may not have been a women's shelter in Juneau, then, where the family was living. Had there been more help for that family, this tragedy could have been prevented! He was known to be violent toward his siblings, but no one knew what to do about this, in the 1950's . It outlines the need for more women's shelters to be built, and one for Prince of Wales Island, since the need is so great here!

Della A. Coburn

Long time Kasaan resident
Sent from my iPad

Daniel George

From: Don Kingkade <fbksdon@icloud.com>
Sent: Friday, February 12, 2016 10:35 PM
To: Senate State Affairs
Subject: Senate Bill 91 Testimony

Senate State Affairs Chairman Bill Stoltze,

> My son is a graduate of the Fairbanks Wellness Court program. He's turned his life around - - Journeyman Electrician, Home Owner and Father. As an electrician his loss of driving privileges obviously impacts his ability to work and continue on his new life path, especially living here in Fairbanks.
>
> We heard throughout his participation in the Wellness Court program that legislation was in the works to allow graduates to get their driving privileges back. Senator Coghill's office recently informed us that SB91 includes language authorizing limited driving privileges to individuals meeting requirements much like those my son has met.

I'm writing to express my support of SB91. Young men and women with past troubles like my son, who've benefitted from rigorous treatment programs face ongoing problems living, working and being contributing members of the community due to the difficulties of transportation in Fairbanks' arctic climate. The limited license provision of SB91 would allow my son to progress in his profession, grow as a parent and demonstrate to all that he's turned things around.

I'm hopeful SB91 moves forward as written and I appreciate your taking time to read and consider my input in support of the bill.

vr
Don Kingkade
2703 Riverview Drive
Fairbanks

Daniel George

From: Donna Fischer <drfischer2@gmail.com>
Sent: Saturday, February 13, 2016 10:22 AM
To: Senate State Affairs
Subject: SB 91

Hello,

My name is Donna Fischer. I am a convicted felon several times over, with many of my charges being Misconducts Involving Controlled Substance, and other related substance use disorders charges.

Many times, I served my sentences not receiving any treatment to address my issues. Once released, with nowhere to go, I'd go right back to the same people doing the same thing and then I'd be right back in jail with a probation violation, only to repeat the cycle over and over. I spent decades in this vicious cycle.

The last time I was incarcerated (2006), I had the opportunity to do RSAT while incarcerated. My life was forever changed because of it. Not because RSAT is a magic program, but it really did prepare me for the challenges I faced when I got out. Because of all the support that was set in place for me when leaving Hiland Mountain, I have been out since 2008. I was afforded a very long transition from incarceration in the half-way house (22 months), then 18 months on level 5 home confinement from the half-way house. In the half-way house, I was required to do additional out-patient treatment which helped me utilize the skills that I learned in treatment in "real time" life.

Today, I am a college graduate earning my AAS in the half-way house, and my Bachelors while on parole. I'm currently finishing up my Master's in Public Health. I am also a licensed foster-care parent for two of my grandchildren. I facilitate two groups a month at the RSAT program in Hiland Mountain and I serve on two reentry coalitions: Anchorage and Bristol Bay, I am also a steering teem member of the Alaska Prisoner Reentry Initiative and advocate for reentry when ever possible. I owe my success to the long transition that I had from incarceration, the added treatment opportunity, and the supports from many community providers in the Anchorage area which include:

Alaska Division of Vocational Rehabilitation
Alaska Women's Resource Center
Akeela Inc.
University Alaska Anchorage
Narcotics Anonymous
Faith Christian Community
Partners for Progress Reentry Program
Alaska Native Justice Center's Adult Reentry Program
Success Inside and Out
Alaska Department of Corrections

I am grateful for the support that was offered to me when I was released, and highly urge you to assist our state in reducing the rate of incarceration in any way possible.

Best regards,

Donna

Daniel George

From: donna stevens <donnaewan@yahoo.com>
Sent: Saturday, February 13, 2016 11:23 PM
To: Senate State Affairs
Subject: SB 91

I am in support of SB 91. Please help with this bill. Thank you for your support.

Daniel George

From: Frances Suttie <grandmaak@hotmail.com>
Sent: Wednesday, February 10, 2016 7:44 AM
To: Senate State Affairs
Subject: SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senators,

Please DO NOT pass SB 91 as it will increase crime and costs and decrease law enforcements capabilities.

This bill is NOT in the best interests of law abiding Alaskans.

Thank you,

Frances Suttie
3210 N. Oronoco Ct.
Wasilla, Ak 99654
907-376-4723

Daniel George

From: Craig & Gail Flippo <gsflippo@gci.net>
Sent: Thursday, February 11, 2016 8:31 AM
To: Senate State Affairs
Subject: Alaska Justice Reinvestment Initiative

Too theft and vandalism In the Anchorage bowl and the Matsu Valley. We have a level of crime increase since the 80's that has affected every business and household the likes of big city in the lower 48. With the limited road infrastructure here in Alaska catching criminals is immensely productive than elsewhere.

Please vote **no** to the Alaska Justice Reinvestment Initiative. It will result in a larger number of criminals that do not have repercussions to their crimes.

Criminals have grown in numbers. And the rest of Alaskan residents are having to become hyper vigilante. We have to check where we are to leave our homes, during the day!!, where we park, who approaches us on our own streets and businesses.

Thank you for your time

Gail S Flippo

Daniel George

From: mdr <mdr@gci.net>
Sent: Friday, February 12, 2016 6:16 PM
To: Senate State Affairs
Subject: Re: limited drivers license

My name is Margaret E. Hobbs, I am writing because, I have been without my drivers license for at least 5 years. It has been a struggle for me and my family, I have been relying on them to take care of my transportation needs, and I sure would like to be able to take care of myself, I have been convicted as a felon, but, I have been clean and sober. I am now walking with the Lord because, I have learned that this is the only way for me to live,
I would sure appreciate it if you would please consider helping me out in somehow being able to get my drive's license back, for work purposes.
Thank you for your time,
Margaret E. Hobbs
mdr@gci.net
907-575-9442

Sent from my GCI smartphone.

Daniel George

From: Mike Coons <mcoons@mtaonline.net>
Sent: Saturday, February 13, 2016 12:16 PM
To: Sen. Bill Stoltze; Sen. Bill Wielechowski; Sen. Charlie Huggins; Sen. John Coghill; Sen. Lesil McGuire
Subject: SB 91

My name is Mike Coons, speaking for myself and a retired Paramedic and several years in law enforcement (Alaska State Defense Force) and security.

I was waiting to speak in another committee, so sadly missed the first hour of this discussion. I'd like to comment on a few things relating to our Criminal Justice System. Sadly it is Criminal, not Victim, or just Justice System.

It is so often that we hear on the news about crime, and that the person caught has a long history of crime and in and out of prison. When I hear the past crimes they served time for, I wonder why they are even out. Lot of that seems to be plea bargaining, DA's discretion by reducing charges based on the workload. So people that are arrested for things like child sexual abuse, we hear far to often out with a short period of time, then are now being arrested for more child attacks! Then we have judges that don't sentence to the maximum. At this time nationally and I understand we here as well, are letting people go early to reduce prison over crowding, with the premise of non-violent. Yet news reports show that many of those had plea bargained from violent crimes, armed robbery, felony assaults, etc. down to "non-violent" misdemeanors or low level felonies. This concerns me greatly!

I agree with Governors Perry and Abbott in Texas where they have been able to close 13 major prisons and use those facilities as real rehabilitation for addiction. We can do the same here, but we have to be smart about it. Looking at community based organizations that have shown a history and performance to turn addicts around for those facilities, with a solid look at performance every 2 years, needs to be the direction vs hiring new State workers. Yet we must be ready for those whom will not rehabilitate to hammer them and put back behind prison bars for full term given by the courts.

Senator Coghill and I have discussed the above as well as one other means to reduce costs of prisons. That being turning over to the Alaska Federal Attorney General for those arrested for firearm offensives, i.e.
falsifying Form 4473 which affirms that the buyer is not a felon, not an illegal, not mentally adjudicated, etc. Falsifying that is 5 years Federal Prison, use of a firearm while committing a felony, additional 5 years, banishing a firearm in the commission of a crime, an additional 10 years as just some of many examples. On a day to day basis on the top of the hour radio news or local TV news, we hear about arrests involving
"misconduct of a firearm", and many times this is from a convicted felon!
Surely we can reduce the number of prisoners in our prisons by turning them over to the Feds for firearms and other Federal crimes and removing them from Alaska for 5 to life terms! Again, sadly, I wonder how many of the above are plea bargained down and back into our lives and thus endangering our lives further!

I have read this bill and will watch this closely and will be in contact with Senator Coghill as this goes along. We need to be smarter about this, yes, but we must do so citizens safety then cost savings.

Mike Coons
5200 Dorothy Drive
Palmer, AK 99645

--

Daniel George

From: Neil Robertson <snohawk49@gmail.com>
Sent: Saturday, February 13, 2016 7:38 AM
To: Senate State Affairs
Subject: SB91

Senate State Affairs Chairman
Mr. Bill Stoltze,

I would like to support the passage of SB91. The reason being I believe that if a person convicted and sentenced by the courts who completes all court ordered mandates should not continue to be punished by the DMV. There seems to a disconnect between departments as to who can sentence and punish and continue to punish. Driving safety is important to me, however I think that a person should not have to be forced to use an ignition interlock system if alcohol was never a factor in a DUI, nor should they have to attend alcohol education unless it is part of a judicial mandate. Also I feel that felony DUI violators can recover and not have their drivers licence revoked for life. A conditional license allows a person the ability to provide for themselves and their family without using public transportation resources that are needed for those who really need it.

Neil Robertson
Soldotna, AK

Daniel George

From: Alaska Food Coalition <afc@foodbankofalaska.org>
Sent: Saturday, February 13, 2016 9:41 AM
To: Senate State Affairs; Sen. Bill Stoltze
Subject: SB 91 Testimony for hearing today

Hello, my name is Sarra Khlifi, and I want to voice my support for Senate Bill 91, the Criminal Justice Reform Bill. I represent the Alaska Food Coalition, a group of about 125 organizations across the state working against hunger and poverty to build food security for all Alaskans. We have prioritized advocating for SB 91, because we believe this bill provides concrete, critical steps to help save the state money, prevent non-violent offenders from re-entering the prison system, and enables access to food for those who want to become productive Alaskans after they have served their time. Removing the lifetime SNAP drug felon ban with SB 91 will not only reduce recidivism and crime, but help rebuild broken Alaskan families and help single adults who are trying to start over. Do you want people who are reentering society to be among us while they're poor, hungry and desperate? Or if there is food money available, don't you want them to have it while they are transitioning into society? The federal money is there, and we can use it to keep from creating more problems – like homelessness and criminal recidivism - in Alaska that we have to pay for ourselves. Thank you, Senator Stoltze and the Senate State Affairs Committee for hearing my support for this bill.

Best,

Sarra Khlifi

Manager | Alaska Food Coalition
c/o Food Bank of Alaska
2121 Spar Avenue | Anchorage, AK 99501
Phone: 907-222-3103
Fax: 907-277-7368

Email: afc@foodbankofalaska.org
www.alaskafood.org

Daniel George

From: Sharon G Eluska <sgeluska@gci.net>
Sent: Saturday, February 13, 2016 9:41 AM
To: Senate State Affairs
Subject: SB 91

Dear Senators,
I support SB 91.
Please pass this bill.
Thank you,
Sharon Eluska

Daniel George

From: Therasa Brewer <brewert8@gmail.com>
Sent: Saturday, February 13, 2016 7:52 AM
To: Senate State Affairs
Subject: SB91

I support SB91 for those individuals that have completed all their court-ordered sentencing, rehab, and any other mandated orders. It makes no sense for a person to complete mandated orders and succeed but are not allowed to drive and go to a job to support their family. I feel agencies like DMV should not have a final say as to whether a person can drive if they have completed all orders.

Therasa Brewer
44710 Knight Drive
Soldotna, AK 99669

Daniel George

From: Tony Kingkade <amkkingkade@gmail.com>
Sent: Friday, February 12, 2016 5:02 PM
To: Senate State Affairs
Subject: Driving privileges

Hi my name is Anthony Kingkade. I'm was a graduate of the wellness court program in Fairbanks. And it would be a great help being able to drive myself to and from work. And also to be able take my daughter to and from daycare when needed. So I hope this bill passes and thanks for your hard work.

Sent from my iPhone

185 Dome Road
Fairbanks, Ak 99709
February 15, 2016

Senator Coghill
Alaska State Legislature
State Capitol, Room 119
Juneau, Alaska 99801-1182

Dear Senator Coghill:

I strongly support SB-91. I understand the many good things this bill will do as well as the positive impact on our state budget and prison population in future years.

As a small business member of NFIB, I received an email this morning urging members to touch an icon which will voice their objection to raising the felony threshold from $750 to $2,000. The icon was named Take Action and I assume my name would have been entered on a petition that legislators will be receiving. And possibly that petition could totally oppose SB-91 just because of this one issue.

My business has been a victim of theft more than a few times and it is a serious problem. However, the answer is not in diluting down the stigma of a felony with every theft. I believe the answer in most cases is solving the horrible heroin addiction in our state. We all know the drug problem is the driver behind most theft.

Thank you for sponsoring SB-91 and the significant work you and your staff have devoted to this issue.

Sincerely,

Gerald D. Timmons

To:
Senate State Affairs Committee

From:
Jayce Robertson
1303 Equinox Way
Kenai, AK 99611

Mr. Chairman:

Here is an outline of the testimony I have for the State Affairs Committee meeting on February 13, 2016. I was unable to stay on the phone to testify because I was at work. I ask that you please consider reading the outline of my testimony. Thank you for your time and effort on this bill.

SB 91 Testimony

I. Introduction
   a. Thank you chairman Stoltze and the entire Senate State Affairs Committee for the opportunity to testify
   b. Discuss states fiscal situation
      i. SB 91 has a zero cost impact statement with tremendous opportunity to save the state immense amounts of money
      ii. Average costs to house prisoner is $142/day = $50,000/year
      iii. This money could more than cover rehabilitation expenses and bring down Alaska's high recidivism rate of two-thirds
      iv. Why continue to build $300 million prisons that cost $50 million/year to operate when there are much better alternatives like this bill.

II. Personal Story
   a. I am a rehabilitated felony dui offender who is constantly held back due to my inability to drive.
   b. I was arrested and convicted of a felony dui in 2011 due to my substance abuse addition.
      i. Completed felony supervised probation without any violations
      ii. Exceeded and completed court recommended treatment
      iii. Have had to work at least twice as hard as others to get to where I am today
         1. Married, home owner, debt free, completed apprenticeship program, graduated college with honors, and so much more
         2. I have personally raised $1400 in donations to travel to Juneau to advocate for the passage of SB 91.
         3. I am planning on meeting with legislatures the first week of March

III. Additional Testimony

a. Besides my court ordered lifetime driver's license revocation, there are many other reasons I am passionate about the passage of this bill.
    i. Saves the state millions of dollars per year.
    ii. Improves opportunities for successful reentry of offenders
    iii. Focusses prison beds on violent and serious offenders
    iv. Changes pre-trial and bail conditions, making them more evidence based
b. Every person deserves a second chances, especially when substance abuse is involved. There is an epidemic within our state, and this bill helps bring much needed drastic reform to the criminal justice system.
c. Example: A 3rd dui in Colorado is only a 2 year driver's license revocation, but I would much rather remain in the great state that I was born in and love.
d. This bill remains just and fair for both sides while protecting victims.
    i. No one, or nothing can force anybody to do something they are not willing to do. This bill would place the decision in the hands of the offender to allow them to choose their own fate by holding them accountable. No addict or alcoholic will get clean and sober unless they choose to do so. This bill will help incentivize offenders to make the right choices and become a clean and sober contributing member of society.

IV. In closing, I would like to thank Chairman Stoltze and the entire Senate State Affairs Committee for the opportunity to testify today. The passage of this bill would be life changing for my family and I, along with many other Alaskan's in similar situations that I found myself in. I accept full responsibility for my actions, and have gone above and beyond to be a contributing member of my community and state. I sincerely ask that you consider passing this bill to help start the long overdue change needed within the criminal justice system here in our great state. Thank you for your time.

Best Regards,

Jayce N. Robertson

Alaska Senate Bill 91 Comments
Kyle Brown

Work is critical for successful re-entry – Steady work provides, income, family stability, healthy relationships with co-workers, hope for an improved future, and built in monitoring of a client's activities and whereabouts at no cost to the government. Without work, re-offending in some fashion is almost guaranteed. It should be one of a PO's primary duties to nurture, not hinder, communication and co-operation with willing employers.

I have a business in Anchorage and have been employing former inmates, ("DOC clients") that are out on parole/probation, for the past 8 or so years. All during that time I have spent writing and talking to various legislators about the substantial difficulty I have had over those years fighting with DOC to keep some of these "clients" employed. I was probably somewhat responsible for HB 93 that passed the house last session. That bill "suggests" that DOC parole/probation officers make an effort "when it's convenient" to make their meeting and appointment schedules flexible so as to facilitate parolees ability to maintain required work schedules. That is a nice thought, but the more I think about it, even if it had become law last year, I realize it had no teeth and parolees certainly have no ability to question their PO's about such things and most employers are not going to be bothered trying to understand DOC's system and take the time to deal with secretive and unwilling PO's, as I have.

The Alaska Dept. of Corrections claims they are there to help former inmates re-enter society and help them find and maintain employment. In the 8 years I have had this unfortunate connection with ADOC, I have seen very little evidence of this. Quite the opposite, unless they are threatened, DOC shows total disregard for the employer, has a total lack of transparency, no ability to communicate directly with PO's, no ability by the parolee to prove what there instructions were or document their efforts to check in with their PO's.

The attitude of most PO's is such that they treat their "clients" (and their employers) with contempt instead of acting as a facilitator trying to help them through a very difficult process that has been established for them by the court system.

If the cost of re-incarcerating parolees for technical violations came out of DOC's budget instead of being in addition to it, we would be seeing miraculous changes overnight without having to lift a finger or have any of these discussions. As long as the existing system remains in place and it is in DOC's best financial self-interest to keep as many "clients" under their control, the cost will continue to balloon and the results will continue to be inefficient.

Obviously based on all the time and money spent on parole and probation time, no-one gives incarceration much credit for teaching anyone any lessons. So why are sentences so long? The longer they are in, the less capable they are at managing their lives when they get out. These people were obviously not very good at managing their lives before they were imprisoned and when they get out they are saddled with all kinds of nearly impossible lists of restrictions, limitations and meetings or they go back to jail. And with this we are expecting success??

The new Commissioner of Corrections needs to make it clear to PO's that employers need to be treated as valuable allies in the re-entry process and provided with a meaningful contact person within DOC that can provide answers and assistance to employers. Everyone recognizes that it is very difficult for most prisoners to find employment upon release but almost no one realizes how difficult DOC makes it to keep a job.

Please feel free to call or email me if you have any questions or would be interested in discussing any details. Thank you for your time and consideration.

Kyle Brown
Discovery Drilling Inc.
Anchorage, Alaska
(907) 344-6431 wk
(907) 360-2911 cell

SENATE BILL 91 LETTER

Attention Alaska State Senate Affairs,

This letter is specifically addressed towards the Alaska Senate State Affairs Committee in reference to Senate Bill 91. As a successful participant and representative of the Fairbanks Wellness Court program, I am speaking on behalf for all our participants – both past and present to testify and gain support for Senate Bill 91. Throughout this letter, you will hear the positive stories outlined in this letter in combination with the phone conversations expected during testimonials scheduled for Saturday, February 13, 2016 at 12:00 P.M. We ask that you listen to each testimonial very carefully as each Wellness Court participant, both past and present, will share their life changing breakthroughs attributed to the Wellness Court program.

Typically, alcoholism is highly regarded as a disease and scientific research has proven this countless times. A large cause linked to alcoholism is depression with others attributed to anxiety, low self-esteem, stress, loss of self-worth, and paranoia. To combat the underlying causes of alcoholism in Alaska, particularly for offenders who have committed multiple driving under the influences (DUIs), Alaska developed the Wellness Court System as a rehabilitative option to substitute jail/prison time to defeat their disease thereby resulting in permanent sobriety. As a newly reinstated member enters the community, they can return to their normal careers and contribute to society again with the likelihood of a relapse largely minimized. A recent statistic has proven the effectiveness of the Wellness Court System. According to Amy Bollaert, the project coordinator for the Fairbanks Wellness Court, only 18% percent of Wellness Court graduates between 2011 and 2015 received new convictions. Thus, this demonstrates that those participants who worked the program extremely hard, graduated, and turned their lives around.

As currently stated under Alaska state law, multiple DUI offenders (>3) have a permanent drivers license revocation. In defense, we Wellness Court participants have invested countless energy and effort to change our lives around. Some participants have returned to their careers to advance in their job market whiles others have improved their personal connections with their families, regaining confidence. In some instances, mothers and fathers have finally reconnected with their children again which is entirely significant. It has been determined that the chances of the participants' children committing alcohol related offenses are highly reduced due to the understanding of what their parents went through mentally, physically, and emotionally. I myself have benefitted tremendously from the Wellness Court program in which I have achieved 17 months of sobriety thus far which has paid off huge dividends in my field of fisheries. At present, I have had 26 articles published in sport-fishing magazines with 30 more publications scheduled to be released during the 2016 calendar year. Without the Wellness Court program, I know I would have returned to my old drinking ways, destroyed my professional career, and shattered my confidence. Based off my success and others in the program, we are still plagued by a primary consequence that severely limits our ability to either work or advance in the state of Alaska. Most jobs in Alaska

require a valid state drivers license and those who don't possess one will likely lose out in the competitive battle for good jobs. This is a huge challenge facing Wellness Court participants. Therefore, the specifics outlined in Senate Bill 91 will change lives tremendously by giving the opportunity to receive a valid operator driver license. With successful graduates of the Wellness Court program rehabilitated, graduates with a drivers license will receive high percentage shots at competing in the work force again. Most importantly, the likelihood of reoffending is significantly reduced, as represented in the statistic provided from Amy Bollaert.

Although alcoholism has contributed to us hitting our rock bottoms, the Wellness Court program of Alaska for felon drunk drivers has proven that lives can be turned around. We all realize that we committed mistakes, yet we strongly feel that we deserve a chance at proving ourselves worthy of living a successful, sober lifestyle and thus contribute to our local communities in the state of Alaska. Frankly, a life without a driver license is like a bird without its wings - both are necessities to climb the mountain's summit to achieve short-term and long-term goals. The Wellness Court program has given us the fundamentals tools necessary to combat addiction and restore our faith and confidence to live good lives. The Wellness Court program taught us to reinvest our efforts in giving back to our local community. When needed, we volunteer state wide at MADD impact panels, local schools, and other establishments to discuss how alcoholism has impacted our lives and discuss the negativity associated with it. We also strongly believe that if given the chance to receive a drivers license, successful graduates of the Wellness Court will be able to fully function in society and commit acts of goodness. In essence, we thank the Senate Council and other state politicians who have read this letter. Again, the intentions outlined here are to enlighten the positive stories that have been generated, as exemplified in the Wellness Court program. Moreover, we ask for your support for Senate Bill 91 so that rehabilitated individuals can have their lives fully restored to satisfaction.
Sincerely written,

Michael Lunde
Friday, February 12, 2016

This document added to the Public Record / Testimony by Senate State Affairs for SSSB 91 at the request of Frank Bicfkord.

http://www.newsminer.com/news/local_news/police-chief-hopes-life-size-cutouts-in-wal-mart-make/article_919dd3c8-d07c-11e5-a3a7-0703c4a9cc57.html

FEATURED

Police chief hopes life-size cutouts in Wal-Mart make thieves think twice about shoplifting

By Dorothy Chomicz dchomicz@newsminer.com Updated Feb 11, 2016

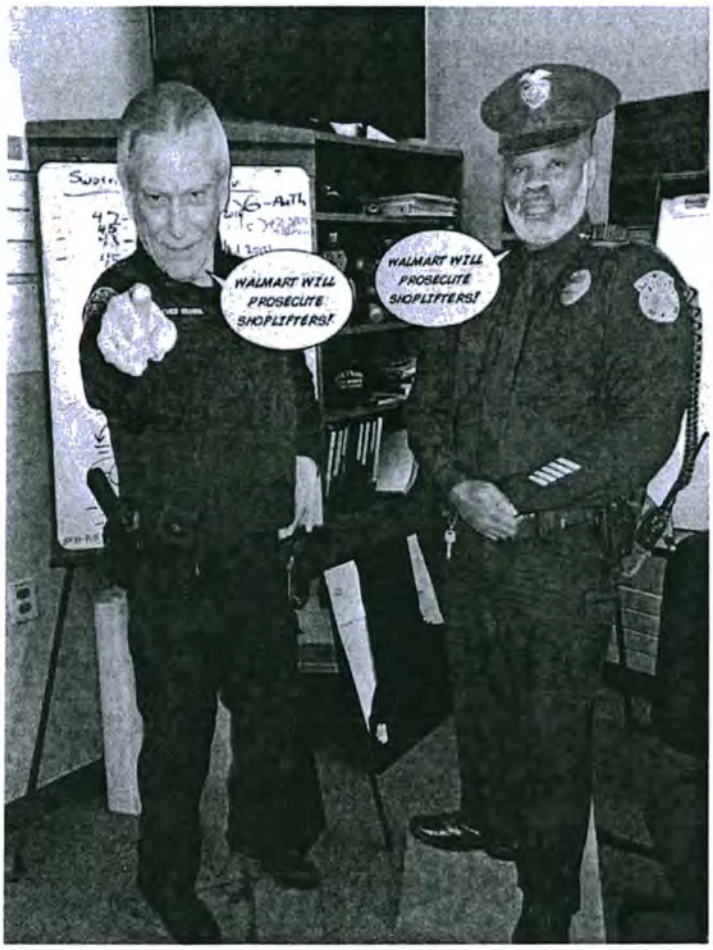

Photo courtesy Fairbanks police

Life-sized cardboard cutouts of Fairbanks Police Chief Randall Aragon and Officer Phil James, shown here at the Fairban were placed in Wal-Mart on Tuesday. The cutouts are meant to deter shoplifters.

FAIRBANKS—In a novel attempt to deter shoplifters, Fairbanks police have outfitted each entrance at the Fairbanks Wal-Mart store with a life-sized cardboard cutout of an actual FPD officer.

The project was spearheaded by Chief Randall Aragon, who read about similar efforts by other police forces and decided he wanted to try it.

"Our purpose is, when you walk by, it gets your attention," Aragon said after helping install the cutouts Tuesday morning. "To control and prevent crime you have to be creative sometimes."

The three cutouts — two of Officer Phil James and one of Aragon himself — were a big hit, according to Aragon.

"The greeters were beaming, because now they have a partner there," Aragon said, laughing.

Aragon said he learned of the cutout idea about two years ago when he was working as a police chief in Texas. The idea "didn't get any traction" but he kept working on it when he came to Fairbanks in November 2014. He contacted a friend and former law enforcement officer now working for Wal-Mart, who put him in touch with state and local loss prevention managers. Wal-Mart even agreed to provide a grant for the cutouts, which cost about $200 each, according to Aragon.

Boston Transit Police noticed a drop in bicycle thefts after they began using cardboard cutouts at the Cambridge public transit station in 2013, and police stations in Great Britain have used them with varying degrees of success. Aragon is hopeful the Fairbanks program will work as intended and spread state- or even nation-wide.

"I think it's worth a shot because anything that can prevent and control crime, and reduce the fear of crime, that's a magic bullet," Aragon said. "I feel fortunate and very honored that Wal-Mart is using this as a test."

Contact staff writer Dorothy Chomicz at 459-7582. Follow her on Twitter: @FDNMcrime.

Daniel George

From: Mr. & Mrs. Troy Hawks <hawksnursery@mosquitonet.com>
Sent: Monday, February 15, 2016 10:08 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

We believe that simply inflation-proofing crime is poor public policy. Our justice system ought to protect citizens and their property, not reduce the level of risk for thieves. Victims of thievery are victims in every sense of the word.

There are several concerns NFIB members have raised. Prices of merchandise and tools have not always followed inflation. The cost of electronics has dropped significantly so that at $2,000 most TVs can be taken before the theft would become a felony. Taking a TV is not a minor discretion. It takes intent to take what is not yours with the full knowledge that it is wrong. The same is true of tools used in the construction industry. For small businesses, the cost of the TV comes out of the owner's pocket. For the person in construction, the cost comes out the person's pocket and limits the ability to be productive at the job. For the small business, these are very significant issues.

Enforcement is also a concern. While we have no reason to question how anyone does their job and certainly not anyone's intention or honor, the facts are that property crimes get a lower priority and misdemeanors are a lower priority than felonies. When we are talking about your money vs. my money, my money is more precious to me. It is the same with small businesses. The sense of violation remains high and the sense of protection goes down.

Sincerely,

Angela Hawks
2260 Old Richardson Hwy
North Pole, AK 99705

Daniel George

From: Barry Matteson <matteson@alaska.net>
Sent: Tuesday, February 16, 2016 10:27 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

We believe that simply inflation-proofing crime is poor public policy. Our justice system ought to protect citizens and their property, not reduce the level of risk for thieves. Victims of thievery are victims in every sense of the word.

There are several concerns NFIB members have raised. Prices of merchandise and tools have not always followed inflation. The cost of electronics has dropped significantly so that at $2,000 most TVs can be taken before the theft would become a felony. Taking a TV is not a minor discretion. It takes intent to take what is not yours with the full knowledge that it is wrong. The same is true of tools used in the construction industry. For small businesses, the cost of the TV comes out of the owner's pocket. For the person in construction, the cost comes out the person's pocket and limits the ability to be productive at the job. For the small business, these are very significant issues.

Enforcement is also a concern. While we have no reason to question how anyone does their job and certainly not anyone's intention or honor, the facts are that property crimes get a lower priority and misdemeanors are a lower priority than felonies. When we are talking about your money vs. my money, my money is more precious to me. It is the same with small businesses. The sense of violation remains high and the sense of protection goes down.

Sincerely,

Barry Matteson
5310 Bishops Castle Cir
Anchorage, AK 99516

Daniel George

From: Bengie Stuart <bengiesbusiness@aptalaska.net>
Sent: Monday, February 15, 2016 3:10 PM
To: Senate State Affairs
Subject: Oppose SB 91

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

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Sincerely,

Bengie Stuart
55 HAINES HWY
HAINES, AK 99827

Daniel George

From: Craig Floyd <craig@dtanc.com>
Sent: Monday, February 15, 2016 9:46 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

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Sincerely,

Craig Floyd
5522 Woodshire Cir
Anchorage, AK 99516

Daniel George

From: David Bunts <David@sterlingcustomhomes.net>
Sent: Tuesday, February 16, 2016 8:28 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Senator Stoltze,

Dear Senators, I understand the challenges of trying to have a Trooper on every corner. I do not want a trooper on every corner. Since serving on the grand jury, I came to realize that I need to be responsible in doing what I can to protect my personal property and business property. We have made a substantial investment in cameras and other security to do our part. It would not be encouraging to know that while we have done our part, the state turns around and makes it easier for the criminal to get away with taking property that is not theirs. This makes cost to do business increase in cost to my customers. Increase in cost makes it difficult to sell homes and stay in business. Please oppose this bill.
Thank you!

Now on to the form letter...

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Sincerely,

David Bunts
PO Box 226
Sterling, AK 99672

Daniel George

From: Desiree Hale <dhale@halestechnical.com>
Sent: Monday, February 15, 2016 8:07 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Completed

Dear Senator Stoltze,

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Sincerely,

Desiree M. Hale
3207 Denali St
Anchorage, AK 99503

Daniel George

From: Dominic Bauer <kingfisherak@gmail.com>
Sent: Monday, February 15, 2016 6:42 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

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Sincerely,

Dominic Bauer
PO Box 538
Cooper Landing, AK 99572

Daniel George

From: Douglas Riemer <nordicair@gci.net>
Sent: Monday, February 15, 2016 6:17 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

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Sincerely,

Douglas D. Riemer
PO BOX 1752
PETERSBURG, AK 99833

Daniel George

From: Jeanette Robertson <jeanetteu@hotmail.com>
Sent: Friday, February 12, 2016 6:14 PM
To: Senate State Affairs
Subject: Support of Senate Bill 91

Ladies and Gentleman of the Senate State Affairs Committee,

My name is Jeanette Robertson and I am submitting my email testimony in support of passing Senate Bill 91 - the Criminal Justice Reform Bill. I cannot express the gratitude and relief my family would experience should this bill get passed. I know firsthand the hardships my family has had to face due to the permanent revocation of my husbands drivers license in 2011, stemming from a substance-abuse addiction he struggled with for many years. Having only one driver in the family has presented many obstacles for us, but we've been fortunate enough to work through them with alternate means of public transportation. Thankfully, he has been able to find employment in the past where a valid drivers license wasn't needed. My husband has made dramatic changes in his life since then and has been accountable for his mistakes and has paid dearly for them. He has completed all the necessary court ordered recommendations and has been a HUGE advocate for this Reform Bill. In fact, he will be traveling to Juneau in a few weeks to meet with Legislators regarding SB91.

I believe that we all know someone that has had a family member, friend or colleague with a revoked drivers license and has heard of the many challenges they've had to face because of their faults. This Senate Bill would give any offender a choice to either continue on their path of destruction or seek rehabilitation and be given a second chance. For those offenders who are remorseful for their actions, make positive changes in their lives, continue to do the right thing and are contributing members to society, the passing of Senate Bill 91 would only be one-step closer to making their lives a little bit easier.

I humbly ask you to please consider passing Senate Bill 91. It's time for a change in our criminal justice system.

Thank you for your time.

Jeanette Robertson
Kenai, Alaska

Daniel George

From: Kari Arno <arnocon@xyz.net>
Sent: Monday, February 15, 2016 10:29 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

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Sincerely,

Kari Arno
61284 E End Rd
Homer, AK 99603

Daniel George

From: Keith Petersen <akwindowinstaller@acsalaska.net>
Sent: Monday, February 15, 2016 9:26 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

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Sincerely,

Keith Petersen
PO Box 84390
Fairbanks, AK 99708

Daniel George

From: Kelly Bennett <user@votervoice.net>
Sent: Monday, February 15, 2016 9:11 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

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Sincerely,

Kelly Bennett
1718 Selief Ln
Kodiak, AK 99615
bentclan@yahoo.com

Daniel George

From: Laura Saxe <user@votervoice.net>
Sent: Monday, February 15, 2016 6:29 PM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

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We own a gas station/convenience store in a very small town. We have a hard enough time trying to get people to pay on their bad checks. By increasing the limit to $2,000 you are greatly hurting our small business. Please take into account how this will negatively affect our business.

Sincerely,

Laura Saxe
PO Box 1445
Valdez, AK 99686
laurasaxe@yahoo.com

Daniel George

From: mark zeiset, jr <mark@southcentralradar.com>
Sent: Monday, February 15, 2016 7:48 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

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Sincerely,

mark zeiset jr
4406 Homer Spit Rd
Homer, AK 99603

Daniel George

From: Randy Bostrom <randybostrom@gmail.com>
Sent: Monday, February 15, 2016 1:42 PM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

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Enforcement is also a concern. While we have no reason to question how anyone does their job and certainly not anyone's intention or honor, the facts are that property crimes get a lower priority and misdemeanors are a lower priority than felonies. When we are talking about your money vs. my money, my money is more precious to me. It is the same with small businesses. The sense of violation remains high and the sense of protection goes down.

Sincerely,

Randy Bostrom
39080 Grassy Vale Rd
Soldotna, AK 99669

Daniel George

From: Stacy Oliva <stacy@ljalasja.com>
Sent: Monday, February 15, 2016 11:25 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

We believe that simply inflation-proofing crime is poor public policy. Our justice system ought to protect citizens and their property, not reduce the level of risk for thieves. Victims of thievery are victims in every sense of the word.

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Sincerely,

Stacy A. Oliva
51155 Island Lake Rd
Nikiski, AK 99611

Daniel George

From: Toni Dickinson <valmak@gci.net>
Sent: Wednesday, February 17, 2016 3:14 PM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

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Sincerely,

Toni Dickinson
2851 N Meadow Lakes Loop
Wasilla, AK 99623

Daniel George

From: Valerie Reece <valerie@boatshopak.com>
Sent: Monday, February 15, 2016 12:11 PM
To: Senate State Affairs
Subject: Oppose SB 91

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

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Sincerely,

V Reece
1100 Woodview Dr
Fairbanks, AK 99712

Daniel George

From: Wendy Oliva <wendy_o@lnwtransport.com>
Sent: Monday, February 15, 2016 6:28 AM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

We believe that simply inflation-proofing crime is poor public policy. Our justice system ought to protect citizens and their property, not reduce the level of risk for thieves. Victims of thievery are victims in every sense of the word.

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Sincerely,

Wendy Oliva
10200 Nigh Rd
Anchorage, AK 99515

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091SS-ACS-TRC-02-16-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate State Affairs Committee

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Nancy Meade, General Counsel — Phone: (907)463-4736
Division: Alaska Court System — Date: 02/16/2016 10:00 AM
Approved By: Nancy Meade for Christine Johnson, Administrative Director — Date: 02/16/16
Agency: Alaska Court System

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB91

Analysis

The Sponsor Substitute for Senate Bill 91 (version N) makes changes to numerous areas of criminal law and procedure, including changes to bail decision-making, sentencing, probation practices, and driver license revocations and reinstatements. Many of the revisions in the bill stem from recommendations made by the Alaska Criminal Justice Commission, created in 2014 through SB 64. The majority of the changes made in SB 91 directly affect either the Department of Corrections (changes in probation supervision practices, risk assessments, and re-entry programs for prisoners) or another state agency.

The changes in SB 91 that do affect the court system's procedures or cases will be incorporated into the court's normal handling of cases and hearings with no fiscal impact. Some sections of the bill may increase the court's workload, while others may decrease it. Overall, the court system anticipates that the changes in the bill will balance, leading to this zero fiscal note.

For example, the court may see more bail review hearings because the standard for getting a hearing will include the inability to pay the bail amount that was set; we may see an increase in petitions to revoke probation since probation officers may be encouraged to file a petition for any and all violations of conditions; and the court may be conducting hearings on bail issues for parolees. The court system will need to develop new procedures in cooperation with the Department of Corrections to enable the Pretrial Services Officers to transmit needed risk assessment results and recommendations to the courts around the state, a project that will take time and coordination. The court system will also be required to establish a mechanism for sending additional reminder notices to defendants with information about their hearings (direct court rule amendment in section 134).

On the other hand, the bill may lead to some hearings being eliminated because some criminal misdemeanors will become violations, and some felonies will become misdemeanors. It is not fully clear whether the limited license provisions will result in additional hearings for individuals whose DUI cases are fully closed, and who wish to reinstate their driving licenses.

On balance, the court system anticipates that it can implement the changes called for in SB 91 without fiscal impact.

Version \H	Comp. #	SB 91
Initial Version		
N/A		
N/A		
N/A		
N/A		
N/A		
N/A		
N/A		
N/A		
DOA-DMV	2348	3/27/2015
DOA-OPA	43	3/27/2015
DOA-PDA	1631	3/27/2015
DOC-COMM	694	3/31/2015
N/A		
N/A		
LAW-CRIM	2202	3/27/2015

Verson \N	Comp. #	SSSB 91
Sponsor Substitute		
ACS-TRC	768	2/16/2016
N/A		
DHSS-ASAP	305	2/11/2016
N/A		
N/A		
N/A		
DHSS-PAFS	236	2/12/2016
DHSS-PS	2134	2/6/2016
DOA-DMV	2348	2/10/2016
DOA-OPA	43	2/10/2016
DOA-PDA	1631	2/10/2016
DOC-COMM	694	2/12/2016
DPS-AST	2325	2/8/2016
JUD-AJC	771	2/12/2016
LAW-CRIM	2202	2/12/2016

Version \P	Comp. #	CSSSSB 91(STA)
State Affairs CS Work Draft		
ACS-TRC	768	3/7/2016
DHSS-APA	222	3/7/2016
DHSS-ASAP	305	3/7/2016
DHSS-ATAP	220	3/7/2016
DHSS-CCB	1897	3/7/2016
DHSS-GRA	221	3/7/2016
DHSS-PAFS	236	3/7/2016
DHSS-PS	2134	3/7/2016
DOA-DMV	2348	3/5/2016
DOA-OPA	43	3/6/2016
DOA-PDA	1631	3/4/2016
DOC-COMM	694	3/7/2016
DPS-AST	2325	3/7/2016
JUD-AJC	771	3/8/2016
LAW-CRIM	2202	3/7/2016

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CSSS(STA)-ACS-TRC-03-07-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate State Affairs Committee

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Senate State Affairs Committee substitute; revisions had minimal effect on Alaska Court System. Fiscal impact is unchanged from initial version.

