SB

54

<TARGET><BILL>SB 54</BILL><SUBJECT>SB
54</SUBJECT><COMM>HJUD30</COMM></TARGET>

30th Alaska State Legislature

Judiciary Committee
Chairman
Resources Committee
State Affairs Committee
Education Committee
Select Committee on Legislative Ethics
Joint Armed Services Committee

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SENATE BILL 54
SPONSOR STATEMENT
Omnibus Crime/Corrections

Senate Bill 54 makes substantive revisions to the criminal justice reform package passed by the legislature in 2016, pursuant to recommendations made by the Alaska Criminal Justice Commission.

The three major areas to be addressed: C-felony penalties, misdemeanor penalties, and violations of conditions of release.

The Commission's recommendations were based on feedback from members of law enforcement, prosecutors, and the public. This feedback reflected factors the Commission has been directed to consider in making recommendations, including the need to confine offenders to prevent harm to the public, the effect of sentencing in deterring offenders, and the need to express community condemnation.

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SENATE BILL 54
SECTIONAL SUMMARY
Crime and Sentencing
Version N

Section 1
AS 11.56.757(a) – Violation of condition of release.

Changes the offense of violation of condition of release to a crime.

Section 2
AS 11.56.757(b) – Violation of condition of release.

Changes the offense of violation of condition of release to a crime (B-Misdemeanor).

Section 3
AS 11.66.130(a) – Sex trafficking in the third degree.

Restructures the elements of the offense of sex trafficking in the third degree, and applies the compensation provision to all of the elements of the offense.

Section 4
AS 11.66.135(a) – Sex trafficking in the fourth degree.

Establishes an additional element to the offense of sex trafficking in the fourth degree requiring a person receive compensation for prostitution services rendered by another.

Section 5
AS 11.66.150 – Definitions.

Establishes a definition for "compensation" that applies to sex trafficking in the third and fourth degrees.

Section 6
AS 12.55.125(e) – Sentences of imprisonment for felonies.

Increases the presumptive sentencing range for a class C felony that is a first felony conviction from 18 months of suspended imprisonment to up to 1 year of active imprisonment.

Section 7
AS 12.55.125(q) – Sentences of imprisonment for felonies.

Establishes mandatory minimum probation term lengths for felony sex offenders. 15 years for an unclassified felony; 10 years for a class A or B felony; and 5 years for a class C felony.

Section 8
AS 12.55.135(a) – Sentences of imprisonment for misdemeanors.

Increases the sentencing range for a class A misdemeanor from zero to 30 days to zero to 60 days if the defendant has one previous conviction for a similar offense. Additionally, increases the sentencing range for distributing an explicit image of a minor on an Internet website that is accessible to the public.

Section 9
AS 12.55.135(b) – Sentences of imprisonment for misdemeanors.

Limits the maximum sentence for violation of conditions of release may be sentenced to up to 5 days of imprisonment.

Section 10
AS 12.55.135(l) – Sentences of imprisonment for misdemeanors.

A person convicted of theft in the fourth degree (and similar offenses) may be sentenced up to 10 days of active imprisonment and up to 6 months of probation for third and subsequent convictions. A person convicted a second time may be sentenced up to 5 days of active imprisonment and up to 6 months of probation. A person convicted a first time may be sentenced up to 5 days of suspended imprisonment and up to 6 months of probation.

Section 11
AS 12.55.135(p) – Sentences of imprisonment for misdemeanors.

Creates a process for establishing the new aggravating factor for class A misdemeanors.

Section 12
AS 12.55.145(a) – Prior convictions.

Establishes a 5-year "look back" period for the purpose of considering prior convictions in imposing a sentence for a class A misdemeanor.

Section 13
AS 12.63.100(6) – Definitions.

Updates the statute reference in the definition of "sex offense" to conform to changes to sex trafficking in the third degree.

Section 14
AS 18.67.101 – Incidents and offenses to which this chapter applies.

Updates the statute reference to conform to changes to sex trafficking in the third degree.

Section 15
AS 28.15.011 – Drivers must be licensed.

Reduces the offense of No Valid Operator's License to a violation.

Section 16
AS 29.25.070(g) – Penalties.

Specifies that limitations on municipal authority to impose punishments does not apply to non-criminal offenses.

Section 17
AS 33.07.010 – Pretrial services program; establishment.

Limits the assessment of pretrial risk to defendants brought into custody, or any defendant if requested by prosecution.

Section 18
AS 33.16.130(c) – Parole procedures.

Deletes language giving the Board of Parole explicit authority to hold discretionary parole hearings following a denial.

Section 19
AS 33.30.061 – Commissioner to designate facility.

Allows the commissioner to return a prisoner to a correctional facility if the prisoner violates the terms and conditions of home confinement.

Section 20
AS 34.03.360(10) – Definitions.

Updates a statute reference in the definition of "illegal activity involving a place of prostitution" to conform to changes to sex trafficking in the third degree.

Section 21
AS 47.37.040 – Duties of department.

Authorizes the Alcohol Safety Action Program to accept referrals from the court for misdemeanor drug possession.

Section 22
Repealed statutes

Repeals duplicative felony DUI sentencing provisions and certain sex trafficking statutes.

Section 23
Uncodified law

This section contains applicability provisions.

Section 24
Effective date

Section 17 takes effect January 1, 2018.

Section 25
Effective date

Other than section 24, this bill takes effect immediately.

Additionally, establishes up to 5 days of suspended imprisonment for a first conviction.

Section 11
AS 12.55.135(p) – Sentences of imprisonment for misdemeanors.

Creates a process for establishing the new aggravating factor for class A misdemeanors.

Section 12
AS 12.55.145(a) – Prior convictions.

Establishes a 5-year "look back" period for the purpose of considering prior convictions in imposing a sentence for a class A misdemeanor.

Section 15
AS 28.15.011 – Drivers must be licensed.

Reduces the offense of No Valid Operator's License to a violation.

Section 17
AS 33.07.010 – Pretrial services program; establishment.

Clarifies language relating to the Department of Corrections' requirement to conduct risk assessments.

Section 18
AS 33.16.130(c) – Parole procedures.

Deletes language giving the Board of Parole explicit authority to hold discretionary parole hearings following a denial.

Section 19
AS 33.30.061 – Commissioner to designate facility.

Allows the commissioner to return a prisoner to a correctional facility if the prisoner violates the terms and conditions of home confinement.

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Authorizes the Alcohol Safety Action Program to accept referrals from the court for misdemeanor drug possession.

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SENATE BILLS 54

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RECOMMENDATIONS TO THE ALASKA STATE LEGISLATURE BY THE ALASKA CRIMINAL JUSTICE COMMISSION

Recommendations 1-14 2017, Approved January 19 and January 27, 2017.
Submitted to the Legislature on January 30, 2017.

The following recommendations from the Alaska Criminal Justice Commission are the result of discussions at the Commission's plenary meetings on January 19 and 27, 2017. At these meetings, the Commission solicited and considered information and views from a variety of constituencies to represent the broad spectrum of views that exist with respect to possible approaches to sentencing and administration of justice in the state.

When the Commission was created in 2014, the Legislature directed the Commission to make recommendations based on, among other things:

- The need to rehabilitate the offender;
- The sufficiency of state resources to administer the criminal justice system;
- The effect of state laws and practices on the rate of recidivism; and
- Peer-reviewed and data-driven research.[1]

Since the Commission began operation, it agreed to forward only recommendations that were backed by data and were evidence-based. In 2015, the legislature further directed the Commission to forward recommendations that would either (1) avert all future prison growth, (2) avert all future prison grown and reduce the current prison population by 15%, or (3) avert all future prison grown and reduce the current prison population by 25%.