Prepared By: Nancy Meade, General Counsel Phone: (907)463-4736
Division: Alaska Court System Date: 03/07/2016 04:00 PM
Approved By: Nancy Meade for Christine Johnson, Administrative Director Date: 03/07/16
Agency: Alaska Court System

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB91

Analysis

The Senate State Affairs Committee Substitute for the Sponsor Substitute for Senate Bill 91 (version P) makes changes to numerous areas of criminal law and procedure, including changes to bail decision-making, sentencing, probation practices, and driver license revocations and reinstatements. Many of the revisions in the bill stem from recommendations made by the Alaska Criminal Justice Commission, created in 2014 through SB 64. The majority of the changes made in SB 91 directly affect either the Department of Corrections (changes in probation supervision practices, risk assessments, and re-entry programs for prisoners) or another state agency.

The changes in SB 91 that do affect the court system's procedures or cases will be incorporated into the court's normal handling of cases and hearings with no fiscal impact. Some sections of the bill may increase the court's workload, while others may decrease it. Overall, the court system anticipates that the changes in the bill will balance, leading to this zero fiscal note.

For example, the court may see more bail review hearings because the standard for getting a hearing will include the inability to pay the bail amount that was set; we may see an increase in petitions to revoke probation since probation officers may be encouraged to file a petition for any and all violations of conditions; and the court may be conducting hearings on bail issues for parolees. The court system will need to develop new procedures in cooperation with the Department of Corrections to enable the Pretrial Services Officers to transmit needed risk assessment results and recommendations to the courts around the state, a project that will take time and coordination. The court system will also be required to establish a mechanism for sending additional reminder notices to defendants with information about their hearings (direct court rule amendment in section 136).

On the other hand, the bill may lead to some hearings being eliminated because some criminal misdemeanors will become violations, and some felonies will become misdemeanors. It is not fully clear whether the limited license provisions will result in additional hearings for individuals whose DUI cases are fully closed, and who wish to reinstate their driving licenses.

The changes in the Senate State Affairs Committee Substitute changes the categorization of certain drug and theft offenses, returns certain crimes and violations to their previous status (before the SS for SB 91 altered them), adds additional exceptions to the provision that presumes a citation be issued in lieu of arrest, limits the number of bail hearings that can be obtained based on an inability to pay to one per defendant, and removes language limiting the number of victims that can provide testimony at a probation hearing. Many of the changes affect agencies other than the court system.

On balance, with the changes in the CS, the court system continues to anticipate that it can implement the changes called for in SB 91CSSS(STA) without fiscal impact.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CS(STA)-DHSS-APA-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate STA

Department: Department of Health and Social Services
Appropriation: Public Assistance
Allocation: Adult Public Assistance
OMB Component Number: 222

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits			(41.0)	(41.0)	(41.0)	(41.0)	(41.0)
Miscellaneous							
Total Operating	**0.0**	**0.0**	**(41.0)**	**(41.0)**	**(41.0)**	**(41.0)**	**(41.0)**
Fund Source (Operating Only)							
1004 Gen Fund			(41.0)	(41.0)	(41.0)	(41.0)	(41.0)
Total	**0.0**	**0.0**	**(41.0)**	**(41.0)**	**(41.0)**	**(41.0)**	**(41.0)**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/17

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Sean O'Brien, Director — Phone: (907)465-5847
Division: Public Assistance — Date: 03/07/2016 11:00 AM
Approved By: Sana Efird, Asst. Commissioner, Finance and Management Services — Date: 03/07/16
Agency: Health and Social Services

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSSB091(STA)

Analysis

Section 134 of the proposed legislation directs the department to implement a drug testing program for any person who has been convicted of a drug related felony during or in the five years preceding a period in which they are receiving public assistance.

The assistance programs included in this section of the proposed legislation include day care assistance, general relief assistance, adult public assistance, Alaska affordable heating assistance or food stamps. The proposed legislation directs the department to drug test at least quarterly, on renewal of eligibility and randomly for illegal controlled substances and to disqualify those who test positive for a period of 6 months from the date of notice that they tested positive.

The department anticipates a potential savings **of $41.0 annually in cost avoidance associated with Adult Public Assistance benefits** that will not be issued as a result of positive drug test results for the approximately 86 recipients who are convicted drug felons.

Assumptions:
The existing drug felon count will continue to remain the same and be tested at a minimum of 6 times per year. The possible savings are based on an estimation that 13 will test positive with an average monthly benefit per household of $263 would potentially result in an annual savings of $41,028.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CS(STA)-DHSS-ASAP-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate STA

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

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services			111.2	111.2	111.2	111.2	111.2
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**111.2**	**111.2**	**111.2**	**111.2**	**111.2**
Fund Source (Operating Only)							
1007 I/A Rcpts			111.2	111.2	111.2	111.2	111.2
Total	**0.0**	**0.0**	**111.2**	**111.2**	**111.2**	**111.2**	**111.2**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Responsive to draft CS version "P."

Prepared By:	Randall Burns, Acting Director	Phone:	(907)269-5948
Division:	Behavioral Health	Date:	03/04/2016 03:00 PM
Approved By:	Sana Efird, Asst,. Commissioner, Finance and Management Services	Date:	03/07/16
Agency:	Health and Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSSB091(STA)

Analysis

Section 134 of the bill requires drug testing of public assistance recipients who have been convicted of felony drug offenses within the past five years. Proposed new AS 47.05.035(b)(2) requires DHSS to adopt regulations providing that, "where available, an alcohol safety action program approved under AS 47.37.130 shall perform the drug testing."

The Division of Behavioral Health's Alcohol Safety Action Program (ASAP) currently has approved program locations in 13 communities: Anchorage, Bethel, Copper River, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, and Seward. ASAP program offices would provide basic urinalysis testing to individuals required to test under the terms of this bill.

ASAP program offices would provide basic urinalysis testing to individuals required to test under the terms of this bill, at an average cost of $25 per test.

DHSS estimates costs, as follows:
741 individuals (estimated by the Division of Public Assistance) x 6 tests each year x $25 per test = $111,150.

Costs will be covered by funds provided by the Division of Public Assistance, through a Reimbursable Services Agreement.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CS(STA)-DHSS-ATAP-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate STA

Department: Department of Health and Social Services
Appropriation: Public Assistance
Allocation: Alaska Temporary Assistance Program
OMB Component Number: 220

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits			(102.8)	(102.8)	(102.8)	(102.8)	(102.8)
Miscellaneous							
Total Operating	**0.0**	**0.0**	**(102.8)**	**(102.8)**	**(102.8)**	**(102.8)**	**(102.8)**
Fund Source (Operating Only)							
1002 Fed Rcpts			(102.8)	(102.8)	(102.8)	(102.8)	(102.8)
Total	**0.0**	**0.0**	**(102.8)**	**(102.8)**	**(102.8)**	**(102.8)**	**(102.8)**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/17

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Sean O'Brien, Director — Phone: (907)465-5847
Division: Public Assistance — Date: 03/07/2016 11:00 AM
Approved By: Sana Efird, Asst. Commissioner, Finance and Management Services — Date: 03/07/16
Agency: Health and Social Services

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSSB091(STA)

Analysis

Section 134 of the proposed legislation directs the department to implement a drug testing program for any person who has been convicted of a drug related felony during or in the five years preceding a period in which they are receiving public assistance.

The assistance programs included in this section of the proposed legislation include day care assistance, general relief assistance, adult public assistance, Alaska affordable heating assistance or food stamps. The proposed legislation directs the department to drug test at least quarterly, on renewal of eligibility and randomly for illegal controlled substances and to disqualify those who test positive for a period of 6 months from the date of notice that they tested positive.

The department anticipates a potential savings of **$102.8 annually in cost avoidance associated with Alaska Temporary Assistance Program benefits** that will not be issued as a result of positive drug test results for the approximately 92 recipients who are convicted drug felons.

Assumptions:
The existing drug felon count will continue to remain the same and be tested at a minimum of 6 times per year. The possible savings are based on an estimation that 14 will test positive with an average monthly benefit per household of $612 would potentially result in an annual savings of $102,816.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CS(STA)-DHSS-CCB-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate STA

Department: Department of Health and Social Services
Appropriation: Public Assistance
Allocation: Child Care Benefits
OMB Component Number: 1897

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits			(16.9)	(16.9)	(16.9)	(16.9)	(16.9)
Miscellaneous							
Total Operating	**0.0**	**0.0**	**(16.9)**	**(16.9)**	**(16.9)**	**(16.9)**	**(16.9)**
Fund Source (Operating Only)							
1002 Fed Rcpts			(11.3)	(11.3)	(11.3)	(11.3)	(11.3)
1003 G/F Match			(5.6)	(5.6)	(5.6)	(5.6)	(5.6)
Total	**0.0**	**0.0**	**(16.9)**	**(16.9)**	**(16.9)**	**(16.9)**	**(16.9)**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/17

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Sean O'Brien, Director — Phone: (907)465-5847
Division: Public Assistance — Date: 03/07/2016 02:00 PM
Approved By: Sana Efird, Asst. Commissioner, Finance and Management Services — Date: 03/07/16
Agency: Health and Social Services

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSSB091(STA)

Analysis

Section 134 of the proposed legislation directs the department to implement a drug testing program for any person who has been convicted of a drug related felony during or in the five years preceding a period in which they are receiving public assistance.

The assistance programs included in this section of the proposed legislation include day care assistance, general relief assistance, adult public assistance, Alaska affordable heating assistance or food stamps. The proposed legislation directs the department to drug test at least quarterly, on renewal of eligibility and randomly for illegal controlled substances and to disqualify those who test positive for a period of 6 months from the date of notice that they tested positive.

The department anticipates a potential savings of **$16.9 annually in cost** avoidance associated with Child Care Benefits that will not be issued as a result of positive drug test results for the approximately 11 recipients who are convicted drug felons.

Assumptions:

- The existing drug felon count will continue to remain the same and be tested at a minimum of 6 times per year. The possible savings are based on an estimation that 2 will test positive with an average monthly benefit per household of $704 would potentially result in an annual savings of $16,896.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CS(STA)-DHSS-GRA-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate STA

Department: Department of Health and Social Services
Appropriation: Public Assistance
Allocation: General Relief Assistance
OMB Component Number: 221

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits			(2.9)	(2.9)	(2.9)	(2.9)	(2.9)
Miscellaneous							
Total Operating	**0.0**	**0.0**	**(2.9)**	**(2.9)**	**(2.9)**	**(2.9)**	**(2.9)**
Fund Source (Operating Only)							
1004 Gen Fund			(2.9)	(2.9)	(2.9)	(2.9)	(2.9)
Total	**0.0**	**0.0**	**(2.9)**	**(2.9)**	**(2.9)**	**(2.9)**	**(2.9)**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/17

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Sean O'Brien, Director — Phone: (907)465-5847
Division: Public Assistance — Date: 03/07/2016 11:00 AM
Approved By: Sana Efird, Asst. Commissioner, Finance and Management Services — Date: 03/07/16
Agency: Health and Social Services

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSSB091(STA)

Analysis

Section 134 of the proposed legislation directs the department to implement a drug testing program for any person who has been convicted of a drug related felony during or in the five years preceding a period in which they are receiving public assistance.

The assistance programs included in this section of the proposed legislation include day care assistance, general relief assistance, adult public assistance, Alaska affordable heating assistance or food stamps. The proposed legislation directs the department to drug test at least quarterly, on renewal of eligibility and randomly for illegal controlled substances and to disqualify those who test positive for a period of 6 months from the date of notice that they tested positive.

The department anticipates a potential savings of **$2.9 annually in cost avoidance associated with General Relief Assistance benefits** that will not be issued as a result of positive drug test results for the approximately 10 recipients who are convicted drug felons.

Assumptions:
The existing drug felon count will continue to remain the same and be tested at a minimum of 6 times per year. The possible savings are based on an estimation that 2 will test positive with an average monthly benefit per household of $120 would potentially result in an annual savings of $2,880.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CS(STA)-DHSS-PAFS-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate STA

Department: Department of Health and Social Services
Appropriation: Public Assistance
Allocation: Public Assistance Field Services
OMB Component Number: 236

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services			90.6	90.6	90.6	90.6	90.6
Travel			36.0	36.0	36.0	36.0	36.0
Services			112.0	112.0	112.0	112.0	112.0
Commodities			8.5	8.5	8.5	8.5	8.5
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**247.1**	**247.1**	**247.1**	**247.1**	**247.1**
Fund Source (Operating Only)							
1002 Fed Rcpts			63.8	63.8	63.8	63.8	63.8
1003 G/F Match			72.1	72.1	72.1	72.1	72.1
1004 Gen Fund			111.2	111.2	111.2	111.2	111.2
Total	**0.0**	**0.0**	**247.1**	**247.1**	**247.1**	**247.1**	**247.1**
Positions							
Full-time			1.0	1.0	1.0	1.0	1.0
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/17

Why this fiscal note differs from previous version:

Updated to reflect the provisions of the CS(STA) version.

Prepared By:	Sean O'Brien, Director	Phone:	(907)465-5847
Division:	Public Assistance	Date:	03/07/2016 11:00 AM
Approved By:	Sana Efird, Asst. Commissioner, Finance and Management Services	Date:	03/07/16
Agency:	Health and Social Services		

Analysis

Section 134 of the proposed legislation directs the department to implement a drug testing program for any person who has been convicted of a drug related felony during or in the five years preceding a period in which they are receiving public assistance.

The assistance programs included in this section of the proposed legislation include day care assistance, general relief assistance, adult public assistance, Alaska affordable heating assistance or food stamps. The proposed legislation directs the department to drug test at least quarterly, on renewal of eligibility and randomly for illegal controlled substances and to disqualify those who test positive for a period of 6 months from the date of notice that they tested positive.

This amendment also directs the department to adopt regulations to implement the drug testing requirement to include an appeal process and that the testing be performed at an alcohol safety action program administered by the department, where available. Regualations will need to be explicit as to the circumstances in which to test recipients.

The department anticipates a potential savings of $163.6 annually in cost avoidance associated with benefits that will not be issued as a result of positive drug test results for the approximately 741 recipients who are convicted drug felons. The savings will not be realized in the Field Services component and will be reflected in a separate fiscal notes. The department will not realize savings for the Food Stamp (SNAP) program which are estimated to be $368.6. Food Stamps are not included in the authorized budget and therefore not a savings for the state.

Assumptions:

- The legislation will be effective in FY2017 and will be implemented after necessary regulations, policy and procedures are in place, which is estimated to take up to 12 months to be effective in SFY2018.
- An estimate of 741 individuals will require testing 6 times per year to comply with the requirement to test quarterly, at renewal and randomly.
- On average, each test will cost $25. The tests will be funded solely with general funds via an **Reimbursable Services Agreement with the Division of Behavioral Health at an estimated annual cost of $111.2.**
- Testing will be completed by 14 Alaska Statewide Alcohol Safety Action Programs offices across the state where available.
- The department will cover all costs associated with screening and testing of recipients.
- It is estimated that 15% of individuals (or 111) tested will test positive.
- About one half hour will be needed to make changes to cases that have a positive drug test.
- A **Project Assistant** will be needed to develop and maintain testing policy and procedures, train field staff on methods for screening for alcohol and drug abuse, maintain quality assurance, and monitor cases affected by testing procedures. The **Project Assistant will be required to travel to statewide intake points** to train eligibility technicians and case managers on alcohol and substance abuse awareness, monitoring, and testing procedures to ensure practices comply with regulatory requirements for notification, testing, and consequences of positive tests **at a projected cost of $36.0** annually. The position is projected to cost $90.6 and general overhead costs for computers and supplies totalling $9.2 to include computer equipment for the first year of setup and then testing supplies for the out years for testing that is not performed at an Alcohol Safety Action Program location.

Analysis Continued

Section 135 of this proposed legislation adds a new provision to AS 47.27.015 that would disallow a convicted drug felon from receiving either Alaska Temporary Assistance benefits or Food Stamp benefits through the Division of Public Assistance, unless at least one of four criteria is met:

The individual:
(1) is satisfactorily serving, or has successfully completed, a period of probation or parole;
(2) is in the process of serving, or has successfully completed, mandatory participation in a drug or alcohol treatment program;
(3) has taken action toward rehabilitation, including participation in a drug or alcohol treatment program; or
(4) is in compliance with AS 47.05.035.

The Alaska Food Stamp Program provides food benefits to low-income households. The federal government funds 100% of the Food Stamp benefit, while the State pays half the costs of operating the Food Stamp Program in Alaska. Presently, if a family applies for Food Stamps and one of the parents is a drug felon, the eligibility determination for the family takes into account the parent's income and resources, but no additional benefits are issued for the drug felon. If the Food Stamp application is for a single person and that person is a drug felon, the application is currently denied. If SB 91 passes, the division will authorize Food Stamp benefits instead of denying the applications, after the same typical review process; no additional administrative burden is associated with passage of this bill. The Food Stamp benefit itself is directly federally funded, outside the Division's operating budget.

The Alaska Temporary Assistance Program (ATAP) presents a different scenario. ATAP provides cash assistance and work services to low-income families with children to help them with basic needs while they work toward becoming self-sufficient. The proposed change is not anticipated to impact either ATAP case load or associated administrative costs. All anticipated cost savings are reflected in the analysis for Section 134.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091CS(STA)-DHSS-PS-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate State Affairs

Department: Department of Health and Social Services
Appropriation: Juvenile Justice
Allocation: Probation Services
OMB Component Number: 2134

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Responsive to draft CS version "P."

Prepared By: Rob Wood, Director Phone: (907)465-2112
Division: Juvenile Justice Date: 03/04/2016 02:05 PM
Approved By: Sana Efird, Asst. Commissioner, Finance and Management Services Date: 03/07/16
Agency: Health and Social Services

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSSB091(STA)

Analysis

The changes proposed to criminal statute to increase the monetary threshold for certain property crimes will apply to juvenile offenders under the jurisdiction of the Division of Juvenile Justice. The changes will not negatively impact the work with juvenile offenders because the services provided by Division of Juvenile Justice are based upon risk and need, rather than purely on the level of criminal offense for which they were referred. The effort to update the threshold level, train staff, update written materials, and reprogram the Division of Juvenile Justice offender database can be accomplished using existing resources.

The changes proposed to reduce various criminal offenses to violations will have little negative impact on the work of the Division of Juvenile Justice. Very few youth are currently referred to the division for these offenses.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SSSB091CS(STA)
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate State Affairs

Department: Department of Administration
Appropriation: Motor Vehicles
Allocation: Motor Vehicles
OMB Component Number: 2348

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

New fiscal note for sponsor substitute bill version. There are no changes to the sections affecting DMV.

Prepared By: Amy Erickson, Director — Phone: (907)269-5574
Division: Motor Vehicles — Date: 03/05/2016 09:00 AM
Approved By: Sheldon Fisher, Commissioner — Date: 03/05/16
Agency: Department of Administration

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SSSB91

Analysis

If enacted, SB 91 will authorize DMV to restore an administratively-revoked driver license, privilege to drive, or privilege to obtain a license under certain circumstances and terminate a revocation of a driver's license for eligible individuals and issue a limited license.

Workloads will be appropriately managed for DMV employees to provide these services to limit the fiscal impact. The Committee Substitute does not change sections related to DMV. Therefore, a zero fiscal note is submitted.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SSSB091CS(STA)-DOA-OPA-03-06-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senators Coghill

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

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Updated for CS.

Prepared By: Richard Allen, Director — Phone: (907)269-3504
Division: Office of Public Advocacy — Date: 03/06/2016 11:00 AM
Approved By: Sheldon Fisher, Commissioner — Date: 03/06/16
Agency: Department of Administration

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SSSB091

Analysis

The bill is the product of several years of work by all branches of state government, a specific state government commission and various interested private and public entities on the subject of criminal justice and corrections reform. The cited need is to find effective alternatives to long-term incarceration and lengthy sentences, with attendant costs, in criminal justice administration, sentencing and corrections. If enacted as drafted, the bill would not likely change or alter the mission or operations of the Office of Public Advocacy, but would likely have noticeable impact upon the agency's criminal defense clients. With regard to classification and prosecution of certain non-violent offenses, misdemeanors and certain drug offenses, the bill would re-orient criminal justice administration away, in some respects, from costly long-term incarceration and toward treatment, rehabilitation and community-based corrections.

Changes to the CS are not expected to have an impact on the Office of Public Advocacy; therefore, OPA submits a zero fiscal note.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SSSB091CS(STA)-DOA-PDA-03-04-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate State Affairs

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

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Updated for new version of the bill.

Prepared By: Quinlan Steiner Phone: (907)334-4414
Division: Public Defender Agency Date: 03/04/2016 03:00 PM
Approved By: Sheldon Fisher, Commissioner Date: 03/04/16
Agency: Department of Administration

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SSSB 91

Analysis

This bill implements recommendations developed from multi-agency collaboration designed to lower recidivism and incarceration costs. The bill provides incentives for successful completion of treatment programs by allowing for credit against terms of imprisonment. Additionally, provides opportunities for defendants to regain driving privileges in some circumstances.

Changes to the CS are not anticipated to cause a financial impact to the Public Defender Agency. The agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: CSSSSB091-DOC-COMM-03-07-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: (S) State Affairs

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

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services	3,063.2		6,787.7	(250.9)	132.8	171.0	209.1
Travel	(525.4)		(2,561.6)	(410.3)	217.2	279.5	341.9
Services	2,774.6		(6,290.4)	(1,026.1)	543.2	699.1	855.0
Commodities	(1,630.0)		(8,484.7)	(1,402.1)	742.3	955.3	1,168.4
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**3,682.4**	**0.0**	**(10,549.0)**	**(3,089.4)**	**1,635.5**	**2,104.9**	**2,574.4**
Fund Source (Operating Only)							
1004 Gen Fund	3,682.4		(10,549.0)	(3,089.4)	1,635.5	2,104.9	2,574.4
Total	**3,682.4**	**0.0**	**(10,549.0)**	**(3,089.4)**	**1,635.5**	**2,104.9**	**2,574.4**
Positions							
Full-time	36.0		94.0				
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Prepared By:	April Wilkerson	Phone:	(907)465-3460
Division:	Administrative Services - Department of Corrections	Date:	03/07/2016 10:30 AM
Approved By:	Dean Williams	Date:	03/07/16
Agency:	Department of Corrections		

Analysis

This legislation makes several changes to sentencing, probation, parole and bail statutes.

This legislation makes changes to sentencing statutes by reducing and limiting the sentence length of imprisonment. The current projected changes to the offender population are:
FY2017 reduced population by (297) for a generated savings of ($4,497.7), FY2018 reduced population by (1,366) for a generated savings of ($20,686.5), FY2019 reduced population by (204) for a generated savings of ($3,089.3), FY2020 increased population by 108 for an adjusted cost of $1,635.5, FY2021 increased population by 139 for an adjusted cost of $2,105.0, and FY2022 increased population by 170 for an adjusted cost of $2,574.4.

Probation and Parole incentive reductions
This section allows probationers to receive earned compliance credit when the probationer successfully complies with all conditions of probation or parole allowing for early termination. This will require revisions to the department's current inmate time accounting system. The current anticipated costs for system redesign, training, implementation and maintenance is anticipated to be approximately $750.0 with on-going operational costs once fully implemented.

Pre-Trial Services
This section establishes a Pretrial Services Program within the Department of Corrections. This program requires pretrial risk assessments for all defendants to be submitted to the Courts within 24 hours of arrest and may include basic community supervision. This requires the adoption of a pretrial risk assessment tool that does not require a defendant to be interviewed, but instead relies only on factors that could be found in public safety and court records; A pretrial officer will conduct risk assessment scoring on all defendants prior to their first appearance before a judicial officer; and make recommendations to the court regarding the release/detain decision, and appropriate conditions of release; provide basic supervision through phone contact to monitor compliance with release conditions for high-risk defendants and some moderate-risk defendants who have been released; and provide "enhanced supervision" which involves face-to-face supervision or state-monitored electronic monitoring for higher-risk defendants who are released .

The following assumptions were made to calculate pre-trial costs:

Approximately 32,000 persons would be processed annually and require a risk assessment, of which 70% (or 22,500 persons) would release pretrial. Of the pretrial releases approximately 66% (or 14,850 persons) would release to basic supervision with an average length of supervision of 4.66 months (based on current Department of Corrections reporting) for 5,767 persons on supervision at any given time. In addition, this legislation allows for enhanced supervision of which it is assumed that approximately 10% of the population released pre-trial population (or 2,250 persons) would release to enhanced supervision or electronic monitoring with an average length of supervision of 4.66 months (based on Department of Corrections data) for 874 persons on enhanced supervision at any given time.

It is anticipated this program will require 125 full-time positions and $15,616.6 in funding (or 95 full-time positions and $11,274.6 without electronic monitoring) over two years allowing for the establishment of policy and training criteria for the program. Three regional offices would be established in Anchorage, Juneau and Palmer to oversee the persons placed into this Program. Based on these assumptions above the funding break-out for each of these areas is anticipated to be:

Offender Assessments of 32,000 persons annually (required within 24-hours / no face to face interviews):
$2,892.2 – Personal Services
$ 60.0 – Travel and training
$ 709.5 – Contractual Services (including indirect costs)
$ 165.0 – Supplies (excludes OTI startup costs)
$3,826.7 – Total

31 Positions would include:
1-Adult Probation Officer V, 3-Adult Probation Officer III supervisors for each regional office, 24-Adult Probation Officer I/II , 3-Criminal Justice Technician I/II

(continued next page)

Analysis Continued

Pre-Trial Services (continued)

Basic Supervision of 14,850 persons annually (estimated 5,767 daily with 75 caseloads per officer):
$5,643.5 – Personal Services
$ 135.0 – Travel and training
$1,354.5 – Contractual Services (including indirect costs)
$ 315.0 – Supplies (excludes one-time start-up costs)
$7,448.0 - Total
63 Positions would include:
54-Adult Probation Officer I/II positions, 6-Criminal Justice Technician I/II, 3-Office Assistant

Enhanced Supervision of 2,250 persons annually (estimated 874 daily with 45 caseloads per officer):
$2,755.0 – Personal Services
$ 52.5 – Travel and training
$ 709.5 – Contractual Services (including indirect costs)
$ 825.0 – Supplies (excludes one-time start-up costs)
$4,342.0 - Total
31 Positions would include:
3-Adult Probation Officer III supervisors to oversee each regional office, 19-Adult Probation Officer I/II positions, 6-Criminal Justice Technician I/II, 3-Office Assistant

In FY2017 the department would require a portion of the funding to establish and set programmatic policy and training criteria needs. This would require the following:
$2,822.7 – Personal Services
$ 61.9 – Travel and training
$ 693.4 – Contractual Services (including indirect costs)
$ 326.3 – Supplies (excludes one-time start-up costs)
$3,904.3 – Total

Initial 31 Positions would include:
1-Adult Probation Officer V, 6-Adult Probation Officer III supervisors to oversee each regional office, 15-Adult Probation Officer I/II positions (5 for each regional office), 6-Criminal Justice Technician I/II, 3-Office Assistant

The remaining funding and positions would be necessary in FY2018 to fully deploy the program. This would require the following:
$ 8,468.0 – Personal Services
$ 185.6 – Travel and training
$ 2,080.1 – Contractual Services (including indirect costs)
$ 978.8 – Supplies (excludes one-time start-up costs)
$11,712.5 – Total
Remaining 94 Positions would include:
81-Adult Probation Officer I/II positions, 10-Criminal Justice Technician I/II, 3-Office Assistant

Board of Parole

This section establishes automatic Administrative Parole allowing offenders a limited category of automatic releas without a hearing if the prisoner has met the conditions of imprisonment, is not excluded by court order, has agreed to the conditions of parole, the victim does not request a hearing, and the prisoner has met the requirements of the case plan. This section is anticipated to reduce the overall institutional population and is included in the above population projections. Revisions to the departments Victim Information Notification (VINE) System may be required and is anticipated to be $750.0 for the redesign, implementation and maintenance with on-going operational costs once fully implemented.

(continued next page)

Analysis Continued

Board of Parole (continued)

This section will also expand and streamline the use of discretionary parole. It is anticipated this will increase the number of offenders who are eligible to apply for parole as well as streamline the decision making process. A conservative estimate is this recommendation would double the number of discretionary parole hearings conducted by the board. This recommendation does not allow for "automatic" releases onto discretionary parole as with the administrative parole.

In addition, it implements specialty parole options for the oldest cohort of inmates. This section will create a new category of parole eligible inmates: all inmates over the age of 55 and have served at least 10 years in prison are now eligible to apply for discretionary parole, regardless of the offense or length of sentence. At this time there are approximately 117 inmates that could meet this section. The board anticipates an increase in the requested hearings associated with this section.

It is anticipated each of these increases will impact the number of hearings held annually increasing the board member Honoria. The Honoria is calculated based on work days and file reviews. Each additional work day is $250.00 per board member and $16.00 per file review. It is anticipated that this will increase the number of work days to 200 for each board member from 140 days per Board Member. This increases the personal services costs by $110,000.00 for the Parole Board Member Honoria ($100,000.00 for the increased work days for the 5 board members and $10,000.00 for the increased file reviews).

Reduce the pre-hearing length of stay and cap the overall incarceration time for revocations on technical violations of supervision. This recommendation will limit incarceration lengths for parole violations and require a shorter response time by the board for technical violations. Currently board members have 15 working days to conduct an initial hearing for remanded parolees this changes the timeframe and requires a hearing within 3 days for the first violation. This will require the Parole Board to re-configure the current violation response process in order to meet this timeframe. Currently the board members are part-time employees, in order to respond timely to remanded parolees four additional full-time hearing officer positions will be needed.
The anticipated cost for these four Hearing Officer positions is:
$415.2 – Personal Services
$ 10.0 – Travel and training
$ 60.0 – Contractual Services (including indirect costs)
$ 68.0 – Supplies (including $60.0 OTI startup costs)
$553.2 - Total

Establishes a system of earned compliance credits. The board or a staff member designated by the board will review and calculate the parole eligibility date of a case brought to the board's attention and will notify the prisoner and department in writing of the correct calculation date. This calculation by the board or designated staff member is the official eligibility date. Currently there is no dedicated position within the Parole Board certified in time accounting. With the anticipated increases in the number of expected discretionary hearings and also calculating earned compliance credits which will consistently reduce parole expiration dates, the board will need a certified time accounting position.
The anticipated cost for one Criminal Justice Technician I/II is:
$ 80.7 – Personal Services
$ 15.0 – Contractual Services (including indirect costs)
$ 17.0 – Supplies (including $15.0 OTI startup costs)
$112.7 - Total

It is anticipated these changes will require a total of 5 positions and $775.9 in FY2017.

Correctional Restitution Centers

This section requires the centers to provide certain offenders with rehabilitation through comprehensive treatment for substance abuse, cognitive behavioral disorders, and other criminal risk factors, including aftercare support. In addition, it requires the department to implement quality assurance measures, treatment standards, implement a process to assess an offender's risk of recidivating to include limiting the mixing of low and high risk prisoners. It is anticipated this change will require an increase of $2,000.0 in FY2017 for contractual changes.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: CSSSSB091(STA)-DPS-AST-03-06-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: State Affairs

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

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

Revised to reflect changes made by the Senate State Affairs committee.

Prepared By: Lt. David Hanson Phone: (907)269-5587
Division: Alaska State Troopers Date: 03/06/2016 11:30 AM
Approved By: Gary Folger, Commissioner Date: 03/06/16
Agency: Public Safety

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB 91

Analysis

This bill makes numerous changes to criminal laws and procedures based on recommendations made by the Alaska Criminal Justice Commission.

The Division of Alaska State Troopers does not initially foresee any direct fiscal impact from this legislation, and therefore submits a zero fiscal note.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SSSB91CS(STA)-LAW-CRIM-03-04-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate State Affairs

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

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	**0.0**	***	***	***	***	***

Fund Source (Operating Only)

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

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

This version differs from the initial submission as this fiscal note still reflects the committee substitute of the bill adopted by the Senate State Affairs committee.

Prepared By: Valerie Rose, Budget Analyst — Phone: (907)465-3674
Division: Administrative Services Division — Date: 03/04/2016 03:29 PM
Approved By: Craig W. Richards, Attorney General — Date: 03/04/16
Agency: Department of Law

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB 91

Analysis

This legislation makes significant changes to the current criminal code and incorporates policy recommendations from the Alaska Criminal Justice Commission.

Reduction in Sentence Length

The legislation reduces felony sentences and establishes a maximum imprisonment of 30 days for most misdemeanor cases. This maximum 30-day sentence can be exceeded if a jury finds that the conduct was among the most serious for that type of offense or if the defendant is convicted for an offense and has been convicted of similar offenses in the past.

The Department of Law anticipates an increase in the number of trials as well as an increase in the amount of work required for misdemeanors due to these changes. The increased work results from being required to prove aggravators for misdemeanors. This will involve litigating, first in the trial courts and then in the appellate courts, how these new aggravators will be applied and interpreted. It is unclear how many cases will fall into the categories requiring additional time, therefore the department is unable to quantify the impact of these sections at this time.

Bail Hearings for Parole

Under current law, parolees are not entitled to bail. This legislation reverses that by entitling a parolee who is not charged with a new crime or failure to comply with sex offender treatment to bail. This may require the Department of Law to appear at bail hearings for parolees. This section of the legislation may add a new responsibility to the Department of Law and increase the number of hearings it is required to attend.

It is unclear how many more hearings will be required. Therefore, the department is unable to quantify the impact of these sections at this time.

Bail Reform

The legislation makes significant changes to the bail process. Under the legislation a judge is required to order a person released on their personal recognizance unless they find on the record that there is clear and convincing evidence that less restrictive conditions will not reasonably ensure that the person will appear in court or protect the safety of the victims and the community.

Analysis Continued

Under current law a judge may not consider the person's inability to pay the bail when setting or amending bail. This law reverses that limitation of what a judge may consider and specifically requires a judge to consider whether a person has ability to post the bail amount.

Another new requirement is a risk assessment by a pretrial services officer. That assessment along with recommendations on conditions of release must be presented to the judge, prosecutor, and defense attorney before each person is arraigned. How those assessments are conducted, interpreted and applied will likely result in new litigation.

Because inability to pay would be an allowable basis for requesting a bail review hearing, bail review hearings will be available to a larger group of people resulting in a significant increase in hearings. It is unclear exactly how many more hearings or how much new litigation will result from these sections. Therefore, the department is unable to quantify the impact of these sections at this time.

Capping Time Imposed for Technical Violations of Probation

The legislation caps the amount of time a person can serve for first, second, and third technical violations of probation.

The department does not anticipate a fiscal impact from these sections at this time.

Drug Offenses

This legislation reduces the penalties for certain conduct related to controlled substances. It makes it a class B felony to manufacture or deliver 2.5 grams or more of a schedule IA (heroin), IIA (methamphetamine), or IIIA (zolazapam) controlled substance. It als makes it a class C felony to manufacture or deliver less than 2.5 grams of a schedule IA (heroin), IIA (methamphetamine), or IIIA (zolazapam) controlled substance. The legislation also reduces the penalty for possessing any of these substances to a class A misdemeanor.

The department does not anticipate a fiscal impact from these sections at this time.

Analysis Continued

Suspended Entry of Judgment

The legislation establishes a new judicial procedure in which a person is found guilty or pleads guilty to a crime and the judgment is not immediately entered. The person would be put on probation for a certain period of time. If the person successfully completes probation the judgment would not be entered and there would never be a formal entry of guilt for the person.

The department does not anticipate a fiscal impact from this section at this time.

Pretrial Services Program

The legislation establishes a pretrial services program in the Department of Corrections. This program shall develop and implement a pretrial risk assessment which will be conducted on all defendants before the defendant's first appearance before a judicial officer and supervise pretrial defendants who are released on bail as ordered by the court.

The department does not anticipate a fiscal impact from these sections at this time.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 91
Fiscal Note Number:
() Publish Date:

Identifier: SB091SS-JUD-AJC-3-7-16
Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS
Sponsor: COGHILL
Requester: Senate State Affairs

Department: Judiciary
Appropriation: Judicial Council
Allocation: Judicial Council
OMB Component Number: 771

Expenditures/Revenues

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Fund Source (Operating Only)							
None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Positions							
Full-time							
Part-time							
Temporary							
Change in Revenues							

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

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

Why this fiscal note differs from previous version:

This "P" version of the sponsor substitute for SB91 removes the requirement that the Alaska Judicial Council calculate and publish the change in the Consumer Price Index each year. The Council's fiscal note for the previous version of the sponsor substitute was zero, but the Council submits this new zero fiscal note to reflect the deletion of its role in the legislation.

Prepared By: Jennie Marshall-Hoenack, Administrative Officer Phone: (907)279-2526
Division: Alaska Judicial Council Date: 03/07/2016 08:00 PM
Approved By: Susanne DiPietro, Executive Director Date: 03/07/16
Agency: Alaska Judicial Council

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SSSB91

Analysis

This version of SB91 removes the annual inflation adjustment of the value of property that distinguishes between misdemeanor and felony property offenses (former § 17), thus removing the requirement that the Alaska Judicial Council publish a report calculating the increase in value, if any, of property or services as an element of an offense (as described in the bill). Because the Council has no duties, it submits this zero fiscal note.

(Revised 8/16/2013 OMB)

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

Senator Bill Stoltze, Chair
State Capitol, Room 125
Juneau, AK 99801-1182
Phone (907) 465-4958
Fax (907) 465- 4928

Official Business

MEMORANDUM

TO: Legislative Legal Services
Attn: Doug Gardner & Hilary Martin

FROM: Senator Bill Stoltze, Senate State Affairs Chair
Attn: Daniel George, Committee Aide

DATE: February 29, 2016

SUBJECT: **SSSB 91 – Senate State Affairs CS Drafting Request**

Please prepare a CS(STA) work draft for SSSB 91 with the attached outlined elements and revisions. Additional guidance for drafting instructions is available by contacting my committee aide, Daniel George, at 907-465-6824.

It is the intent of the Committee to make a committee substitute workdraft available to members and the public during Thursday's hearing.

Respectfully,

Bill Stoltze

Sen. Bill Stoltze
Chair, Senate State Affairs Committee

SB 91 DRAFTING REQUEST:

1) **Incorporate Amendment N.1, with the following changes:**
    a. On p.6, line 5 of Amendment N.1, there appears to be a drafting error; IIA appears twice.
    b. On p.9, lines 28-31 (and potentially elsewhere), per the sponsor, ensure that the exemptions for DV, sexual offenses, and unclassified felonies apply only to the early discharge policy, not to both early discharge and earned compliance credit. Legal Services has explicit permission to discuss this CS drafting item with Sen. Coghill's office.

2) **Incorporate Amendment N.2, except that:**
Amendment N.2 to p.21, line 21, where the change to add sexual felony is placed, this should be broadened to include sexual misdemeanors as well. Sexual offenses should always be arrestable.

3) **Incorporate Amendment N.3, except to clarify that:**
    a. Amendment N.3 (p.1 l.3) states that "a person who tests positive for the illegal use of controlled substances is disqualified from receiving public assistance for six months…" It is the intent of the committee that this provision be drafted to ensure that testing shall be:
        i. Limited to those with drug convictions
        ii. For controlled substances not legally possessed

4) **Include a non-severability clause regarding drug testing and public assistance:**
Should the required drug testing section of the bill be struck down by a court, then the repeal of the existing ban on food stamp eligibility for convicted drug felons would then be reinstituted.

5) **Incorporate Amendment N.4, except that:**
Amendment N.4 no longer applies in specific instances (vehicle theft-1, fraudulent use of an access device). This would remove the scheduled inflation adjusting of the felony theft threshold from the bill entirely.

6) **Amend section 7 regarding fraudulent use of an access device**:
When adjusting theft thresholds, fraudulent use of an access device (AS 11.46.285(b)) was included and increased from $750 to $2,000. This crime was reclassified from an A Misdemeanor to a C Felony and lowered to a threshold of $50 (from $500 previously) in 2005 through the adoption of HB 131 (Ch. 67, SLA 05). The Department of Law and the sponsor of SB 91 supported that bill, and it was an unintentional oversight to undo that law. Unfortunately, this statutory / historical subtlety was overlooked during the course of SB 64 in 2014, which swept this crime up into the increase in the felony thresholds throughout the statutes, to $750. ***Please reduce the fraudulent use of an access device threshold for a C Felony to $50, and Class A Misdemeanor for property less than $50, as enacted in 2005.***

7) **Delete section 9 from the bill:**
Leave vehicle theft in the first degree in statute at $750.

8) **Sections 18-20 – Failure to Appear:**
Remove the sections/provisions which change failure to appear from a crime to a violation.
Note: It may be necessary to retain subsection (e) in Section 20, in some form in the bill.