As part of SB91, the Legislature tasked the Commission with monitoring the efficacy of the reforms using data collected from certain state agencies. Because SB 91 was enacted in July of 2016, and parts of the bill will not go into effect until January 2018, the Commission does not yet have enough data to assess whether SB 91 is achieving its intended outcomes. Thus, the recommendations below are not based on data-driven research and they are not based on the data that the Legislature instructed the Commission to collect and analyze. Moreover, they are not expected to reduce the prison population, reduce recidivism, or reduce the criminal justice system's usage of state resources.

Rather, the recommendations below are based on feedback from members of law enforcement, prosecutors, and the public. This feedback reflected other factors the Commission has been directed to consider in making recommendations, including:

- The need to confine offenders to prevent harm to the public;
- The effect of sentencing in deterring offenders; and
- The need to express community condemnation of crime.[2]

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[1] *See* AS 44.19.646. This statute was enacted in 2014 as part of SB 64.
[2] *Id.*

The Commission recognizes that the factors it has been instructed to consider in formulating its recommendations often work in tension. Not all of the recommendations below received unanimous support from the Commission. If a recommendation did not receive unanimous support from the Commission, the recommendation includes an explanation of the concerns of the Commissioners who did not support that recommendation.

Recommendation 1-2017: Return VCOR to Misdemeanor Status

In 2015, the Commission recommended that the crime of Violation of Conditions of Release (VCOR) be downgraded to a non-criminal violation, punishable by a fine. This recommendation was enacted in SB 91.[3] Implementation of this provision did not immediately occur as the Commission intended. The Commission's recommendation was that those who violate conditions of their release would be arrested and held in jail until the judge in their underlying case could review bail. While SB 91 included an arrest provision so that defendants who violated conditions of their release could be arrested,[4] some of those arrested were not being held in jail—they were being released as soon as they were brought to jail.

The Alaska Court System has now altered its bail forms to order defendants held in jail if they violate the conditions of their release; however, the Commission has heard anecdotal reports that this solution is not working universally. The Commission therefore recommends that the legislature enact a statute that would return VCOR to a crime. Specifically, **the Commission recommends that Violation of Conditions of Release become a Class B Misdemeanor, punishable by up to 5 days in jail**.

This recommendation did not receive unanimous approval from the Commission. Those who were in favor of this recommendation noted that this will ensure that offenders will be held in jail until they get to a bail hearing in front of the judge in their underlying case. That judge will then be familiar with the case and will be able to re-set bail.

Those who opposed this recommendation voiced concern that it was an unnecessary criminalization of conduct to solve an administrative issue, that it would simply stack crimes for defendants and increase unnecessary use of costly jail beds, and that the solution from the Alaska Court System (the change to the bail form) should be given time to work. There was also a concern from victims that if VCOR were to become a separate crime once again, it may encourage the practice of allowing defendants to plead to VCOR in exchange for dismissal of the underlying charge. The Commission does not condone this practice and may revisit this topic if it finds that this practice is occurring.

Recommendation 2-2017: Increase penalties for repeat Theft 4 offenders.

Theft in the fourth degree (Theft 4) penalizes simple theft (theft that does not involve burglary or violence) of items or services valued at $250 or less. Theft 4 is a Class B misdemeanor, and SB 91 limited the penalties for this offense: for a defendant's first and second convictions of this offense, no jail time may be imposed (though fines and restitution may be imposed). For a defendant's third or subsequent

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[3] 2016 SLA Ch. 36 ("SB 91") §§ 29-30.
[4] SB 91 § 51.

conviction of this offense, the maximum terms is 5 days suspended with 6 months of probation.[5] The Commission's original recommendation to limit jail time for this offense was based on information from the Department of Corrections showing that these low-level offenders stole mostly toiletries and alcohol, and they accounted for a significant number of prison beds in a year.[6]

The Commission has received a good deal of feedback about this provision of SB 91. Business owners, law enforcement officers, and prosecutors feel this provision has emboldened some offenders to commit more lower-value theft crimes. They believe some prospect of jail time provides deterrence and reflects community condemnation. **The Commission therefore recommends that for third-time Theft 4 offenders, this offense should be punishable by up to 10 days in jail.** (This third-time offense would remain a Class B Misdemeanor).

This recommendation did not receive unanimous approval from the Commission. Those who voted against the recommendation believed it did not go far enough and would have preferred a recommendation to re-enact a statute (which was repealed by SB 91[7]) that made an offender's third Theft 4 within five years a Class A misdemeanor rather than a Class B misdemeanor.

The Commissioners voting in favor of this provision thought it would be a way to address the community's concerns regarding theft crime. The Commission did not have any data that this recommendation would prevent these types of theft. Studies of Alaskan offenders sentenced prior to SB91 show that misdemeanor property offenders such as these have historically recidivated at very high rates. There is no evidence to support the notion that rates of petty theft are related to prison sentences. Rates of property crime in Alaska have been rising for the past two to three years—a trend that began before SB 91 was introduced in the Legislature.[8]

While debating this recommendation, some Commissioners noted that for offenders struggling with homelessness and behavioral health disorders, jail is not a deterrent, but rather a housing option: some offenders will commit crimes to be assured a warm place to sleep at night, particularly during the winter. It was also noted that some offenders who are addicts commit low-level thefts to obtain resources to pay for their drug of choice.

All Commissioners agreed that further solutions are needed to address the problem of persistent low-level offending, including more options to treat mental illness, addiction, and chronic homelessness. Robust and comprehensive solutions are needed to get at the root causes of theft crime.

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[5] SB 91 § 93. When a sentence is suspended, it means that the offender will not serve the term "up front"; the offender will be placed on probation and will serve this time only if the offender commits a major violation of the conditions of probation or commits a new crime.

[6] In 2014, 324 offenders were admitted to prison for Theft 4, and these offenders spent an average of 23 days behind bars after being convicted.

[7] SB 91 § 179. (Referring to former AS 11.46.140(a)(3).)

[8] The 30-year trend lines for Part I property crimes in Alaska and in Anchorage are downward; however, the shorter-term trend for these property crimes - between 2011 and 2015 – is upward in Anchorage, and upward to a lesser degree statewide.

Recommendation 3-2017: Allow municipalities to set different non-incarceration punishments for non-criminal offenses that have state equivalents.

In order to ensure that state statutes and municipal code provisions were not working at cross purposes, SB 91 limited the amount of jail time a municipality could impose for a municipal offense that has a state equivalent to the amount of jail time called for in state statute. [9] In other words, state and municipal crimes that are equivalent must have equivalent punishments.

The provision as currently enacted, however, has been interpreted to apply not just to prison terms but to all forms of punishment, including fines for non-criminal offenses such as speeding. Municipalities have expressed concern that fines for equivalent state offenses are much lower than fines for municipal offenses, and this has been a significant change for the municipalities. **The Commission therefore recommends that the "binding provision" of SB 91 be amended so that it does not apply to non-criminal offenses found in municipal codes and regulations.** This recommendation passed unanimously.

Recommendation 4-2017: Revise the sex trafficking statute.

The provisions of SB 91 that altered the sex trafficking statutes were not based on any recommendation from the Commission. The legislative history suggests these provisions were intended to ensure that sex workers simply working together—not exploiting one another—could not be prosecuted for trafficking each other or trafficking themselves.[10] However, as passed, the provisions could be read so that a person who might otherwise be found guilty of sex trafficking (i.e., someone receiving money for the sex work performed by others) could avoid prosecution if that person engaged in sex work personally (i.e., they also received money for sex work performed themselves.) **The Commission therefore recommends repealing sections 39 and 40 of SB 91 and amending existing statutes as follows:**

- **AS 11.66.130(a): After "a person" insert "receiving compensation for prostitution services rendered by another"**
- **AS 11.66.130(a)(3): Delete "as other than a prostitute receiving compensation for personally rendered prostitution services,"**
- **AS 11.66.135(a): After "a person" insert "receiving compensation for prostitution services rendered by another"**

The Commission also recommends that the Legislature define the term "compensation" as used in these statutes. "Compensation" should be defined so that it applies only to compensation for services performed and does not include things like shared rent, shared gas money, or shared hotel fees in instances where sex workers are working together to split costs.