9) **Sections 21-22 – Violation of condition of release:**
Violation of condition of release is reclassified as a violation in the bill. Violation of condition of release should be required to appear in CourtView, and thus be available to a court under AS 12.30.011(c)(7).

10) **Sections 24-25 – Disorderly Conduct:**
Revert Disorderly Conduct from a violation back into a Class B Misdemeanor, but retain the 24 hour maximum imprisonment.

11) **Section 37 – When a Peace Officer May Issue Citation or Take Person Before the Court:**
Even subsequent to the adoption of Amendment N.2, it is not clear whether an officer may use discretion whether to cite or arrest a person stopped or contacted for the commission of theft in the second degree alone. The section should be amended to include an explicit addition that theft-2 is an offense for which an officer may arrest.

12) **Section 40 – Bail Review:**
Limit a person in custody to only one bail review hearing for "new information" which includes the person's inability to post the required bail.

13) **Amend Section 44 to add the following offenses in the appropriate categories**:
Terroristic threatening, possession of child pornography, escape-3, unlawful evasion, unlawful contact-1, weapons offenses (3, 4, and 5), Sex Trafficking, and all other sex offenses into the "other category" of the grid. They should be added under the appropriate sections in AS 12.31.011(f).

14) **Section 59 – Suspended Entry of Judgment and CourtView:**
Add Section 59 as an exception to AS 22.35.030 (HB 11 / CH 1 SLA 16). Individuals who plead guilty or are convicted should have their cases remain on CourtView, with notation of suspended entry of judgment.

15) **Section 97 – Geriatric Parole:**
Amend section 97 to make geriatric parole available only to newly sentenced individuals (not retroactive), and only upon reaching the age of 60. (ACJC report suggests a range from 55 to 60 years.) Also, amend section 97 to not apply to unclassified felonies. (Amendment N.1 exempts it from applying to sex felonies.)

16) Sections 88 & 117 – Reductions in parole and probation:

Amend sections 88 and 117 to comport with recommendation #14 of the ACJC Report. Instead of offering a day-for-day reduction in parole & probation, change the wording to month-for-month (or 30-for-30). This may require defining "month" under this section as 30 days. No pro-ration of a month shall apply.

17) Section 117 – Unconditional Discharge of Parole:

P.75, line 17 change "shall" to "may".

18) Section 83 cleanup:

Section 83, page 55, lines 15-25 appear to need clean-up. Version N deletes "appropriate place" in one instance, then appears to retain the definition later, possibly unnecessarily. SB 91 may have done away with the requirement for community service previously under the DUI statutes, and here it reappears in a section which requires home confinement—somewhat confusing / impracticable. However, this may be appropriate; please advise.

19) Section 118 cleanup:

Section 118, specifically page 76, lines 15-27, may need to correct references to the court with references to the parole board, where applicable. One or more references to the court may be appropriate, but it appears that some court references would be more appropriate to refer to the parole board.

20) Section 129 cleanup:

Section 129 at p. 81, lines 11 and 13 appear to need the inclusion of the words "the offender" following "(2)" and "(3)" respectively.

21) New Sections:

a. Modify AS 12.61.015 (a)(4) to read: "confer with the victim of **a felony crime or** a crime involving domestic violence concerning a proposed plea agreement before entering into an agreement."

29-LS0541\P
Martin/Gardner
3/2/16

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS COGHILL, Ellis, McGuire, Costello, Bishop, Micciche, Egan

A BILL

FOR AN ACT ENTITLED

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

Procedure; and providing for an effective date."

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

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

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

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

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

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

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

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

(A) a felony violation of AS 11.41;

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

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

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

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

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

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

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

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

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

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

(1) the value of the property or services is **$2,000** [$750] or more but less than $25,000;

(2) the property is a firearm or explosive;

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

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

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

(6) the value of the property 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 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 11.46.220(c) is amended to read:

(c) Concealment of merchandise is

(1) a class C felony if

(A) the merchandise is a firearm;

(B) the value of the merchandise is **$2,000** [$750] or more; or

(C) the value of the merchandise 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

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

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

(2) a class A misdemeanor if

(A) the value of the merchandise is $250 or more but less than **$2,000** [$750]; or

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

(3) a class B misdemeanor if the value of the merchandise is less than $250.

*** Sec. 6.** AS 11.46.260(b) is amended to read:

(b) Removal of identification marks is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared is **$2,000** [$750] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is $250 or more but less than **$2,000** [$750];

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

*** Sec. 7.** AS 11.46.270(b) is amended to read:

(b) Unlawful possession is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared is **$2,000** [$750] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is $250 or more but less than **$2,000** [$750];

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

* **Sec. 8.** AS 11.46.280(d) is amended to read:

(d) Issuing a bad check is

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

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

(3) a class A misdemeanor if the face amount of the check is $250 or more but less than **$2,000** [$750];

(4) a class B misdemeanor if the face amount of the check is less than $250.

* **Sec. 9.** AS 11.46.285(b) is amended to read:

(b) Fraudulent use of an access device is

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

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

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

* **Sec. 10.** AS 11.46.460 is amended to read:

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

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

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

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

* **Sec. 11.** AS 11.46.482(a) is amended to read:

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

(1) with intent to damage property of another, the person damages property of another in an amount of **$2,000** [$750] or more;

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

(3) the person knowingly

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

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

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

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

(1) with intent to damage property of another, the person damages property of another in an amount of $250 or more but less than **$2,000** [$750];

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

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

(4) the person uses a device to descramble an electronic signal that has

been scrambled to prevent unauthorized receipt or viewing of the signal unless the device is used only to descramble signals received directly from a satellite or unless the person owned the device before September 18, 1984; or

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

* **Sec. 13.** AS 11.46.530(b) is amended to read:

(b) Criminal simulation is

(1) a class C felony if the value of what the object purports to represent is **$2,000** [$750] or more;

(2) a class A misdemeanor if the value of what the object purports to represent is $250 or more but less than **$2,000** [$750];

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

* **Sec. 14.** AS 11.46.620(d) is amended to read:

(d) Misapplication of property is

(1) a class C felony if the value of the property misapplied is **$2,000** [$750] or more;

(2) a class A misdemeanor if the value of the property misapplied is less than **$2,000** [$750].

* **Sec. 15.** AS 11.46.730(c) is amended to read:

(c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss of **$2,000** [$750] or more as a result **of** [TO] the defendant's conduct, in which case defrauding secured creditors is

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

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

* **Sec. 16.** AS 11.56.730 is amended by adding a new subsection to read:

(d) In a prosecution for failure to appear under (a) of this section, it is not a defense that the defendant was not provided or did not receive a notice or reminder notification from a court or judicial officer under Rule 38(d), Alaska Rules of

Criminal Procedure.

* **Sec. 17.** AS 11.56.757(a) is amended to read:

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

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

(2) has been released under AS 12.30; and

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

* **Sec. 18.** AS 11.56.757(b) is amended to read:

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

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

* **Sec. 19.** AS 11.56.759(a) is amended to read:

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

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

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

(3) violates a condition of probation imposed under **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), or any other condition imposed by the court that the court finds to be specifically related to the defendant's offense.

* **Sec. 20.** AS 11.61.110(c) is amended to read:

(c) Disorderly conduct is a class B misdemeanor and is punishable **by a definite term** [AS AUTHORIZED IN AS 12.55 EXCEPT THAT A SENTENCE] of imprisonment [, IF IMPOSED, SHALL BE FOR A DEFINITE TERM] of not more than **24 hours** [10 DAYS].

* **Sec. 21.** AS 11.61.145(d) is amended to read:

(d) Promoting an exhibition of fighting animals

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

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

(A) a violation

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

(ii) punishable by a fine of not more than $1,000 [, A CLASS B MISDEMEANOR] for the second offense**;** [,] and

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

* **Sec. 22.** AS 11.61.150(a) is amended to read:

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

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

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

* **Sec. 23.** AS 11.61.150(c) is amended to read:

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

* **Sec. 24.** AS 11.66.200(c) is amended to read:

(c) Gambling is a violation

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

(2) punishable by a fine of not more than $1,000 [. GAMBLING IS A CLASS B MISDEMEANOR] for the second and each subsequent offense.

* **Sec. 25.** AS 11.71.030(a) is amended to read:

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

(1) [UNDER CIRCUMSTANCES NOT PROSCRIBED UNDER AS 11.71.020(a)(2) - (6),] manufactures or delivers **2.5 grams or more** [ANY AMOUNT] of a schedule **IA,** IIA**,** or IIIA controlled substance or possesses **2.5 grams or more** [ANY AMOUNT] of a schedule **IA,** IIA**,** or IIIA controlled substance

with intent to manufacture or deliver;

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

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

(A) with reckless disregard that the possession occurs

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

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

(B) on a school bus**;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* **Sec. 27.** AS 11.71.030 is amended by adding new subsections to read:

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

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

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

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

(i) retailer or wholesaler;

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

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

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

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

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

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

* **Sec. 28.** AS 11.71.040(a) is amended to read:

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

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

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

(3) possesses

(A) any amount of a

(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; 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. 29.** 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. 30.** 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) manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, mixtures, or substances

of an aggregate weight of less than one ounce containing a schedule VIA controlled substance;

(2) possesses

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

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

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

(ii) 12 grams but more than six grams 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 containing a schedule IIA controlled substance listed in AS 11.71.150(e)(11) - (15);

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

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

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

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

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

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

* **Sec. 31.** AS 11.71.060 is amended to read:

Sec. 11.71.060. Misconduct involving a controlled substance in the <u>fifth</u> [SIXTH] degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the **<u>fifth</u>** [SIXTH] degree if the person

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

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

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

(B) six grams or less 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

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

(b) Misconduct involving a controlled substance in the **<u>fifth</u>** [SIXTH] degree is a class B misdemeanor.

* **Sec. 32.** AS 11.71.311(a) is amended to read:

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

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

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

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

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

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

*** Sec. 33.** AS 12.25.180 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(b) When a peace officer stops or contacts a person for the commission of an infraction or a violation, the officer shall issue a citation instead of taking the person before a judge or magistrate under AS 12.25.150, unless

(1) the person does not furnish satisfactory evidence of identity; [OR]

(2) the person refuses to accept service of the citation**;**

(3) the peace officer has probable cause to believe the person has committed a violation of conditions of release under AS 11.56.757; or

(4) the violation is disorderly conduct under AS 11.61.110, in which case the peace officer may make an arrest, but the person may be held for not more than 24 hours after arrest.

* **Sec. 34.** AS 12.25.180 is amended by adding a new subsection to read:

(c) A person may not bring a civil action for damages for a failure to comply with the provisions of this section.

* **Sec. 35.** AS 12.25.190(b) is amended to read:

(b) The time specified in the notice to appear shall be at least **two** [FIVE] working days after the issuance of the citation.

* **Sec. 36.** AS 12.30.006(c) is amended to read:

(c) A person who remains in custody 48 hours after appearing before a judicial officer because of inability to meet the conditions of release shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. If the judicial officer who imposed the conditions of release is not available, any judicial officer in the judicial district may review the conditions. **Upon review of the conditions, the judicial officer shall revise any conditions of release that have prevented the defendant from being released unless the judicial officer finds on the record that there is clear and convincing evidence that less restrictive release conditions cannot reasonably ensure the**

(1) appearance of the person in court; and

(2) safety of the victim, other persons, and the community.

* **Sec. 37.** AS 12.30.006(d) is amended to read:

(d) If a person remains in custody after review of conditions by a judicial officer under (c) of this section, the person may request a subsequent review of conditions. Unless the prosecuting authority stipulates otherwise or the person has been incarcerated for a period equal to the maximum sentence for the most serious charge for which the person is being held, a judicial officer may not schedule a bail review hearing under this subsection unless

(1) the person provides to the court and the prosecuting authority a written statement that new information not considered at the previous review will be presented at the hearing; the statement must include a description of the information and the reason the information was not presented at a previous hearing; in this paragraph, "new information" **includes** [DOES NOT INCLUDE] the **person's** inability to post the required bail;

(2) the prosecuting authority and any surety, if applicable, have at least 48 hours' written notice before the time set for the review requested under this subsection; the defendant shall notify the surety; and

(3) at least seven days have elapsed between the previous review and the time set for the requested review**; however, a person may only receive one bail review hearing for new information**.

* **Sec. 38.** AS 12.30.006(f) is amended to read:

(f) The judicial officer shall issue written or oral findings that explain the reasons the officer imposed the particular conditions of release or modifications or additions to conditions previously imposed. The judicial officer shall inform the person that a law enforcement officer **or a pretrial services officer under AS 33.07** may arrest the person without a warrant for violation of the court's order establishing conditions of release.

* **Sec. 39.** AS 12.30.006 is amended by adding a new subsection to read:

(h) The first appearance under (a) and (b) of this section shall take place within 24 hours after a person's arrest absent compelling circumstances, and in no

instance shall the first appearance take place more than 48 hours after a person's arrest.

* **Sec. 40.** AS 12.30.011 is amended to read:

Sec. 12.30.011. Release before trial. (a) **A** [EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A] judicial officer shall order a person charged with an offense to be released on the person's personal recognizance**,** [OR] upon execution of an unsecured appearance bond, **or upon execution of an unsecured performance bond if** [ON THE CONDITION THAT THE PERSON]

(1) **the pretrial services officer, in a report required under AS 33.07, determined that the person is a low or moderate risk defendant and the person has been charged with a misdemeanor, or that the person is a low risk defendant and has been charged with a class C felony; and**

(2) the person has not been charged with an offense under

(A) AS 11.41;

(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) [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 **other** conditions under [(a) OF] this section, the judicial officer may, singly or in combination,

(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 A SPECIFIED AMOUNT OF CASH TO BE DEPOSITED IN THE REGISTRY OF THE COURT; (4)] place restrictions on the person's travel, association, or residence;

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

(3) [(6)] require the person to maintain employment or, if unemployed, actively seek employment;

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

(5) [(8)] require the person to avoid all contact with a victim, a potential witness, or a codefendant;

(6) [(9)] require the person to refrain from the consumption and possession of alcoholic beverages;

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

(8) [(11)] require the person to be physically inside the person's residence, or in the residence of the person's third-party custodian, at time periods set by the court**, subject to AS 12.30.021**;

(9) [(12)] require the person to keep regular contact with a **pretrial services officer or** law enforcement officer or agency;

(10) [(13)] order the person to refrain from entering or remaining in

premises licensed under AS 04;

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

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

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

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

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

(c) In determining the conditions of release under this chapter, the court shall consider the following:

(1) the nature and circumstances of the offense charged;

(2) the weight of the evidence against the person;

(3) the nature and extent of the person's family ties and relationships;

(4) the person's employment status and history;

(5) the length and character of the person's past and present residence;

(6) the person's record of convictions;

(7) the person's record of appearance at court proceedings;

(8) assets available to the person to meet monetary conditions of release;

(9) the person's reputation, character, and mental condition;

(10) the effect of the offense on the victim, any threats made to the victim, and the danger that the person poses to the victim;

(11) any other facts that are relevant to the person's appearance or the person's danger to the victim, other persons, or the community**;**

(12) the conditions of release recommended by the pretrial services

officer;

(13) the person's pretrial risk assessment score.

(d) In making a finding regarding the release of a person under this chapter, [(1) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER,] the burden of proof is on the prosecuting authority that a person charged with an offense should be detained or released with conditions described in [(b) OF] this section or AS 12.30.016 [;

(2) THERE IS A REBUTTABLE PRESUMPTION THAT NO CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY ASSURE THE APPEARANCE OF THE PERSON OR THE SAFETY OF THE 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. 41.** 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.

(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 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 can reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community, if the person

(1) has been assessed by a pretrial services officer under AS 33.07 as a

(A) low risk defendant, unless the defendant is required to be released as provided in (a) and (b) of this section;

(B) high risk defendant, and the defendant has been charged with a misdemeanor that does not include an offense under

(i) AS 11.41;

(ii) AS 11.56.340;

(iii) AS 11.56.730;

(iv) AS 11.56.750;

(v) AS 11.56.757;

(vi) AS 11.61.210;

(vii) AS 11.61.220;

(viii) AS 18.66.990 that involves domestic violence;

(ix) AS 28.35.030; or

(x) AS 28.35.032;

(C) moderate to high risk defendant, and the defendant has been charged with a class C felony that does not include an offense under

(i) AS 11.41;

(ii) AS 11.56.320;

(iii) AS 11.56.335;

(iv) AS 11.56.730;

(v) AS 11.56.757;

(vi) AS 11.56.810;

(vii) AS 11.61.127;

(viii) AS 11.61.200;

(ix) AS 11.66.130;

(x) AS 18.66.990 that involves domestic violence;

(xi) AS 28.35.030; or

(xii) AS 28.35.032;

(D) low to moderate risk defendant, and the defendant has been charged with an offense under AS 11.56.757; or

(2) has been charged with an offense under AS 28.35.030 or 28.35.032.

(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;

(3) make all court appearances;

(4) maintain contact with the person's pretrial services officer, if one is appointed by the court, and follow the pretrial services officer's instructions;

(5) maintain contact with the person's attorney;

(6) notify the person's attorney or, if the person is not represented by an attorney, the pretrial services officer or the court within 24 hours after a change in the person's residence.

(h) If a person charged with an offense is not required under this section to be

released on the person's own recognizance upon execution of an unsecured appearance bond or unsecured performance bond, a judicial officer may, singly or in combination, require that the person deposit with the court and execute

(1) an appearance bond with a 10 percent posting of the specified amount of the bond with the condition that the deposit be returned upon the performance of the conditions of release set by the court;

(2) a bail bond with a 10 percent posting of sufficient solvent sureties or the deposit of cash; or

(3) a performance bond in an amount specified by the court with the condition that the deposit be returned upon the performance of the conditions of release set by the court.

(i) In addition to other conditions under this section, a judicial officer may impose additional conditions of release and may require 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.

* **Sec. 42.** AS 12.30.016(b) is amended to read:

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

(1) to refrain from

(A) consuming alcoholic beverages; or

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

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

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

officer;

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

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

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

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

* **Sec. 43.** AS 12.30.016(c) is amended to read:

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

(1) to refrain from

(A) consuming a controlled substance; or

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

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

(3) to enroll in a random drug testing program, at the person's expense, **with testing to occur not less than once a week, or to submit to random drug testing by the pretrial services office in the Department of Corrections** to detect the presence of a controlled substance, [WITH TESTING TO OCCUR NOT LESS THAN ONCE A WEEK, AND] with the results being submitted to the court and the prosecuting authority;

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

(5) to refrain from being physically present at, within a two-block area

of, or within a designated area near, the location where the alleged offense occurred or at other designated places, unless the person actually resides within that area;

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

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

* **Sec. 44.** AS 12.30.016(d) is amended to read:

(d) In a prosecution charging misconduct involving a controlled substance under **AS 11.71.020(a)(4)** [AS 11.71.020(a)(2)] for the manufacture of methamphetamine, or its salts, isomers, or salts of isomers, if the person has been previously convicted in this or another jurisdiction of a crime involving the manufacturing, delivering, or possessing of methamphetamine, or its salts, isomers, or salts of isomers, a judicial officer shall require the posting of a minimum of $250,000 cash bond before the person may be released. The judicial officer may reduce this requirement if the person proves to the satisfaction of the officer that the person's only role in the offense was as an aider or abettor and that the person did not stand to benefit financially from the manufacturing.

* **Sec. 45.** AS 12.30.021(a) is amended to read:

(a) In addition to other conditions imposed under AS 12.30.011 or 12.30.016, a judicial officer may appoint a third-party custodian if the officer finds**, on the record,** that

(1) pretrial supervision under AS 33.07 is not available in the person's location;

(2) no secured appearance or performance bonds have been ordered; and

(3) no other conditions of release or combination of conditions can [THE APPOINTMENT WILL, SINGLY OR IN COMBINATION WITH OTHER CONDITIONS,] reasonably **ensure** [ASSURE] the person's appearance and the safety of the victim, other persons, and the community.

* **Sec. 46.** AS 12.30.021(c) is amended to read:

(c) A judicial officer may not appoint a person as a third-party custodian if

(1) the proposed custodian is acting as a third-party custodian for another person;

(2) the proposed custodian has been convicted in the previous three years of a crime under AS 11.41 or a similar crime in this or another jurisdiction;

(3) criminal charges are pending in this state or another jurisdiction against the proposed custodian;

(4) the proposed custodian is on probation in this state or another jurisdiction for an offense;

(5) **there is a reasonable probability that the state will call** the proposed custodian [MAY BE CALLED] as a witness in the prosecution of the person;

(6) the proposed custodian resides out of state; however, a nonresident may serve as a custodian if the nonresident resides in the state while serving as custodian.

*** Sec. 47.** AS 12.30.055 is amended by adding a new subsection to read:

(b) A person who is in custody in connection with a petition to revoke probation for a technical violation of probation under AS 12.55.110 shall be released without bail after the person has served the maximum number of days that the court could impose on the person for a technical violation of probation under AS 12.55.110.

*** Sec. 48.** AS 12.55.015(a) is amended to read:

(a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing sentence on a defendant convicted of an offense, may singly or in combination

(1) impose a fine when authorized by law and as provided in AS 12.55.035;

(2) order the defendant to be placed on probation under conditions specified by the court that may include provision for active supervision;

(3) impose a definite term of periodic imprisonment, but only if an employment obligation of the defendant preexisted sentencing and the defendant receives a composite sentence of not more than two years to serve;

(4) impose a definite term of continuous imprisonment;

(5) order the defendant to make restitution under AS 12.55.045;

(6) order the defendant to carry out a continuous or periodic program of community work **for an offense and** under **conditions specified in** AS 12.55.055;

(7) suspend execution of all or a portion of the sentence imposed under AS 12.55.080;

(8) suspend imposition of sentence under AS 12.55.085;

(9) order the forfeiture to the commissioner of public safety or a municipal law enforcement agency of a deadly weapon that was in the actual possession of or used by the defendant during the commission of an offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

(10) order the defendant, while incarcerated, to participate in or comply with the treatment plan of a rehabilitation program that is related to the defendant's offense or to the defendant's rehabilitation if the program is made available to the defendant by the Department of Corrections;

(11) order the forfeiture to the state of a motor vehicle, weapon, electronic communication device, or money or other valuables, used in or obtained through an offense that was committed for the benefit of, at the direction of, or in association with a criminal street gang;

(12) order the defendant to have no contact, either directly or indirectly, with a victim or witness of the offense until the defendant is unconditionally discharged;

(13) order the defendant to refrain from consuming alcoholic beverages for a period of time.

* **Sec. 49.** AS 12.55.025(a) is amended to read:

(a) When imposing a sentence for conviction of a felony offense or a sentence of imprisonment exceeding 90 days or upon a conviction of a violation of AS 04, a regulation adopted under AS 04, or an ordinance adopted in conformity with AS 04.21.010, the court shall prepare, as a part of the record, a sentencing report that includes the following:

(1) a verbatim record of the sentencing hearing and any other in-court sentencing procedures;

(2) findings on material issues of fact and on factual questions required to be determined as a prerequisite to the selection of the sentence imposed;

(3) a clear statement of the terms of the sentence imposed; if a term of

imprisonment is imposed, the statement must include

(A) the approximate minimum term the defendant is expected to serve before being released or placed on mandatory parole if the defendant is eligible for and does not forfeit good conduct deductions under AS 33.20.010; and

(B) if applicable, the approximate minimum term of imprisonment the defendant must serve before becoming eligible for release on discretionary **or administrative** parole;

(4) any recommendations as to the place of confinement or the manner of treatment; and

(5) in the case of a conviction for a felony offense, information assessing

(A) the financial, emotional, and medical effects of the offense on the victim;

(B) the need of the victim for restitution; and

(C) any other information required by the court.

* **Sec. 50.** AS 12.55.025(c) is amended to read:

(c) Except as provided in (d) of this section, when a defendant is sentenced to imprisonment, the term of confinement commences on the date of imposition of sentence unless the court specifically provides that the defendant must report to serve the sentence on another date. If the court provides another date to begin the term of confinement, the court shall provide the defendant with written notice of the date, time, and location of the correctional facility to which the defendant must report. A defendant shall receive credit for time spent in custody pending trial, sentencing, or appeal, if the detention was in connection with the offense for which sentence was imposed **including a technical violation of probation as provided in AS 12.55.110**. A defendant may not receive credit for more than the actual time spent in custody pending trial, sentencing, or appeal. The time during which a defendant is voluntarily absent from official detention after the defendant has been sentenced may not be credited toward service of the sentence.

* **Sec. 51.** AS 12.55.027(d) is amended to read:

(d) A court may grant credit **of not more than 120 days** against **the total term** [A SENTENCE] of imprisonment **imposed for a crime** for time spent under electronic monitoring **that complies with AS 33.30.011(10),** 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.

* **Sec. 52.** AS 12.55.051(a) is amended to read:

(a) If the defendant defaults in the payment of a fine or any installment or of restitution or any installment, the court may order the defendant to show cause why the defendant should not be sentenced to imprisonment for nonpayment and, if the payment was made a condition of the defendant's probation, may revoke the probation of the defendant **subject to the limits set out in AS 12.55.110**. In a contempt or probation revocation proceeding brought as a result of failure to pay a fine or restitution, it is an affirmative defense that the defendant was unable to pay despite having made continuing good faith efforts to pay the fine or restitution. If the court finds that the defendant was unable to pay despite having made continuing good faith efforts, the defendant may not be imprisoned solely because of the inability to pay. If the court does not find that the default was attributable to the defendant's inability to pay despite having made continuing good faith efforts to pay the fine or restitution, the court may order the defendant imprisoned **subject to the limits set out in AS 12.55.110** [UNTIL THE ORDER OF THE COURT IS SATISFIED]. A term of imprisonment imposed under this section may not exceed one day for each $50 of the unpaid portion of the fine or restitution or one year, whichever is shorter. Credit shall be given toward satisfaction of the order of the court for every day a person is

incarcerated for nonpayment of a fine or restitution.

* **Sec. 53.** AS 12.55.051 is amended by adding a new subsection to read:

(k) The Department of Law may garnish a permanent fund dividend under AS 43.23.065 or garnish other income of a defendant as allowed by state law to collect restitution ordered by the court.

* **Sec. 54.** AS 12.55.055(a) is amended to read:

(a) The court may order a defendant convicted of an offense **under AS 04, AS 28, or AS 47.12.030, that specifically provides for community work as authorized punishment** to perform community work as a condition of probation, [A SUSPENDED SENTENCE,] or **may order community work in a** suspended imposition of sentence, [OR] in addition to any fine or restitution ordered. [IF THE DEFENDANT IS SENTENCED TO IMPRISONMENT, THE COURT MAY RECOMMEND TO THE DEPARTMENT OF CORRECTIONS THAT THE DEFENDANT PERFORM COMMUNITY WORK.]

* **Sec. 55.** AS 12.55.055(c) is amended to read:

(c) The court may offer a defendant convicted of an offense the option of performing community work in lieu of a fine, surcharge, or portion of a fine or surcharge if the court finds the defendant is unable to pay the fine. The value of community work in lieu of a fine is **the state's minimum wage for each** [$3 PER] hour.

* **Sec. 56.** AS 12.55.055 is amended by adding new subsections to read:

(g) The court may not

(1) offer a defendant convicted of an offense the option of serving jail time in lieu of performing uncompleted community work previously ordered by the court; or

(2) convert uncompleted community work hours into a sentence of imprisonment.

(h) If a court orders community work as part of the defendant's sentence under this section, the court shall provide notice to the defendant at sentencing and include as a provision of the judgment that if the defendant fails to provide proof of community work within 20 days after the date set by the court, the court shall convert

those community work hours to a fine equal to the number of uncompleted work hours multiplied by the state's minimum hourly wage and issue a judgment against the defendant for that amount.

* **Sec. 57.** AS 12.55 is amended by adding a new section to read:

Sec. 12.55.078. Suspending entry of judgment. (a) Except as provided in (f) of this section, if a person is found guilty or pleads guilty to a crime, the court may, with the consent of the defendant and the prosecution and without imposing or entering a judgment of guilt, defer further proceedings and place the person on probation.

(b) The court shall impose conditions of probation for a person on probation as provided in (a) of this section, which may include that the person

(1) abide by all local, state, and federal laws;

(2) not leave the state without prior consent of the court;

(3) pay restitution as ordered by the court; and

(4) obey any other conditions of probation set by the court.

(c) At any time during the probationary term of the person released on probation, a probation officer may, without warrant or other process, rearrest the person so placed in the officer's care and bring the person before the court, or the court may, in its discretion, issue a warrant for the rearrest of the person. The court may revoke and terminate the probation if the court finds that the person placed upon probation is

(1) violating the conditions of probation;

(2) engaging in criminal practices; or

(3) violating an order of the court to participate in or comply with the treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

(d) If the court finds that the person has successfully completed probation, the court shall, at the end of the probationary period set by the court, or at any time after the expiration of one year from the date of the original probation, discharge the person and dismiss the proceedings against the person.

(e) If the court finds that the person has violated the conditions of probation ordered by the court, the court may revoke and terminate the person's probation, enter

judgment on the person's previous plea or finding of guilt, and pronounce sentence at any time within the maximum probation period authorized by this section.

(f) The court may not suspend imposing or entering the judgment and defer prosecution under this section of a person who

(1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260 - 11.41.320, 11.41.360 - 11.41.370, 11.41.410 - 11.41.530, AS 11.46.400, AS 11.61.125 - 11.61.128, or AS 11.66.110 - 11.66.135;

(2) uses a firearm in the commission of the offense for which the person is convicted;

(3) has previously been granted a suspension of judgment under this section or a similar statute in another jurisdiction, unless the court enters written findings that by clear and convincing evidence the person's prospects for rehabilitation are high and suspending judgment under this section adequately protects the victim of the offense, if any, and the community;

(4) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony and the person has one or more prior convictions for a misdemeanor violation of AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a felony in this state; for the purposes of this paragraph, a person shall be considered to have a prior conviction even if

(A) the charges were dismissed under this section;

(B) the conviction has been set aside under AS 12.55.085; or

(C) the charge or conviction was dismissed or set aside under an equivalent provision of the laws of another jurisdiction; or

(5) has been convicted of a crime involving domestic violence, as defined by AS 18.66.990.

* **Sec. 58.** AS 12.55.090(b) is amended to read:

(b) Except as otherwise provided in (f) of this section, the court may revoke or modify any condition of probation**,** [OR MAY] change the period of probation**, or terminate probation and discharge the defendant from probation**.

* **Sec. 59.** AS 12.55.090(c) is amended to read:

(c) The period of probation, together with any extension, may not exceed

(1) **10** [25] years for **an unclassified felony under AS 11 or** a felony sex offense; [OR]

(2) **five** [10] years for **a felony** [ANY OTHER] offense **not listed in (1) of this subsection;**

(3) four years for a misdemeanor offense involving domestic violence;

(4) two years for a misdemeanor offense under AS 28.35.030 or 28.35.032, if the person has previously been convicted of an offense under AS 28.35.030 or 28.35.032, or a similar law or ordinance of this or another jurisdiction; or

(5) one year for an offense not listed in (1) - (4) of this subsection.

* **Sec. 60.** AS 12.55.090(f) is amended to read:

(f) Unless the defendant and the prosecuting authority agree at the probation revocation proceeding or other proceeding **related to a probation violation, the person qualifies for a reduction under AS 33.05.025 or a probation officer recommends to the court that probation be terminated and the defendant be discharged from probation under (g) of this section or AS 33.05.040**, the court may not reduce the specific period of probation [,] or the specific term of suspended incarceration except by the amount of incarceration imposed for a probation violation, if

(1) the sentence was imposed in accordance with a plea agreement under Rule 11, Alaska Rules of Criminal Procedure; and

(2) the agreement required a specific period of probation or a specific term of suspended incarceration.

* **Sec. 61.** AS 12.55.090 is amended by adding new subsections to read:

(g) A probation officer shall recommend to the court that probation be terminated and a defendant be discharged from probation if the defendant

(1) has completed at least one year on probation;

(2) has completed all treatment programs required as a condition of probation;

(3) is currently in compliance with all conditions of probation; and

(4) 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.

(h) Before a court may reduce the period of probation or terminate probation and discharge the defendant before the period of probation for the offense has been completed, the court shall allow victims to comment in writing to the court or allow a victim to give sworn testimony or make an unsworn oral presentation at a hearing held to determine whether to reduce the period of probation or terminate probation and discharge the defendant.

(i) If a probation officer recommends to the court that probation be terminated and a defendant be discharged from probation under (g) of this section, the court shall, if feasible, send a copy of the motion to the Department of Corrections sufficiently in advance of any scheduled hearing to enable the Department of Corrections to notify the victim of that crime. If the victim has earlier requested to be notified, the Department of Corrections shall send the victim notice of the recommendation under (g) of this section and inform the victim of the victim's rights under this section, the deadline for receipt of written comments, the hearing date, and the court's address.

(j) The court shall provide copies of the victim's written comments to the prosecuting attorney, the defendant, and the defendant's attorney.

(k) In deciding whether to reduce a period of probation or terminate probation and discharge the defendant from probation, the court shall consider the victim's comments, testimony, or unsworn oral presentation, when relevant, and any response by the prosecuting attorney and defendant.

(l) If a victim desires notice under this section, the victim shall maintain a current, valid mailing address on file with the commissioner of corrections. The commissioner shall send the notice to the victim's last known address. The victim's address may not be disclosed to the defendant or the defendant's attorney.

*** Sec. 62.** AS 12.55.100(a) is amended to read:

(a) While on probation and among the conditions of probation, the defendant

(1) shall be required to obey all state, federal, and local laws or

ordinances, and any court orders applicable to the probationer; and

(2) may be required

(A) [(1)] to pay a fine in one or several sums;

(B) [(2)] to make restitution or reparation to aggrieved parties for actual damages or loss caused by the crime for which conviction was had, including compensation to a victim that is a nonprofit organization for the value of labor or goods provided by volunteers if the labor or goods were necessary to alleviate or mitigate the effects of the defendant's crime; when determining the amount of actual damages or loss under this paragraph, the court shall value property as the market value of the property at the time and place of the crime or, if the market value cannot reasonably be ascertained, the cost of the replacement of the property within a reasonable time after the crime;

(C) [(3)] to provide for the support of any persons for whose support the defendant is legally responsible;

(D) [(4)] to perform community work in accordance with AS 12.55.055;

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

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

(G) [AND (7)] to comply with a program established under AS 47.38.020**; and**

(H) to comply with the sanctions imposed by the defendant's probation officer under AS 33.05.020(g).

*** Sec. 63.** AS 12.55.100(c) is amended to read:

(c) A program of inpatient treatment may be required by the authorized agency under **(a)(2)(F)** [(a)(6)] of this section only if authorized in the judgment, and

may not exceed the maximum term of inpatient treatment specified in the judgment. A person who has been referred for inpatient treatment may make a written request to the sentencing court asking the court to review the referral. The request for review shall be made within seven days **after** [OF] the agency's referral, and shall specifically set out the grounds **on** [UPON] which the request for review is based. The court may order a hearing on the request for review.

* **Sec. 64.** AS 12.55.110 is amended by adding new subsections to read:

(c) If a defendant is serving a period of probation for an offense, the court may find that the defendant has committed a technical violation of probation. If the court finds that a defendant has committed a technical violation of probation that does not include absconding, the court may reinstate the term of probation with appropriate conditions or impose a sentence of imprisonment of not more than

(1) three days for the first petition to revoke probation filed with the court;

(2) five days for the second petition to revoke probation filed with the court;

(3) 10 days for the third petition to revoke probation filed with the court; or

(4) up to the remainder of the suspended portion of the sentence for a fourth or subsequent petition to revoke probation.

(d) If the court revokes a person's probation for absconding, the court may impose a period of imprisonment not to exceed 30 days.

(e) The limits set out in this section on the length of imprisonment for a revocation do not apply if a probationer is enrolled in a program established under AS 33.05.020(f).

(f) If the defendant is ordered to complete treatment under AS 12.55.100(a)(2)(E) and does not comply with the court's order, the court may order the defendant to show cause why the defendant should not be sentenced to imprisonment for noncompletion of treatment and may revoke the suspended sentence subject to the limits established in this section. In a contempt or probation revocation proceeding brought as a result of failure to complete treatment, it is an affirmative

defense that the defendant was unable to afford the cost of treatment or secure a place in a free treatment program, despite having made continuing good faith efforts. If the court finds that the defendant was unable to complete treatment despite having made continuing good faith efforts, the defendant may not be imprisoned solely because of an inability to pay. If the court does not find that the noncompletion of treatment was attributable to the defendant's inability to pay, the court may order the defendant imprisoned subject to the limits established in this section.

(g) In this section,

(1) "absconding" means failing to report within five working days after release from custody under AS 33.20.030 or failing to report to a probation officer within 30 days after release from custody as directed by the court or probation officer;

(2) "technical violation" means a violation of the conditions of probation that does not result from

(A) an arrest for a new criminal offense; or

(B) failing to complete sex offender treatment.

* **Sec. 65.** AS 12.55.115 is amended to read:

Sec. 12.55.115. Fixing eligibility for discretionary or administrative parole at sentencing. The court may, as part of a sentence of imprisonment, further restrict the eligibility of a prisoner for discretionary **or administrative** parole for a term greater than that required under **AS 33.16.089, 33.16.090,** [AS 33.16.090] and 33.16.100.

* **Sec. 66.** AS 12.55.125(c) is amended to read:

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, **three** [FIVE] to **six** [EIGHT] years;

(2) if the offense is a first felony conviction

(A) and the defendant 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 constituting the offense at a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, **five** [SEVEN] to **nine** [11] years;

(B) and the conviction is for manufacturing related to methamphetamine under **AS 11.71.030(a)(4)(A) or (B)** [AS 11.71.020(a)(2)(A) OR (B)], seven to 11 years, if

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, **eight** [10] to **12** [14] years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (*l*) of this section, **13** [15] to 20 years.

* **Sec. 67.** AS 12.55.125(d) is amended to read:

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, **zero** [ONE] to **two** [THREE] 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 if, as a condition of probation under AS 12.55.086, the defendant is required to serve an active term of imprisonment within the range specified in this paragraph, unless the court finds that a mitigation factor under AS 12.55.155 applies;

(2) if the offense is a first felony conviction,

(A) the defendant violated AS 11.41.130, and the victim was a child under 16 years of age, two to four years;

(B) two to four years if the conviction is for an attempt, solicitation, or conspiracy to manufacture related to methamphetamine under AS 11.31 and **AS 11.71.030(a)(4)(A) or (B)** [AS 11.71.020(a)(2)(A) OR (B)], and

(i) the attempted manufacturing occurred, or the solicited or conspired offense was to have occurred, in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of an attempt to manufacture, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, **two** [FOUR] to **five** [SEVEN] years;

(4) if the offense is a third felony conviction, **four** [SIX] to 10 years.

* **Sec. 68.** AS 12.55.125(e) is amended to read:

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, **probation, with a suspended term 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, two to four years;

(3) if the offense is a third felony conviction, 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. 69.** 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;

(B) trier of fact finds the aggravating factor that the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(C) 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

(D) conviction is for the crime of assault in the fourth degree under AS 11.41.230; or

(2) 30 days.

*** Sec. 70.** AS 12.55.135(b) is amended to read:

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than **10** [90] days unless otherwise specified in the provision of law defining the offense **or in this section**.

*** Sec. 71.** AS 12.55.135 is amended by adding new subsections to read:

(l) A court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of theft under AS 11.46.150 if the person has not been previously convicted more than once for a violation of AS 11.46.120 - 11.46.150 or of a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in AS 11.46.120 - 11.46.150.

(m) A court may not impose a sentence of imprisonment or suspended

imprisonment for a person convicted of concealment of merchandise under AS 11.46.220 if the person has not been previously convicted more than once for a violation of AS 11.46.220 or of a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in AS 11.46.220.

(n) A court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of removal of identification marks under AS 11.46.260 if the person has not been previously convicted more than once for a violation of AS 11.46.260 or of a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in AS 11.46.260.

(o) A court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of unlawful possession under AS 11.46.270 if the person has not been previously convicted more than once for a violation of AS 11.46.270 or of a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in AS 11.46.270.

(p) A court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of issuing a bad check under AS 11.46.280 if the person has not been previously convicted more than once for a violation of AS 11.46.280 or of a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in AS 11.46.280.

(q) A court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of criminal simulation under AS 11.46.530 if the person has not been previously convicted more than once for a violation of AS 11.46.530 or of a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in AS 11.46.530.

(r) If an aggravating factor is a necessary element of the present offense, that factor may not be used to impose a sentence above the high end of the range.

(s) If the state seeks to establish an aggravating factor at sentencing

(1) under (a)(1) of this section, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence; the aggravating factors in (a)(1) of this section must be established by clear and convincing evidence before the court sitting without a jury; all

findings must be set out with specificity;

(2) aggravating factors in (a)(1) of this section shall be presented to a trial jury under procedures set by the court, unless the defendant waives trial by jury, stipulates to the existence of the factor, or consents to have the factor proven under procedures set out in (1) of this subsection; an aggravating factor presented to a jury is established if proved beyond a reasonable doubt; written notice of the intent to establish an aggravating factor must be served on the defendant and filed with the court

(A) 20 days before trial or at a time specified by the court;

(B) within 48 hours, or at a time specified by the court, if the court instructs the jury about the option to return a verdict for a lesser included offense; or

(C) five days before entering a plea that results in a finding of guilt or at a time specified by the court.

* **Sec. 72.** AS 12.61.015(a) is amended to read:

(a) If a victim of a felony or a crime involving domestic violence requests, the prosecuting attorney shall make a reasonable effort to

(1) confer with the person against whom the offense has been perpetrated about that person's testimony before the defendant's trial;

(2) in a manner reasonably calculated to give prompt actual notice, notify the victim

(A) of the defendant's conviction and the crimes of which the defendant was convicted;

(B) of the victim's right in a case that is a felony to make a written or oral statement for use in preparation of the defendant's presentence report, and of the victim's right to appear personally at the defendant's sentencing hearing to present a written statement and to give sworn testimony or an unsworn oral presentation;

(C) of the address and telephone number of the office that will prepare the presentence report; and

(D) of the time and place of the sentencing proceeding;

(3) notify the victim in writing of the final disposition of the case within 30 days after final disposition of the case;

(4) confer with the victim [OF A CRIME INVOLVING DOMESTIC VIOLENCE] concerning a proposed plea agreement before entering into an agreement;

(5) inform the victim of a pending motion that may substantially delay the prosecution and inform the court of the victim's position on the motion; in this paragraph, a "substantial delay" is

(A) for a misdemeanor, a delay of one month or longer;

(B) for a felony, a delay of two months or longer; and

(C) for an appeal, a delay of six months or longer.

* **Sec. 73.** AS 22.35.030 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, the Alaska Court System shall publish the court record of a person who is

(1) granted a suspended entry of judgment under AS 12.55.078 on a publicly available website with a notation indicating a suspended entry of judgment; or

(2) convicted of violation of condition of release under AS 11.56.757.

* **Sec. 74.** AS 28.15.165 is amended by adding a new subsection to read:

(e) A person whose driver's license, privilege to drive, or privilege to obtain a license has been revoked under this section as a result of a refusal to submit to a chemical test authorized under AS 28.35.031(a) or (g) or a similar municipal ordinance or a chemical test administered under AS 28.35.031(a) or (g) or a similar municipal ordinance in which the test produced a result described in AS 28.35.030(a)(2) may request that the department rescind the revocation. The department shall rescind a revocation under this subsection if the department finds that the person has supplied proof in a form satisfactory to the department that

(1) the person has been acquitted of driving while under the influence under AS 28.35.030, refusal to submit to a chemical test under AS 28.35.032, or a similar municipal ordinance for the incident on which the revocation was based; or

(2) all criminal charges against the person for driving while under the

influence under AS 28.35.030 or a similar municipal ordinance and refusing to submit to a chemical test under AS 28.35.032 or a similar municipal ordinance in relation to the incident on which the revocation is based have been dismissed with prejudice.

* **Sec. 75.** AS 28.15.181(f) is amended to read:

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

(1) **either**

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

(B) the person

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

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

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

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

* **Sec. 76.** AS 28.15.201 is amended by adding new subsections to read:

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

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

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

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

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

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

(B) the person signs an affidavit acknowledging that

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

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

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

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

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

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

(h) The court or the department may immediately revoke a limited license granted under (g) of this section if the person is convicted of a violation of AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction or if the person is not in compliance with a court-ordered treatment program under

AS 28.35.028.

* **Sec. 77.** AS 28.15.291(a) is repealed and reenacted to read:

(a) A person commits the crime of driving while license canceled, suspended, revoked, or in violation of a limitation if the person drives

(1) a motor vehicle on a highway or vehicular way or area at a time when that person's driver's license, privilege to drive, or privilege to obtain a license has been canceled, suspended, or revoked under circumstances described in AS 28.15.181(c) or a similar law in another jurisdiction;

(2) a motor vehicle on a highway or vehicular way or area at a time when that person's driver's license, privilege to drive, or privilege to obtain a license has been canceled, suspended, or revoked under circumstances other than those described in (1) of this subsection; or

(3) in violation of a limitation placed on that person's license or privilege to drive in this or another jurisdiction.

* **Sec. 78.** AS 28.15.291(b) is repealed and reenacted to read:

(b) Driving while license canceled, suspended, revoked, or in violation of a limitation is

(1) a class A misdemeanor if the person violates (a)(1) of this section; upon conviction the court shall impose a minimum sentence of imprisonment of not less than 10 days if the person has been previously convicted under (a)(1) of this section or a similar law in another jurisdiction;

(2) an infraction if the person violates (a)(2) or (3) of this section.

* **Sec. 79.** AS 28.35.028(b) is amended to read:

(b) Once the court elects to proceed under this section, the defendant shall enter a no contest or guilty plea to the offense or shall admit to a probation violation, as appropriate. The state and the defendant may enter into a plea agreement to determine the offense or offenses to which the defendant is required to plead. If the court accepts the agreement, the court shall enforce the terms of the agreement. The court shall enter a judgment of conviction for the offense or offenses for which the defendant has pleaded or an order finding that the defendant has violated probation, as appropriate. A judgment of conviction or an order finding a probation violation must

set a schedule for payment of restitution owed by the defendant. In a judgment of conviction and on probation conditions that the court considers appropriate, the court may withhold pronouncement of a period of imprisonment or a fine to provide an incentive for the defendant to complete recommended treatment successfully. Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any mandatory minimum or other sentencing provision applicable to the offense. However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any other provision of law, the court, at any time after the period when a reduction of sentence is normally available, may consider and reduce the defendant's sentence, **including imprisonment, fine, or license revocation,** based on the defendant's compliance with the treatment plan; when reducing a sentence, the court (1) may not reduce the sentence below the mandatory minimum sentence for the offense unless the court finds that the defendant has successfully complied with and completed the treatment plan and that the treatment plan approximated the severity of the minimum period of imprisonment, and (2) may consider the defendant's compliance with the treatment plan as a mitigating factor allowing a reduction of a sentence under AS 12.55.155(a). A court entering an order finding the defendant has violated probation may withhold pronouncement of disposition to provide an incentive for the defendant to complete the recommended treatment successfully.

* **Sec. 80.** AS 28.35.030(k) is amended to read:

(k) Imprisonment required under (b)(1)(A) of this section shall be served [AT A COMMUNITY RESIDENTIAL CENTER OR] by electronic monitoring at a private residence **under AS 33.30.065**. If [A COMMUNITY RESIDENTIAL CENTER OR] electronic monitoring [AT A PRIVATE RESIDENCE] is not available, imprisonment required under (b)(1)(A) of this section **shall** [MAY] be served at **a private residence by other means determined by the commissioner of corrections** [ANOTHER APPROPRIATE PLACE DETERMINED BY THE COMMISSIONER OF CORRECTIONS]. Imprisonment required under (b)(1)(B) - (F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include electronic monitoring **under AS 33.30.065 or, if electronic monitoring is not**

available, by other means as determined by the commissioner of corrections. The cost of imprisonment resulting from the sentence imposed under (b)(1) of this section shall be paid to the state by the person being sentenced**. The** [PROVIDED, HOWEVER, THAT THE] cost of imprisonment required to be paid under this subsection may not exceed $2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.065. **A** [WHILE AT THE COMMUNITY RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A] person sentenced under (b)(1)(A) of this section shall perform at least 24 hours of community service work. A person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of community service work, as required by the director of the community residential center or other appropriate place, or as required by the commissioner of corrections if the sentence is being served at a private residence. In this subsection, "appropriate place" means a facility with 24-hour on-site staff supervision that is specifically adapted to provide a residence, and includes a correctional center, residential treatment facility, hospital, halfway house, group home, work farm, work camp, or other place that provides varying levels of restriction.

*** Sec. 81.** AS 28.35.030(*l*) is amended to read:

(*l*) The commissioner of corrections shall determine and prescribe by regulation a uniform average cost of imprisonment for the purpose of determining the cost of imprisonment required to be paid under (k) of this section by a convicted person. **The regulations must include the costs associated with electronic monitoring under AS 33.30.065.**

*** Sec. 82.** AS 28.35.030(o) is amended to read:

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

(1) may restore the driver's license if

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

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

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

(2) shall restore the driver's license if

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

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

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

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

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

(F) the person provides proof of financial responsibility.

* **Sec. 83.** AS 28.35.032(o) is amended to read:

(o) Imprisonment required under (g)(1)(A) of this section shall be served **at a private residence by electronic monitoring under AS 33.30.065. If electronic monitoring** [AT A COMMUNITY RESIDENTIAL CENTER, OR IF A COMMUNITY RESIDENTIAL CENTER] is not available, **imprisonment under (g)(1)(A) of this section shall be served at a private residence by other means as determined by the commissioner of corrections** [AT ANOTHER APPROPRIATE PLACE DETERMINED BY THE COMMISSIONER OF CORRECTIONS]. Imprisonment required under (g)(1)(B) - (F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include

electronic monitoring **under AS 33.30.065 or, if electronic monitoring is not available, shall be served by other means as determined by the commissioner of corrections**. The cost of imprisonment resulting from the sentence imposed under (g)(1) of this section shall be paid to the state by the person being sentenced**. The** [PROVIDED, HOWEVER, THAT THE] cost of imprisonment required to be paid under this subsection may not exceed $2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.065. **A** [WHILE AT THE COMMUNITY RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A] person sentenced under (g)(1)(A) of this section shall perform at least 24 hours of community service work. A person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of community service work, as required by the director of the community residential center or other appropriate place, or as required by the commissioner of corrections if the sentence is being served at a private residence. In this subsection, "appropriate place" means a facility with 24-hour on-site staff supervision that is specifically adapted to provide a residence, and includes a correctional center, residential treatment facility, hospital, halfway house, group home, work farm, work camp, or other place that provides varying levels of restriction.

* **Sec. 84.** AS 29.10.200(21) is amended to read:

(21) AS 29.25.070(e) **and (g) (penalties)** [(NOTICES OF CERTAIN CIVIL ACTIONS)];

* **Sec. 85.** AS 29.25.070(a) is amended to read:

(a) For the violation of an ordinance, a municipality may by ordinance prescribe a penalty not to exceed a fine of $1,000 and imprisonment for 90 days**, except as limited by (g) of this section**. For a violation that cannot result in incarceration or the loss of a valuable license, a municipality may allow disposition of the violation without court appearance and establish a schedule of fine amounts for

each offense.

* **Sec. 86.** AS 29.25.070 is amended by adding a new subsection to read:

(g) If a municipality prescribes a penalty for a violation of a municipal ordinance, including a violation under (a) of this section, and there is a comparable state offense under AS 11 with elements that are similar to the municipal ordinance, the municipality may not impose a greater punishment than that imposed for a violation of the state law. This subsection applies to home rule and general law municipalities.

* **Sec. 87.** AS 33.05.020 is amended by adding a new subsection to read:

(g) The commissioner shall establish an administrative sanction and incentive program to facilitate a prompt and effective response to a probationer's compliance with or violation of the conditions of probation. The commissioner shall adopt regulations to implement the program. At a minimum, the regulations must include

(1) a decision-making process to guide probation 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 probation, and a list of incentives for compliance with conditions and positive behavior that exceeds those conditions;

(2) policies and procedures that ensure

(A) a process for responding to negative behavior that includes a review of previous violations and sanctions;

(B) that enhanced sanctions for certain negative conduct are approved by the commissioner or the commissioner's designee; and

(C) 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. 88.** AS 33.05 is amended by adding a new section to read:

Sec. 33.05.025. Probation incentive reduction; time computation. (a) A probation officer shall recommend to the sentencing court a probation incentive reduction for good conduct by a person on probation.

(b) If a recommendation is made under (a) of this section, the probation officer shall provide to the court a time computation for the reduction of the period of probation of 30 days for each 30-day period of probation that a defendant successfully complies with all of the conditions of probation for one or more 30-day period immediately preceding the reduction computation. The computation under this subsection may not include credit for less than a 30-day period.

* **Sec. 89.** AS 33.05.040 is amended to read:

Sec. 33.05.040. Duties of probation officers. A probation officer shall

(1) furnish to each probationer under the supervision of the officer a written statement of the conditions of probation and shall instruct the probationer regarding the same;

(2) keep informed concerning the conduct and condition of each probationer under the supervision of the officer and shall report on the probationer to the court placing **the** [SUCH] person on probation;

(3) use all suitable methods, not inconsistent with the conditions imposed by the court, to aid probationers and to bring about improvements in their conduct and condition;

(4) keep records of the probation work **including sanctions and incentives the probation officer imposes under AS 33.05.020(g)**, keep accurate and complete accounts of all money collected from persons under the supervision of the officer, give receipts for money collected and make at least monthly returns of it, make the reports to the court and the commissioner required by them, and perform other duties the court may direct;

(5) **recommend to the court a probation reduction for a probationer who is eligible for the reduction under AS 33.05.025; a probation officer shall make the recommendation to the court at least 30 days before the earliest date a probationer could be discharged from further supervision because of the reduction under AS 33.05.025;**

(6) perform **the** [SUCH] duties with respect to persons on parole as the commissioner shall request [,] and**,** in **that** [SUCH] service**,** shall be termed a parole officer**;**

(7) use sanctions and incentives developed under AS 33.05.020(g) to respond to a probationer's negative and positive behavior, including responses to technical violations of conditions of probation, in a way that is intended to interrupt negative behavior in a swift, certain, and proportional manner and support progress with a recognition of positive behavior; and

(8) upon determining that a probationer under the supervision of the officer meets the requirements of AS 12.55.090(g), recommend to the court as soon as practicable that probation be terminated and the probationer be discharged from probation.

*** Sec. 90.** AS 33.05.080 is amended by adding a new paragraph to read:

(3) "administrative sanctions and incentives" means responses by a probation officer to a probationer's compliance with or violation of the conditions of probation under AS 33.05.020(g).

*** Sec. 91.** AS 33 is amended by adding a new chapter to read:

Chapter 07. Pretrial Services Program.

Sec. 33.07.010. Pretrial services program; establishment. The commissioner shall establish and administer a pretrial services program that provides a pretrial risk assessment for all defendants, recommendations to the court concerning pretrial release decisions, and supervision of defendants released while awaiting trial as ordered by the court.

Sec. 33.07.020. Duties of commissioner; pretrial services. The commissioner shall

(1) appoint and make available to the superior court and district court qualified pretrial services officers;

(2) fix pretrial services officers' salaries;

(3) assign pretrial services officers to the various judicial districts;

(4) provide for the necessary training, expenses, including clerical services, and travel of pretrial services officers;

(5) approve a risk assessment instrument that is objective, standardized, developed based on analysis of empirical data and risk factors relevant to pretrial failure, that evaluates the likelihood of failure to appear in court and the

likelihood of rearrest during the pretrial period, and that is validated on the state's pretrial population; and

(6) adopt regulations in consultation with the Department of Law, the public defender, the Department of Public Safety, and the Alaska Court System, consistent with this chapter and as necessary to implement the program; the regulations must include pretrial release decision-making process guidelines for pretrial services officers in making a recommendation to the court concerning a pretrial release decision, including guidelines for pretrial diversion recommendations.

Sec. 33.07.030. Duties of pretrial services officers. (a) Pretrial services officers shall, in advance of a first appearance before a judicial officer under AS 12.30, conduct a pretrial risk assessment on the defendant using an instrument approved by the commissioner for the purpose of making a recommendation to the court concerning an appropriate pretrial release decision and conditions of release. In conducting a pretrial risk assessment and making a recommendation to the court, the department shall follow the decision-making process established by regulation under this chapter. The pretrial risk assessment shall be completed and presented to the court in a pretrial release report that contains a risk assessment rating of low, moderate, or high and a recommendation regarding release and release conditions before the defendant's first appearance before a judicial officer.

(b) A pretrial services officer shall make a recommendation under (a) of this section for pretrial release to the court based on factors that include the results of a pretrial risk assessment, the offense charged, the least restrictive condition, and conditions that will reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community. The recommendation must take into account

(1) the level of risk of a defendant;

(2) the appropriateness for release on the defendant's own recognizance or on the execution of an unsecured appearance bond, unsecured performance bond, or both; and

(3) nonmonetary release conditions permitted under AS 12.30.011, 12.30.016, 12.30.021, and 12.30.027 for defendants who are recommended for release.

(c) A pretrial services officer shall recommend for release on personal recognizance, upon execution of an unsecured appearance bond, upon execution of an unsecured performance bond, or to a pretrial diversion program, with nonmonetary conditions as appropriate, a defendant charged with

(1) a misdemeanor, unless that misdemeanor is

(A) a crime involving domestic violence, as defined in AS 18.66.990;

(B) a crime against the person under AS 11.41;

(C) an offense under AS 11.56.730;

(2) a class C felony unless that felony is

(A) a crime involving domestic violence, as defined in AS 18.66.990;

(B) a crime against the person under AS 11.41;

(C) an offense under AS 11.56.730;

(3) an offense under AS 28.35.030 or 28.35.032, if the defendant has been assessed as being low or moderate risk on the pretrial risk assessment;

(4) an offense for which no finding has been made under (d) of this section that is

(A) an offense under AS 28.35.030 or 28.35.032, and the defendant has been assessed as being high risk on the pretrial risk assessment;

(B) an offense under AS 11.56.730 or 11.56.757, and the defendant has been assessed as being low to moderate risk on the pretrial risk assessment;

(C) any other offense, and the defendant has been assessed as being low risk on the pretrial risk assessment.

(d) For an offense under (c)(4) of this section, if the pretrial services officer finds substantial evidence that no nonmonetary conditions of release in combination with a personal recognizance release or unsecured bond can reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community, the pretrial services officer may recommend to the court more restrictive release conditions than otherwise provided for under (c) of this section.

(e) Pretrial services officers shall supervise defendants released during the pretrial period and prioritize supervision of defendants accused of serious charges or who are assessed as moderate or high risk on the pretrial risk assessment. Pretrial services officers shall impose the least restrictive level of supervision that will reasonably ensure the appearance of the person in court and the safety of the victim and the community.

(f) A pretrial services officer may

(1) recommend pretrial diversion to the court before adjudication;

(2) arrest a defendant who has been released pretrial without a warrant if the officer has reason to believe the defendant has committed an offense under AS 11.56.730 or 11.56.757 or has violated the defendant's release conditions;

(3) refer interested defendants for substance abuse screening, assessment, and treatment on a voluntary basis; and

(4) coordinate with community-based organizations and tribal courts and councils to develop and expand pretrial diversion options.

Sec. 33.07.040. Pretrial services officers as officers of court. (a) All pretrial services officers shall be available to the superior and district courts and shall be officers of the court.

(b) The appointment of a pretrial services officer shall be entered on the journal of the court in the judicial district where the pretrial services officer is assigned, and one copy of the journal entry shall be sent to the administrative director of the Alaska Court System.

Sec. 33.07.090. Definitions. In this chapter,

(1) "commissioner" means the commissioner of corrections;

(2) "program" means the pretrial services program.

* **Sec. 92.** AS 33.16.010(c) is amended to read:

(c) A prisoner who is not eligible for **special medical, administrative, or** discretionary parole, or who is not released on **special medical, administrative, or** discretionary parole, shall be released on mandatory parole for the term of good time deductions credited under AS 33.20, if the term or terms of imprisonment are two years or more.

* **Sec. 93.** AS 33.16.010(d) is amended to read:

(d) A prisoner released on special medical, **administrative,** discretionary, or mandatory parole is subject to the conditions of parole imposed under AS 33.16.150. Parole may be revoked under AS 33.16.220.

* **Sec. 94.** AS 33.16.010 is amended by adding a new subsection to read:

(f) A prisoner eligible under AS 33.16.089 shall be released on administrative parole by the board of parole.

* **Sec. 95.** AS 33.16.060(a) is amended to read:

(a) The board shall

(1) serve as the parole authority for the state;

(2) upon receipt of an application, consider the suitability for parole of a prisoner who is eligible for special medical or discretionary parole;

(3) impose parole conditions on all prisoners released under **administrative,** discretionary**,** or mandatory parole;

(4) under AS 33.16.210, discharge a person from parole when custody is no longer required;

(5) maintain records of the meetings and proceedings of the board;

(6) recommend to the governor and the legislature changes in the law administered by the board;

(7) recommend to the governor or the commissioner changes in the practices of the department and of other departments of the executive branch necessary to facilitate the purposes and practices of parole;

(8) upon request of the governor, review and recommend applicants for executive clemency; [AND]

(9) execute other responsibilities prescribed by law**; and**

(10) evaluate the eligibility and notify a prisoner of the prisoner's eligibility for administrative and discretionary parole at least 90 days before the prisoner's first date of eligibility.

* **Sec. 96.** AS 33.16 is amended by adding a new section to read:

Sec. 33.16.089. Eligibility for administrative parole. (a) A prisoner convicted of a misdemeanor or a class B or C felony that is not a sexual felony as

defined in AS 12.55.185, who has not been previously convicted of a felony in this or another jurisdiction, and who has been sentenced to an active term of imprisonment of at least 181 days shall be released on administrative parole by the board without a hearing if

(1) the prisoner has served the greater of

(A) one-fourth of the active term of imprisonment imposed;

(B) the mandatory minimum term of imprisonment imposed; or

(C) a term of imprisonment imposed under AS 12.55.115;

(2) the prisoner is not excluded from eligibility for administrative parole by court order;

(3) the prisoner has agreed to and signed the conditions of parole under AS 33.16.050;

(4) the victim does not request a hearing to consider issues of public safety under AS 33.16.120; and

(5) the prisoner has met the requirements of the case plan established under AS 33.30.011(8).

(b) If a prisoner who is eligible for discretionary parole under AS 33.16.090 does not meet the criteria for release on administrative parole under (a) of this section, the board shall consider the prisoner for discretionary parole.

(c) If a victim makes a timely request for a hearing under AS 33.16.120, the board shall conduct the hearing not later than 30 days before the prisoner's earliest parole eligibility date.

* **Sec. 97.** AS 33.16.090(a) is amended to read:

(a) A prisoner sentenced to an active term of imprisonment of at least 181 days **and who has not been released on administrative parole as provided in AS 33.16.089** may, in the discretion of the board, be released on discretionary parole if the prisoner

(1) has served the amount of time specified under (b) of this section, except that

(A) [(1)] a prisoner sentenced to one or more mandatory 99-year terms under AS 12.55.125(a) or one or more definite terms under

AS 12.55.125(*l*) is not eligible for consideration for discretionary parole;

(B) [(2)] a prisoner is not eligible for consideration of discretionary parole if made ineligible by order of a court under AS 12.55.115;

(C) [(3)] a prisoner imprisoned under AS 12.55.086 is not eligible for discretionary parole unless the actual term of imprisonment is more than one year**; or**

(2) is at least 60 years of age, has served at least 10 years of a sentence for one or more crimes in a single judgment, and has not been convicted of an unclassified felony or a sexual felony as defined in AS 12.55.185.

*** Sec. 98.** AS 33.16.090(b) is amended to read:

(b) A prisoner eligible under (a)**(1)** of this section who is sentenced

(1) to a single sentence under AS 12.55.125(a) or (b) may not be released on discretionary parole until the prisoner has served the mandatory minimum term under AS 12.55.125(a) or (b), one-third of the active term of imprisonment imposed, or any term set under AS 12.55.115, whichever is greatest;

(2) to a single sentence within or below a presumptive range set out in **AS 12.55.125(i)(1)(C) - (F)** [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)], and has not been allowed by the three-judge panel under AS 12.55.175 to be considered for discretionary parole release, may not be released on discretionary parole until the prisoner has served the term imposed, less good time earned under AS 33.20.010;

(3) to a single sentence under **AS 12.55.125(i)(1)(C) - (F)** [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)], and has been allowed by the three-judge panel under AS 12.55.175 to be considered for discretionary parole release during the second half of the sentence, may not be released on discretionary parole until

(A) the prisoner has served that portion of the active term of imprisonment required by the three-judge panel; and

(B) in addition to the factors set out in AS 33.16.100(a), the board determines that

(i) the prisoner has successfully completed all

rehabilitation programs ordered by the three-judge panel that were made available to the prisoner; and

(ii) the prisoner would not constitute a danger to the public if released on parole;

(4) to a single enhanced sentence under AS 12.55.155(a) that is above the applicable presumptive range may not be released on discretionary parole until the prisoner has served the greater of the following:

(A) an amount of time, less good time earned under AS 33.20.010, equal to the upper end of the presumptive range plus one-fourth of the amount of time above the presumptive range; or

(B) any term set under AS 12.55.115;

(5) to a single sentence under any other provision of law may not be released on discretionary parole until the prisoner has served at least one-fourth of the active term of imprisonment, any mandatory minimum sentence imposed under any provision of law, or any term set under AS 12.55.115, whichever is greatest;

(6) to concurrent sentences may not be released on discretionary parole until the prisoner has served the greatest of

(A) any mandatory minimum sentence or sentences imposed under any provision of law;

(B) any term set under AS 12.55.115; or

(C) the amount of time that is required to be served under (1) - (5) of this subsection for the sentence imposed for the primary crime, had that been the only sentence imposed;

(7) to consecutive or partially consecutive sentences may not be released on discretionary parole until the prisoner has served the greatest of

(A) the composite total of any mandatory minimum sentence or sentences imposed under any provision of law, including AS 12.55.127;

(B) any term set under AS 12.55.115; or

(C) the amount of time that is required to be served under (1) - (5) of this subsection for the sentence imposed for the primary crime, had that been the only sentence imposed, plus one-quarter of the composite total of the

active term of imprisonment imposed as consecutive or partially consecutive sentences imposed for all crimes other than the primary crime.

* **Sec. 99.** AS 33.16.100(a) is amended to read:

(a) The board may authorize the release of a prisoner **convicted of an unclassified felony who is otherwise eligible under AS 12.55.115 and AS 33.16.090** on discretionary parole if it determines a reasonable probability exists that

(1) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board;

(2) the prisoner's rehabilitation and reintegration into society will be furthered by release on parole;

(3) the prisoner will not pose a threat of harm to the public if released on parole; and

(4) release of the prisoner on parole would not diminish the seriousness of the crime.

* **Sec. 100.** AS 33.16.100(b) is amended to read:

(b) If the board finds a change in circumstances in a prisoner's **preparole reports listed in AS 33.16.110(a)** [PAROLE RELEASE PLAN SUBMITTED UNDER AS 33.16.130(a)], or discovers new information concerning a prisoner who has been granted a parole release date, the board may rescind or revise the previously granted parole release date. In reconsidering the release date, the procedures set out in **AS 33.16.130** [AS 33.16.130(b) AND (c)] shall be followed.

* **Sec. 101.** AS 33.16.100 is amended by adding a new subsection to read:

(f) The board may authorize the release of a prisoner who has been convicted of more than one felony, other than an unclassified felony, in this or another jurisdiction, if the prisoner is eligible for discretionary parole under AS 12.55.115 and AS 33.16.090, has met the requirements of a case plan created under AS 33.30.011(8), and has agreed to the conditions of supervision, unless the board finds by clear and convincing evidence on the record that the prisoner poses a threat of harm to the public if released. If the board finds that failure to complete the requirements of a case plan was not caused by the prisoner, the board may waive the incomplete requirements.

* **Sec. 102.** AS 33.16.110(a) is amended to read:

(a) In determining whether a prisoner is suitable for discretionary parole, the board shall consider the preparole reports including

(1) the presentence report made to the sentencing court;

(2) the recommendations made by the sentencing court, by the prosecuting attorney, and by the defense attorney, and any statements made by the victim or the prisoner at sentencing;

(3) the prisoner's institutional conduct history while incarcerated;

(4) recommendations made by the staff of the correctional facilities in which the prisoner was incarcerated;

(5) reports of prior crimes, juvenile histories, and previous experiences of the prisoner on parole or probation;

(6) physical, mental, and psychiatric examinations of the prisoner;

(7) information submitted by the prisoner, the sentencing court, the victim of the crime, the prosecutor, or other persons having knowledge of the prisoner or the crime;

(8) information concerning an unjustified disparity in the sentence imposed on a prisoner in relation to other sentences imposed under similar circumstances; [AND]

(9) other relevant information that may be reasonably available**;**

(10) the case plan created under AS 33.30.011(8) for the prisoner, including a compliance report on the case plan; and

(11) a reentry plan created under AS 33.30.011(9).

* **Sec. 103.** AS 33.16.120(a) is amended to read:

(a) If the victim of a crime against a person or arson in the first degree requests notice of a scheduled hearing to review or consider discretionary parole for a prisoner convicted of that crime, the board shall send notice of the hearing to the victim at least 30 days before the hearing. The notice must be accompanied by a copy of the prisoner's **preparole reports listed in AS 33.16.110** [APPLICATION FOR PAROLE SUBMITTED UNDER AS 33.16.130(a)]. However, the copy of the **preparole reports** [APPLICATION] sent to the victim may not include the prisoner's

confidential health information, information protected under AS 33.16.170, proposed residence**, or** [AND] employment addresses.

*** Sec. 104.** AS 33.16.120(f) is amended to read:

(f) Upon request of the victim, if a prisoner is released under AS 33.16.010(c), **33.16.089, or 33.16.090,** the board shall make every reasonable effort to notify the victim before the prisoner's release date. Notification under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.

*** Sec. 105.** AS 33.16.120(g) is amended to read:

(g) A victim of a crime involving domestic violence shall be informed by the board at least 30 days in advance of a scheduled hearing to review or consider [DISCRETIONARY] parole for a prisoner. The board shall inform the victim of any decision to grant or deny [DISCRETIONARY] parole or to release the prisoner under AS 33.16.010(c). If the prisoner is to be released, the victim shall be notified of the expected date of the release, the geographic area in which the prisoner will reside, and any other information concerning conditions of parole that may affect the victim. The victim shall also be informed of any changes in the conditions of parole that may affect the victim. The board shall send the notice required to the last known address of the victim. A person may not bring a civil action for damages for a failure to comply with the provisions of this subsection.

*** Sec. 106.** AS 33.16.120 is amended by adding a new subsection to read:

(h) A victim who has a right to notice under (a) of this section may request a hearing before a prisoner is released on administrative parole under AS 33.16.089. The notice to the victim must include the procedure and time frame for requesting a hearing.

*** Sec. 107.** AS 33.16.130 is repealed and reenacted to read:

Sec. 33.16.130. Parole procedures. (a) The parole board shall hold a hearing for all prisoners who are eligible for parole before granting an eligible prisoner special medical or discretionary parole. The board shall also hold a hearing if requested by a victim under procedures established for the request for a prisoner eligible for

administrative parole. A hearing shall be conducted within the following time frames:

(1) for prisoners eligible under AS 33.16.100(a), not less than 90 days before the first parole eligibility date;

(2) for all other prisoners, not less than 30 days after the board is notified of the need for a hearing by the commissioner or the commissioner's designee.

(b) The commissioner or the commissioner's designee shall furnish a copy of the preparole reports listed in AS 33.16.110(a), and the prisoner shall be permitted access to all records that the board will consider in making its decision except those that are made confidential by law. The prisoner may also respond in writing to all materials the board considers, be present at the hearing, and present evidence to the board.

(c) If the board denies parole, the board shall state the reasons for the denial, identify all of the factors considered relevant to the denial, and provide a written plan for addressing all of the factors relevant to the denial. The board may schedule a subsequent parole hearing at the time of the denial or at a later date as follows:

(1) for the first parole denial, within two years after the first parole eligibility date;

(2) for the second and subsequent denials, within two years after the most recent parole hearing.

(d) The board shall issue its decision in writing and provide a copy of the decision to the prisoner.

* **Sec. 108.** AS 33.16.140 is amended to read:

Sec. 33.16.140. Order for parole. An order for parole issued by the board, setting out the conditions imposed under AS 33.16.150(a) and (b) and the date parole custody ends, shall be furnished to each prisoner released on special medical, **administrative,** discretionary, or mandatory parole.

* **Sec. 109.** AS 33.16.150(a) is amended to read:

(a) As a condition of parole, a prisoner released on special medical, **administrative,** discretionary, or mandatory parole

(1) shall obey all state, federal, or local laws or ordinances, and any court orders applicable to the parolee;

(2) shall make diligent efforts to maintain steady employment or meet family obligations;

(3) shall, if involved in education, counseling, training, or treatment, continue in the program unless granted permission from the parole officer assigned to the parolee to discontinue the program;

(4) shall report

(A) upon release to the parole officer assigned to the parolee;

(B) at other times, and in the manner, prescribed by the board or the parole officer assigned to the parolee;

(5) shall reside at a stated place and not change that residence without notifying, and receiving permission from, the parole officer assigned to the parolee;

(6) shall remain within stated geographic limits unless written permission to depart from the stated limits is granted the parolee;

(7) may not use, possess, handle, purchase, give, distribute, or administer a controlled substance as defined in AS 11.71.900 or under federal law or a drug for which a prescription is required under state or federal law without a prescription from a licensed medical professional to the parolee;

(8) may not possess or control a firearm; in this paragraph, "firearm" has the meaning given in AS 11.81.900;

(9) may not enter into an agreement or other arrangement with a law enforcement agency or officer that will place the parolee in the position of violating a law or parole condition without the prior approval of the board;

(10) may not contact or correspond with anyone confined in a correctional facility of any type serving any term of imprisonment or a felon without the permission of the parole officer assigned to a parolee;

(11) shall agree to waive extradition from any state or territory of the United States and to not contest efforts to return the parolee to the state;

(12) shall provide a blood sample, an oral sample, or both, when requested by a health care professional acting on behalf of the state to provide the sample or samples, or an oral sample when requested by a juvenile or adult correctional, probation, or parole officer, or a peace officer, if the prisoner is being

released after a conviction of an offense requiring the state to collect the sample or samples for the deoxyribonucleic acid identification system under AS 44.41.035;

(13) from a conviction for a sex offense shall submit to regular periodic polygraph examinations; in this paragraph, "sex offense" has the meaning given in AS 12.63.100.

* **Sec. 110.** AS 33.16.150(b) is amended to read:

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

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

(2) refrain from possessing or consuming alcoholic beverages;

(3) submit to reasonable searches and seizures by a parole officer, or a peace officer acting under the direction of a parole officer;

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

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

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

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

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

(9) refrain from operating a motor vehicle;

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

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

* **Sec. 111.** AS 33.16.150(e) is amended to read:

(e) The board may designate a member of the board to act on behalf of the board in imposing conditions of **administrative or** mandatory parole under (a) and (b) of this section, in delegating imposition of conditions of **administrative or** mandatory parole under (c) of this section, and in setting the period of compliance with the conditions of **administrative or** mandatory parole under (d) of this section. The decision of a member of the board under this section is the decision of the board. A prisoner or parolee aggrieved by a decision of a member of the board acting for the board under this subsection may apply to the board under AS 33.16.160 for a change in the conditions of **administrative or** mandatory parole.

* **Sec. 112.** AS 33.16.150(f) is amended to read:

(f) In addition to other conditions of parole imposed under this section, the board may impose as a condition of special medical, **administrative,** discretionary, or mandatory parole for a prisoner serving a term for a crime involving domestic violence (1) any of the terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at the prisoner's expense, the prisoner participate in and complete, to the satisfaction of the board, a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by, and that is approved by, the department under AS 44.28.020(b); and (3) any other condition necessary to rehabilitate the prisoner. The board shall establish procedures for the exchange of information concerning the parolee with the victim and for responding to reports of nonattendance or noncompliance by the parolee with conditions imposed under this

subsection. The board may not under this subsection require a prisoner to participate in and complete a program for the rehabilitation of perpetrators of domestic violence unless the program meets the standards set by, and is approved by, the department under AS 44.28.020(b).

* **Sec. 113.** AS 33.16.150(g) is amended to read:

(g) In addition to other conditions of parole imposed under this section for a prisoner serving a sentence for an offense where the aggravating factor provided in AS 12.55.155(c)(29) has been proven or admitted, the board shall impose as a condition of special medical, **administrative,** discretionary, and mandatory parole a requirement that the prisoner submit to electronic monitoring. Electronic monitoring under this subsection must provide for monitoring of the prisoner's location and movements by Global Positioning System technology. The board shall require a prisoner serving a period of probation with electronic monitoring as provided under this subsection to pay all or a portion of the costs of the electronic monitoring, but only if the prisoner has sufficient financial resources to pay the costs or a portion of the costs. A prisoner subject to electronic monitoring under this subsection is not entitled to a credit for time served in a correctional facility while the defendant is on parole. In this subsection, "correctional facility" has the meaning given in AS 33.30.901.

* **Sec. 114.** AS 33.16.180 is amended to read:

Sec. 33.16.180. Duties of the commissioner. The commissioner shall

(1) conduct investigations of prisoners eligible for **administrative or** discretionary parole, as requested by the board **and as provided in this section**;

(2) supervise the conduct of parolees;

(3) appoint and assign parole officers and personnel;

(4) provide the board, within 30 days after sentencing, information on a sentenced prisoner who may be eligible for **administrative parole under AS 33.16.089 or** discretionary parole under AS 33.16.090;

(5) notify the board and provide information on a prisoner 120 days before the prisoner's mandatory release date, if the prisoner is to be released **on** [TO] mandatory parole; [AND]

(6) maintain records, files, and accounts as requested by the board**;**

(7) prepare preparole reports under AS 33.16.110(a);

(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;

(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;

(10) calculate and keep records of the parole reduction for a parolee who is eligible for the reduction under AS 33.16.210(d); and

(11) notify the board at least 30 days before the earliest date a parolee's parole will be discharged under AS 33.16.210(d).

* **Sec. 115.** 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. 116.** AS 33.16.210 is amended to read:

Sec. 33.16.210. Discharge of parolee. (a) The board may unconditionally discharge a parolee from the jurisdiction and custody of the board after the parolee has completed **one year** [TWO YEARS] of parole. A discretionary parolee with a residual period of probation may, after **one year** [TWO YEARS] of parole, be discharged by the board to immediately begin serving the residual period of probation.

(b) Notwithstanding (a) of this section, the board may unconditionally discharge a mandatory parolee before the parolee has completed **one year** [TWO YEARS] of parole if the parolee is serving a concurrent period of residual probation under AS 33.20.040(c), and the period of residual probation and the period of suspended imprisonment each equal or exceed the period of mandatory parole.

* **Sec. 117.** AS 33.16.210 is amended by adding new subsections to read:

(c) Notwithstanding (a) of this section, the board may unconditionally discharge a parolee if the parolee

(1) has completed at least one year on parole;

(2) has completed all treatment programs required as a condition of parole;

(3) is currently in compliance with all conditions of parole; and

(4) 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.

(d) The board shall grant a parole incentive reduction for good conduct by a person on parole of 30 days for each 30-day period of parole that a parolee successfully complies with all of the conditions of parole for one or more 30-day period immediately preceding the reduction computation. The board may not grant a reduction for less than a 30-day period.

* **Sec. 118.** AS 33.16 is amended by adding a new section to read:

Sec. 33.16.215. Sanctions for a technical violation of parole. (a) If a parolee is serving a period of parole for an offense, the board may find that the parolee has committed a technical violation of parole. If the board finds that a parolee has committed a technical violation of parole that does not include absconding, the board may revoke parole and return the parolee to the custody of the commissioner and then place the person back on parole after the appropriate period of time below:

(1) three days for the first technical violation of parole filed with the board;

(2) five days for the second technical violation of parole filed with the board;

(3) 10 days for the third technical violation of parole filed with the board; and

(4) the remainder of the sentence for a fourth or subsequent technical violation of parole.

(b) If the board revokes parole for absconding, the board may place a person back on parole after the person has served up to 30 days.

(c) This section does not apply if the parolee is enrolled in the program established under AS 33.16.060(c).

(d) If the defendant is ordered to complete treatment under AS 33.16.150(a)(3) and does not comply with the board's order, the board may order the parolee to show cause why the board should not revoke the parole for noncompletion of treatment. In a parole revocation proceeding brought as a result of failure to complete treatment, it is an affirmative defense that the parolee was unable to afford the cost of treatment or secure a place in a free treatment program, despite having made continuing good faith efforts. If the board finds that the parolee was unable to complete treatment despite having made continuing good faith efforts, the parole may not be revoked solely because of an inability to pay. If the board does not find that the noncompletion of treatment was attributable to the parolee's inability to pay, the board may revoke parole subject to the limits established in this section.

(e) In this section,

(1) "absconding" means failing to report within five working days after

release from custody under AS 33.20.030 or failing to report to a parole officer within 30 days after release from custody;

(2) "technical violation" means a violation of the conditions of parole that does not result from

(A) an arrest for a new criminal offense; or

(B) failing to complete sex offender treatment.