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[9] SB 91 §113.
[10] SB 91 §§ 39 and 40.

Recommendation 5-2017: Enact a 0-90 day presumptive sentencing range for first-time Class C Felonies.

SB 91 provides that Class C Felonies are punishable by a suspended term of 0-18 months for first-felony offenders.[11] This means that a first-time felony offender convicted of a Class C Felony is presumed to receive a probationary sentence that would include some amount of suspended time. A person receiving a probationary sentence with suspended time does not spend any time in jail up front, but is subject to jail time if they violate conditions of probation.

The purpose of this provision was to provide community supervision for first-time offenders to (1) allow the offender to maintain pro-social ties to the community and (2) ensure that the offender would comply with conditions of probation such as remaining sober, not committing new crimes, and paying fines and restitution to victims. If the offender did not succeed with these conditions, that offender could be made to serve part or all of the suspended time in jail.

The Commission heard numerous concerns about this provision in particular. Prosecutors felt that some violent Class C Felonies warranted jail time for a first-time offense, and were concerned that there was not enough of an incentive to encourage these offenders to get into treatment. Members of law enforcement were frustrated that this provision was overbroad and did not provide for an offender's immediate incarceration if the offender posed a danger to the community. Members of the community were offended by this provision and felt that it did not express community condemnation strongly enough.

Prosecutors and law enforcement preferred a provision that would allow a judge discretion in sentencing and would provide for immediate incarceration if necessary. They thought that while there were some cases where a probationary term was warranted for a first-time offender, the judge should be able to impose jail time in some instances, particularly cases involving violence.

The Commission therefore recommends that Class C Felonies carry a presumptive jail term of 0-90 days for first-felony offenders. The Commission also recommends retaining the provision allowing up to 18 months of suspended time.

This recommendation did not pass unanimously, and was the subject of considerable debate among the Commissioners. Those who voted against it would have preferred a much stronger provision; another proposal was to expand the sentencing range to 0-18 months for all class C felonies. The Attorney General was willing to compromise at 0-12 months for violent offenders and to 0-6 months for non-violent offenders.

This Commissioners debated the amount of time that might incentivize an offender to get treatment—some Commissioners thought that first-time felony offenders would not need long treatment programs (in the range of 60-90 days) while other Commissioners thought that some first-felony offenders would need longer treatment programs and a greater incentive to complete that treatment.

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[11] SB 91 § 90. A second-time felony offender would receive a sentence of 1-3 years to serve if convicted of a Class C. A third-time (and subsequent) felony offender would receive a sentence of 2-5 years to serve if convicted of a Class C.

Commissioners in favor of this recommendation noted that this sentence could be enhanced (up to 5 years) if the judge or jury found certain aggravating factors.

Commissioners in favor of a shorter presumptive term were concerned that a longer term would constitute a more significant reversal of the intent behind SB 91, which was to supervise first time offenders in the community to encourage their rehabilitation and reduce the recidivism rate. The Commission relied on research showing that for first-time offenders, time in prison can actually make the offender more likely to recidivate after leaving prison. The Commission did not have any data or empirical evidence to show that a term of 0-90 days would reduce recidivism; this recommendation will almost certainly increase the prison population. However, Commissioners noted the strong public outcry around this provision and wanted to meet the community's standards for condemnation of crime.

Recommendation 6-2017: Enact an aggravator for Class A Misdemeanors for defendants who have a prior conviction for similar conduct.

SB 91 enacted a presumptive sentence range of 0-30 days for most Class A Misdemeanors.[12] This sentence can be increased up to 1 year (the previous limit) in some cases: for certain violent offenses and sex offenses, for cases where the conduct was among the most serious conduct included in the definition of the offense, and for cases where the defendant has two or more criminal convictions for similar conduct.

Prosecutors voiced concern over the provision allowing for a longer sentence for defendants who have past convictions for similar conduct, because it requires proof of at least *two* prior convictions. This proved to be a particular problem for second-time DUI (and Refusal) offenders. The minimum jail term for a second-time DUI/Refusal offender is 20 days; with a maximum of 30 days for a Class A Misdemeanor, that leaves only 10 days to suspend as a method of enforcing conditions of probation.

The Department of Law and the Department of Public Safety believe that judges should have the option for an increased penalty for defendants who have *one* prior conviction for similar conduct. This would allow a judge to impose more suspended time for second-time offenders and provide a greater incentive for defendants to get into treatment.

The Commission therefore recommends enacting an additional aggravating factor for Class A Misdemeanors for defendants who have one prior conviction for similar conduct. This aggravating factor would allow a judge to impose a sentence of up to **60 days**. This recommendation passed unanimously.

Recommendation 7-2017: Clarify that ASAP is available for Minor Consuming Alcohol.

The Alcohol Safety Action Program provides monitoring for misdemeanor DUI and Refusal cases to ensure that defendants are going to court-ordered treatment. In 2015 the Commission found that the ASAP program was overextended, and recommended that the program either be more robustly funded or be restricted only to DUI and Refusal offenders (rather than all offenders with alcohol-related

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[12] SB 91 § 91.

convictions, as was the case). Accordingly, SB 91 limits ASAP to offenders who have been convicted of DUI and Refusal offenses. [13]

SB 165, also passed in 2016, made Minor Consuming Alcohol a violation (rather than a criminal offense). It also provided that the fine for this violation may be reduced if the defendant goes through ASAP. It therefore contemplates that ASAP will be available for these non-DUI offenders. This provision is in conflict with the above-referenced provisions in SB 91. **The Commission therefore recommends that ASAP be available for people cited for Minor Consuming Alcohol.**

Recommendation 8-2017: Enact a provision requiring mandatory probation for sex offenders.

In an apparent oversight, SB 91 eliminated the statutory provision requiring sex offenders to serve a period of probation. **The Commission therefore recommends that the Legislature enact a provision requiring sex offenders to serve a period of probation as part of their sentence.**

Recommendation 9-2017: Clarify the length of probation allowed for Theft 4.

SB 91 provides that an offender's third Theft 4 conviction be punishable by up to 5 days of suspended jail time and 6 months of probation.[14] The law is silent, however on the allowable probationary term for a first or second Theft 4 conviction. (Theft 4 is a Class B Misdemeanor; misdemeanors generally carry a maximum probation term of 1 year.[15]) **The Commission therefore recommends that the Legislature clarify the allowable probationary period for first and second Theft 4 convictions.** The Commission believes that a probationary term is appropriate for these offenses.

Recommendation 10-2017: Require victim notification only if practical.

SB 91 requires the court, at the time of sentencing, to provide the victim with information on where to find information about the defendant's sentence or release, and the potential for a defendant's release.[16] However, not all victims want to participate in sentencing, and the court will not always have current contact information for victims. Even if the victim has an address on file with the court, the victim may not want to automatically be sent information which would remind the victim of the crime. **The Commission therefore recommends that AS 12.55.011 be amended as follows**:

"(b) At the time of sentencing, the court shall, **if practical**, provide the victim with a form..."

Recommendation 11-2017: Felony DUI sentencing provisions should be in one statute.

Section 90 of SB 91 amends the provision in Title 12 that sets the presumptive sentencing ranges for Class C felonies. This section of SB 91 also includes sentencing ranges for Felony DUI and Refusal. In Title 28, where the statutes creating the offenses of Felony DUI and Refusal are found, those offenses are

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[13] SB 91 §§ 170-173.
[14] SB 91 § 93.
[15] SB 91 § 79.
[16] SB 91 § 65.

given a mandatory minimum, not a presumptive range. Essentially there are two punishment provisions for the same offenses in two different statutes, which creates confusion. **The Commission therefore recommends that the Legislature place the penalty provision for Felony DUI and Refusal sentences in one statute only.**

Recommendation 12-2017: Clarify who will be assessed by Pre-Trial Services.