* **Sec. 119.** AS 33.16.220(b) is amended to read:

(b) **If a parolee has been arrested for the commission of a new criminal offense or for failing to complete a sex offender treatment program, except** [EXCEPT] as provided in (e) of this section, **the board or its designee shall hold a preliminary hearing** within 15 working days after the arrest and incarceration of a parolee for violation of a condition of parole [, THE BOARD OR ITS DESIGNEE SHALL HOLD A PRELIMINARY HEARING]. At the preliminary hearing, the board or its designee shall determine if there is probable cause to believe that the parolee violated the conditions of parole and, when probable cause exists, whether the parolee should be released pending a final revocation hearing. A finding of probable cause at a preliminary hearing in a criminal case is conclusive proof of probable cause that a parole violation occurred.

* **Sec. 120.** AS 33.16.220(f) is amended to read:

(f) **If a parolee has had a preliminary hearing under (b) of this section, the** [THE] board shall hold a final revocation hearing **not** [NO] later than 120 days after a parolee's arrest, subject to restrictions arising under AS 33.36.110 and (g) of this section.

* **Sec. 121.** AS 33.16.220(i) is amended to read:

(i) If, after the final revocation hearing, the board finds that the parolee has violated a condition of parole imposed under AS 33.16.150(a), (b), or (f), or a law or ordinance, the board may revoke all or a portion of the parole **subject to the limits set out in AS 33.16.215**, or change any condition of parole. **The board cannot extend the period of parole beyond the maximum sentence imposed by the sentencing court.**

* **Sec. 122.** AS 33.16.220 is amended by adding a new subsection to read:

(j) If a parolee has been arrested for a technical violation of conditions of parole, the board or its designee shall hold a final hearing within 15 working days.

*** Sec. 123.** AS 33.16.240(e) is amended to read:

(e) A parolee **charged with a new crime or failure to comply with a sex offender treatment program** [ARRESTED FOR VIOLATION OF PAROLE] is not entitled to bail.

*** Sec. 124.** AS 33.16.240 is amended by adding new subsections to read:

(h) A parolee arrested under this section for a technical violation shall be released without bail once the parolee has served the maximum number of days that could be served for a technical violation under AS 33.16.215. Nothing in this subsection prohibits the board or its designee from releasing a parolee sooner.

(i) The board or its designee may impose additional conditions necessary to ensure the parolee's appearance at a hearing held under AS 33.16.220(h).

*** Sec. 125.** AS 33.16.900 is amended by adding a new paragraph to read:

(14) "administrative sanctions and incentives" means responses by a parole officer to a parolee's compliance with or violation of the conditions of parole under AS 33.16.180.

*** Sec. 126.** AS 33.20.010(c) is amended to read:

(c) A prisoner may not be awarded a good time deduction under (a) of this section for any period spent in a treatment program **or** [,] in a private residence**. A prisoner may be awarded a good time deduction under (a) of this section for any period spent** [, OR] while under electronic monitoring.

*** Sec. 127.** AS 33.20.010 is amended by adding a new subsection to read:

(d) Notwithstanding (a) and (c) of this section, the commissioner of corrections shall award to a prisoner convicted of a sexual offense that is ineligible for a deduction under (a)(3)(A) or (B) of this section and sentenced to a term of imprisonment that exceeds three days a deduction of one-third of the term of imprisonment rounded off to the nearest day for periods during which the prisoner follows the rules of the correctional facility in which the prisoner is confined. The commissioner may not award the deduction under this subsection until the prisoner successfully completes the treatment requirements in the prisoner's case plan.

* **Sec. 128.** AS 33.30.011 is amended to read:

Sec. 33.30.011. Duties of commissioner. The commissioner shall

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

(2) classify prisoners;

(3) for persons committed to the custody of the commissioner, establish programs, including furlough programs that are reasonably calculated to

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

(B) maintain health;

(C) create or improve occupational skills;

(D) enhance educational qualifications;

(E) support court-ordered restitution; and

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

(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**; the program must include a requirement for an assessment before release and within 24 hours after initial arrest and detention;**

(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 is

(A) provided to the prisoner within 90 days after sentencing;

(B) based on the results of the assessment of the prisoner's risks and needs under (7) of this section;

(C) to the extent feasible, incorporated into institutional conduct of the prisoner and the correctional facility staff;

(D) modified when necessary for changes in classification, housing status, medical or mental health, and resource availability;

(9) establish a program for reentry planning for each prisoner serving an active term of imprisonment of 181 days or more that provides a written plan to the prisoner not less than 90 days before release to furlough, probation, or parole; the reentry plan must include

(A) information on the prisoner's proposed

(i) residence;

(ii) employment or alternative means of support;

(iii) treatment options;

(iv) counseling services;

(v) education or job training services;

(B) any other requirements for successful transition back to the community, including electronic monitoring or furlough for the period between a scheduled parole hearing and parole eligibility; and

(10) establish minimum standards for electronic monitoring for offenders and procedures for approving electronic monitoring programs provided by private contractors.

* **Sec. 129.** AS 33.30.013(a) is amended to read:

(a) The commissioner shall notify the victim if the offender

(1) escapes from custody**;**

(2) is eligible for or receives a parole reduction under AS 33.16.210(d); or

(3) is released to the community on a furlough, on an early release program, or for any other reason.

* **Sec. 130.** AS 33.30 is amended by adding a new section to read:

Sec. 33.30.095. Duties of commissioner before release of prisoner. (a) The commissioner shall establish a program to prepare a prisoner who is serving a sentence of imprisonment exceeding one year for the prisoner's discharge, release on parole or probation, or prerelease furlough under AS 33.30.111 that begins 90 days before the date of the prisoner's discharge, release, or furlough.

(b) The program established under (a) of this section must include

(1) instruction on

(A) obtaining state identification;

(B) community resources available for housing, employment, and treatment;

(2) an individualized reentry plan for the prisoner; and

(3) probation and parole orientation, if appropriate.

* **Sec. 131.** AS 33.30.151 is amended to read:

Sec. 33.30.151. Correctional restitution centers. (a) The commissioner shall

establish correctional restitution centers in the state. The purpose of the centers is to provide certain offenders with rehabilitation through **comprehensive treatment for substance abuse, cognitive behavioral disorders, and other criminal risk factors, including aftercare support,** community service, and employment, while protecting the community through partial incarceration of the offender, and to create a means to provide restitution to victims of crimes.

(b) The commissioner shall adopt regulations setting standards for the operation of the centers including

(1) requirements that the centers be secure and in compliance with state and local safety laws;

(2) standards for disciplinary rules to be imposed on prisoners confined to the centers;

(3) standards for the granting of emergency absence to prisoners confined to the centers;

(4) standards for classifying prisoners to centers;

(5) standards for mandatory employment and participation in community service programs in each center; [AND]

(6) standards for periodic review of the performance of prisoners confined to the centers **and quality assurance measures to ensure centers are meeting state standards and contractual obligations;**

(7) standards for the provision of treatment, including substance abuse treatment, cognitive behavioral therapy, and aftercare designed to address an offender's individual criminogenic needs; and

(8) standards and a process to assess an offender's risk of recidivating and the criminal risk factors and needs that reduce the risk of recidivating and ensure that

(A) high risk offenders with moderate to high needs are a priority for acceptance into a correctional restitution center; and

(B) centers establish internal procedures to limit the mixing of low and high risk prisoners.

*** Sec. 132.** AS 34.03.360(7) is amended to read:

(7) "illegal activity involving a controlled substance" means a violation of AS 11.71.010(a), **11.71.030(a)(1), (2), or (4) - (8)** [11.71.020(a), 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1), (2), or (5);

* **Sec. 133.** AS 43.23.065(b) is amended to read:

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support services agency under AS 25.27.140 - 25.27.220;

(2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100, or AS 47.12.120(b)(4);

(3) claims on defaulted education loans under AS 43.23.067;

(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages and court costs;

(B) under AS 09.65.255 against the parent, parents, or legal guardian of an unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, including the University of Alaska, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;

(7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2);

(8) a judgment for unpaid rent or damage owed to a landlord by an eligible individual that was a tenant of the landlord; in this paragraph, "tenant" has the meaning given in AS 34.03.360**;**

(9) court-ordered forfeiture of an appearance or performance bond under AS 12.30.075.

* **Sec. 134.** AS 47.05 is amended by adding a new section to read:

Sec. 47.05.035. Disqualification from public assistance for felony drug offenses. (a) A person convicted during or in the five years preceding a period in

which the person is receiving public assistance under AS 47.25 of an offense under AS 11.71.010 - 11.71.050, 11.71.060(a)(2)(B), or by the law of another jurisdiction that has as an element the possession, use, or distribution of a controlled substance, as defined in AS 11.71.900, is disqualified from receiving public assistance under this title unless the person participates in a testing program implemented by the department at least quarterly, on renewal of public assistance eligibility, and on a random basis for the use of illegal controlled substances. A person subject to this section who tests positive for the illegal use of controlled substances is disqualified from receiving public assistance for six months following the date of notice that the person tested positive for the use of illegal controlled substances.

(b) The department shall adopt regulations to implement (a) of this section. The regulations adopted by the department must

(1) include an appeal process for a person disqualified under (a) of this section; and

(2) provide that, where available, an alcohol safety action program approved under AS 47.37.130 shall perform the drug testing.

(c) In this section, "public assistance" means

(1) a program that provides

(A) day care assistance under AS 47.25.001 - 47.25.095;

(B) general relief assistance under AS 47.25.120 - 300; or

(C) adult public assistance under AS 47.25.430 - 47.25.615;

(2) the Alaska affordable heating program under AS 47.25.621 - 47.25.626; or

(3) the food stamp program under AS 47.25.975 - 47.25.990.

* **Sec. 135.** AS 47.27.015 is amended by adding a new subsection to read:

(i) A person convicted after August 22, 1996, of an offense that is classified as a felony under AS 11.71.010 - 11.71.040 or by the law of another jurisdiction that has as an element the possession, use, or distribution of a controlled substance, as defined in AS 11.71.900, is disqualified from receiving temporary assistance under this chapter or food stamps under AS 47.25 unless the person demonstrates, to the satisfaction of the department, that the person

(1) is satisfactorily serving, or has successfully completed, a period of probation or parole;

(2) is in the process of serving, or has successfully completed, mandatory participation in a drug or alcohol treatment program;

(3) has taken action toward rehabilitation, including participation in a drug or alcohol treatment program; or

(4) is in compliance with AS 47.05.035.

* **Sec. 136.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 38, Alaska Rules of Criminal Procedure, is amended by adding new subsections to read:

(d) **Hearing Notice.** The court shall provide a notice to a defendant of the date, time, and place of a scheduled hearing at which the defendant is required to appear in a form and manner established by the court.

(e) **Hearing Reminder.** In addition to the notice required under (d) of this rule, the court shall provide a reminder notification to a defendant who is not in custody and to the Department of Corrections at least 48 hours prior to a scheduled hearing at which the defendant is required to appear regarding the date, time, and place of the scheduled hearing and the potential consequences of failure to appear, in a form and manner established by the court.

* **Sec. 137.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 41, Alaska Rules of Criminal Procedure, is amended by adding a new subsection to read:

(j) **Misdemeanor and Felony Bail Schedules.** No bail schedule may be established for misdemeanors or felonies.

* **Sec. 138.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REPEAL OF COURT RULES. Rules 41(d) and (e), Alaska Rules of Criminal Procedure, are repealed.

* **Sec. 139.** AS 11.71.020, 11.71.040(a)(3), and 11.71.050(a)(2) are repealed.

* **Sec. 140.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENT. (a) AS 12.30.006(h), enacted by sec. 39 of this Act, has the effect of changing Rule 6, Alaska Rules of Criminal Procedure, by directing the court to arraign a person within 24 hours after arrest, and in no instance later than 48 hours after the person's arrest.

(b) AS 12.30.011, as amended by sec. 40 of this Act, and AS 12.30.011(e) - (i), enacted by sec. 41 of this Act, have the effect of changing Rule 41, Alaska Rules of Criminal Procedure, by changing and establishing release conditions for certain defendants, providing for recommendations by pretrial services officers of release conditions based on a pretrial risk assessment score, providing that a court shall order the release of a person under certain circumstances upon execution of an appearance or performance bond, and providing new procedures for use of appearance, surety, and performance bonds.

(c) AS 12.55.055(g), enacted by sec. 56 of this Act, has the effect of changing Rule 32, Alaska Rules of Criminal Procedure, by directing the court to include a provision in the judgment that community work hours that are not completed shall be converted to a fine as provided in AS 12.55.055(h), added by sec. 56 of this Act.

(d) AS 12.55.078, enacted by sec. 57 of this Act, has the effect of changing Rule 43, Alaska Rules of Criminal Procedure, by creating an alternate procedure for when the court may dismiss charges.

(e) AS 12.55.135(s), enacted by sec. 71 of this Act, has the effect of changing Rule 32.1, Alaska Rules of Criminal Procedure, by changing the procedure for notice of aggravating factors.

(f) AS 33.07, enacted by sec. 91 of this Act, has the effect of changing Rule 41, Alaska Rules of Criminal Procedure, by establishing pretrial services officers and procedures and duties for pretrial services officers as officers of the superior and district courts, for the purposes of performing risk assessments and making pretrial recommendations to the court regarding a person's pretrial release and bail conditions.

* **Sec. 141.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) The following sections apply to offenses committed on or after

the effective date of those sections:

(1) AS 11.46.130(a), as amended by sec. 3 of this Act;

(2) AS 11.46.140(a), as amended by sec. 4 of this Act;

(3) AS 11.46.220(c), as amended by sec. 5 of this Act;

(4) AS 11.46.260(b), as amended by sec. 6 of this Act;

(5) AS 11.46.270(b), as amended by sec. 7 of this Act;

(6) AS 11.46.280(d), as amended by sec. 8 of this Act;

(7) AS 11.46.285(b), as amended by sec. 9 of this Act;

(8) AS 11.46.482(a), as amended by sec. 11 of this Act;

(9) AS 11.46.484(a), as amended by sec. 12 of this Act;

(10) AS 11.46.530(b), as amended by sec. 13 of this Act;

(11) AS 11.46.620(d), as amended by sec. 14 of this Act;

(12) AS 11.46.730(c), as amended by sec. 15 of this Act;

(13) AS 11.61.110(c), as amended by sec. 20 of this Act;

(14) AS 11.61.145(d), as amended by sec. 21 of this Act;

(15) AS 11.66.200(c), as amended by sec. 24 of this Act;

(16) AS 11.71.030(a), as amended by sec. 25 of this Act;

(17) AS 11.71.040(a), as amended by sec. 28 of this Act;

(18) AS 11.71.050(a), as amended by sec. 30 of this Act;

(19) AS 11.71.311(a), as amended by sec. 32 of this Act;

(20) AS 28.15.291(a), as repealed and reenacted by sec. 77 of this Act;

(21) AS 28.15.291(b), as repealed and reenacted by sec. 78 of this Act;

(22) AS 29.10.200(21), as amended by sec. 84 of this Act;

(23) AS 29.25.070(a), as amended by sec. 85 of this Act;

(24) AS 29.25.070(g), enacted by sec. 86 of this Act; and

(25) AS 47.27.015(i), enacted by sec. 135 of this Act.

(b) The following sections apply to offenses committed before, on, or after the effective date of those sections:

(1) AS 11.46.460, as amended by sec. 10 of this Act;

(2) AS 11.56.757(b), as amended by sec. 18 of this Act; and

(3) AS 11.61.150(c), as amended by sec. 23 of this Act.

(c) The following sections apply to offenses committed before, on, or after the effective date of those sections for contacts with peace officers occurring on or after the effective date of those sections:

(1) AS 12.25.180, as amended by sec. 33 of this Act; and

(2) AS 12.25.190(b), as amended by sec. 35 of this Act.

(d) The following sections apply to sentences imposed on or after the effective date of those sections for conduct occurring before, on, or after the effective date of those sections:

(1) AS 12.55.015(a), as amended by sec. 48 of this Act;

(2) AS 12.55.025(a), as amended by sec. 49 of this Act;

(3) AS 12.55.025(c), as amended by sec. 50 of this Act;

(4) AS 12.55.027(d), as amended by sec. 51 of this Act;

(5) AS 12.55.115, as amended by sec. 65 of this Act;

(6) AS 12.55.125(c), as amended by sec. 66 of this Act;

(7) AS 12.55.125(d), as amended by sec. 67 of this Act;

(8) AS 12.55.125(e), as amended by sec. 68 of this Act;

(9) AS 12.55.135(a), as amended by sec. 69 of this Act;

(10) AS 12.55.135(b), as amended by sec. 70 of this Act;

(11) AS 12.55.135(*l*) - (s), enacted by sec. 71 of this Act;

(12) AS 28.35.030(k), as amended by sec. 80 of this Act;

(13) AS 28.35.032(o), as amended by sec. 83 of this Act;

(14) AS 33.16.010(c), as amended by sec. 92 of this Act;

(15) AS 33.16.010(d), as amended by sec. 93 of this Act;

(16) AS 33.16.010(f), enacted by sec. 94 of this Act;

(17) AS 33.16.060(a), as amended by sec. 95 of this Act;

(18) AS 33.16.089, enacted by sec. 96 of this Act;

(19) AS 33.16.090(a), as amended by sec. 97 of this Act;

(20) AS 33.16.100(a), as amended by sec. 99 of this Act;

(21) AS 33.16.100(f), enacted by sec. 101 of this Act;

(22) AS 33.20.010(c), as amended by sec. 126 of this Act; and

(23) AS 33.20.010(d), enacted by sec. 127 of this Act.

(e) AS 12.30.055(b), enacted by sec. 47 of this Act, applies to persons in custody for a

probation violation on or after the effective date of sec. 47 of this Act for a probation violation that occurred before, on, or after the effective date of sec. 47 of this Act.

(f) The following sections apply to community work service imposed on or after the effective date of those sections for offenses committed on or after the effective date of those sections:

(1) AS 12.55.055(a), as amended by sec. 54 of this Act;

(2) AS 12.55.055(c), as amended by sec. 55 of this Act; and

(3) AS 12.55.055(g) and (h), enacted by sec. 56 of this Act.

(g) AS 12.55.078, enacted by sec. 57 of this Act, applies to prosecutions occurring on or after the effective date of sec. 57 of this Act for offenses committed before, on, or after the effective date of sec. 57 of this Act.

(h) The following sections apply to probation ordered on or after the effective date of those sections for offenses committed before, on, or after the effective date of those sections:

(1) AS 12.55.051(a), as amended by sec. 52 of this Act;

(2) AS 12.55.090(b), as amended by sec. 58 of this Act;

(3) AS 12.55.090(c), as amended by sec. 59 of this Act;

(4) AS 12.55.090(f), as amended by sec. 60 of this Act;

(5) AS 12.55.090(g) - (*l*), enacted by sec. 61 of this Act;

(6) AS 12.55.100(a), as amended by sec. 62 of this Act;

(7) AS 12.55.110(c) - (g), enacted by sec. 64 of this Act;

(8) AS 33.05.025, enacted by sec. 88 of this Act; and

(9) AS 33.05.040, as amended by sec. 89 of this Act.

(i) The following sections apply to a revocation of a driver's license, privilege to drive, or privilege to obtain a license occurring on or after the effective date of those sections for conduct occurring before, on, or after the effective date of those sections:

(1) AS 28.15.165(e), enacted by sec. 74 of this Act;

(2) AS 28.15.181(f), as amended by sec. 75 of this Act;

(3) AS 28.15.201(g) and (h), enacted by sec. 76 of this Act; and

(4) AS 28.35.030(o), as amended by sec. 82 of this Act.

(j) The following sections apply to parole granted on or after the effective date of those sections for conduct occurring before, on, or after the effective date of those sections:

(1) AS 33.16.100(b), as amended by sec. 100 of this Act;

(2) AS 33.16.130, as repealed and reenacted by sec. 107 of this Act;

(3) AS 33.16.140, as amended by sec. 108 of this Act;

(4) AS 33.16.150(a), as amended by sec. 109 of this Act;

(5) AS 33.16.150(b), as amended by sec. 110 of this Act;

(6) AS 33.16.150(e), as amended by sec. 111 of this Act;

(7) AS 33.16.150(f), as amended by sec. 112 of this Act;

(8) AS 33.16.150(g), as amended by sec. 113 of this Act;

(9) AS 33.16.180, as amended by sec. 114 of this Act;

(10) AS 33.16.200, as amended by sec. 115 of this Act;

(11) AS 33.16.210, as amended by sec. 116 of this Act;

(12) AS 33.16.210(c) and (d), enacted by sec. 117 of this Act;

(13) AS 33.16.215, enacted by sec. 118 of this Act;

(14) AS 33.16.220(b), as amended by sec. 119 of this Act;

(15) AS 33.16.220(f), as amended by sec. 120 of this Act;

(16) AS 33.16.220(i), as amended by sec. 121 of this Act;

(17) AS 33.16.220(j), enacted by sec. 122 of this Act;

(18) AS 33.16.240(e), as amended by sec. 123 of this Act; and

(19) AS 33.16.240(h) and (i), enacted by sec. 124 of this Act.

(k) AS 11.56.730(d), enacted by sec. 16 of this Act, and secs. 136 - 138 of this Act apply to offenses committed on or after the effective date of secs. 16 and 136 - 138 of this Act.

(l) The following sections apply to an offense committed on or after the effective date of those sections:

(1) AS 12.55.006(c), as amended by sec. 36 of this Act;

(2) AS 12.30.006(d), as amended by sec. 37 of this Act;

(3) AS 12.30.006(f), as amended by sec. 38 of this Act;

(4) AS 12.30.006(h), enacted by sec. 39 of this Act;

(5) AS 12.30.011, as amended by sec. 40 of this Act;

(6) AS 12.30.011(e) - (i), enacted by sec. 41 of this Act;

(7) AS 12.30.016(b), as amended by sec. 42 of this Act;

(8) AS 12.30.016(c), as amended by sec. 43 of this Act;

(9) AS 12.30.021(a), as amended by sec. 45 of this Act;

(10) AS 12.30.021(c), as amended by sec. 46 of this Act;

(11) AS 12.55.051(k), enacted by sec. 53 of this Act;

(12) AS 33.07, enacted by sec. 91 of this Act; and

(13) AS 43.23.065(b), as amended by sec. 133 of this Act.

* **Sec. 142.** The uncodified law of the State of Alaska is amended by adding a new section to read:

SEVERABILITY. Under AS 01.10.030, if AS 47.05.035, enacted by sec. 134 of this Act, or the application of it to any person or circumstances, is held invalid by a court of competent jurisdiction, the remainder of this Act and the application to other persons or circumstances are not affected.

* **Sec. 143.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. (a) AS 11.56.730(d), enacted by sec. 16 of this Act, takes effect only if sec. 136 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(b) AS 12.30.006(h), added by sec. 39 of this Act, takes effect only if sec. 140(a) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(c) AS 12.30.011, as amended by sec. 40 of this Act, takes effect only if sec. 140(b) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(d) AS 12.30.011(e) - (i), added by sec. 41 of this Act, take effect only if sec. 140(b) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(e) AS 12.55.055(g), enacted by sec. 56 of this Act, takes effect only if sec. 140(c) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(f) AS 12.55.078, enacted by sec. 57 of this Act, takes effect only if sec. 140(d) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,

Constitution of the State of Alaska.

(g) AS 12.55.135(s), enacted by sec. 71 of this Act, takes effect only if sec. 140(e) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(h) AS 33.07, added by sec. 91 of this Act, takes effect only if sec. 140(f) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

* **Sec. 144.** Sections 36 - 46, 53, 91, and 133 of this Act take effect July 1, 2017.

* **Sec. 145.** If AS 11.56.730(d), enacted by sec. 16 of this Act, and sec. 136 of this Act take effect, they take effect January 1, 2018.

* **Sec. 146.** Sections 137 and 138 of this Act take effect January 1, 2018.

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

Senator Bill Stoltze, Chair
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Official Business

Senate Bill 91

Summary of Changes

SSSB 91\N to SSSB 91\P

Sponsor Substitute to CS (STA) Work Draft

Prepared by the Senate State Affairs Committee 3/3/2016

1. Amends various statutes to reflect Misconduct Involving a Controlled Substance (MICS) renumbering, reflected throughout the bill. For instance, sections 1 & 2 regarding Murder in the Second Degree, and Murder of an Unborn Child now appear in the bill for this reason.

2. Reestablishes Criminal Trespass in the Second Degree, Criminal Mischief in the Fifth Degree, and Harassment in the Second Degree as class B misdemeanors, rather than offenses. (Removed former § 8, 13, 26)

3. Removes the section which would increase the felony property crime threshold for Vehicle Theft in the First Degree. That section had proposed increasing that threshold from $750 to $2,000. (Removed former § 9)
   - ***Note***: The felony threshold for all property crimes was increased from $500 or less, to $750 on July 1, 2014, pursuant to SB 64 in the 28th Legislature.

4. Reduces the Fraudulent Use of an Access Device threshold for a class C felony to $50. (Former § 7 / New § 9)
   - ***Note:*** This crime was reclassified from a class A misdemeanor to a class C felony and lowered in felony threshold from $500 to $50 in 2005 upon the unanimous passage of HB 131 (Ch. 67, SLA 05). Law enforcement stakeholders working collaboratively with the sponsor brought this issue to the committee and the sponsor requested that this crime not be included in the raise up to $2,000 in felony property thresholds.

5. Removes from the bill the imposition of an annual inflation adjustment of the value of property that distinguishes between misdemeanor and felony property offenses. (Removed former § 17)

6. Reestablishes Failure to Appear (FTA) as a misdemeanor, rather than an offense. Retains bill language clarifying that in a prosecution for FTA, it is not a defense that the defendant was not provided or did not receive a notice or reminder notification from a court or judicial officer. (Former § 18-19 / New § 16)

7. Requires that a person convicted of a violation of condition of release shall have that record published on CourtView, as Violation of Condition of Release under SB 91 is reduced from a crime to an offense. (Former § 21 / New § 17, 73)

8. Returns Disorderly Conduct to a class B misdemeanor, while retaining the bill's reduction from 10 days maximum term of imprisonment to 24 hours maximum term of imprisonment. (Former § 24-25, New § 20)

9. Reestablishes the delivery of any amount of a schedule IA, IIA, or IIIA controlled substance to a person under 19, who is at least three years younger than the person delivering the substance, as MICS-1 (unclassified felony), rather than MICS-2 (class A felony). Reestablishes the conduct related to the manufacture of methamphetamine around children as MICS-1, rather than MICS-2, and reestablishes this within the existing felony sentence presumptive range in AS 12.55.125. (Former § 21, 31 / New § 25, 35)

10. Elevates possession of any amount of a schedule IA or IIA controlled substance around school grounds, youth recreation centers, and school busses from MICS-3 to MICS-2, but decreases the MICS-2 penalty from class A felony to class B felony. (Former § 31-32 / New § 25-26)

11. Aligns the manufacture of methamphetamine and possession of methamphetamine precursors with the manufacture of other scheduled substances in MICS-2. (Former § 31 / New § 25-27)

12. Adds several more exceptions to the presumption of citation by an officer when stopping or contacting a person, by including property offenses, theft in the second degree, sexual offenses, escape, unlawful evasion, and unlawful contact. Existing exceptions are broadened by deleting "significant" from the danger required or the flight risk provisions. Allows an arrest for criminal trespass in the second degree or criminal mischief, and no longer requires that a person be held for *no more than* 24 hours. (Former § 37 / New § 33)

13. Establishes total immunity from civil action for damages for failure to comply with the provisions of section 33 regarding when an officer may cite or arrest, if an improper arrest is made. (New § 34)

14. Limits the number of bail review hearings a defendant is entitled to due to "new information" now that a person's inability to post the required bail can be taken into account under SB 91. (Former § 40 / New § 37)
    - ***Note***: The CS work draft may not reflect the committee's intent that the number of new bail review hearings be capped at one for "new information" *relating to a person's inability to post the required bail*. An amendment to clarify this has been requested.

15. Authorizes the court to require a secured appearance or performance bond for several new types of offenses including Terroristic Threatening, Possession of Child Pornography, Escape in the Third Degree, Unlawful Evasion, Unlawful Contact in the First Degree, Misconduct Involving Weapons in the First, Second, and Third degrees, and all sex offenses. (Former § 44 / New § 41)

16. Ensures the Suspended Entry of Judgement provision in SB 91 does not provide for record confidentiality under the recently passed House Bill 11. Individuals who plead guilty or who are convicted would now under the CS have their cases remain on CourtView, with notation of Suspended Entry of Judgment. Also, excludes persons convicted of a crime involving domestic violence from eligibility for Suspended Entry of Judgment. (Former § 59 / New § 57, 73)

17. Increases the maximum term of probation from five years to ten years for unclassified felonies or felony sex offenses (currently 25 years); increases the maximum term of probation from three years to five years (currently 10 years) for all other felonies except domestic violence; and increases to four years for all domestic violence offenses. (Former § 61 / New § 59)

18. Removes language from existing AS 12.55.090(h) limiting the number of victims who may give sworn testimony at a hearing to reduce or terminate probation and discharge a defendant before the period of probation for the offense has been completed. This was a request of the Office of Victims' Rights (OVR). (Former § 63 / New § 61)

19. Reestablishes the existing statutory presumptive range of imprisonment of two to four years for criminally negligent homicide where the victim is under the age of 16. (Former § 69 / New § 67)

20. Removes Assault in the Fourth Degree from the 0-30 day presumptive range for class A misdemeanors, replaces it at up to one year. (Former § 71 / New § 69)

21. Under Duties of a Prosecuting Attorney, requires the prosecutor to confer with the victim of any felony offense or domestic violence offense concerning a proposed plea agreement prior to entering into such an agreement. This broadens the requirement to confer ***with victims of all felonies***, not just victims of domestic violence. This was added at the request of OVR. (New § 72)

22. Changes the earned compliance credit to be applied every thirty days, upon thirty days of compliance rather than each day for a single day of credit. Also clarifies that no proration of months shall be allowed. (Former § 88 / New § 88)

23. Excludes persons convicted of a sexual felony from eligibility for administrative parole, which is offered under the bill to prisoners convicted of class B or C felonies. (Former § 96 / New § 96)

24. Excludes persons convicted of a sexual or unclassified felony from eligibility for geriatric parole. Increases the age of eligibility for geriatric parole to 60 years of age, from 55 years of age in the previous version of the bill. Continues to require that at least 10 years of a sentence for one or more crimes in a single judgement have been served as a prerequisite. (Former § 97 / New § 97)

25. Changes from compulsory to discretionary the Board of Parole's unconditional discharge of a parolee upon their completion of one year of parole while in compliance and having completed all treatment programs required. Adds an exclusion for persons convicted of an unclassified felony offense, a sexual felony, or a crime involving domestic violence from eligibility for early unconditional discharge from parole. (Former § 117 / New § 117)

26. Corrects references to violators of parole, rather than probation. (Former § 118 / New § 118)

27. Corrects a drafting error in Section 129.

28. Establishes a testing program within the Department of Health and Social Services to determine eligibility for public assistance for persons convicted of drug offenses within the previous five years. Testing is required quarterly, upon renewal of benefits, and on a random basis for the use of *illegal* controlled substances. A person is disqualified from receiving public assistance for six months if tested positive for the illegal use of controlled substances. (New § 134)

29. An exception to the disqualification from receiving temporary assistance or food stamps is created for those persons in compliance with the testing program established in section 134. (Former § 133 / New § 135)

30. Establishes a severability clause that should the testing requirement established under section 134 or the application of it to any person or circumstances be held invalid by a court of competent jurisdiction, the remainder of this act and the application to other persons or circumstances are not affected. (New § 142)
    - ***Note:*** The committee requested for the CS that, should section 134 regarding testing be found invalid, the exemption offered in section 135 from the state ban on temporary assistance or food stamps for convicted drug felons would be removed—reinstating the ban as it exists presently in statute. An amendment has been requested to correct this oversight.

31. Removes retroactive application of administrative, geriatric, and discretionary parole provisions. They shall now apply to persons sentenced on or after the effective date of these sections, for conduct occurring before, on or after the effective dates. (Former § 141 / New § 141 – *Applicability*)

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Memorandum

To: Quinlan Steiner
Public Defender

From: Tracey Wollenberg
Deputy Public Defender, Appellate Division

Date: February 22, 2016

Subject: Response to OVR's Testimony, Senate Bill 91, Version N

In December 2015, the Alaska Criminal Justice Commission, comprised of multiple stakeholders in the criminal justice system, released a report entitled, "Justice Reinvestment Report." Senate Bill 91 (SB 91) seeks to implement the report's consensus recommendations for criminal justice reforms in order to more effectively and efficiently address recidivism, rehabilitation, and public safety.

On Thursday, February 18, 2016, the Office of Victim's Rights (OVR) testified before the Senate State Affairs Committee in opposition to Senate Bill 91. OVR subsequently submitted written testimony. You asked me to prepare the following memorandum responding to OVR's testimony regarding the legal interpretation of the bill.

Purpose and Background

OVR's overarching concern throughout its testimony was that SB 91 focuses on reducing incarceration at the expense of victims in order to save money. But OVR overlooks the fact that SB 91 (and the Justice Reinvestment Report on which it is largely based) is premised on data indicating that current practices are not succeeding in improving public safety, despite increased corrections spending.[1] The Justice Reinvestment Report noted a growing body of research showing that for individuals who commit lower-level offenses, prison terms may actually increase, rather than reduce, recidivism.[2] The report also pointed to research demonstrating that individuals are more responsive to swift, certain, and proportionate sanctions than sanctions that are delayed, inconsistently applied,

1 *See* Alaska Criminal Justice Commission, Justice Reinvestment Report (Dec. 2015), at 3.
2 *Id.* a 9.

and severe.[3] And the report noted that supervision resources have the highest impact in the first few months, when people are most likely to commit another offense,[4] and that encouraging positive behavior through incentives can have an even greater effect than surveillance and sanctions on fostering behavioral change for those on supervision.[5]

Violating Conditions of Release and Failure to Appear (Sections 18 – 20)

OVR expressed concern with the reduction of violating conditions of release and failure to appear to violations. With regard to violating conditions of release, OVR cited, as an example, a defendant who has previously threatened to kill a victim showing up at the victim's home in the middle of the night in violation of a court-imposed no-contact order. In that situation, OVR alleged, the person "would not be charged with a new offense and may or may not be arrested in this situation. In fact police may not even respond since a crime isn't being committed."[6]

But OVR overlooks AS 12.25.030(b)(3)(C), which authorizes a peace officer to arrest a person, without a warrant, when the officer has probable cause for believing that the person "violated the conditions imposed as part of the person's release under the provisions of AS 12.30." That is, when there is probable cause to believe that a person has violated the conditions of bail on a charged offense, an officer may arrest and incarcerate that person on that offense, regardless of whether that person can be charged with the new crime of violating conditions of release. The reduction of violating conditions of release to a violation does not preclude arrest and revocation of bail release on the underlying offense[7] nor does it preclude a court from pursuing a criminal contempt charge for a willful violation.[8] Moreover, the addition in SB 91 of pretrial service officers, with the specific duty of supervising pretrial defendants,[9] will provide more oversight for these types of violations. And reducing violating conditions of release to a violation does not preclude the State from filing a new charge when the conduct constitutes an independent crime.

OVR also alleges that the reduction of failure to appear to a violation would dis-incentivize defendants from coming to court, causing additional delay in cases. But as with violating conditions of release, bail can be revoked for failing to appear.[10] Moreover, those who purposely delay proceedings by failing to appear can still be charged with a class A misdemeanor under SB 91.

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3 *Id.* at 12.

4 *Id.* at 13.

5 *Id.* at 12.

6 OVR's Written Testimony (Feb. 18, 2016), at 4.

7 *See* Justice Reinvestment Report, at 18 (noting that for pretrial violations like violating conditions of release and failure to appear, "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").

8 AS 09.50.010, *as interpreted by State v. Williams*, 356 P.3d 804 (Alaska App. 2015).

9 *See* SB 91, Version N, § 91, proposed AS 33.07.030(f)(2) (providing that a pretrial services officer may "arrest a defendant who has been released pretrial without a warrant if the officer has reason to believe the defendant has committed an offense under AS 11.56.730 or 11.56.757 or has violated the defendant's release conditions").

10 *Id.*

Under Section 20 of SB 91, failure to appear remains a class A misdemeanor if (1) the person does not make contact with the court or a judicial officer within 30 days after failing to appear at a scheduled hearing; or (2) the person fails to appear at a scheduled hearing in order to avoid prosecution. These exceptions address OVR's concern about any purposeful delay in the proceedings due to a defendant's failure to appear while not inadvertently criminalizing a person who simply forgets his court hearing.

In its written testimony, OVR also expresses concern that failure to appear and violating conditions of release offenses will not appear on a defendant's criminal history, making them unknown to judges in another jurisdiction, prosecutors, police, or potential future pretrial service officers.[11] But these violations, if adjudicated, will remain available on CourtView. Moreover, it seems a system could be established for these violations to appear on an individual's Alaska Public Safety Information Network (APSIN) report, in much the same way that traffic offenses currently appear on APSIN.

Citations (Section 37)

OVR expressed concern that under Section 37, police, as a general rule, would be required to give a citation, rather than arrest, for crimes like vehicle theft, felony theft, eluding, possession of child pornography, arson, and endangering the welfare of children or vulnerable adults. OVR cited the following examples as situations that would require a citation: a K9 unit apprehending a car thief after his stolen Subaru struck a police vehicle; a vehicle eluding a Fairbanks trooper and resulting in an officer-involved shooting; and a UAA study showing that 37% of all officer-involved shootings in Anchorage from 1993-2013 started as a traffic stop, stolen vehicle, eluding, or burglary. OVR stated in its oral testimony, "It just makes no sense that a person fleeing police and ultimately stopped would be given a citation to come to court in a few days."

But Section 37 gives officers discretion at the scene to determine whether an arrest is necessary. While the general rule states that an officer shall cite a person for a misdemeanor or for a class C felony that is not a crime against a person under AS 11.41, there are broad exceptions, including: (1) when "the crime for which the person is contacted is one involving violence or harm to another person" or the officer has "probable cause to believe the person committed a crime against a person under AS 11.41 or a crime involving domestic violence;" (2) when "the contacting officer reasonably believes the person is a significant danger to others," regardless of the crime for which the person was contacted; or (3) when "the contacting officer reasonably believes there is a significant risk the defendant will fail to appear in court" or "the person does not furnish satisfactory evidence of identity." These exceptions would clearly permit an officer to arrest rather than cite in the examples given by OVR. The proposal simply creates a presumption of citation in lower-level offenses.[12]

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[11] OVR's Written Testimony (Feb. 18, 2016), at 4.

[12] Notably, SB 91 does not amend AS 12.25.030(b)(1), which requires a peace officer to make an arrest "under the circumstances described in AS 18.65.530." Alaska Statute 18.65.530 requires arrest when an "officer has probable cause to believe the person has, either in or outside the

Notably, the bill does not provide for judicial review of the officer's decision. Thus, an officer can exercise discretion under one of the exceptions to effectuate an arrest without having to seek judicial approval.

Bail Provisions (Sections 39 – 49, 91)

OVR alleged in its oral testimony that under SB 91, bail would be "significantly reduced, requiring many offenders to be released on their own recognizance or unsecured bond." OVR maintained that because Section 43 requires judges to release low- or moderate-risk defendants charged with misdemeanors or low-risk defendants charged with class C felonies on their own recognizance (O.R.) or on an unsecured bond, victims' input on bail would be meaningless, thus violating a victim's constitutional right to be heard prior to a defendant's release and a victim's right to be protected from the accused.[13]

But OVR overlooks the fact that Section 43 (proposed AS 12.30.011(b), starting on p. 24, line 23) permits the judge "singly or in combination," to impose bail conditions ranging from restrictions on travel, association, and residence; to restrictions on alcohol use, possession, or exposure; to house arrest and supervision by a pretrial services officer or a third-party custodian (if the requirements of AS 12.30.021 are met)—even if the court otherwise orders O.R. or unsecured bond release.[14] Thus, a victim's input at a bail hearing—even one considering release of a charged misdemeanant deemed low or moderate risk or a defendant charged with a class C felony deemed low risk—would not be meaningless. The victim could be heard on a defendant's residence, employment, and associations; access to alcohol, weapons, and controlled substances; supervision; and other proposed conditions. The provision governing lower-risk individuals charged with lower level offenses (proposed AS 12.30.011(a), starting on p. 23, line 31) would simply prohibit the imposition of monetary bail—consistent with their risk level and in order to ensure that low-risk individuals charged with lower-level offenses are not denied pretrial release simply due to their inability to post bail.[15]

For the same reason, OVR is mistaken in its written testimony when it says that Section 43 "fails to recognize that any 2 offenders arrested for the same crime may present very different risks

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presence of the officer, within the previous 12 hours," committed domestic violence, committed the crime of violating a protective order in violation of AS 11.56.740(a)(1) or (2), or violated a condition of release imposed under AS 12.30.016(e) or (f) (governing release in stalking and sexual assault and abuse cases), or AS 12.30.027 (governing release in domestic violence cases), absent authorization by a prosecuting attorney not to arrest.

[13] *See also* OVR's Written Testimony (Feb. 18, 2016), at 5.

[14] *See* Justice Reinvestment Report (Dec. 2015), at 16 (defining categories of defendants for whom the Department of Corrections should always or usually recommend release on personal recognizance or unsecured bond "with appropriate release conditions").

[15] *See id.* at 8 ("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. 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.").

to the community based on prior charged and uncharged conduct and the facts of the underlying cases."[16] The distinctions between two defendants—based on their prior conduct and the facts of the case—will be considered both in the pretrial risk assessment and the imposition of pretrial release conditions.

Moreover, the provision requiring O.R. or unsecured release for a low- or moderate-risk defendant charged with a misdemeanor or a low-risk defendant charged with a class C felony has broad categorical exceptions for those charged with an offense against the person under AS 11.41; failure to appear or violating conditions of release; crimes involving domestic violence; and driving under the influence (DUI) or refusal. If a person has committed one of these offenses, that person's bail release is governed by different provisions—proposed AS 12.30.011(f) (starting on p. 28, line 8) or proposed AS 12.30.011(h) (starting on p. 29, line 20)—that allow for the imposition of monetary bail. Under certain circumstances (starting on p. 28, line 8), the court must find by clear and convincing evidence that no nonmonetary conditions of release in combination with O.R. or an unsecured bond can reasonably ensure the person's appearance and the safety of the victim, other persons, and the community prior to imposing monetary bail. This level of proof strikes an appropriate balance between judicial discretion and ensuring that defendants do not remain incarcerated pretrial merely because they are indigent.[17]

Additionally, misdemeanor bail schedules currently exist,[18] including for crimes involving a victim (*e.g.*, non-domestic violence misdemeanor assaults, reckless endangerment, and misdemeanor criminal mischief or theft).[19] When an accused is released pursuant to a bail schedule, there is no bail hearing and no opportunity for input by a victim. Thus, the concern cited by OVR—that a victim may not be heard prior to release—exists now. SB 91 would eliminate bail schedules (Sections 135 & 136), giving victims more input in certain misdemeanor cases than they currently have.

Finally, OVR states in its written testimony that "[j]udges will also be required to consider the pre-trial services officers' recommended conditions of release," a proposition it says "is absurd because the pre-trial service officer will not have sufficient factual information to make appropriate

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16 OVR's Written Testimony (Feb. 18, 2016), at 5-6.

17 The Alaska case file review conducted by the Pew Charitable Trusts revealed that 36% of individuals with a court-ordered secured bond under $500 remained incarcerated pretrial and this percentage increased with an increase in the amount of required monetary bail, even when the absolute level of required bail remained relatively low. 57% of those with secured bond between $500 and $999 remained incarcerated pretrial, and 62% of those with secured bond between $1,000 and $2,499 remained incarcerated pretrial. The Pew Charitable Trusts, Alaska Criminal Justice System Assessment, Alaska Commission on Criminal Justice (Aug. 3, 2015), p. 15, slide # 29, *available at*: http://www.ajc.state.ak.us/sites/default/files/imported/acjc/pewpresent8-2015.pdf.

18 *See* Alaska Criminal Rule 41(d).

19 *See, e.g.*, Bail Schedule and Conditions in the Second Judicial District (Presiding Judge's Administrative Order 14-02); Anchorage Misdemeanor Bail Schedule (Administrative Order 3AN-AO-11-03).

recommendations."[20] But the Commissioner of the Department of Corrections is required to "approve a risk assessment instrument that is objective, standardized, developed based on analysis of empirical data and risk factors relevant to pretrial failure, that evaluates the likelihood of failure to appear in court and the likelihood of rearrest during the pretrial period, and that is validated on the state's pretrial population[.]"[21] Presumably, this assessment will heavily depend on a defendant's prior criminal history and the offense type, and OVR provides no reason to think that the pretrial services officer will have access to less information than the prosecutor or the defense attorney.[22] In fact, the Commissioner is required to adopt regulations as necessary to implement the pretrial services program, including pretrial release decision-making guidelines, in consultation with the Department of Law, the Public Defender, the Department of Public Safety, and the Alaska Court System.[23] Moreover, the pretrial service officer's recommended conditions of release are just that—recommendations that the court is required to consider when exercising its discretion to set conditions.[24]

Sentences (Sections 68 – 73)

OVR states that for the most part under SB 91, the maximum sentence for a class A misdemeanor would be 30 days (which, accounting for the receipt of statutory good-time credit, would in most cases be 20 days). OVR finds this particularly problematic as it relates to possession of heroin, which would be reduced to a class A misdemeanor under this bill. However, several components of the proposed sentencing structure for class A misdemeanors impact this 30-day threshold.

First, as OVR recognizes in its written testimony, existing mandatory minimum sentences for class A misdemeanors remain unchanged by SB 91. For example, under existing AS 12.55.135(d)(1), a defendant convicted of fourth-degree assault or first-degree harassment who knowingly directed the conduct at a uniformed or clearly identified police officer, firefighter, correctional employee, or emergency responder engaged in official duties is subject to a mandatory minimum sentence of 60 days for an injury assault or harassment and 30 days for a fear assault. Under AS 12.55.135(d)(2), a person convicted of an injury assault while on school grounds during school hours or at a school-sponsored event is subject to a mandatory minimum sentence of 60

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20 OVR's Written Testimony (Feb. 18, 2016), at 6.

21 Senate Bill 91, § 91, proposed AS 33.07.020(5) (starting on p. 58, line 31).

22 *See* AS 12.62.160(b) (permitting the Department of Public Safety to provide criminal justice information "to a criminal justice agency for a criminal justice activity" or "to a government agency when necessary for enforcement of or for a purpose specifically authorized by state or federal law," among others).

23 Senate Bill 91, § 91, proposed AS 33.07.020(6) (starting on p. 59, line 5).

24 Senate Bill 91, § 43, proposed AS 12.30.011(c)(12) (p. 26, lines 28-29). To the extent OVR is also suggesting in its written testimony that the current bill does not permit the court to assess the facts of the charged offense, that assertion is incorrect. *See* OVR's Written Testimony (Feb. 18, 2016), at 6 ("To assess dangerousness you have to consider the facts of the crime with which the person is charged."). Under Section 43 of SB 91, the court is required—when setting conditions of pretrial release—to consider "the nature and circumstances of the offense charged" (p. 26, lines 12-14), just as it is under the current bail statute.

days. Under AS 12.55.135(g), a defendant convicted of fourth-degree assault that is a crime involving domestic violence is subject to a mandatory minimum sentence of 30 days if the defendant has been previously convicted of a crime against the person or a crime involving domestic violence or 60 days if the person has been previously convicted two or more times. And under AS 12.55.135(h), a defendant convicted of second-degree failure to register as a sex offender is subject to a mandatory minimum sentence of 35 days. Senate Bill 91 provides that when the conviction is for a crime with a mandatory minimum of more than 30 days, the court may impose a sentence of up to one year.[25]

Second, even if the crime has no mandatory minimum sentence, SB 91 establishes a system of aggravating factors that permit a sentence above 30 days when properly found by a jury (or judge, if the aggravating factors are based solely on the existence of prior convictions). These aggravating factors are: (i) the conduct constituting the offense was among the most serious conduct included in the definition of the offense; (ii) the conviction is for fourth-degree assault involving domestic violence and the defendant has a criminal history of repeated instances of conduct violative of criminal laws, as felonies or misdemeanors, similar in nature to the current offense; and (iii) the defendant has past criminal convictions for conduct violative of criminal laws, as felonies or misdemeanors, similar in nature to the current offense.[26] Thus, if the State establishes that a person convicted of possessing heroin has past similar criminal convictions, that person will be subject to an aggravated sentence of up to one year.[27]

OVR also notes that SB 91 reduces the sentences for felonies. This change was intended to realign presumptive ranges with pre-2005 presumptive terms.[28] In 2005, in response to *Blakely v. Washington*,[29] the Alaska legislature enacted presumptive ranges, using the prior presumptive term as the bottom of the presumptive range.[30] In the Statement of Legislative Intent accompanying the 2005 bill, the legislature stated, "Although the presumptive terms are being replaced by presumptive ranges, it is not the intent of this Act in doing so to bring about an overall increase in the amount of active imprisonment for felony sentences."[31] Notwithstanding this intent, the length of incarceration increased across all non-sex felony classes of offense, necessitating the realignment.[32]

But the proposed reductions in SB 91 do not affect the sentences for sexual felonies. Thus, OVR is incorrect when it states that first-felony defendants convicted of possession of child pornography, a class C felony, would get a probationary sentence, and in particular a suspended

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25 Senate Bill 91, § 71, proposed AS 12.55.135(a)(1)(A) (p. 46, lines 10-14).

26 Senate Bill 91, § 71, proposed AS 12.55.135(a)(1)(B) (p. 46, lines 15-26).

27 In proposing a revision to the drug penalties, the Justice Reinvestment Report reviewed research "pointing to the low deterrent value of long prison terms for drug offenders." Justice Reinvestment Report (Dec. 2015), at 19. Under SB 91, manufacture or delivery of heroin remains a felony-level offense (Sections 32 & 33).

28 Justice Reinvestment Report (Dec. 2015), at 20.

29 542 U.S. 296 (2004).

30 Justice Reinvestment Report (Dec. 2015), at 20.

31 SLA 2005, ch. 2, § 1 (SB 56).

32 Justice Reinvestment Report (Dec. 2015), at 20.

imposition of sentence (SIS), of 0 to 18 months.[33] Sentencing for possession of child pornography, like all sexual felonies, is governed by AS 12.55.125(i), a provision that is unchanged by SB 91. Under AS 12.55.125(i)(4)(A), a first-felony offender convicted of possession of child pornography is subject to (and remains subject to) a sentence of two to 12 years.

Probation Provisions

OVR expresses concern about the length of sentences for technical violations. But as the Justice Reinvestment Report noted, "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 [that currently exist]."[34]

OVR also states that automatic release under the technical-violation scheme before any hearing is held (*see* Section 49) would violate victims' rights to be protected from the accused and to be heard upon the defendant's release and at sentencing. But the automatic release is not "bail release"—rather, the automatic release only occurs once a defendant reaches the maximum sentence that can be imposed.[35] An individual cannot be held beyond the maximum permissible sentence provided by law. Thus, no hearing to consider the defendant's release is necessary, and a victim's right to "be heard . . . at any proceeding where the accused's release from custody is considered"[36] is not violated. Moreover, even after release for a technical probation violation, a court would still need to adjudicate the individual for the violation, and the victim could elect to be present at that hearing and any disposition. Even if the individual has served the requisite time by the time of the disposition hearing, the court could modify probation conditions if the State establishes that there has been a "significant change of circumstances."[37]

Finally, OVR alleges that given the probation and parole incentive programs established by SB 91, the sentencing tree will look like a convoluted family tree and there will be "no truth in sentencing." The "truth in sentencing" provisions currently require the sentencing court to identify the approximate term of imprisonment that a defendant must serve before becoming eligible for mandatory parole or release after acquisition of good-time credit and the approximate minimum term of imprisonment the defendant must serve before becoming eligible for discretionary parole.[38] Senate Bill 91 adds eligibility for administrative parole to the list of advisements the sentencing court

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33 *See* OVR's Written Testimony (Feb. 18, 2016), at 7.

34 Justice Reinvestment Report (Dec. 2015), at 23.

35 Section 49, proposed AS 12.30.055, provides:
(b) A person who is in custody in connection with a petition to revoke probation for a technical violation of probation under AS 12.55.110 shall be released without bail after the person has served the maximum number of days that the court could impose on the person for a technical violation of probation under AS 12.55.110.

36 Alaska Const. art. I, § 24.

37 AS 12.55.090(b); *Edwards v. State*, 34 P.3d 962, 969 (Alaska App. 2001).

38 AS 12.55.025(a)(3); Alaska R. Crim. P. 32.2(c)(2).

must make.[39] But the court is not required to advise victims about the possibility that a defendant may seek early release from probation or parole, notwithstanding the fact that this possibility exists under current law.[40] Thus, SB 91's alteration or creation of incentive programs does not add to the information the court must provide. And by establishing specific incentive programs with defined parameters, Senate Bill 91 more clearly defines the circumstances under which a probationer or parolee would be granted early discharge.[41]

OVR asserts in its written testimony that "victims will have no input on this sentence modification [the day-for-day probation compliance program of Section 88], which violates their constitutional right to be heard on sentencing because every probation adjustment is in fact a resentencing."[42] But nothing in Section 88 prohibits the probation office or the prosecutor from providing notice to the victim of the time computation and early discharge. Moreover, the court can advise the victim of the possibility of early probation termination at the sentencing hearing, as it does for good-time credit.

Parole Provisions

OVR suggests in its written testimony that under SB 91, all defendants convicted of class A and unclassified sex offenses will be eligible for mandatory and discretionary parole.[43] But under Section 98 of the bill, second- and third-felony offenders convicted of the most serious sexual felonies (first-degree sexual assault, first-degree sexual abuse of a minor, or first-degree sex trafficking) remain ineligible for discretionary parole, absent consideration by the three-judge panel.[44] And under AS 33.20.010(a)(3) and Section 127, a defendant convicted of an unclassified or class A

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39 Senate Bill 91, § 51 (p. 34, line 17).

40 *See* Justice Reinvestment Report (Dec. 2015), at 12. A defendant can file, at any time during probation, a motion for early termination of probation. Under AS 12.55.090(b), a court "may change the period of probation," except when a prior plea agreement required a specific period of probation or a specific term of suspended incarceration. Under AS 12.55.090(b), the court may also revoke or modify any probation condition.

Under AS 33.16.210(a), the parole board "may unconditionally discharge a parolee from the jurisdiction and custody of the board after the parolee has completed two years of parole." And under AS 33.16.210(b), the board can unconditionally discharge a mandatory parolee before the parolee has completed two years of parole, "if the parolee is serving a concurrent period of residual probation . . . , and the period of residual probation and the period of suspended imprisonment each equal or exceed the period of mandatory parole."

41 Senate Bill 91, §§ 63, 88-89, 116-17. *See* Justice Reinvestment Report (Dec. 2015), at 12 (noting that "there is currently no standard practice" for early termination of supervision and applications to terminate supervision are made "on an individual basis").

42 OVR's Written Testimony (Feb. 18, 2016), at 9.

43 OVR's Written Testimony (Feb. 18, 2016), at 10 ("Currently, the highest level sex offenders, those Class A and unclassified felons, cannot get discretionary or mandatory parole, but under SB 91 they will eligible").

44 Senate Bill 91, § 98 (p. 64, lines 16-31 – p. 65, lines 1-4).

sexual felony remains ineligible for good-time credit, unless the defendant successfully completes the treatment requirements of his case plan while incarcerated.[45]

Section 97 authorizes the parole board to grant discretionary parole to a person who is at least 55 years old and has served at least 10 years of a sentence. The Justice Reinvestment Report based this provision on research by the Alaska Judicial Council showing that individuals released at age 55 or older were far less likely to be rearrested than the average for all offenders.[46] OVR opposes this "geriatric parole" provision, citing as an example a 45-year-old person convicted of sexual abuse of a minor who will be able to get out of jail in 10 years, when he turns 55 years old, and describing the low likelihood of reoffending after age 55 as a "false premise."

But eligibility for discretionary parole does not mean that parole will be granted. Under Section 99, the board may only release a person convicted of an unclassified felony on discretionary parole if a reasonable probability exists that: "(1) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board; (2) the prisoner's rehabilitation and reintegration into society will be furthered by release on parole; (3) the prisoner will not pose a threat of harm to the public if released on parole; and (4) release of the prisoner on parole would not diminish the seriousness of the crime." Thus, while the defendant in OVR's example may become eligible for discretionary parole at age 55 under Section 97 due to his age, the specifics of his case and his background will determine whether the parole board actually grants him release under Section 99.

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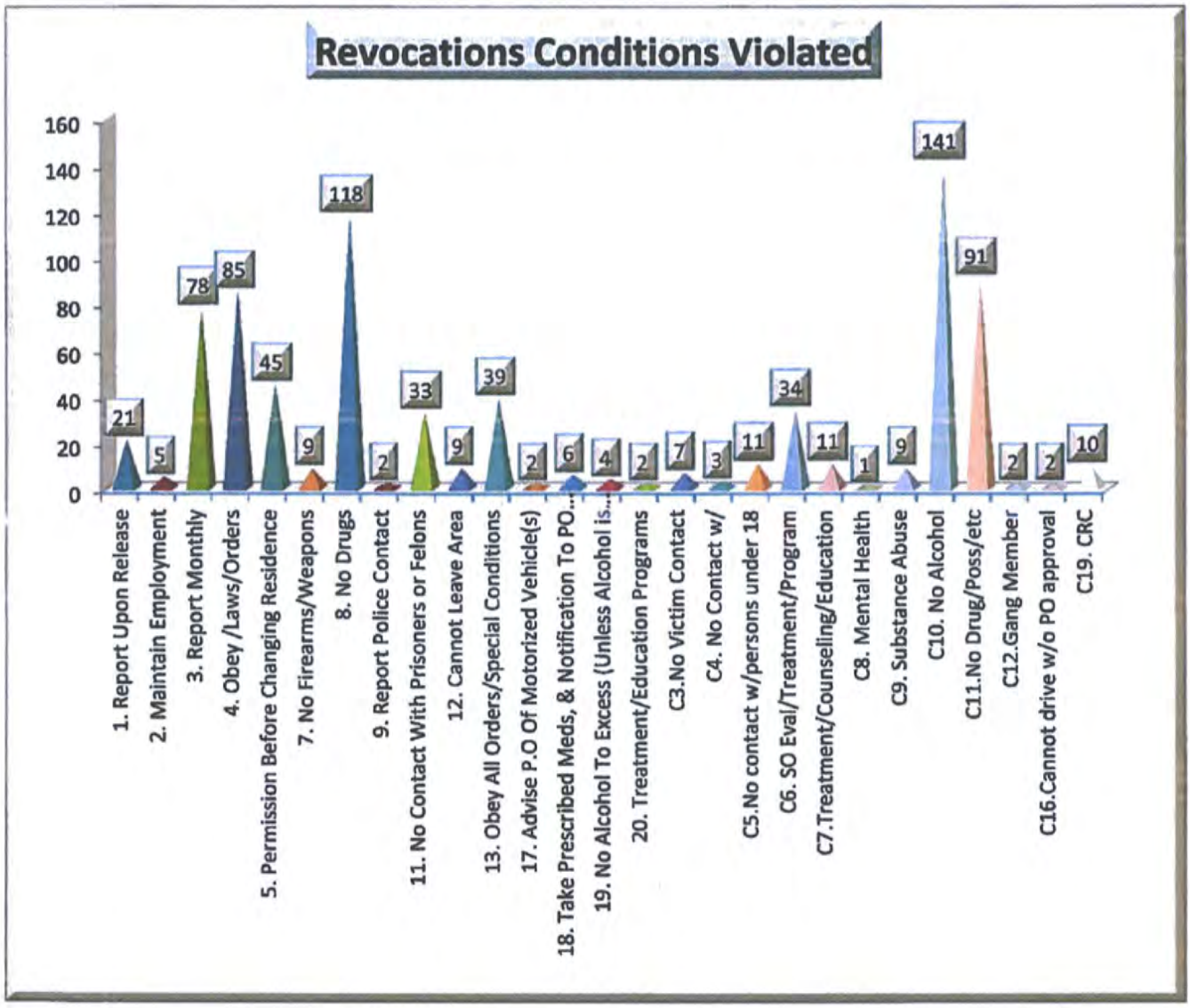
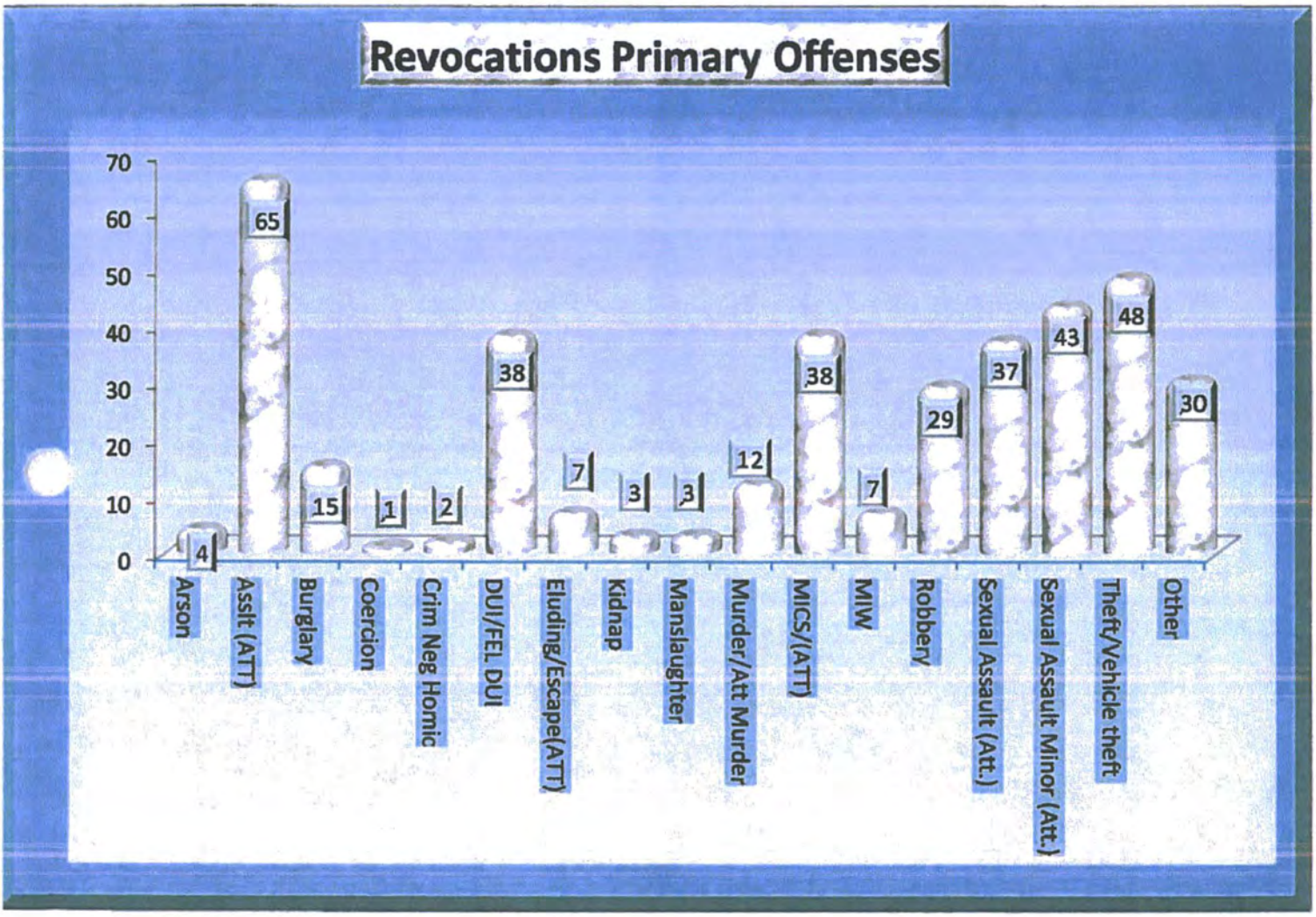
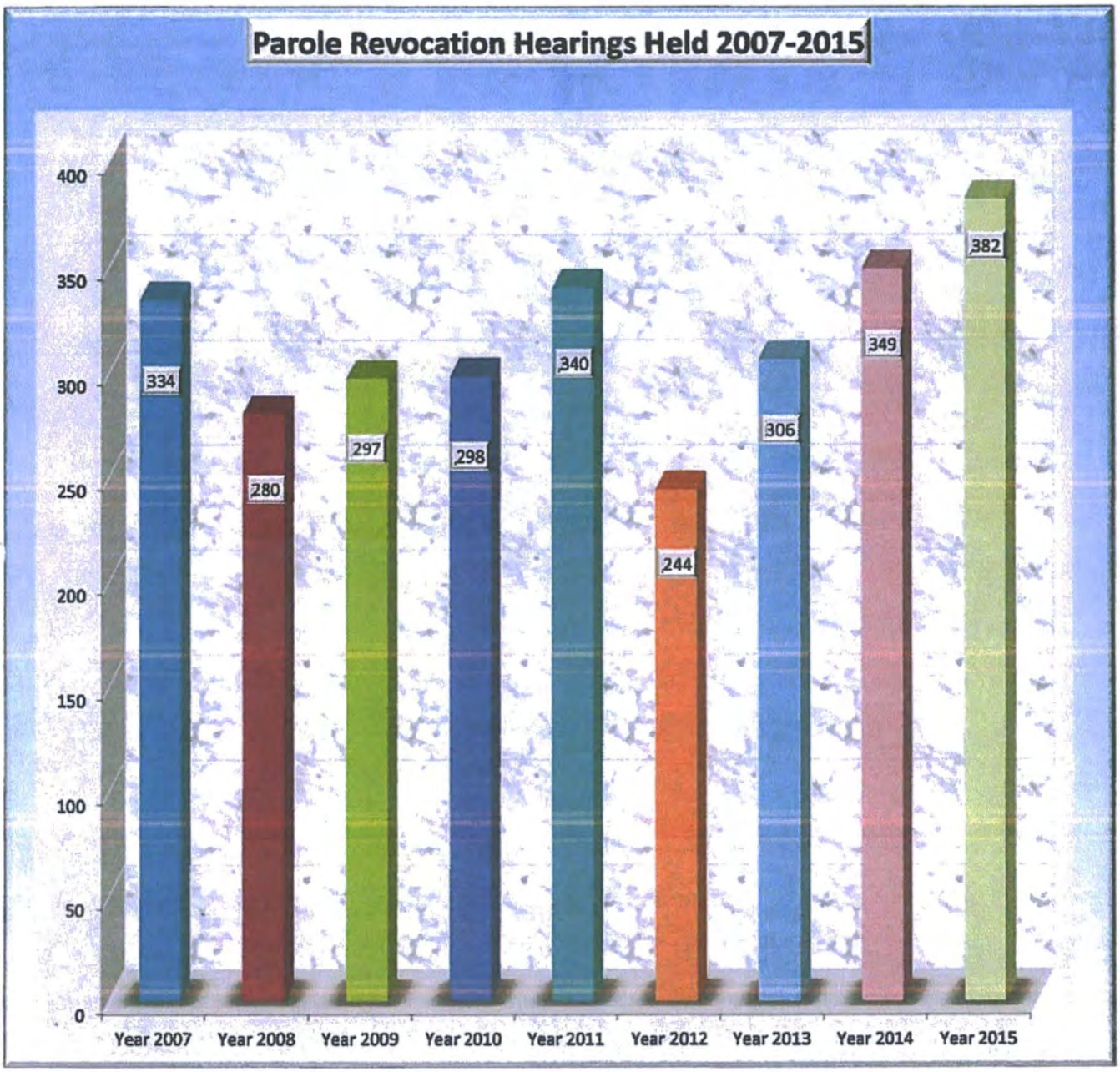
45 Senate Bill 91, § 127 (p. 78, lines 21-29).

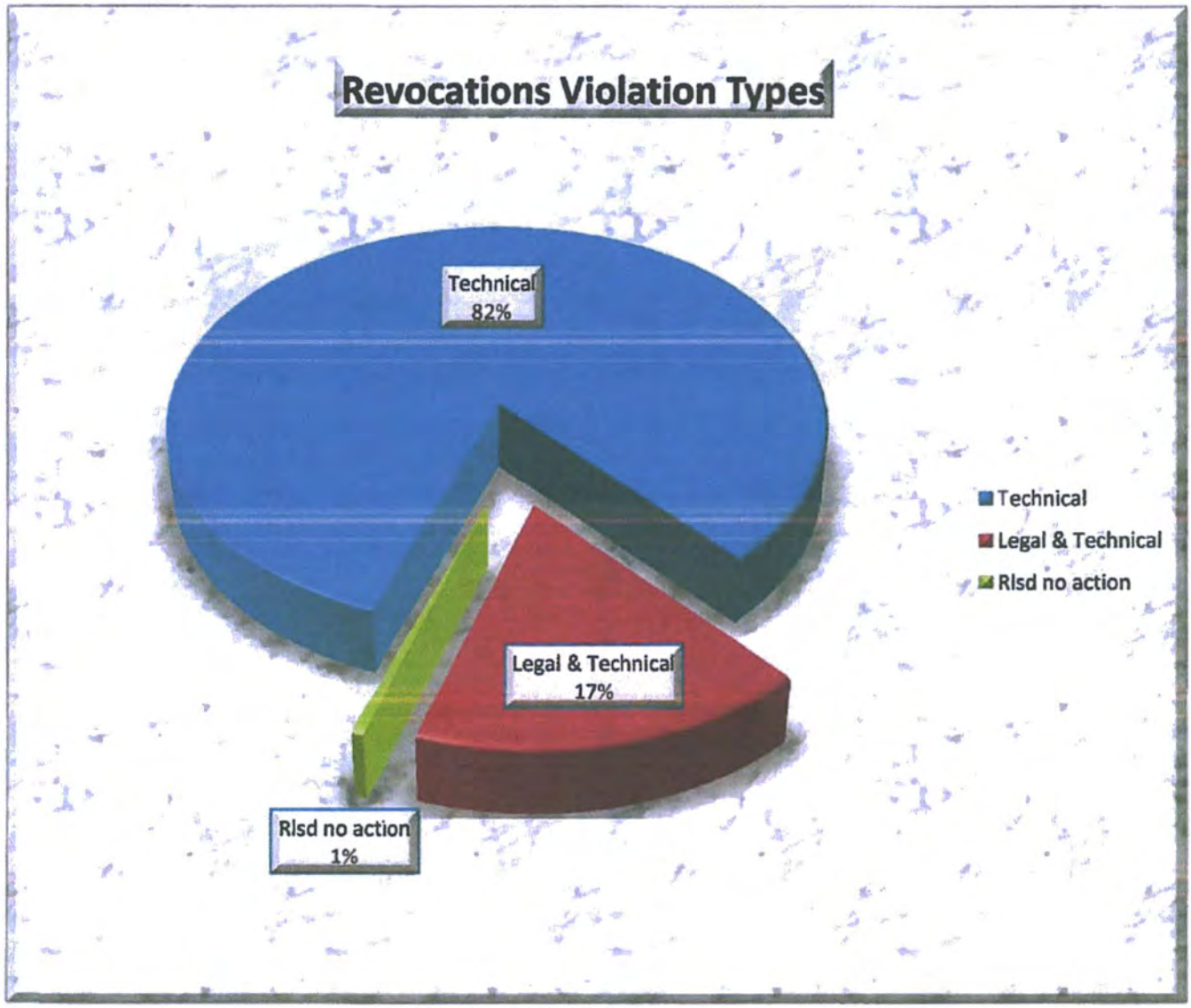
46 Justice Reinvestment Report (Dec. 2015), at 21.

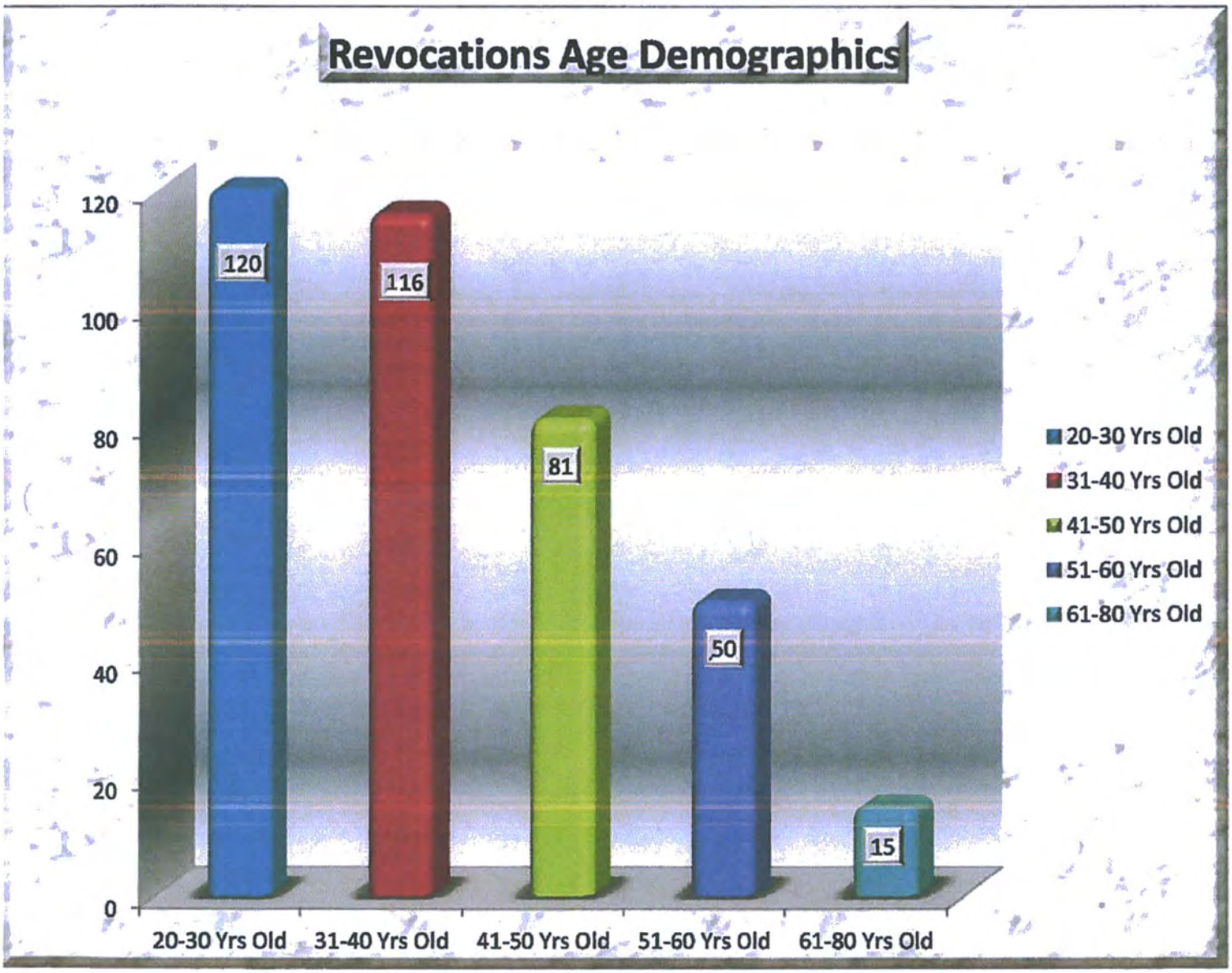
provided by Department of Corrections in Response to SST 4 Questions
Data on petition to revoke parole 3/3/2016




Revocations Primary Offenses
70
60
50
40
30
20
10
0
4
65
15
1
2
38
7
3
3
12
38
7
29
37
43
48
30
Arson
Asslt (ATT)
Burglary
Coercion
Crim Neg Homic
DUI/FEL DUI
Eluding/Escape(ATT)
Kidnap
Manslaughter
Murder/Att Murder
MICS/(ATT)
MIW
Robbery
Sexual Assault (Att.)
Sexual Assault Minor (Att.)
Theft/Vehicle theft
Other


Parole Revocation Hearings Held 2007-2015
400
350
300
250
200
150
100
50
0
334
280
297
298
340
244
306
349
382
Year 2007
Year 2008
Year 2009
Year 2010
Year 2011
Year 2012
Year 2013
Year 2014
Year 2015


Revocations Violation Types
Technical
82%
Legal & Technical
17%
Rlsd no action
1%
Technical
Legal & Technical
Rlsd no action