Section 117 of SB 91 states: "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"(emphasis added).

The bill therefore contemplates that "all" defendants should be assessed. However, the purpose of the Pretrial Assessment Tool is to assist judges and pretrial services officers with the decision to release a defendant before trial. Not all defendants will be in custody pretrial; some will be issued citations and a summons to appear before the court. Typically these defendants will be low risk (because the officer who issued them the citation likely believed the person to be low risk, and did not arrest the person). **The Commission therefore recommends that AS 33.05.080 be amended as follows:**

"The commissioner shall establish and administer a pretrial services program that provides a pretrial risk assessment for all defendants **brought into custody or at the request of a prosecutor at the next hearing or arraignment.** [,] **The pretrial services program shall make** recommendations to the court concerning pretrial release decisions, and **provide** supervision of defendants released while awaiting trial as ordered by the court."

Recommendation 13-2017: Fix a drafting error regarding victim notification.

SB 91 currently contains the following provisions:

- Section 122: **33.16.089. Eligibility for administrative parole**: "A prisoner convicted of a misdemeanor or a class B or C felony that is not a sex offense as defined in AS12.63.100 or an offense under AS 11.41."
- Section 132: **33.16.120(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 33.16.089."
- Section (a) of AS 33.16.120 provides that a victim of a crime against a person (found in 11.41) or a victims of Arson in the first degree (a Class A felony) has a right to request notice of a hearing for *discretionary* parole.

Therefore, prisoners convicted of a Class A felony or a crime against a person (found in 11.41) will *not* be eligible for administrative parole. Section 132 of SB 91, however, provides for a victim's right to request a notice of a hearing for administrative parole in these cases—i.e. to request notice of a hearing that will never happen because this class of offender is not eligible for administrative parole. **The Commission therefore recommends that section 132 be repealed.**

Recommendation 14-2017: Enact the following technical corrections to SB 91.

The Commission considers the following recommendations purely technical; they are designed to fix drafting or oversight errors.

- For the crimes of issuing a bad check, fraudulent use of an access device, and defrauding creditors, SB 91 pegged the threshold amount for a B-level felony ($25,000) to inflation.[17] **The Commission recommends removing this inflation adjustment for the B-felony amounts.** This change would mean that the B-level amount would remain at $25,000 absent further legislative action.

- SB 91 changed driving on a suspended license to an infraction in most cases. However, driving without a valid license (arguably, less serious conduct than driving on a suspended license) continues to be a misdemeanor. **The Commission recommends that the crime of driving without a valid license also be reduced to an infraction** to be consistent with the changes made for driving with a suspended/revoked license.

- SB 91 Section 47; page 25; line 13: **The Commission recommends deleting the reference to "(B)" in "11.71.060(a)(2)(B)."** This change limits charging MICS 4 for possession of a compound containing a schedule VIA drug (similar to marijuana) to an ounce or more.

- **The Commission recommends enacting the following changes regarding Suspended Entry of Judgment (SEJ)**, which will clarify that the crimes for which SEJ may not be used are the current crimes charged, and will add SEJ to the list of authorized sentences.
    - SB 91 Sec. 77; page 44; line 19: Delete "is convicted of" and insert "is charged with"
    - SB 91 Sec. 77; page 44; line 23: Delete "is convicted" and insert "is charged"
    - SB 91 Sec. 77; page 44; line 29: Delete "is convicted of" and insert "is charged with"
    - SB 91 Sec. 77; page 45; line 8: Delete "has been convicted of" and insert "is charged with"
    - SB 91 Sec. 77; page 45; line 11: Delete second "of" and after "original probation," and insert "was imposed,"
    - AS 12.55.015(a)(8): Insert "suspend entry of judgement under AS 12.55.078;"

- Sending an explicit image of a minor to another person (a B misdemeanor AS 11.61.116(c)(1)) has an enhanced penalty under SB 91 of up to 90 days.[18] However, posting an explicit image of a minor to a publically available website is limited to 30 days (an A misdemeanor pursuant to AS 11.61.116(c)(2)). **The Commission therefore recommends adding AS 11.61.116(c)(2) to AS 12.55.135(a)(1)(F) to align penalties for posting and sending explicit images of a minor**.

- **The Commission recommends adding the following language to SB 91 Sec. 79; page 45; line 17**: After "AS 11" insert "not listed in (1) of this subsection;". This will clarify that the maximum probation term for felony sex offenses is 15 years, while all other unclassified felonies have a maximum probation term of 10 years.

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[17] SB91 §§ 12, 13, 23.
[18] SB 91 § 91.

- **The Commission recommends adding the following language to Sec. 164; page 105; line 7**: After "AS 33.05.020(h)" insert "or 33.16.270". SB 91 requires DOC to provide the Commission with data on earned compliance credits for probationers; this change would extend that requirement to parolees as well.

- **The Commission recommends amending sections 148 and 151 of SB 91 for clarity as to their applicability**. Section 185 of SB 91 states that sections 148 and 151 apply to parole granted before, on, or after the effective date of those sections. Section 190 states that the effective date of sections 148 and 151 is January 1, 2017.

    - Section 148 adds a new tolling provision for parolees who abscond. It also provides that the board may not extend the period of supervision beyond the maximum release date calculated by the department on the parolee's original sentence. It therefore creates a different scheme for calculating an offender's parole, and it would be difficult to apply this section to parole calculated under the previous scheme.

        - The Department of Corrections would like this language added to section 148: "The provisions of this section shall not be construed as invalidating any decision of the Board, issued prior to 1/1/17, which extended the period of supervision beyond the maximum release date on the original sentence."

    - The Department also would like similar language added to section 151, which provides for earned compliance credits for parolees. This also requires a new time accounting system that would not apply to parole calculated under the previous scheme.

ALASKA CRIMINAL JUSTICE COMMISSION

Annual Report

October 22, 2017

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Executive Summary

SB 91 Implementation & Performance Report

In July 2016, following a two-year process of data analysis, stakeholder meetings, public hearings, policy development and legislative scrutiny, the Alaska Legislature passed and Governor Bill Walker signed into law Senate Bill 91 (SB 91), the Omnibus Criminal Law, Procedure and Corrections Act.

Prior to the passage of SB 91, the state was facing a rapidly growing prison population and corrections budget as well as persistently high recidivism rates – nearly two out of every three people released from Alaska prisons returned within three years. Following lessons learned from successful criminal justice reform efforts in other states as well as the best available research, Alaska developed a comprehensive, data-driven plan designed to help the state tackle recidivism in a more cost-effective manner.

Implementation of SB 91 is a multiyear process involving numerous state agencies and non-profit partners. Key dates include:

- **July 2016:** Sentencing reforms go into effect; reinvestment begins
- **January 2017:** Community supervision and parole policies go into effect
- **January 2018:** Pretrial reforms go into effect

At this time, not all of SB 91 has gone into effect. Other reforms – particularly the reinvestment efforts and improvements to reentry and community supervision practices designed to reduce recidivism – will take time to show results. It will take years before the full impact of SB 91 on Alaska's criminal justice system can be measured.

This report discusses the early results of SB 91 as well as some key trends following passage. Additional details on implementation and reinvestment efforts, as well as recommendations to the Legislature for future system improvements, are included in the full Alaska Criminal Justice Commission report.

SB 91 GOALS

1) Reinvest in Programs Proven to Reduce Recidivism & Protect Public Safety
2) Implement Evidence-Based Pretrial Practices
3) Focus Prison Beds on Serious & Violent Offenders
4) Strengthen Probation & Parole Supervision
5) Improve Reentry Programming
6) Ensure Oversight and Accountability

Early Results of SB 91

Reducing Alaska's Prison Population

Alaska's prison population has decreased by 9.38% in the first year after passage, reducing the state's prison population from 4,658 in July 2016 to 4,221 in July 2017.