Revocations Age Demographics
120
100
80
60
40
20
0
120
116
81
50
15
20-30 Yrs Old
31-40 Yrs Old
41-50 Yrs Old
51-60 Yrs Old
61-80 Yrs Old
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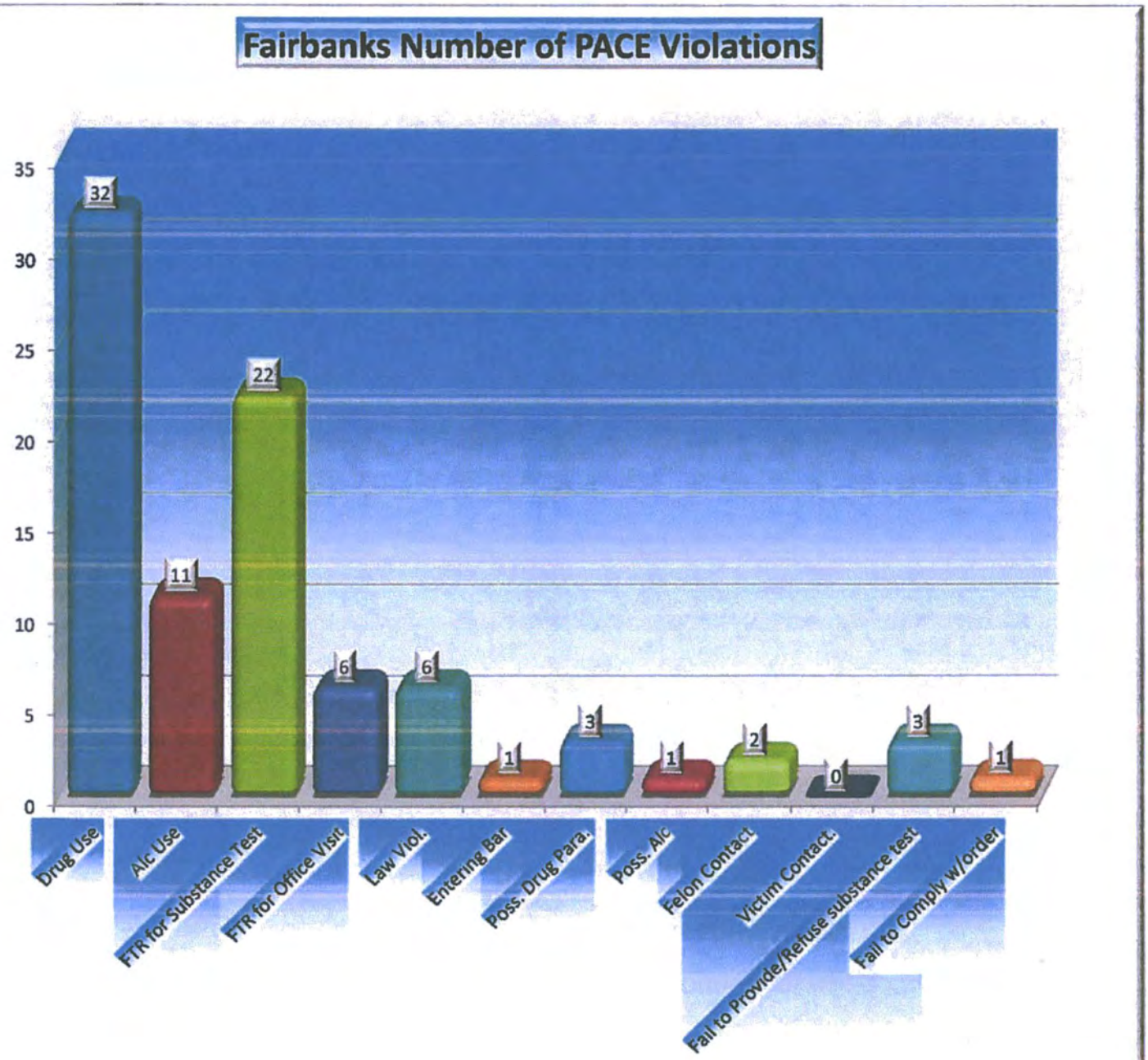
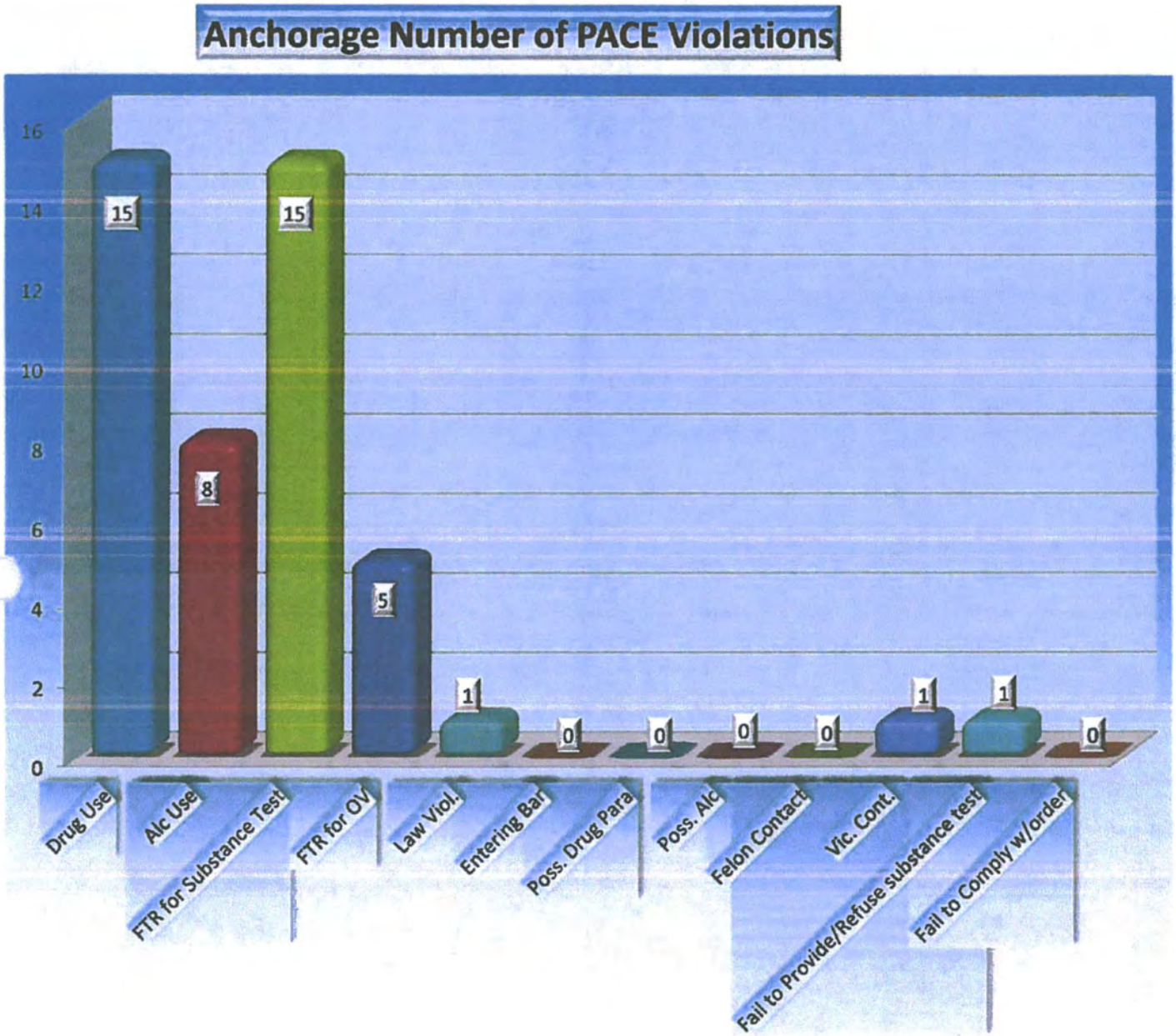
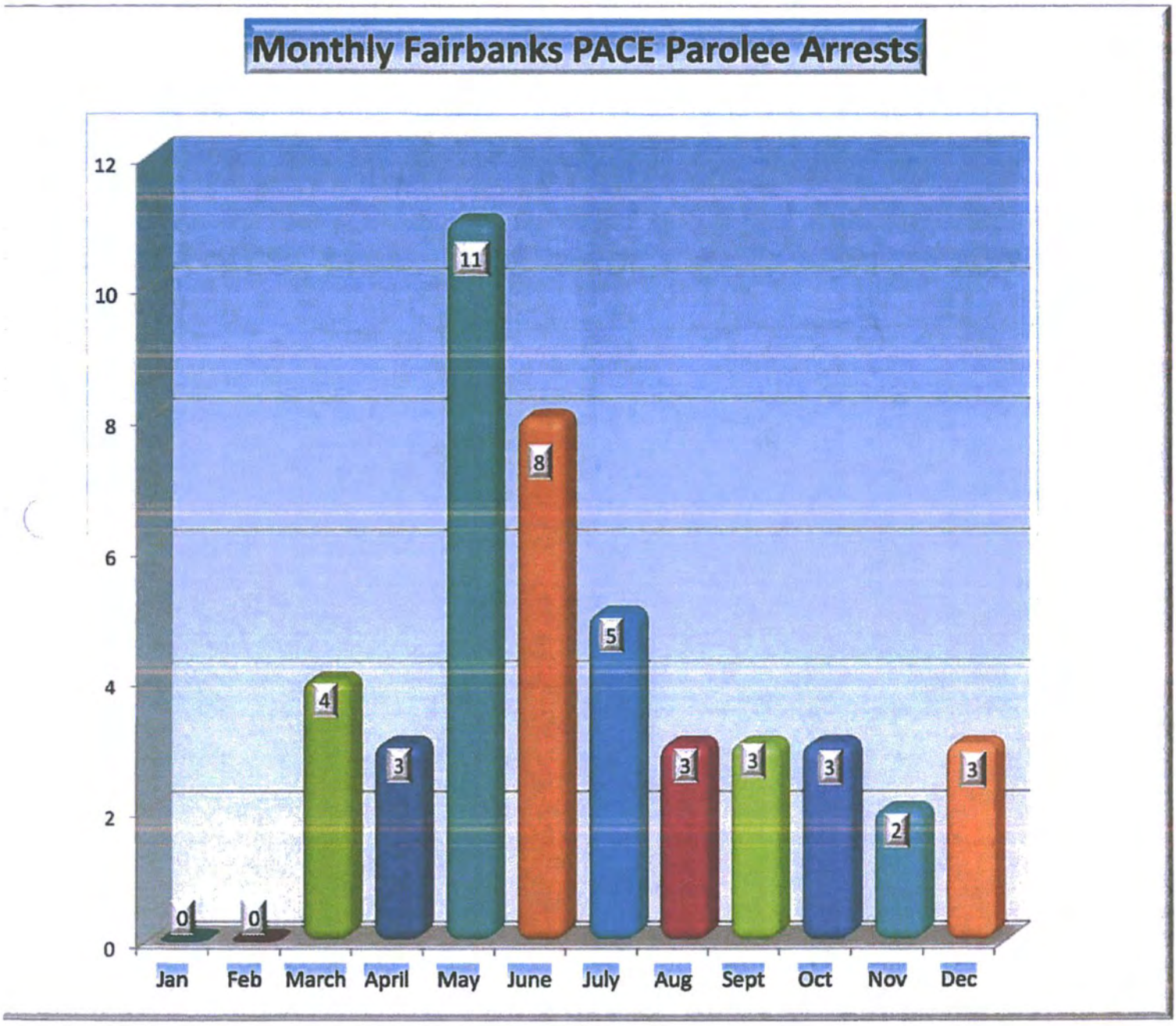
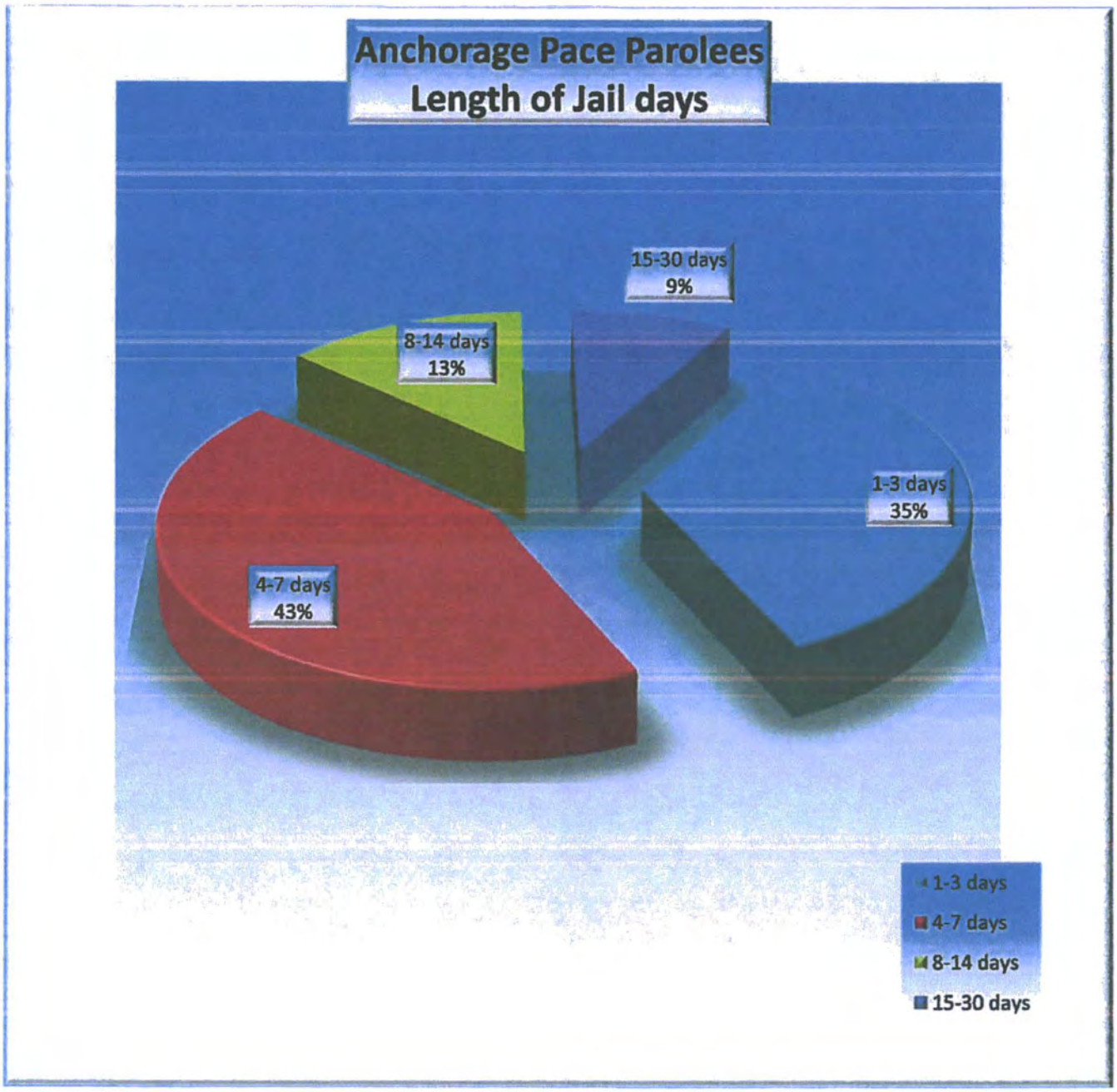
31-40 Yrs Old
41-50 Yrs Old
51-60 Yrs Old
61-80 Yrs Old


Fairbanks Number of PACE Violations
35
30
25
20
15
10
5
0
32
11
22
6
6
1
3
1
2
0
3
1
Drug Use
Alc Use
FTR for Substance Test
FTR for Office Visit
Law Viol.
Entering Bar
Poss. Drug Para.
Poss. Alc
Felon Contact
Victim Contact.
Fail to Provide/Refuse substance test
Fail to Comply w/order


Anchorage Number of PACE Violations
16
14
12
10
8
6
4
2
0
15
8
15
5
1
0
0
0
0
1
1
0
Drug Use
Alc Use
FTR for Substance Test
FTR for OV
Law Viol.
Entering Bar
Poss. Drug Para
Poss. Alc
Felon Contact
Vic. Cont.
Fail to Provide/Refuse substance test
Fail to Comply w/order


Monthly Fairbanks PACE Parolee Arrests
12
10
8
6
4
2
0
0
0
4
3
11
8
5
3
3
3
2
3
Jan
Feb
March
April
May
June
July
Aug
Sept
Oct
Nov
Dec


Anchorage Pace Parolees
Length of Jail days
15-30 days
9%
8-14 days
13%
1-3 days
35%
4-7 days
43%
1-3 days
4-7 days
8-14 days
15-30 days

DOC – Data on petition to revoke probation 3-2-2016

Daniel George

From: Ashton Compton
Sent: Wednesday, March 02, 2016 11:40 AM
To: Daniel George
Subject: FW: Probation Technical Violations

Follow Up Flag: Follow up
Flag Status: Completed

From: Daigle, Sherrie D (DOC) [mailto:sherrie.daigle@alaska.gov]
Sent: Wednesday, March 02, 2016 11:24 AM
To: Ashton Compton <Ashton.Compton@akleg.gov>
Cc: Wilcox, Lacy J (GOV) <lacy.wilcox@alaska.gov>; McClanahan, Natasha S (GOV) <natasha.mcclanahan@alaska.gov>; Peterson, Darwin R (GOV) <darwin.peterson@alaska.gov>; Williams, Dean R (DOC) <dean.williams@alaska.gov>
Subject: Probation Technical Violations

Hi Ashton,

In response to your question about common probation violations that result in a person being returned to jail, based on our most current data, petitions to revoke probation are ranked as follows:

Rule Violations 28% - example is changing residence without prior probation officer approval
Multiple Types 26% - examples include using marijuana and being discharged from sex offender treatment or substance abuse treatment
Drugs 24% - varies
Alcohol 16% - consuming intoxicating liquor to excess
Program Failure 4% - failing to participate in substance abuse treatment
Multiple Substances 2% - examples include using both alcohol and drugs, or multiple types of drugs

I hope this answers your questions, please let me know if you need anything further.

Sherrie

SHERRIE DAIGLE
Special Assistant to the Commissioner
Alaska Department of Corrections
Po Box 112000 • Juneau, AK 99811
Office: (907) 465-4645 • Fax: (907) 465-3315
sherrie.daigle@alaska.gov
★ CHOOSE RESPECT ★

DHSS Response to SSTA Question - Data on Food Stamps & Drug Felons
2/26/2016

Daniel George

From: Newman, Anthony (HSS) <anthony.newman@alaska.gov>
Sent: Friday, February 26, 2016 9:21 PM
To: Daniel George
Cc: Woods, Sarah B (HSS); Ashenbrenner, Chris (HSS); Davidson, Valerie J (HSS); Sherwood, Jon (HSS); OBrien, Sean K (HSS); Olejasz, Aimee M (HSS); Peterson, Darwin R (GOV); Wilcox, Lacy J (GOV); McClanahan, Natasha S (GOV)
Subject: RE: HSS FN for SB 91 (3667)

Daniel, in response to your recent questions the Division of Public Assistance provides the following responses:

Would the department please provide data on the current number of recipients under the program(s) (SNAP & *ATAP if applicable*)?

Currently there are approximately 530 Food Stamp cases and approximately 90 Alaska Temporary Assistance cases for which a drug felon is listed in the case as part of the household.

Clarification: Food Stamp benefits are not available to drug felons. If a drug felon is part of the household, that individual's income and resources are counted in the calculation when determining eligibility benefits but the drug felon is not considered when the benefits are issued to the household. For example, if a household is comprised of a mother, her son and her boyfriend (who is a drug felon living with them), the boyfriend's income and resources are counted as part of the household, but benefits will only be provided for a household size of 2 (mother and her son).

Alaska Temporary Assistance recipients who are known drug felons can receive benefits as long as the benefit is not paid with federal funds.

Please also provide an estimate (if possible) regarding the anticipated number of new recipients in Alaska, and the anticipated cost of administering the program due to the additional recipients.

The Division anticipates that there may be fewer than a hundred new recipients of Food Stamp benefits, were SB91 to be enacted.

The Division does not expect any additional administrative costs associated with SB91. Applications for households with and without drug felon members are assessed for eligibility, and that work does not change with SB91, only the potential Food Stamp benefits awarded. If the Food Stamp application is for a single person and that person is a drug felon, the application is currently denied. If SB 91 passes, the division will authorize benefits instead of denying the application.

Thank you,

Tony

Tony Newman | Legislative Liaison
Office of the Commissioner | Alaska Department of Health and Social Services

350 Main Street, Room 404| Juneau AK 99811
(desk) 907.465.1611 |(cell) 907.321.3989
anthony.newman@alaska.gov

From: Daniel George [mailto:Daniel.George@akleg.gov]
Sent: Wednesday, February 10, 2016 11:52 AM

To: Newman, Anthony (HSS)
Subject: HSS FN for SB 91

ello Tony,

I know that the administration is still working on fiscal notes for SB 91, which is scheduled for hearing and public testimony on Saturday, 2/13. One of the proposals in the bill lifts Alaska's state prohibition on "food stamps for drug felons." This provision appeared (with slightly different requirements) in HB 347 in the 28th legislature.

While the federal food stamp program is 100% federally funded, I understand that its administration in the state is 50% federal / 50% state funded. Would the department please provide data on the current number of recipients under the program(s) (SNAP *& ATAP if applicable*)? Please also provide an estimate (if possible) regarding the anticipated number of new recipients in Alaska, and the anticipated cost of administering the program due to the additional recipients.

Please let me know if I can help provide additional clarification for the request. Thank you in advance for your assistance.

Daniel George
Staff to Senator Bill Stoltze
Chair, Senate State Affairs Committee
(907) 465-4958
Daniel.George@akleg.gov

Summary of Stoltze Amendments to CSSSSB91(STA)\P:

#1 **P.1** – Requires within 30 days after sentencing of an offender, the providing to a victim of a crime information on the earliest dates the offender could be released on furlough, probation, or parole, including reductions for good time or other good conduct incentives and the process for release, including contact information for the decision-making bodies.

Requires the Court to provide the victim a form with information on:

Who a victim may contact if they have questions about the sentence or release of an offender

The potential for release of the offender on furlough, probation, or parole for good time credit

Allows the victim to update their contact information with Court and Department of Corrections

Note: This amendment is listed as by Senator Stoltze by Request

#2 **P.2** – Clarifies that the conditional repeal of the exemption from the ban on food stamp and temporary assistance for convicted drug felons, is repealed if prior to 2027, a court has found the drug testing for state assistance requirement unconstitutional.

Note: The Revisor of Statutes has begun inserting this 10 year review clause into legislation so that there are not outstanding items to check for into perpetuity.

#3 **P.3** – Corrects a drafting error in section 37 regarding item #14 on the summary of changes. This limits a person to only one new bail hearing for "new information relating to a person's inability to post the required bail" now that a person's inability to post the required bail can be taken into account, under SB 91. The Alaska Court System has reviewed this amendment to verify that it accomplishes the committee's intent.

#4 **P.4** – Deletes the requirement under Section 73 that convictions for Violation of Condition of Release (VCR) appear on CourtView. The committee was concerned that these convictions may not appear on CourtView now that VCR is reduced from a crime to an offence under SB 91. The Court System has assured the chair's office that these offenses will still show up on CourtView, so this requirement is unnecessary in SB 91.

Note: The requirement that Suspended Entry of Judgment appear on CourtView remains in Sec. 73.

#5 **P.5** – Removes from Section 61 the requirement that the court shall send a copy of the probation officer's motion that probation be terminated to the Department of Corrections sufficiently in advance of any scheduled hearing to enable the Department of Corrections to notify the victim of that crime. Courts believes this is a redundant requirement, as the probation officer is already a member of the Department of Corrections, so it would be unnecessary for the Courts to turn around and take what they just received from DOC and send it to DOC. DOC may notify the victim without this requirement.

#6 **P.6** - Clarifies that in addition to a person who tests positive for the illegal use of controlled substances, a person who refuses to submit to a test required under Section 134 is disqualified from receiving public assistance for six months.

CS SS SB 91 (STA) \ P

Work Draft - 3/2/16

Amendment Pack:

#'s 1 → 6

For

3/8/16

Senate State Affairs

AMENDMENT #1

OFFERED IN THE SENATE BY SENATOR STOLTZE BY REQUEST

TO: CSSSSB 91(STA), Draft Version "P"

Page 30, following line 17:

Insert a new bill section to read:

"* **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."

Renumber the following bill sections accordingly.

Page 73, line 28:

Delete "**and**"

Page 73, line 30, following "**AS 33.16.210(d)**":

Insert "**; and**

(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"

Page 85, line 14:
Delete "sec. 56"
Insert "sec. 57"

Page 85, line 17:
Delete "sec. 56"
Insert "sec. 57"

Page 85, line 18:
Delete "sec. 57"
Insert "sec. 58"

Page 85, line 21:
Delete "sec. 71"
Insert "sec. 72"

Page 85, line 24:
Delete "sec. 91"
Insert "sec. 92"

Page 86, line 21:
Delete "sec. 77"
Insert "sec. 78"

Page 86, line 22:
Delete "sec. 78"
Insert "sec. 79"

Page 86, line 23:
Delete "sec. 84"
Insert "sec. 85"

Page 86, line 24:
Delete "sec. 85"
Insert "sec. 86"

Page 86, line 25:
Delete "sec. 86"
Insert "sec. 87"

Page 86, line 26:
Delete "sec. 135"
Insert "sec. 136"

Page 87, line 8:
Delete "sec. 48"
Insert "sec. 49"

Page 87, line 9:
Delete "sec. 49"
Insert "sec. 50"

Page 87, line 10:
Delete "sec. 50"
Insert "sec. 51"

Page 87, line 11:
Delete "sec. 51"
Insert "sec. 52"

Page 87, line 12:
Delete "sec. 65"
Insert "sec. 66"

Page 87, line 13:
Delete "sec. 66"
Insert "sec. 67"

Page 87, line 14:
Delete "sec. 67"
Insert "sec. 68"

Page 87, line 15:
Delete "sec. 68"
Insert "sec. 69"

Page 87, line 16:
Delete "sec. 69"
Insert "sec. 70"

Page 87, line 17:
Delete "sec. 70"
Insert "sec. 71"

Page 87, line 18:
Delete "sec. 71"
Insert "sec. 72"

Page 87, line 19:
Delete "sec. 80"

Insert "sec. 81"

Page 87, line 20:
Delete "sec. 83"
Insert "sec. 84"

Page 87, line 21:
Delete "sec. 92"
Insert "sec. 93"

Page 87, line 22:
Delete "sec. 93"
Insert "sec. 94"

Page 87, line 23:
Delete "sec. 94"
Insert "sec. 95"

Page 87, line 24:
Delete "sec. 95"
Insert "sec. 96"

Page 87, line 25:
Delete "sec. 96"
Insert "sec. 97"

Page 87, line 26:
Delete "sec. 97"
Insert "sec. 98"

Page 87, line 27:

Delete "sec. 99"
Insert "sec. 100"

Page 87, line 28:
Delete "sec. 101"
Insert "sec. 102"

Page 87, line 29:
Delete "sec. 126"
Insert "sec. 127"

Page 87, line 30:
Delete "sec. 127"
Insert "sec. 128"

Page 88, line 6:
Delete "sec. 54"
Insert "sec. 55"

Page 88, line 7:
Delete "sec. 55"
Insert "sec. 56"

Page 88, line 8:
Delete "sec. 56"
Insert "sec. 57"

Page 88, line 9:
Delete "sec. 57"
Insert "sec. 58"

Page 88, line 10:
Delete "sec. 57"
Insert "sec. 58"

Page 88, line 11:
Delete "sec. 57"
Insert "sec. 58"

Page 88, line 14:
Delete "sec. 52"
Insert "sec. 53"

Page 88, line 15:
Delete "sec. 58"
Insert "sec. 59"

Page 88, line 16:
Delete "sec. 59"
Insert "sec. 60"

Page 88, line 17:
Delete "sec. 60"
Insert "sec. 61"

Page 88, line 18:
Delete "sec. 61"
Insert "sec. 62"

Page 88, line 19:
Delete "sec. 62"
Insert "sec. 63"

Page 88, line 20:
Delete "sec. 64"
Insert "sec. 65"

Page 88, line 21:
Delete "sec. 88"
Insert "sec. 89"

Page 88, line 22:
Delete "sec. 89"
Insert "sec. 90"

Page 88, line 26:
Delete "sec. 74"
Insert "sec. 75"

Page 88, line 27:
Delete "sec. 75"
Insert "sec. 76"

Page 88, line 28:
Delete "sec. 76"
Insert "sec. 77"

Page 88, line 29:
Delete "sec. 82"
Insert "sec. 83"

Page 89, line 1:
Delete "sec. 100"

Insert "sec. 101"

Page 89, line 2:
Delete "sec. 107"
Insert "sec. 108"

Page 89, line 3:
Delete "sec. 108"
Insert "sec. 109"

Page 89, line 4:
Delete "sec. 109"
Insert "sec. 110"

Page 89, line 5:
Delete "sec. 110"
Insert "sec. 111"

Page 89, line 6:
Delete "sec. 111"
Insert "sec. 112"

Page 89, line 7:
Delete "sec. 112"
Insert "sec. 113"

Page 89, line 8:
Delete "sec. 113"
Insert "sec. 114"

Page 89, line 9:

Delete "sec. 114"
Insert "sec. 115"

Page 89, line 10:
Delete "sec. 115"
Insert "sec. 116"

Page 89, line 11:
Delete "sec. 116"
Insert "sec. 117"

Page 89, line 12:
Delete "sec. 117"
Insert "sec. 118"

Page 89, line 13:
Delete "sec. 118"
Insert "sec. 119"

Page 89, line 14:
Delete "sec. 119"
Insert "sec. 120"

Page 89, line 15:
Delete "sec. 120"
Insert "sec. 121"

Page 89, line 16:
Delete "sec. 121"
Insert "sec. 122"

Page 89, line 17:
Delete "sec. 122"
Insert "sec. 123"

Page 89, line 18:
Delete "sec. 123"
Insert "sec. 124"

Page 89, line 19:
Delete "sec. 124"
Insert "sec. 125"

Page 89, line 20:
Delete "secs. 136 - 138"
Insert "secs. 137 - 139"

Page 89, line 21:
Delete "136 - 138"
Insert "137 - 139"

Page 90, line 4:
Delete "sec. 53"
Insert "sec. 54"

Page 90, line 5:
Delete "sec. 91"
Insert "sec. 92"

Page 90, line 6:
Delete "sec. 133"
Insert "sec. 134"

Page 90, line 9:
Delete "sec. 134"
Insert "sec. 135"

Page 90, line 16:
Delete "sec. 136"
Insert "sec. 137"

Page 90, line 18:
Delete "sec. 140(a)"
Insert "sec. 141(a)"

Page 90, line 21:
Delete "sec. 140(b)"
Insert "sec. 141(b)"

Page 90, line 24:
Delete "sec. 140(b)"
Insert "sec. 141(b)"

Page 90, line 27:
Delete "sec. 56"
Insert "sec. 57"
Delete "sec. 140(c)"
Insert "sec. 141(c)"

Page 90, line 30:
Delete "sec. 57"
Insert "sec. 58"
Delete "sec. 140(d)"

Insert "sec. 141(d)"

Page 91, line 2:
Delete "sec. 71"
Insert "sec. 72"
Delete "sec. 140(e)"
Insert "sec. 141(e)"

Page 91, line 5:
Delete "sec. 91"
Insert "sec. 92"
Delete "sec. 140(f)"
Insert "sec. 141(f)"

Page 91, line 8:
Delete "53, 91, and 133"
Insert "54, 92, and 134"

Page 91, line 9:
Delete "sec. 136"
Insert "sec. 137"

Page 91, line 11:
Delete "Sections 137 and 138"
Insert "Sections 138 and 139"

29-LS0541\P.2
Martin/Gardner
3/3/16

AMENDMENT #2

OFFERED IN THE SENATE BY SENATOR STOLTZE

TO: CSSSSB 91(STA), Draft Version "P"

Page 84, following line 31:

Insert a new bill section to read:

"* **Sec. 140.** AS 47.27.015(i)(4) is repealed."

Renumber the following bill sections accordingly.

Page 90, line 18:

Delete "sec. 140(a)"

Insert "sec. 141(a)"

Page 90, line 21:

Delete "sec. 140(b)"

Insert "sec. 141(b)"

Page 90, line 24:

Delete "sec. 140(b)"

Insert "sec. 141(b)"

Page 90, line 27:

Delete "sec. 140(c)"

Insert "sec. 141(c)"

Page 90, line 30:

Delete "sec. 140(d)"

Insert "sec. 141(d)

Page 91, line 2:

Delete "sec. 140(e)"

Insert "sec. 141(e)"

Page 91, line 5:

Delete "sec. 140(f)"

Insert "sec. 141(f)"

Page 91, following line 7:

Insert a new bill section to read:

"* **Sec. 145.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT; NOTIFICATION. (a) Section 140 of this Act takes effect only if, before January 1, 2027, a court has entered a final judgment that AS 47.05.035, enacted by sec. 134 of this Act, is unconstitutional, and

(1) the time for appeal has expired; or

(2) if an appeal was taken, a final order on the appeal has been entered that AS 47.05.035, enacted by sec. 134 of this Act, is unconstitutional.

(b) The commissioner of health and social services shall notify the revisor of statutes if, before January 1, 2027, a court enters a final judgment that AS 47.05.035, enacted by sec. 134 of this Act, is unconstitutional, and the time for appeal has expired or a final order on the appeal has been entered."

Renumber the following bill sections accordingly.

Page 91, following line 11:

Insert a new bill section to read:

"* **Sec. 149.** If sec. 140 of this Act takes effect under sec. 145, it takes effect on the day

after the date that the revisor of statutes receives notice from the commissioner of health and social services under sec. 145 of this Act."

29-LS0541\P.3
Martin/Gardner
3/3/16

AMENDMENT #3

OFFERED IN THE SENATE BY SENATOR STOLTZE

TO: CSSSSB 91(STA), Draft Version "P"

Page 20, line 21, following "**information**":

Insert "**relating to the person's inability to post the required bail**"

29-LS0541\P.4
Martin/Gardner
3/3/16

AMENDMENT #4

OFFERED IN THE SENATE BY SENATOR STOLTZE

TO: CSSSSB 91(STA), Draft Version "P"

Page 47, line 15:

Delete "(1)"

Page 47, lines 16 - 18:

Delete "; or

(2) convicted of a violation of condition of release under AS 11.56.757"

29-LS0541\P.5
Martin/Gardner
3/3/16

AMENDMENT #5

OFFERED IN THE SENATE BY SENATOR STOLTZE

TO: CSSSSB 91(STA), Draft Version "P"

Page 38, lines 12 - 15:

Delete "the court shall, if feasible, send a copy of the motion to the Department of Corrections sufficiently in advance of any scheduled hearing to enable the Department of Corrections to notify the victim of that crime. If"

Insert "and"

29-LS0541\P.6
Gardner
3/4/16

AMENDMENT #6

By: Senator Stoltze

OFFERED IN THE SENATE

TO: CSSSSB 91(STA), Draft Version "P"

Page 83, line 8, following "substances":

Insert "or who refuses to submit to a test required under this section"

Page 83, line 10, following "substances":

Insert "or from the date the person refused to submit to a test required under this section"

• SB91 public testimony to SSTA - Third Batch (10 poms)
3-8-16

Document submitted as public testimony to SB 91, via OVR.

Subject: Victim Notification letter to Irene Lee

Dear Ms. Lee,

I, Thomas J. Benz, am the father of Kathleen N. Benz who was fatally injured on May 29, 2010 because of the criminal conduct of Alfred C. Jones. My wife, five sons and I have had to suffer a tortuous and agonizing process which took 4 and 1/2 years culminating in a sentencing of Jones for criminal homicide and for assault against the other victims. I trust that you, and whomever is involved in the decision making process, will have read the transcript and order of Judge Anna Moran from the sentencing hearing that took place on February 12, 2015. One of the reasons we had to wait so long was the fact that Jones was a subject of a federal conviction for conduct which is very much related to my daughter's death, a fact which I will discuss below as being of critical importance.

Against this background, I was shocked, dismayed and appalled to receive a victim notification to the effect that Jones, after only one year, is being considered for "possible early furlough". Nevertheless, I wish to make a number of points which I wish the decision makers to consider most carefully:

1. During the tortuous process leading to Jones' sentencing one year ago, I and other victims never understood that there was any possibility of an early release for Jones, other than for a possible medical emergency. It was clearly my understanding that he would not be entitled to release until the earliest date of consideration for parole, which is in a number of years. To discover now that there is some side-door release program, which is being given significant attention by the state of Alaska, eviscerates my rights and the rights of the other victims to the justice which we thought had been accomplished one year ago at the final sentencing by Judge Moran. The fact that the state of Alaska may have a financial and budgetary crisis which has given prominence to this program of furlough should not now be allowed to rewrite Judge Moran's sentencing order. Budgetary crises and the price of oil should not strip victims of the justice which we witnessed in reliance of the legal process in the state of Alaska.

2. I do not understand how this idea of a "furlough" can now be introduced to accelerate the release of Jones ahead of the parole terms in his mandatory sentencing. A furlough is customarily used to describe a leave of absence from "a duty" particularly in the military. I did not know that it is a side-door means for acceleration for parole. In the lengthy process leading up to Jones' sentencing, we victims were well aware not only of the timing and place of significant events, but of the persons who would be involved in the criminal judicial process. We victims knew the identity of the Judge and the identity of the District Attorney. I, as a victim, was permitted and did participate on several occasions via teleconference in certain procedural hearings, including bail applications, where I was allowed to listen and, if I so desired, to comment. I was allowed to attend the sentencing in Kenai, Alaska, and I gave the opening victims' statement. My closing remark in that statement, commenting on Jones' sentence, that my wife and I do not want the phone to ring again for someone else, as it did for us on that fateful morning. Now that we are faced with a new procedure for "possible early furlough", we have no idea how the process works and who are the individuals involved. The

Victim Notification says that "a hearing will be conducted or a decision made on or about 3/3/16". It does not explain whether a hearing will in fact be conducted or, by whom, and what judicial, legislative, or other terms will govern the conduct of the hearing. The above phrase suggests that a hearing might not be conducted at all and a "decision made" without identifying by whom or by what criteria. I do not mean to question the professional competence or personal integrity of the Department of Correction who may be involved. Nevertheless, I am confronted with an alien procedure by unknown persons, which is in stark contrast to the judicial proceedings which we experienced up to the sentencing of Jones one year ago. I refer you again to the order of Judge Moran. In addition to lengthening the sentence of Jones, she very carefully elaborated the specific terms of his probation, which I felt were appropriately strict in the circumstances. I am at a loss to understand whether those strict terms and guidelines as mandated by Judge Moran would apply to a "furlough" or what new terms and conditions would be established by the decision makers. Needless to say, I am baffled by this process. While my wife, my sons or I will never have true closure on the unlawful killing of our daughter and sister, last year's sentencing at least gave us some comfort that the lengthy and tortuous process of bring Jones to justice had come to an end with the knowledge of the terms of his mandatory sentence and the timing and conditions of his parole. I find it incredibly distressing today to have to undergo yet again a new anguishing process, which I do not understand.

3. In any hearing or other deliberations leading to a decision regarding a "furlough" for Jones, I trust that those involved will carefully read the comments made by Judge Moran one year ago regarding Jones and his conduct. I find it shocking that in one year's time, all has changed such that he is now eligible for any form of release, short of his entitlement for consideration for parole in several years' time. Judge Moran rendered her carefully worded judgement after having participated in the pre-judgement process including the guilty plea three months earlier. Her judgement was made after she had considered the written and oral submissions by the defense counsel, prosecuting District Attorney, other transcripts from the record of the entire process, as well as over 70 statements made by family and friends of our daughter. As the recent Victim Notification indicates, a "furlough" would be granted well ahead to any entitlement to parole under a mandatory sentence. I, therefore, trust that any new decision makers would carefully consider as much as the information concerning Jones' prior history and the other factors which were referred to in Judge Moran's sentencing order. What was so frightening from Jones' prior record and his criminal conduct relating to the death of my daughter and the assault on the other victims is callous indifference to the well-being of others. This incident on May 29, 2010 was not an isolated, exceptional moment. It was part of a long and dangerous pattern of abuse involving controlled substances. As I said in my victim statement to the Court, and stated orally in the Courtroom, Jones consciously, deliberately and knowingly ingested multiple controlled substances which were found in his system. He consciously, deliberately and knowingly entered his vehicle, and by doing so he consciously, deliberately and knowingly caused himself to become an instrument of death, while he did not know the identity of my daughter, Kathleen, as his victim. It was only a matter of time before my daughter or some other innocent victim would become his fatal victim. This careless and callous disregard for others is further demonstrated by the conduct of Jones shortly after causing my daughter's death. It is my understanding that only six weeks after causing my daughter's death, Jones was observed depositing the proceeds of criminal drug money in a local bank on at least two occasions. I trust you are aware that this ultimately led to his arrest and conviction for a federal money laundering

charge in relation to a drug smuggling ring involving one of the controlled substances to which Jones admitted he was addicted and which substance was found in his system at the time of my daughter's death. It is appalling and striking that so soon after my daughter's death, instead of realizing the horrible consequences of his ways, he continued his path of criminality involving controlled substances which caused my daughter to die. There was no remorse, there was no cry of forgiveness to his victims. There was just the self-centered desire to continue criminal involvement in drugs. It should be noted, as well, that part of the delay in obtaining justice at the state level was the result of the federal indictment and conviction and subsequent jail sentence in Nevada. Rather than release Jones, you should carefully consider the circumstances of his bail in the federal proceeding. His total disregard for the law and disrespect for its procedures is demonstrated by the fact that he jumped bail in the federal proceeding. He was later returned from Tennessee to the federal authorities where he eventually pleaded guilty to the federal charges. All of this occurred between my daughter's death and what satisfaction we could take from his sentencing one year ago. It caused further grief, anguish and turmoil to my family that this man had no sympathy, no caring, no bond of human dignity with others, and no respect for the law.

I do not believe Jones is a man deserving of any form of early release. Further, no state budgetary crisis and no new program should deprive me, my wife, my five sons, and the other victims of the justice which we received one year ago and what we thought was its underlying commitment to us from the state of Alaska. Finally, the dignity of my daughter's memory deserves that the original sentence be respected in its entirety.

I thank you for your time and consideration.

Respectfully submitted,

Thomas J. Benz

Alaska Mental Health Board
Advisory Board on Alcoholism and Drug Abuse
431 N. Franklin St. Suite 200
Juneau, Alaska, 99801

February 9, 2016

Senator Bill Stoltze, Chairman
Senate State Affairs Committee
Alaska State Capitol, Room 125
Juneau, Alaska 99801

BY HAND-DELIVERY

Re: Letter of Support for SB 91

Chairman Stoltze,

The Advisory Board on Alcohol and Drug Abuse and the Alaska Mental Health Board commend the work of Alaska Criminal Justice Commission and the sponsors of Senate Bill 91. We support the spirit and the specifics of SB 91.

The Boards are charged with advising the State of Alaska on issues concerning alcohol and drug abuse and mental health. Behavioral health treatment works for individuals experiencing substance use and mental health disorders. This legislation will allow the courts to deal with offenders with underlying substance use and mental health disorders in a manner that encourages them to achieve recovery and contribute to the community and their family. Court ordered care, with appropriate probation conditions, can achieve public safety goals while protecting disabled individuals from conditions that may worsen their condition. Behavioral health treatment and access to social supports, rather than incarceration, is a sustainable long term solution for the individual and for the state.

The Boards encourage funding of treatment and recovery programs that will be tasked with increased responsibility when the system redirects people to care in the community rather than being incarcerated. The court system and probation and parole divisions must be trained and their caseloads adjusted to allow for effective management of the complex needs of offenders experiencing behavioral health disorders. Communities and corrections officials will have to work together to reduce recidivism. Therefore, we support reinvestment of savings from reduced incarceration in community supervision services, victims' services, violence prevention, treatment services, and re-entry services.

SB 91 is a critical component in the criminal justice reform and reinvestment effort. We encourage the State Affairs Committee to support passage of the bill.

Sincerely,

Charlene Tautfest

Charlene Tautfest, Chairperson AMHB

LPCS MACCOES

Gunnar Ebbesson, Chairperson ABADA

cc: Senator John Coghill
Senator Lesil McGuire
Senator Peter Micciche

Tanana Chiefs Conference

February 2918~~7~~, 2016

To: Senate State Affairs Committee Members
Re: Tanana Chiefs Conference Support of Senate Bill 91 (SB 91)

Dear Senate State Affairs Committee Members,

~~This letter is to~~Tanana Chiefs Conference (TCC) fully supports ~~Senate Bill 91~~SB 91. Alaska is in desperate need of criminal justice reform because the current system is broken and ~~new solutions to an issue that not only costs our state~~ millions of dollars are being wasted during our unprecedented budget deficit. ~~but continues to churn out unemployable, untreated criminals.~~ Similar legislation passed in other states has proven to be a successful model for criminal justice reform and savings on state resources.

~~The criminal justice system in our state just isn't working~~Unfortunately for Alaska Natives, we are disproportionately represented in the criminal justice system. ~~This issue is, unfortunately, one that touches Alaska Natives~~ more ~~acutely~~ than any other group in the state~~s~~. Although Alaska Natives make up about 14% of ~~Alaska's~~ our state's population, we~~but~~ exceed~~s~~ 40% of the~~our~~ prison population. ~~Tanana Chiefs Conference~~TCC supports creative solutions that focus on treatment and community work service.