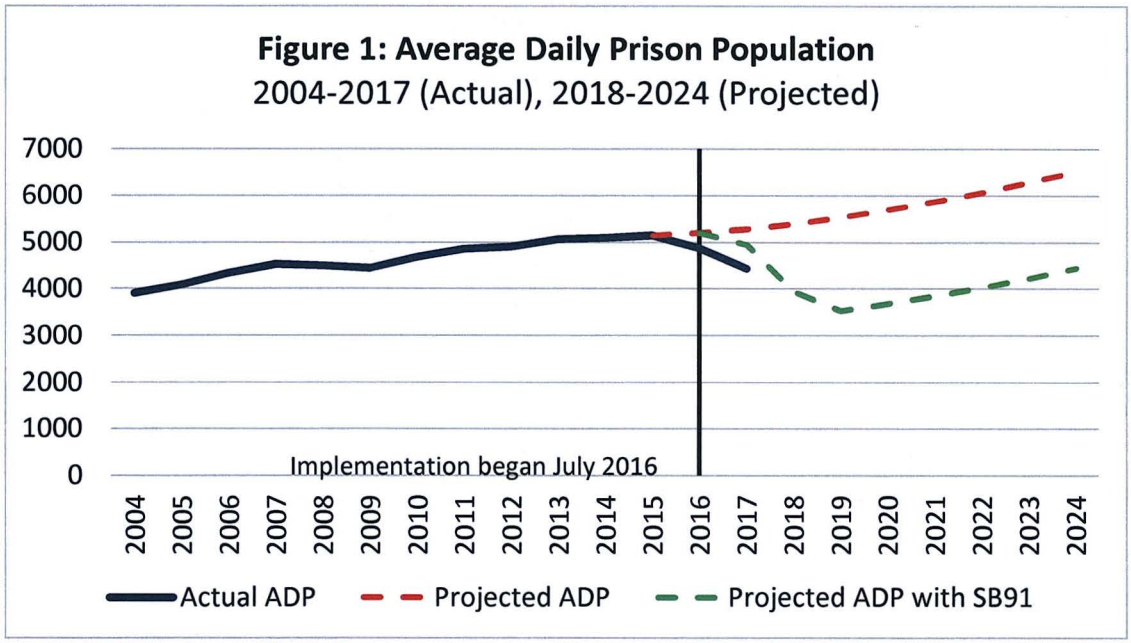

Figure 1 Source: Department of Corrections

Millions in Savings

In the first year of implementation, SB 91 has saved Alaska millions in direct and avoided costs. By reducing the prison population by 437 beds from July 1, 2016 to July 1, 2017, Alaska has avoided $3.8 million in annual prison growth costs and directly reduced operational costs, including $5.6 million saved by DOC's closure of the 500-bed Palmer Correctional Center.

Reinvesting in Programs that Reduce Recidivism and Protect Public Safety

Alaska has dedicated over $25 million in upfront and ongoing investment to support the state's recidivism reduction goals and successful implementation of new programs and policies.

Approximately half of the funding – $13.5 million – is being used to develop a brand new Pretrial Enforcement Division within the Department of Corrections. Starting in January 2018, Alaska will be providing pretrial supervision for defendants released pending trial for the first time.

Total Investments (FY17 and FY18)	
Substance Abuse Treatment	$2,500,000
Reentry Support	$3,000,000
Violence Prevention	$3,000,000
Pretrial Enforcement	$13,447,800
Technology Investments	$1,500,000
Other Implementation Costs	$2,059,700
Total	$25,507,500

An additional $2.5 million has been dedicated to increasing the availability of substance abuse treatments in DOC facilities, while $3 million is being used to enhance reentry support for individuals released from prison and another $3 million has gone to violence prevention programming.

Key Trends Following Passage of SB 91

In the year following passage, Alaska state agencies – including the Department of Corrections, the Department of Law, the Alaska Court System and the Parole Board – have been hard at work implementing new policies and practices. Although it will be several years before the full results of these efforts will be seen, early progress on several fronts can be seen in the first year of implementation:

Focusing Prison Beds on Serious and Violent Offenders

As a result of changes to Alaska's drug and property laws as well as strategic changes in prosecutorial practices by the Department of Law, Alaska's prison beds are increasingly focused on violent offenders. From FY 16 to FY 17, admissions for non-violent misdemeanors, as a proportion, dropped by 19.5%, while admissions for non-violent felonies dropped by 9%. This means that relatively more of Alaska's prison resources are devoted to those committing more serious, violent offenses, as is demonstrated in the chart below.

Figure 2: Prison Population Composition - Snapshot

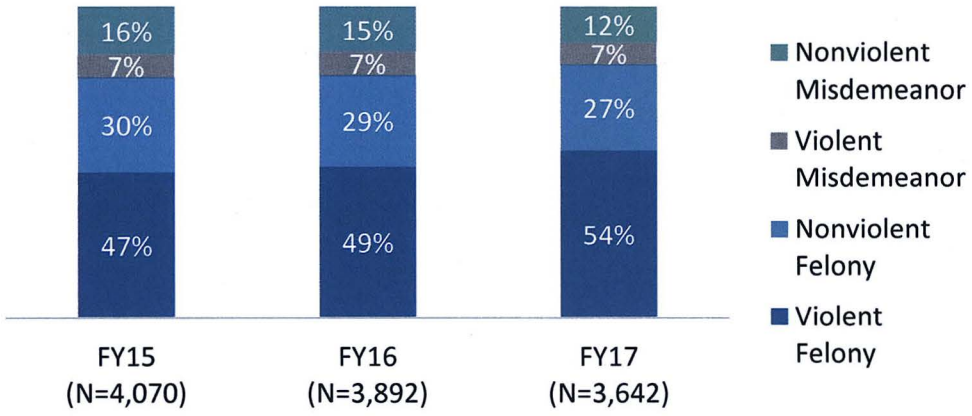

Figure 2 Source: Department of Corrections

Reduction of Use of Prison for Violations of Supervision

Between 2005 and 2014, the number of people who returned to prison for violations of the conditions of their probation or parole increased 32%. Approximately three-quarters of those returns to prison were for technical violations – behaviors such as consuming alcohol, missing or failing a drug test, or failing to report to a probation officer.

Since 2015, the Department of Corrections (DOC) has been working to improve supervision practices, with an increased focus on high-risk offenders, frontloading resources in the months immediately following release, and responding to technical violations in a swift, certain, and proportionate manner – practices research indicates is successful in changing behavior and ultimately reducing recidivism. The passage of SB 91 helped support and accelerate these efforts: now, the sanction for technical violations involves a much shorter time in prison, but the prison time is served immediately after discovery of the violation.

As a result of these changes, the share of individuals in prison on a supervision violation has declined by 5.6 percentage points from January 2015 to April 2017, with the decline accelerating in the months leading up to and following the effective date of SB 91's community supervision reforms.[1]

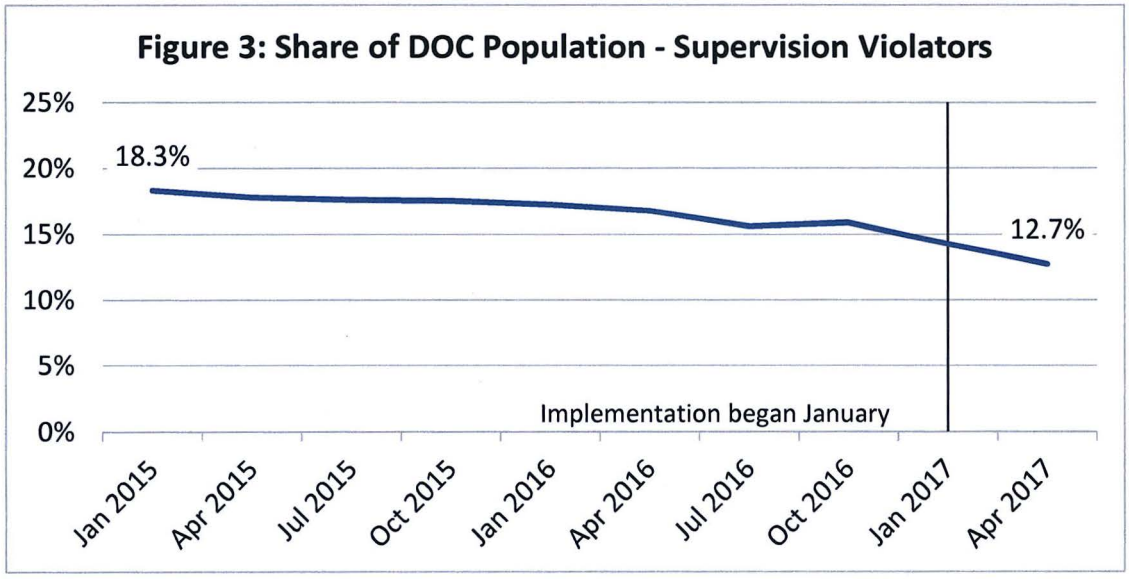

Figure 3 Source: Department of Corrections

Increased Opportunities for Parole

Under SB 91, opportunities for parole have increased. A study of DOC's files in 2015 found that only a small percentage of inmates who were eligible under the law for discretionary parole consideration were appearing before the Parole Board, which was attributed to a cumbersome application and review process. In response, SB 91 required that all eligible prisoners be considered by the Parole Board for release.

This change has resulted in a 141% increase in the number of discretionary parole hearings. Despite hearing more cases, the Board's parole grant rate has remained virtually unchanged. This preliminary evidence suggests the goals of the parole reform are being met:

[1] Anecdotally, some judges began imposing revocations in line with SB 91 before the revocation limits went into effect in January 2017.

more individuals who are eligible for discretionary parole are being considered, but the Parole Board continues to exercise its judgment in the same manner with respect to which inmates should be granted discretionary parole.

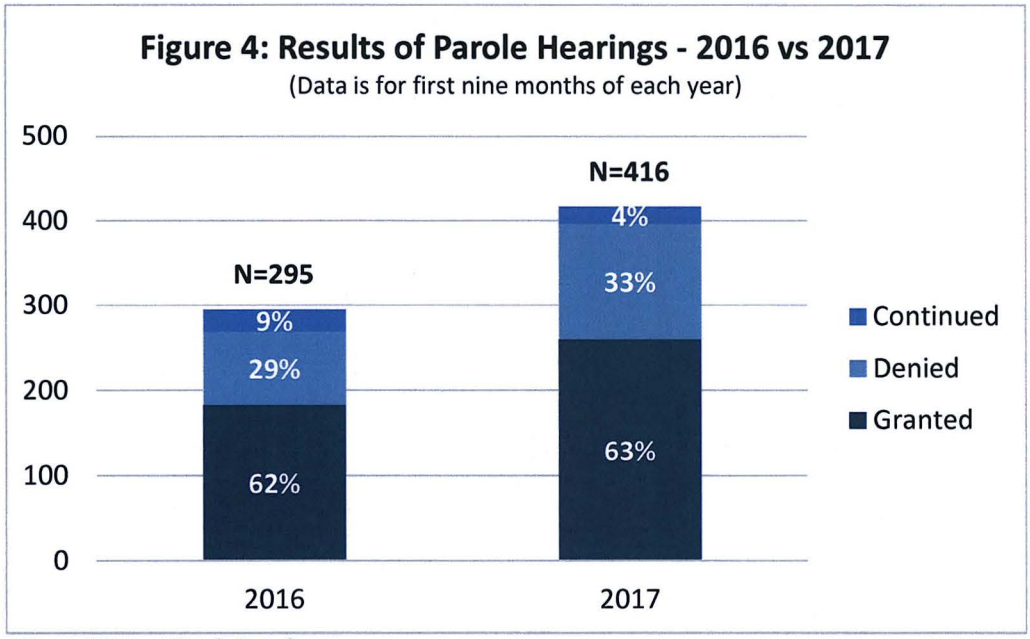

Figure 4 Source: Parole Board

Next Steps for SB 91

As we take stock of the progress made one year after the passage of SB 91, more is yet to come. The three biggest areas of focus are: the pretrial reforms that take effect in January; continued data collection; and further reinvestment in treatment and community services.

Pretrial Reforms

One major part of JRI has not yet been implemented. Reforms to Alaska's pretrial system will become effective on January 1, 2018. SB 91 enacted evidence-based pretrial practices to improve public safety and pretrial outcomes, including creating a pretrial enforcement division and changing bail practices to focus pretrial release decisions on risk.

Pretrial Before and After SB 91 – What's the Difference?	
Pre-SB 91	*Starting January 2018*
✓ Release based on payment of bail to ensure appearance ✓ Amount of bail set is used as a proxy for a defendant's risk ✓ No supervision of defendants who are released ✓ Heavy reliance on civilian third-party custodians	✓ Release based on results of a risk assessment and the offense ✓ Risk assessment calculates a defendant's risk of failure to appear and of a new arrest ✓ Supervision (based on risk level) of defendants who are released ✓ Restrictions on use of third-party custodians

The Pretrial Enforcement Division, created in 2016, is a new function for Alaska DOC. The Pretrial Service Officers in this division will:

- Perform pretrial risk assessments.
- Provide court reports and recommendations.
- Monitor and supervise individuals released pretrial and ordered to supervision.
- Remind defendants of court appearances and provide more intensive supervision if necessary.

Additional Data Collection

As SB 91 implementation continues, the Alaska Criminal Justice Commission will continue to collect and analyze data to assess performance, and use this data to inform recommendations for refinements, adjustments, and additional reforms.

More data will become available on the effects of the law the longer it is in effect. Future reports are expected to contain additional information about community supervision reforms, performance measures on the pretrial reforms, and changes in recidivism over time.

Continued Reinvestment

In addition to funding the Pretrial Enforcement Division detailed above, during this fiscal year, Alaska will continue to use reinvestment funding to:

- Expand the availability of substance abuse treatment services in DOC facilities, including a pilot Medication-Assisted Treatment program for individuals with opioid use disorder.
- Support the expansion of reentry case planning and services to more communities in Alaska.
- Continue programming focused on preventing violence, particularly domestic violence and sexual assault.

Recommendations for the Future

Reinvestment

The Commission has made and will continue to make recommendations on how best to allocate reinvestment money. Given the importance of effective treatment in reducing recidivism, the Commission strongly recommends further reinvestment in treatment for substance use and mental health issues going forward. Both are essential to help returning citizens succeed and to keeping individuals out of the criminal justice system.

Within this key priority area, the Commission recommends the Legislature base future reinvestment on the following principles:

1. Reinvestment should be strategic, data-driven, and collaboratively implemented.
2. Most reinvestment should be directed towards programs that are evidence-based.
3. Direct reinvestment towards evidence-based programs shown to reduce repeat offending.
4. Direct reinvestment towards programs that generate positive return on investment.
5. Prioritize funding for programs that target offender groups who are at high risk (and medium risk) for reoffending.
6. Target reinvestment at all areas of the state, including rural Alaska.
7. Maintain and expand funding for victims' services and prevention programming.

The Commission believes these focus areas will promote healthier communities and public safety, and ensure Alaska achieves the projected future savings.