S~~Benate Bill~~ 91 ~~is a great step in this direction~~contains many of these aspects. First, ~~T~~the provision ~~within the bill~~that allows~~ing a~~ court~~s~~ to suspend entry of ~~a~~ judgment against a youthful or first time offender (AS 12.55.078) ~~will reap benefits far and wide~~is valuable because~~. So many low level~~criminals convicted of petty crimes ~~offenders~~ have extreme ~~have a hard time~~difficulty ~~obtaining gainful~~finding meaningful employment and entry into education / vocational programs. ~~because they have a record.~~ If offenders have meaningful employment, the less likely they are to commit future crimes. This saves our state; there is no cost to re-arrest, charge, prosecute, and imprison people who can be reformed.~~That provision alone will assist Alaskans significantly in getting back on their feet and out of the system.~~

SB 91 also changes the structure of criminal sentencing for driving offenses. SB 91 ~~and~~ rewards ~~good driving and~~ successful completion of treatment programs with license incentives that help offenders get out of the criminal system. Many good paying jobs are not on the bus lines. If offenders cannot obtain driver licenses, they cannot get to work to support themselves and their families.
~~Another substantial barrier to employment is lack of a valid driver's license. Often times a person can get caught in the system for years because of their lack of a license and their need to drive to support themselves and their family. SB 91 changes the structure of sentencing for driving offenses and rewards good driving and successful completion of treatment programs with license incentives.~~

~~As an employer, diversion and licensing solutions will allow us to assist the state in reintegrating our people back into a healthy, working lifestyle.~~

~~Ultimately~~Finally, Alaska's drug and alcohol problem is not a criminal issue, but~~, although at times it may feel that way. I t is~~ a public health issue. Treatment of drug and alcohol abuse ~~; one that~~ must be~~needs to be approached from the perspective that~~ addressed by counseling and treatment that actually target the disease rather than non-reforming~~may better address the ultimate culprit than~~ incarceration. As

our current system has demonstrated, incarceration does not work. Our jails are overcrowded, recidivism is high, and our state cannot afford financially to continue down this road.

Tanana Chiefs Conference believes that criminals should be held accountable; however, it should be done in a system that is responsible, cost effective, and gives offenders a genuine second chance. SB 91 provides this opportunity for our state. ~~Many would argue that addiction and criminal behaviors are personal choices, and while this is true, on a public policy level the continued practice of mass incarceration as a solution is no longer financially feasible for Alaska.~~
~~Thank you for supporting criminal justice reform. This is about making all of our citizens strong, healthy and safe.~~
Sincerely,

TCC President and CEO

Daniel George

From: Nikki H <reentry@iacnvl.org>
Sent: Friday, February 12, 2016 10:04 AM
To: Senate State Affairs
Subject: Senate Bill 94

Follow Up Flag: Follow up
Flag Status: Completed

Good day,

As the Prisoner Reentry Coordinator, I find Senate Bill 94 to be pivotal in justice reform. The proposed changes will help reduce recidivism and provide for a safer community. I fully support the bill and would be glad to provide real-world examples of how this bill could affect the prison population in the future.

Thank you for your hard work!

--
Nikki Hines, MHR
Reentry Coalition Coordinator
www.fairbanksreentry.org
(313) 737-1193

Daniel George

From: Angela Hall <sologrouplady@gmail.com>
Sent: Monday, March 07, 2016 9:09 AM
To: Senate State Affairs
Subject: SB 91

Angela Hall

Supporting Our Loved Ones Group [S.O.L.O.G.]

Email: Sologrouplady@gmail.com

http://sologroupofalaska.weebly.com/

(907) 315-2573

Dear Senator Stoltze and members of the Committee:

My name is Angela Hall and I am writing on behalf of myself and *Supporting Our Loved Ones Group [S.O.L.O.G]*, a support group for the families and friends of Alaska inmates. As family members of incarcerated individuals, we want to lend our voice to the criminal justice reform issues currently being discussed in the Senate and eventually the House.

We are in support of SB 91. We feel the 21 recommendations made by the Alaska Criminal Justice Commission and the Pew Charitable Trusts organization, are an excellent ***start*** at repairing and reforming Alaska's fractured Corrections system, but there is much more work to be done.

While we support our incarcerated loved ones on their path to recovery and rehabilitation, we understand the need and desire for public safety, and the importance of respecting the opinions and rights of the victims. We believe the efforts of the Legislature and the Department of Corrections in collaboration with the many stakeholders involved will come to a safe and healthy resolution to many of the concerns being shared by the public.

It is important that we set aside our emotions and focus on evidence based facts. The State of Alaska's Department of Corrections cannot continue to function without reform of its policies and procedures. The State is facing a huge budget deficit. It cannot afford to build another prison to house the projected number of inmates flooding the system, but more importantly, families cannot afford to lose more loved ones to crime nor the prison system.

No one is winning the War on Drugs. No one is winning the Tough on Crime argument. All that rhetoric has accomplished over the years is a burgeoning prison system full of aging inmates. We as a society have been

placing Band-Aids on the disease and the disease is spreading. We have several generations of families incarcerated, sometimes in the same facility at the same time! If you have a viral infection, a Doctor prescribes treatment. Drug and alcohol addiction requires intensive treatment and follow-up care. Prison in its current state is not equipped to provide that treatment. More programs and treatment centers are needed to address the underlying source of most criminal activity; *not* longer prison sentences.

It is absolutely necessary to hold people accountable for their crimes. It is not always necessary to condemn that person for the entirety of their life for prior bad acts if they demonstrate their heartfelt remorse, desire for change, and willingness to adhere to the laws that govern our society.

The passing of SB 91 will begin the process of implementing cost saving procedures that can then free up future funding for further treatment based programs and centers.

Change is necessary and it must begin somewhere.

Thank you for taking the necessary initial steps towards that change.

Angela Hall

S.O.L.O.G.

[Please enter our comments into the permanent record. Thank you.]

Daniel George

From: Dennis McCormick <user@votervoice.net>
Sent: Saturday, February 20, 2016 7:03 PM
To: Senate State Affairs
Subject: Oppose SB 91

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Stoltze,

NFIB/AK members recognize that $750 is a significant amount to a small business. SB 91 proposal to increase the threshold to $2,000 is unreasonably generous to criminals intent on taking other people's property. In 2013, the NFIB/Alaska leadership Council worked with the legislature and agreed to remove its opposition to a 50% increase from $500 to $750. We still strongly believe the state shouldn't be making it less consequential for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. Instances of individuals "stealing to feed their families" or "making silly juvenile decisions" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately.

We believe that simply inflation-proofing crime is poor public policy. Our justice system ought to protect citizens and their property, not reduce the level of risk for thieves. Victims of thievery are victims in every sense of the word.

There are several concerns NFIB members have raised. Prices of merchandise and tools have not always followed inflation. The cost of electronics has dropped significantly so that at $2,000 most TVs can be taken before the theft would become a felony. Taking a TV is not a minor discretion. It takes intent to take what is not yours with the full knowledge that it is wrong. The same is true of tools used in the construction industry. For small businesses, the cost of the TV comes out of the owner's pocket. For the person in construction, the cost comes out the person's pocket and limits the ability to be productive at the job. For the small business, these are very significant issues.

Enforcement is also a concern. While we have no reason to question how anyone does their job and certainly not anyone's intention or honor, the facts are that property crimes get a lower priority and misdemeanors are a lower priority than felonies. When we are talking about your money vs. my money, my money is more precious to me. It is the same with small businesses. The sense of violation remains high and the sense of protection goes down.

Sincerely,

Dennis McCormick
23377 Big Sky Dr
Chugiak, AK 99567
theedge1971@yahoo.com

Daniel George

From: Helen Trainor <htrainor@live.com>
Sent: Monday, February 29, 2016 2:39 PM
To: Senate State Affairs
Subject: Senate Bill 91 (SB91) Public Testimony

Dear Senator Coghill and members of the Judiciary Committee.
Thank you for your work on this very important Bill.

I am testifying on behalf of myself, a family member of a Felony DUI Wellness Court graduate. I can't say enough about how important and life changing this program is to those who accept responsibility for their actions and who want to make lasting changes in their lives.
For the record, it is an 18 month intensive program, where participants who are accepted into the program, must waive their right to plead for a lessor charge and instead must plead "guilty" as charged. This fact alone carries with it the knowledge that you have lost your driving privileges for life.

My family member has been 3 1/2 years clean and sober, is very active in the Wellness Court Alumni Group, is a Board member and a regular Group Facilitator, mentoring others with the same problems he has experienced. He has always held a steady job as a welder/fabricator; he has completely turned his life around but not being able to drive to work or to drive his family, and to have to depend on others is both very difficult and humiliating.

For these reasons I am writing in support of SB 91 as providing a pathway to restoring driving privileges for people who have shown they are rehabilitated, responsible citizens. It is an important step in removing the barriers that lead to recidivism in our correctional system. Realistically how can anyone manage their daily lives without their transportation. It is extremely difficult when you have a family. SB 91 is such an important bill! It will enable people to earn back the privilege to drive supervised at first in such a way as not to endanger society and will continue the pathway for people who have changed their lives to continue to be successful. It is my hope that in the future there will be a way for DUI felons to individually petition the court to restore their rights lost and eventually have their felony convictions removed like what can happen in drug conviction cases.

Oregon recently passed a bill, HB 3025 also called the "Ban the Box Bill" that became law January 1, 2016. It removes the criminal background question from job application forms. Prospective employers can ask about criminal background during interviews, but only after the initial screening.

I want to thank you Senator Coghill and the Judiciary Committee for your work on SB 91. It is an important start in continuing the rehabilitative process for Felony DUI offenders who have completed intensive programs and shown that they have turned their lives around, to be able to earn back privileges lost and to be full participating members in their families and communities.

Thank you for providing this opportunity for me to testify on SB91.

Helen Trainor (and Jerry Trainor)
4065 Hood Court
Anchorage, AK 99517

907-223-5612

Daniel George

From: Julie England Tanner <julie.tanner99@gmail.com>
Sent: Monday, March 07, 2016 9:12 AM
To: Senate State Affairs
Subject: SB91

My name is Julie Tanner.

I strongly support SB 91, and I am thankful for all your efforts to get this bill passed.

The reason for my email to you today is because of your concern and compassion for prisoners, the extremely harsh and lengthy sentences handed down by Alaska Courts, and your work to try to change the current situation in Alaska.

My sister, Cindy Galvan, was sentenced to 60 years, with possibility of parole in 30. She has just completed year 28. She will turn 60 years old on April 10 of 2016.

Cindy has been a model prisoner; unlike many prisoners, Cindy made use of her time, doing her best to live as productive of a life as possible. Cindy has been a leader in the dog training program, earned and utilizes a degree in horticulture to grow plants in the prison greenhouse that generate revenue for the prison each yea through the annual public plant sale. Cindy is responsible to supervise other inmates at the greenhouse. A portion of Cindy's time in prison was spent in an institution in Shakopee Minnesota. Cindy earned a degree in publishing and was very involved in training many dogs for handicapped children and veterans. Cindy is fluent in Spanish, so tutored many short-time inmates so that they could get their GED's. Her list of accomplishments is lengthy.

This past December, I was fortunate to be able to travel to Hiland Mountain to attend the violin concert. After the concert, I was able to spend some time visiting with Superintendent Gloria Johnson. Superintendent Johnson shared how much she appreciates my sister, for in her words "the concert would not have happened without Cindy's supervision and management". Ms. Johnson also shared with me that National Geographic had contacted the prison about doing a series on women incarcerated. She told me that she was to pick three inmates to participate and that Cindy was her number one choice.

Senator, both Cindy and I lost our sons to random murders. We have endured illness, cancer, deaths, divorces, and the loss of everything that most hold dear. Cindy does not own her own coat, at almost 60 years old, any possessions she may now have were issued by the prison. While we are thankful for all things, it is time for her to come home.

I do not know how parole boards are formed, or how the individuals that get those positions are chosen. I would think that the highest and best use of that position would be to utilize the position to honestly evaluate the progress of the inmate with the ultimate goals of release. Over the past 5 years, Hiland Mountain has individuals in that position, who are in the position for power and further punitive actions. I do not know who reviews this, but it should certainly be looked at for correction.

Sir, if in your pursuit of justice and reform, there would be anything that you could do to expedite the process of releasing my sister from Prison, well, there are no words that can possibly describe our thankfulness.

I thank you for your time.

God bless your efforts.

Julie Tanner

17117 SW Versailles Lane

Tigard, OR 97224

Julie.tanner99@gmail.com

503-351-7033

Daniel George

From: K Taylor <krtaylor@alaska.net>
Sent: Saturday, February 06, 2016 4:10 PM
To: Rep. Mike Chenault; Rep. Matt Claman; Rep. Jim Colver; Rep. Harriet Drummond; Rep. Bryce Edgmon; Rep. Neal Foster; Rep. Les Gara; Rep. Lynn Gattis; Rep. Max Gruenberg; Rep. David Guttenberg; Rep. Mike Hawker; Rep. Bob Herron; Rep. Shelley Hughes; Rep. Craig Johnson; Rep. Andy Josephson; Rep. Scott Kawasaki; Rep. Wes Keller; Rep. Sam Kito; Rep. Jonathan Kreiss-Tomkins; Rep. Gabrielle LeDoux; Rep. Bob Lynn; Rep. Charisse Millett; Rep. Cathy Munoz; Rep. Benjamin Nageak; Rep. Mark Neuman; Rep. Kurt Olson; Rep. Daniel Ortiz; Rep. Lance Pruitt; Rep. Lora Reinbold; Rep. Dan Saddler; Rep. Paul Seaton; Rep. Louise Stutes; Rep. David Talerico; Rep. Geran Tarr; Rep. Steve Thompson; Rep. Cathy Tilton; Rep. Chris Tuck; Rep. Liz Vazquez; Rep. Tammie Wilson; Rep. Adam Wool; Sen. Click Bishop; Sen. John Coghill; Sen. Mia Costello; Sen. Mike Dunleavy; Sen. Dennis Egan; Sen. Johnny Ellis; Sen. Berta Gardner; Sen. Cathy Giessel; Sen. Lyman Hoffman; Sen. Charlie Huggins; Sen. Pete Kelly; Sen. Anna MacKinnon; Sen. Lesil McGuire; Sen. Kevin Meyer; Sen. Peter Micciche; Sen. Donny Olson; Sen. Bert Stedman; Sen. Gary Stevens; Sen. Bill Stoltze; Sen. Bill Wielechowski; wwmas@muni.org; mayor@muni.org
Subject: Stealing and fraudulently charging credit cards is not really illegal in Alaska

State Legislators, Anchorage Assembly members, Governor, Mayor,

Last summer my credit card number was stolen and my account received three prison related charges. Through one of those prison related charges I was able to track down that the charge had been made by a person named Elaine Muai who made the charge for the benefit of a Utuva Alaelua, an inmate at Goosecreek Correction Facility in Wasilla.

Researching the internet I found Elaine Muai's résumé which identified her line of work as in the hotel industry in Anchorage. From this information I was then able to confirm she had been employed at Aspen Suites, a hotel I stayed at just two days before the first fraud charge showed up on my credit card.

The total charges were under $300 and I was able to get it all credited back to my account. Police reports were made with the Alaska State Troopers and then the Anchorage Police Department but neither law enforcement unit would/could pursue charging her because it's not a high priority. The hotel would not pursue holding their former employee accountable because they had not heard from anyone else who had linked the theft of their credit cards numbers with their stay there.

I do not believe my credit card number was the only one this hotel employee stole and charged on, I just think I was the only victim who was able to track her down. And I believe victims were out singled out for being out of town/out of state hotel guests. I say this because my local law enforcement referred me to contact APD because the crime occurred in Anchorage, but APD's online police report website only allows Anchorage residents to set up the online police reports. Even though I did the work tracking it down and solved the theft, and have the proof, neither law enforcement unit will charge her. Charging her is the only way I'm aware of for this to get on her court record, preventing future hotels from hiring her into positions that handle guest's sensitive credit card data.

What this means is that in Alaska the act of stealing and fraudulently charging on someone's credit card is NOT illegal, as long as the thief doesn't charge too much. And these thieves are enabled to go job to job stealing thousands of credit card numbers to take with them and use after they leave their employment because they are exempt from prosecution.

I wish there was some way I could file the theft/fraud charge of mine just to get it on her criminal record and stop this free reign to continue stealing all of our credit card numbers.

Thank you.

Kellie Taylor

Alaska State Trooper case # AK15056979

Anchorage Police Department case # 15-37645

Daniel George

From: Beth Hazen <bhazen27@gci.net>
Sent: Monday, March 07, 2016 12:03 PM
To: Senate State Affairs
Subject: SB91 Testimony

Attn: Senate State Affairs Chairman Bill Stoltze

We hope you can consider our public testimony at Tuesday's hearing on SB91. We realize that e-mails were to have been received before Saturday, but I received notice of the hearing today. One of us will try to call on Tuesday, as well. We feel that this is a very important issue, and that public input is important.

We are in strong support of Senate Bill 91, and the goals that it is designed to accomplish. We have reviewed SB91, and feel that it is not only an important tool in reducing tax-payer costs, but will be an effective way to reduce recidivism, and ease the burden of prison over-crowding. We have reviewed the recommendations of the Alaska Criminal Justice Commission, and find them to be sensible, just, and practical for both public safety and for criminal rehabilitation and re-entry into society as productive individuals.

Regarding the Parole provisions included in SB91, we strongly support making the effective date inclusive of inmates currently serving sentences. Granting parole to inmates currently serving their sentences will result in more tax-payer cost savings in the immediate future, as well as giving inmates an opportunity to become contributing members of society rather than a drain on society. Many inmates may be incarcerated for either committing a non-violent crime, and/or making a bad decision, but are not habitual offenders, and they should be given the opportunity to prove that they can be law-abiding, productive members of society through parole.

Thank you for your consideration of our opinion, and our support of SB91.

Richard and Beth Hazen

1925 Brandilyn St.

Anchorage, AK 99516

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

Senator Bill Stoltze, Chair
State Capitol, Room 125
Juneau, AK 99801-1182
Phone (907) 465-4958
Fax (907) 465- 4928

Official Business

March 8, 2016

Alaska Judicial Council
510 L Street, Suite 450
Anchorage, AK 99501

Dear Executive Director DiPietro,

The Senate State Affairs Committee has been informed that the Alaska Judicial Council has prepared a draft report regarding presumptive sentencing in Alaska. The Committee has also learned from multiple sources that this draft report has been shared with stakeholders and select legislators, but not with the legislature.

The Senate State Affairs Committee respectfully requests a copy of this draft report immediately. Today is legislative session day number 50, leaving the legislature just over one month to conclude work on legislation such as Senate Bill 91—a sweeping omnibus criminal justice reform bill.

We believe that it would be to the detriment of the legislative process to not have this information available for review and consideration before our deliberative bodies until after the legislature potentially significantly restructures sentencing laws in Alaska. We wonder what good this information would serve members of the judiciary and the public if it were released *after* such wide-ranging changes, other than to serve as a potential valedictory. If such valuable and timely has been performed by the Alaska Judicial Council, we welcome the opportunity to include these preliminary findings in our public process.

Sincerely,

Bill Stoltze
Chair, Senate State Affairs Committee

CC: Senate President Kevin Meyer
Senate Rules Committee Chair Charlie Huggins

Delivered by electronic mail

Daniel George

From: Susanne DiPietro <SDiPietro@ajc.state.ak.us>
Sent: Tuesday, March 08, 2016 5:18 PM
To: Daniel George
Cc: Sen. Charlie Huggins; Sen. Kevin Meyer; Sen. Bill Stoltze
Subject: RE: SSTA Letter Requesting Draft Report from AJC

Follow Up Flag: Follow up
Flag Status: Completed

Hello Daniel,

Thank you for your interest in our research. The AJC has been working on a study that analyzes sentences imposed on a sample of felons who were convicted during 2012 and 2013. We are still in the process of reviewing the full report to ensure that the data and analysis are complete, valid, and correct. Assuming that we find no major problems or flaws, we hope to publish the full report in about two weeks.

You are correct that we did provide an excerpt of some preliminary data and analysis to members of the presumptive sentencing working group of the Criminal Justice Commission. But our purpose in sharing that preliminary information with the working group was not to show the answers or provide a final analysis, but rather to raise questions to spur the group's conversation, and to allow the members of the group (most of whom are sentencing experts) to point out areas where we may not have done a thorough enough analysis or where the results were unclear (and as a result we were alerted to an error in one of our tables). I think draft reports can almost always be improved by the input of folks outside the research process, and it was in this spirit that the information was shared with the members of the working group. But because they understood that the information is not quite ready to be relied upon, the presumptive sentencing workgroup did not rely on it, and in fact that group will wait to meet again until May, after the full report is ready.

I would respectfully caution against a plan to widely disseminate the incomplete and possibly incorrect information in the excerpted draft. I am concerned that the summary nature of the information could be confusing or cause readers to draw incorrect conclusions, especially since it is taken out of context of the full report and it may contain errors or omissions.

Again, the reason we do not routinely distribute draft data is to minimize the likelihood that the information will be taken out of context and inadvertently cause readers to draw incorrect conclusions. When we shared the information with the members of the working group, we carefully explained the context to ensure that they did not prematurely draw conclusions. I would request and welcome a similar opportunity to talk with you or Senator Stoltze about this information. I will make myself available any time tomorrow or at your convenience any time to discuss this further.

Finally, I would note that the Judicial Council has published a number of other reports that could be useful in understanding criminal justice practices and outcomes in Alaska. For example, the Council published a recidivism study in November of 2011; this report includes an analysis for the first time of the recidivism of offenders charged

with misdemeanors: http://www.ajc.state.ak.us/sites/default/files/imported/reports/recid2011.pdf . The Council also published a preliminary evaluation of the PACE program in 2011: http://www.ajc.state.ak.us/sites/default/files/imported/reports/pace2011.pdf . The Council's most comprehensive study on felony sentencing and charging practices was published in 2004: http://www.ajc.state.ak.us/judicial-council-publications .

Thank you,

Susanne DiPietro

279-2526x10

From: Daniel George [mailto:Daniel.George@akleg.gov]
Sent: Tuesday, March 08, 2016 3:49 PM
To: Susanne DiPietro <SDiPietro@ajc.state.ak.us>
Cc: Sen. Charlie Huggins <Sen.Charlie.Huggins@akleg.gov>; Sen. Kevin Meyer <Sen.Kevin.Meyer@akleg.gov>; Sen. Bill Stoltze <Sen.Bill.Stoltze@akleg.gov>
Subject: SSTA Letter Requesting Draft Report from AJC

Good afternoon Susanne,

Attached is a letter from Senator Bill Stoltze on behalf of the Senate State Affairs Committee requesting a copy of a draft AJC report. Thank you in advance for your assistance.

Best Regards,

Daniel George

Staff to Senator Bill Stoltze

Chair, Senate State Affairs Committee

(907) 465-4958

Daniel.George@akleg.gov

APOA
ALASKA PEACE OFFICERS ASSOCIATION

Making a Difference in the Last Frontier

February 11, 2016

The Honorable John Coghill
State Capitol Room 119
Juneau, AK 99801
Senator.John.Coghill@akleg.gov

Dear Senator Coghill,

In my capacity as President of the Alaska Peace Officers Association, I am writing to express our opposition of Senate Bill 91 "Omnibus Crime Bill." While we feel this bill was well intentioned, we are unable to lend our support to it in its current form. Though there are elements that we view as positive for law enforcement and corrections, there are many elements that are too far reaching and do not serve the best interests of our criminal justice system or public safety.

Secondly, the success upon which these significant statutory changes are based relies completely on the legislature's ability to fund the nearly half billion dollars in reinvestment required to implement the screening, monitoring and diversion components. We are extremely concerned that if the statutory measures were to pass without the accompanying reinvestment, the result would be disastrous for all of the stakeholders, including the public safety of our communities. Given the current budget crisis facing the state, we find this possibility highly likely and if the reinvestment component is not funded, we strongly oppose the passage of the measure.

We want to thank you for your dedication to the people of Alaska and your continued interest in public safety issues. We encourage you to reach out to us by contacting our executive director, Kalie Bell at apoa@gci.net should you wish to further discuss this or any other matter. We would be happy to work with you and your staff toward crafting a more acceptable measure.

Sincerely,

President
Alaska Peace Officers Association

PO Box 240106
Anchorage, AK 99524-0106
apoa@gci.net

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM April 9, 2016

SUBJECT: "Geriatric" parole (CSSSSB 91(FIN);
Work Order No. 29-LS0541\Y)

TO: Senator Bill Stoltze
Attn: Daniel George

FROM: Hilary V. Martin
Legislative Counsel

You have asked if the "geriatric" parole provision in sec. 105 of CSSSSB 91(FIN) is constitutional.

The bill draft provides authority for the parole board to grant a prisoner discretionary parole. The two criteria that make a prisoner eligible are limited to: (1) the prisoner reaches the age of 60 years; and (2) the prisoner has served 10 years of the prisoner's active term of imprisonment. This provision as drafted is likely unconstitutional under the due process and equal protection clauses of the Constitution of the State of Alaska and the U.S. Constitution.

A hypothetical demonstrates the issue. If two defendants commit murder in the first degree on the same day; one is 20 years old and the other is 50 years old. Both plead guilty and are sentenced to 99-year terms as provided by AS 12.55.125(a). The 20-year-old offender will have to serve all of his term through age 60 to be eligible for discretionary parole, which would be 40 years. The 50-year-old offender also convicted under AS 12.55.125(a) would be eligible for discretionary parole when the offender reached the age of 60 years and after service of 10 years of the offender's active term of imprisonment. While the commission concluded that older offenders are less likely to recidivate, a court would likely find, under an equal protection or due process analysis, that treating similarly situated offenders so differently may violate both constitutional provisions.

In addition, under current law at AS 33.16.090(a), an offender applying for discretionary parole where the court imposed a parole restriction at sentencing under AS 12.55.115, to protect the public, is not eligible for discretionary parole until a court modifies the prisoner's sentence to provide parole eligibility. The prisoner must return to the court to have the court remove the parole restriction or wait until the restriction period has ended to be eligible for discretionary parole. The bill as drafted overrides AS 33.16.090(a)(2) (judgment issued by the court restricting parole eligibility). The provision regarding

geriatric parole overriding a court judgment raises a significant separation of powers problem.

If I may be of further assistance, please advise.

HVM:dla
16-447.dla

The UPS Store® 6037
1231 W. Northern Lights Blvd.
Anchorage, Alaska 99503-2337
907.258.6100 phone
907.279.6626 fax
store6037@theupsstore.com

FAX

To Senate State & Affairs Mr. Coghill, Mr. Stoltze et al... From Jackie Stefano

Company Senate Bill 91 Phone number 907-360-9614

Fax number _____ Fax number 907 ~~465-2888~~ 465-2864

Date March 9, 2016 Total pages _____

Job number _____

Message/Text area within text box

Please Copy + Share with all Chairs
Senators, Thank you for your service.

Jackie Stefano

Re: AK Statute 33.16.240(f) [illegible]

other emails danced.
Please pass around.

Jackie Stefano <wildblue1111@yahoo.com> Mar 3 at 12:31 PM

To senator.john.coghill@akleg.gov

forwarded by FAX
to Chairman Bill Stoltze
et al

Dear Mr. Coghill,

This is a bit long but is VERY IMPORTANT. and I believe being largely ignored. Please give some time to my testimony, as I have a son in the criminal justice system I have heard a lot about the current problems with the system.

I would like to add my testimony to your current reviewing of the Senate Bill 91. I would like to turn your attention to AS 33.16.240(f), which is not currently being considered under Senate Bill 91, but plays large part in DOC overcrowding." AS Statute 33.16.240(f) contributes to departmental overcrowding by extending a parolees sentence past their maximum release date for technical parole violations.
For example,
consider the following hypothetical; John Doe the parolee was released on discretionary parole to a term of five years. John Doe has maintained employment for 3 years, complied with all his conditions of release, and recently had a new born child with his long time girlfriend. John Doe was given an employment promotion that required him to switch to a southside work location, but the same company (Golds Gym) that he worked for in mid-town. Mr Doe, fails to report this job relocation to his parole officer who was surprised to find out when the officer went to check on Mr. Doe at his old mid-town work location. The parole officer then finds reason to violate Mr. Doe under Standard Conditions of Parole, #2, which requires a parolee to report to the parole officer a change in work location.

Mr. Doe is given a technical violation and ordered to serve three days. Additionally, under Ak Statute 33.16.240(f) (Arrest Parole Violator), the whole three years Mr. Doe spent successfully out on discretionary parole is not credited off his sentence, but rather re-calculated onto the end of his sentence for Mr. Doe to serve all over again.

AK Statute 33.16.240(f) allows for life imprisonment on an installment plan by requiring parolees to re-serve the portion of their sentence for time otherwise spent lawfully out on parole if they receive even a technical violation.

This leads to overcrowding of the system for mere technical violations and affords the department of corrections cart blanch over the sentences of parolees by extending them past their maximum release dates for technical violations. This is essentially hitting a sentence RE-SET BUTTON for time parolees spent otherwise lawfully out in the community.

Under Title 33.16.240(f), number 4 (f). The statute is called Arrests of Parole Violator. It reads: "Time spent in custody spent in revocation proceedings shall be credited toward the unexpired term of imprisonment of the Parolee; however, the time the parolee was at liberty on Parole does not alter the time the Parolee was sentenced to serve."

For instance, I have heard there is a man currently in Goose Creek Correctional Center who is 70 years old. He got a 25 year sentence in 1977. He is still serving time on his sentence for "technical violations" because of, as it reads now, AK Statute 33.16.240(f) gives department of corrections cart blanch. to extend a parolees sentence past his maximum release date ordered by the court to be served.

As well, I might add before I close, that my son recently went into a discretionary parole class at Goose Creek.
The first thing the parole officer said to them was, "Welcome to Life on the Installment Plan".

How can we re-word this portion of AK Statute 33.16.240(f) so that this doesn't happen?? And. so that parolees receive credit for the time they spent lawfully out in the community without having to lose that credit for a technical violation?

Thank you for taking the time to read and consider this.
Sincerely,

Jackie Stefano

Dear Alaska Legislative Member, STOLTZE
CHAIR FINANCE COMMITTEE

Dec. 27, 2015

I and many of my friends got a chance to read the Alaska Criminal Justice Commissions, Reinvestment Report. We were very happy with the Ideas they put forth. We are concerned with ~~teh~~ THE image Alaska has been getting with all the bad press about the DOC and the inmates dying and the corruption and such. This is a very positive aspect and will help keep Alaska going forward, and help with the budget also. Our tourist income is highly affected by how those in the lower 48 see us. Bad press hurts our income!

Further, with how many people are in prison or on probation or parole, it seems we all know at least one person that is affected directly by that report. It will help some of the people at our church whom have 2 sons that are in prison for the first time, and also a person whom is on probation. These people are good people, that made mistakes, and need to be given the opertunity to turn their lives around. We spent part of our last Bible study session talking about this proposed bill and we all think that the 21 points will be good, especially if the probation officers get training to help those on probation, and we also agree that the sex offenders deserve a break. One of the guys at our church is a sex offender, and he says he will always have that label, even after 20 years of doing his time for the mistake, that cost him most of his privacy and dignity. After we talked with him and learned what type of offenses are sex crimes, in our state, we asked him to help us put together some ideas to help. He said he would help with an idea for the suggestion #4. Because we think you need to also include and pass that with the 21 other points. Please do this to help ALL offenders that need it. Please do it because its the right thing to do. All the sentences in Alaska are too long. We looked online and saw how long first time sex offenders can get, compared to those that kill people, and its crazy. Killers get less time, that even the lowest of the sex offenders. That tells us, that the ranges need to be adjusted.

Please Pass the 21 points and Suggested Additional point #4, because its the right thing to do, and whats BEST for Alaska and all its citizens.

Bruce Peters

Thank you.

PS. Have you ever considered some of the sentencing laws in otherstates? Maybe Calif? Cal Pen Code §311.1, §311.2, §311.11 Might help with ideas.

NFIB

The Voice of Small Business®

ALASKA

February 5, 2016

The Honorable John Coghill
Alaska State Senate
State Capitol Building
Juneau, Alaska 99801-1182

RE: Senate Bill 91

Dear Senator Coghill:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully inform you of our concern about the felony threshold in Senate Bill 91. In a 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 you and to agreed to remove our opposition to an increase from $500 to $750. We still strongly believe the state shouldn't be making it easier for thieves to steal from our businesses by raising the felony theft threshold above that level. There is evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see an increase in the amount of theft in goods. 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 misdemeanant crimes is particularly significant. He confirmed that businesses have reason to be concerned that misdemeanor thefts receive less police attention.

We believe that simply inflation-proofing crime is poor public policy. Our justice system ought to protect citizens and their property, not reduce the level of risk for thieves.

Sincerely yours,

Dennis L. DeWitt
Alaska State Director

Cc: Senate State Affairs Committee
NFIB/AK Leadership Council

April 7, 2016

Senator John Coghill
Senator Johnny Ellis
Senator Lesil McGuire
Senator Mia Costello
Senator Click Bishop
Senator Peter Micciche
Senator Dennis Egan

State Senate
State Capitol
Juneau, AK 99801-1182

Representative Charisse Millett
Representative Gabrielle LeDoux
Representative Geran Tarr

House of Representatives
State Capitol
Juneau, AK 99801-1182

RE: Senate Bill 91 and House Bill 205

Dear Senators and Representatives:

We issue this letter in solidarity in strong opposition to Senate Bill 91 and House Bill 205.

As crime victim advocates, seasoned law enforcement professionals, and fellow Alaskans, we have carefully studied the general public policy underpinnings of this legislation and have closely reviewed the details of both bills. While we appreciate the time and effort invested by the legislature and the Alaska Criminal Justice Commission, we strongly believe that these bills are premised on a fundamentally flawed public policy that seeks to balance the State's budget on the backs of crime victims and local governments. As a Government with the primary duty to protect all Alaskans, it is unconscionable to jeopardize public safety and exacerbate the trauma crime victims endure in the name of fiscal savings; such tactics and policy place all Alaska citizens at risk. At its very core, this legislation represents bad public policy for the crime victims, for law enforcement, and for all the Alaskans we work so diligently to protect.

We feel it is our collective duty and moral obligation to express our opposition to these bills. We urge all legislators to put these bills on hold until a more comprehensive evaluation can be made regarding the impacts these changes will have on our people and communities.

Respectfully,

Sergeant Gerard Asselin
President, Anchorage Police Department Employees Association

Deputy Chief Brad Johnson
President, Alaska Association of Chiefs of Police

Deputy Chief Brad Johnson
President, Alaska Peace Officers Association

Chief Steve Dutra
North Pole Police Department

Robyn Langlie
Executive Director, Victims for Justice

Jake Metcalfe
Executive Director
Public Safety Employees Association

Katherine Hansen
Senior Victims' Rights Attorney
Office of Victims Rights

Keeley Olson
Program Director
Standing Together Against Rape

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14 April 2015

Maximum Punishments Matrix: A Comparison between Maximum Allowable Punishments in the Alaska Code of Military Justice, the Federal UCMJ, and offenses cognizable under civilian law as modified by SB 91.

Note: These punishments available in Courts-Martial, NOT in Nonjudicial Punishment.

From the Sectional Analysis of SB 91

Section 72 *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 73
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 74
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 77
12.55.135 – Sentences of Imprisonment for Misdemeanors (Amended)
Provides that the court may not impose a sentence of imprisonment or suspended imprisonment 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 who has not been convicted of one of these theft offenses at least twice.

Offense	Maximum	Maximum	Maximum Punishments

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	Punishment ACMJ	Punishment UCMJ	Civilian Law: SB 91
	(years refer to years of confinement)	(years refer to years of confinement)	SB 91 Provision highlighted in bold. Other verbiage already in Alaska Statutes.
Drunken or reckless operation of a vehicle, aircraft, or vessel (first two offenses)	1 years; Dishonorable Discharge	18 months; Dishonorable Discharge	"(b) Except as provided under (n) of this section, driving while under the influence of an alcoholic beverage, inhalant, or controlled substance is a class A misdemeanor. … "(1) the court shall impose a minimum sentence of imprisonment of (A) not less than 72 consecutive hours and a fine of not less than $1,500 if the person has not been previously convicted; (B) not less than 20 days and a fine of not less than $3,000 if the person has been previously convicted once…" **SB 91:** **(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 30 days or more of active imprisonment;**

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			(B) trier of fact finds the aggravating factor that the conduct constituting the offense was among the most serious conduct included in the definition of the offense; **(C) 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 … (2) 30 days.**
Drunken or reckless operation of a vehicle, aircraft, or vessel (third and subsequent offenses)	5 years; Dishonorable Discharge	18 months; Dishonorable Discharge	"A person is guilty of a class C felony if the person is convicted under (a) of this section and either has been previously convicted two or more times since January 1, 1996, and within the 10 years preceding the date of the present offense…" **SB91:** **"(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, probation, with a suspended term of imprisonment of zero to 18 months…"**
Wrongful use, possession, etc.,	1 year; Dishonorable Discharge	5 years; Dishonorable Discharge	

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of controlled substance (possession)			
Wrongful use, possession, etc., of controlled substance (manufacturing, distributing, importing)	5 years; Dishonorable Discharge	15 years; Dishonorable Discharge	
Wrongful use, possession, etc., of controlled substance (Marijuana)	No confinement; Dishonorable Discharge	2 years for possession; 10 years for production/distribution; Dishonorable Discharge	
Riot or breach of peace	1 year; Dishonorable Discharge	10 years; Dishonorable Discharge	(b) Riot is a class C felony **SB 91:** **"if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, probation, with a suspended term of imprisonment of zero to 18 months"**
Sex assault (sexual act)	10 years; Dishonorable Discharge	30 years; Dishonorable Discharge	
Sex assault (sexual contact)	5 years; Dishonorable Discharge	Aggravated sexual contact: 20 years; Dishonorable Discharge Abusive Sexual contact: 7 years; Dishonorable Discharge	
Stalking	3 years; Dishonorable Discharge	3 years; Dishonorable Discharge	**(c)** Stalking in the second degree is a class A misdemeanor.

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			SB 91: **(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 30 days or more of active imprisonment;** **(B) trier of fact finds the aggravating factor that the conduct constituting the offense was among the most serious conduct included in the definition of the offense;** **(C) 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 …** **(2) 30 days.**
Other sexual misconduct (indecent viewing, visual recording, or broadcasting)	1 year; Dishonorable Discharge	Viewing:1 year; Dishonorable Discharge Recording: 5 years; Dishonorable Distributing:7 years; Dishonorable	(1) Class C felony if the person viewed or shown in a picture was, at the time of the viewing or production of the picture, a minor; **SB91:** **"(1) if the offense is a first felony conviction and does not involve circumstances described**

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			in (4) of this subsection, probation, with a suspended term of imprisonment of zero to 18 months…" (2) Class A misdemeanor if the person viewed or shown in a picture was, at the time of the viewing or production of the picture, an adult. **SB91: 1 year or 30 days.**
Other sexual misconduct (compelling another to engage in prostitution)	10 years; Dishonorable Discharge	12 years; Dishonorable Discharge	Promoting Prostitution in the First Degree is a class A Felony (except if against a child). **SB 91 does not alter the sentencing for this type of sex offense.** **Section (i) of AS 12.55.125: (A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was** **(i) less than 13 years of age, 25 to 35 years;** **(ii) 13 years of age or older, 20 to 30 years;** Promoting Prostitution in the Second Degree is a Class B Felony. **SB 91: (d) Except as provided in (i) of this section, a defendant convicted of a class B**

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			felony may be sentenced to a definite term of imprisonment of not more than 10 years… (1) if the offense is a first felony conviction and does not involve 19 circumstances described in (2) of this subsection, zero [ONE] to two [THREE] years…
Other sexual misconduct (indecent exposure)	1 year; Dishonorable Discharge	1 year; Dishonorable	
Larceny and wrongful appropriation (permanent)	1 year; Dishonorable Discharge	5 years; Dishonorable Discharge	
Larceny and wrongful appropriation (temporary)	6 months; Dishonorable Discharge	2 years; Dishonorable Discharge	
Forgery	1 year; Dishonorable Discharge	5 years; Dishonorable Discharge	
Making, drawing, or uttering check, draft, or order without sufficient funds	1 year; Dishonorable Discharge	5 years; Bad Conduct Discharge	SB 91: **Section 77 12.55.135 – Sentences of Imprisonment for Misdemeanors (Amended) Provides that the court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of… issuing a bad check…**
Perjury	1 year; Dishonorable Discharge	5 years, Dishonorable Discharge	