Improvements to the Criminal Justice System

The Alaska Criminal Justice Commission has, through research and study during the past year, crafted further recommendations to improve access to justice and the efficiency of the criminal justice system. These recommendations involve:

- **Restitution**. The Commission has developed a series of recommendations to improve the collection of restitution for crime victims.
- **Impaired Driving and Related Offenses**. The Commission has made several recommendations about license revocations, license reinstatement, and limited licenses.
- **Behavioral Health**. The Commission recommends allowing defendants with a mental illness to return to a group home on bail, adding behavioral health information to felony presentence reports, and adding the Commissioner of the Department of Health and Social Services to the Criminal Justice Commission.
- **Sentencing.** The Commission recommends adding statutory mitigators for acceptance of responsibility, amending statutes relating to the three-judge panel, and enacting vehicular homicide statutes.

I. Introduction/Background

This is the Alaska Criminal Justice Commission's third annual report to the Alaska State Legislature. The Commission's reports are due to the Legislature by November 1 of every year.

The Alaska Criminal Justice Commission was formed by Senate Bill 64 (SB 64), an omnibus bill signed into law in July 2014. The bill was the product of a bipartisan effort to introduce evidence-based reforms to Alaska's criminal justice system. SB 64 gave the Commission a broad mandate to examine the state's criminal laws, sentences and practices.

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MATT CLAMAN, EX OFFICIO
ALASKA HOUSE OF REPRESENTATIVES

JOHN COGHILL, EX OFFICIO
ALASKA STATE SENATE

Since the Commission began meeting in September 2014, it has heard from community stakeholders, state agencies, experts, and the public about what works and what does not work in Alaska's criminal justice system.

The Commission has sent a number of recommendations to the Legislature, many of which have been enacted into law. The most notable piece of legislation to arise from the Commission's recommendations was Senate Bill 91 (SB 91), enacted in 2016, which made broad changes to Alaska's criminal justice system.

SB 91 tasked the Commission with monitoring the implementation of these reforms. Though there has been relatively little time for these reforms to show results (and many provisions have not yet taken effect by law), the following report contains some preliminary data and information about the implementation of SB 91.

This report also includes the Commission's additional recommendations for reforms to Alaska's criminal justice laws and for reinvestment in programs to reduce recidivism and improve public safety.

II. The Commission's Work and Recommendations

The Commission is required by AS 44.19.645 to evaluate the effect of sentencing laws and criminal justice practices on the criminal justice system, including examination of public safety, community condemnation, the rights of crime victims and offenders, restitution, and the principle of reformation. The Commission discharges this responsibility through research and study, and though soliciting input from the public and experts within the criminal justice system. The Commission then makes recommendations to improve the criminal justice system if needed.

The Commissioners meet regularly to review and analyze information, take public input, and discuss policy issues and recommendations. To assist with this work, the Commissioners created several working groups that meet between Commission meetings (often several per month). These working groups enable Commissioners to develop data and information at a more detailed level in order to inform their deliberations. In the last year, the Commission and its working groups met over 30 times. All meetings are open to the public. Members of the public and interested stakeholders regularly attend Commission and workgroup meetings.

Since the Commission's last annual report, the Commission has made 23 recommendations and issued three reports. The Commission has also included three new recommendations in this report. The following sections detail all recommendations and reports from the last year.

Appendix A gives more details on the procedural aspects of the Commission's work.

Appendix B gives more information about the Commissioners.

Appendix C lists all of the Commission's recommendations since 2015.

Appendix D outlines what is currently on the agenda for the Commission's workgroups.

A. Previous Recommendations and Reports

Report on Victim Restitution, sent December 2016. In December 2016 the Commission sent findings and recommendations to the Legislature in a report on victim restitution.[2] The report was researched in 2016 by the Restitution and Restorative Justice Workgroup. The workgroup studied various aspects of victim restitution, gathering data on collection rates and collection mechanisms. The Commission found that about half of restitution awards in state cases were under $1,000, that many offenders do make payments on restitution obligations, but that some victims are unaware of how to ask for restitution. In response, the Commission recommended:

- Increase opportunities for victims to request restitution by modifying court judgment forms and requiring prosecutors to clearly notify victims of deadlines and procedures for applying for restitution.
- Develop ways to monitor the restitution obligations of those not on felony probation or parole.

[2] Report available at: http://www.ajc.state.ak.us/sites/default/files/commission-recommendations/acjcrestitutionreportdecember12016v2.pdf

- Amend AS 12.55.045 to remove the requirement that a defendant provide a financial statement.
- Amend AS 12.45.120, the statute providing for civil compromise for misdemeanors, to allow the compromise of larceny offenses.
- Streamline civil execution.
- Expand opportunities for victims to receive "bridging" restitution funds that cover costs to the victim until the offender is able to pay the victim restitution.
- Use technology to encourage offenders to make immediate in-person payments and online payments of restitution.
- Amend AS 43.23.005 to allow offenders who serve only short prison sentences to retain their PFD eligibility and require those offenders to apply for the PFD each year in which they are eligible until restitution is paid in full.

December 2016 Reports

- **Restitution;** includes recommendations on how to improve restitution collection for victims of crime
- **Impaired Driving and Related Offenses;** includes recommendations on license revocation, limited licenses, and license reinstatement
- **Social Impact Bonds;** includes information on how social impact bonds operate and how they might work in Alaska

Notably, the responsibility for the collection of restitution changed hands from the Department of Law to the Court System in 2017. The Commission may reconvene this workgroup to discuss that change and to discuss the topic of restorative justice.

Report on Impaired Driving and Related Offenses, sent December 2016. In December 2016, the Commission sent the Legislature a report detailing findings and recommendations on offenses related to driving and drinking.[3] The findings and recommendations, developed by the Commission's Title 28 Workgroup at the request of the Legislature, reviewed Alaska's laws on impaired driving and related offenses over the course of 2015 and 2016. The following is a summary of those recommendations:

- Revision of the offenses relating to impaired driving in Title 28 is necessary.

[3] Report available at: http://www.ajc.state.ak.us/sites/default/files/commission-recommendations/acjctitle28reportdecember12016v2002_0.pdf

- Administrative license revocation (ALR) should be maintained. Judicial license revocation, which often serves a distinct function from administrative license revocation, also should be maintained.
- The DMV should not require use of an Ignition Interlock Device (IID) as a predicate for license reinstatement, unless it is so ordered by a court.
- Use of an IID should remain a prerequisite for approval of limited licenses during the pendency of a revocation period, though remote continuous alcohol monitoring technologies should be allowed as an alternative to IID use in this case.
- Offenders convicted of Refusal should also be eligible for limited licenses, just as offenders convicted of DUI are.

Report on Social Impact Bonds, sent December 2016. The Commission sent the Legislature a report on social impact bonds, as required by SB 91. Social Impact Bonds are a type of funding mechanism developed as a public-private partnership.

Recommendations to Amend SB 91, sent January 2017. The Commission sent the Legislature recommendations to amend SB 91, the omnibus crime bill passed in 2016 that was based in large part on the Commission's recommendations from December 2015. The amendments covered a variety of provisions. The more technical amendments were enacted in SB 55, which passed the Legislature in May. The more substantive amendments were contained in SB 54, which has passed the Senate and has been referred to several House committees. SB 54 was placed on the call for the special session of the Legislature beginning October 23.

Recommendation Regarding Suspended Entry of Judgment Cases, sent February 2017. The Commission resolved that shock incarceration is not an appropriate condition of probation for defendants who have been granted suspended entry of judgment, and recommended that the statutes be clarified to reflect this. This recommendation was enacted in SB 55.

B. Recommendations Related to the Behavioral Health System

Recognizing the significant overlap in the areas of criminal justice and behavioral health, the Commission decided that the Behavioral Health Workgroup would become the Standing Committee on Behavioral Health at the October 2016 Commission meeting. The Standing Committee typically meets every other month and includes representatives from DOC, DHSS, the Department of Public Safety, the Alaska Mental Health Trust, the Department of Law, the Public Defender Agency, the Office of Public Advocacy, the Alaska Native Tribal Health Consortium, and community providers.

Previous recommendations. The following recommendations were sent to the Legislature in December 2016. To date, they have not been made the subject of any pending legislation.

- Allow defendants to return to a group home on bail. The Commission recommended an amendment to AS 12.30.027(b), which concerns bail conditions for those charged with crimes involving domestic violence. The statute currently prohibits judicial officers from ordering or

mitigating factors ("mitigators") allow a judge to sentence an offender below the presumptive term if the judge finds that the mitigator applies to that offender or offense. This recommendation has not yet been the subject of legislation.

The Commission recommended adding two mitigators for defendants who demonstrate an acceptance of responsibility for their conduct. One mitigator would apply if the defendant has entered into a plea agreement, and one would apply if the defendant has not. The Commission expects that both of the recommended mitigators would conserve prosecutorial, defense and court resources by promoting timely resolutions of criminal cases. Timely resolutions are usually consistent with victims' interests.

The full text of this recommendation is posted on the Commission's web site: http://www.ajc.state.ak.us/sites/default/files/commission-recommendations/1-2016_0.pdf .

New Recommendation – Three Judge Panel. In August 2017, the Commission unanimously voted to recommend amendments to the law concerning sentencing by a three judge panel.

Most defendants in Alaska are sentenced by a single judge, who may impose sentence only as authorized by statute. In certain cases, if the sentencing judge finds that manifest injustice would result from imposing a sentence that is within the range authorized by statute, that judge may refer the case to a three judge panel. If the panel agrees that manifest injustice would result from imposing a sentence within the authorized range, the panel may sentence the defendant to a definite term of imprisonment outside that range.

In practice, the three judge panel is not often used. The standards for its use are not clear to practitioners, and the infrequency of its use means that many judges are unfamiliar with the process as well. Furthermore, when a panel does not find manifest injustice, the case must be sent back to the original sentencing judge for sentencing within the authorized range. This can extend the sentencing of a case by weeks, if not months, and delays closure for the victims. If the panel were authorized to impose a sentence within the authorized range, it would save this last step.

The Commission therefore recommends clarification of the three judge panel's authority. It recommends amending the relevant statutes so that the three judge panel may consider requirements for consecutive sentencing and restrictions on discretionary parole eligibility in its manifest injustice analysis. If the panel takes the case after finding manifest injustice, it may also allow the person to be eligible for discretionary parole during any portion of the active term of imprisonment.

If the panel does not find manifest injustice, and the defense and prosecution agree, the panel may retain jurisdiction over the case and sentence the person in accordance with the sentencing laws applicable to the trial court. This allows the panel to impose sentence within the presumptive range

Behavioral Health Recommendations

- **Allow defendants to return to a group home on bail**
- **Add behavioral health information to felony presentence reports**
- **Include the Commissioner of DHSS on the Criminal Justice Commission.**

permitting a person charged with a crime involving domestic violence from returning to the residence of the victim of the offense for a period of 20 days.

This statute affects individuals with behavioral health disorders who, as a result of their disorder, will sometimes lash out at or assault caregivers or other residents in an assisted living facility or similar group home. Under the current statute, these individuals are not able to return home, and with nowhere to go, the individuals' behavioral health conditions may worsen. Often the victim of the assault – the caregiver or co-resident – is not opposed to the individual returning to live at the facility.

The Commission recommended amending the statute to allow defendants charged with assault on a co-resident or staff of an assisted living facility, nursing home, or other supported living environment to return to that living environment while on bail, provided the victim is given notice and the victim's safety can reasonably be assured.

- Add behavioral health information to felony presentence reports. The Commission recommended that the legislature amend the relevant statutes and court rules to require that felony presentence reports discuss any assessed behavioral health conditions that are amenable to treatment, if such assessments exist, so that judges will have information on a defendant's behavioral health needs at sentencing. The reports should also include recommendations for appropriate treatment in the offender's community.

- Include the Commissioner of DHSS on the Commission. Given the significant number of justice-involved individuals with behavioral health needs, the Commission recommended including the Commissioner of the Department of Health and Social Services as a member of this Commission. Commission members felt that this would allow for easier communication and interaction with DHSS as it implements significant reforms related to justice reinvestment.

C. Recommendations Related to Sentencing

The Commission considered several proposals from its Sentencing Workgroup (previously titled the Presumptive Sentencing Workgroup). The workgroup expanded its focus to include a variety of sentencing issues rather than just the presumptive sentencing structure.

Previous recommendation – Acceptance of Responsibility Mitigators. In December 2016, the Commission forwarded a recommendation to amend AS 12.55.155(d) (Factors in Aggravation and Mitigation) to include two statutory mitigating factors for "acceptance of responsibility." Statutory

adjusted for statutory aggravators or mitigators, but only if both the prosecution and defense are in agreement.

The current limitation on the type of testimony that the three judge panel may consider should also be eliminated. The panel should be able to consider written and oral testimony. Additionally, the victim should be allowed to address the panel. The current statute provides that a victim may "testify" at the panel. This does not comport with usual sentencing procedures, which allow a victim to address the court rather than testify. (Testimony involves being sworn in and subject to cross examination.)

Finally, the non-statutory mitigators of "extraordinary potential for rehabilitation" and "exemplary behavior after the offense" should be codified in statute. Other references to a person's potential for rehabilitation found in the three judge panel statutes should be repealed. These mitigators have already been recognized by the Court of Appeals as grounds for sentencing by the three judge panel.

Codifying these mitigators removes this analysis from three judge panel's jurisdiction and places it with the trial court. Therefore defendants who seek a mitigated sentence on this basis would ask for sentencing by the panel; a single (ordinary) sentencing judge could consider these factors in sentencing. This would save time and state resources as sentencing in these cases could be completed without the need for an additional sentencing hearing in front of the three-judge panel. Timely resolution of a case also benefits victims, who typically favor speedy and final resolutions.

This recommendation was approved unanimously by the Commission. The full text of the proposed statutory amendments is in Appendix E.

New Recommendation – Vehicular Homicide. This recommendation was developed to respond to concerns that in cases of second-degree murder involving a vehicle crash (for example, if an intoxicated driver causes a crash that kills the occupants of the driver's vehicle or another vehicle), the mandatory minimum sentence may be disproportionate. Alaska's statutes do not currently contain separate vehicular homicide provisions, so anyone who causes the death of another person while operating a motor vehicle would be guilty of second-degree murder, manslaughter, or criminally negligent homicide.

Second-degree murder has a mandatory minimum of 20 years, which must be imposed separately and consecutively for every death caused. For example, if a person causes the death of four people in a vehicle crash and is convicted of second-degree murder, that person would receive a mandatory minimum sentence of 80 years.

The following is a recommendation to enact or amend several statutes to create three new offenses as well as separate sentencing provisions for those offenses. The new offenses would be aggravated vehicular homicide, vehicular homicide, and negligent vehicular homicide. These offenses are comparable to second-degree murder, manslaughter, and criminally negligent homicide.

Aggravated vehicular homicide would be an unclassified felony and carry a mandatory minimum of 15 years. Vehicular homicide would be a class A felony and negligent vehicular homicide would be a class B felony; both of these offenses would be subject to the usual presumptive sentencing scheme.

For consecutive sentences in cases where the defendant has caused multiple deaths, the defendant would have to be sentenced to at least one fourth of the mandatory minimum or presumptive term for each additional victim; the rest could be served concurrently. (This provision would not prevent a judge from imposing the entirety of each sentence consecutively, but it would no longer be required in all cases.)

This recommendation was approved unanimously by the Commission. The full text of the proposed amendments is contained in Appendix E.

D. Recommendation Related to Barriers to Reentry

The Barriers to Reentry Workgroup identifies the challenges returning citizens face upon release from prison and solutions to mitigate the impact of these challenges to reduce recidivism.

CourtView Recommendation. In October 2017, the Commission voted to make a recommendation to the Alaska Supreme Court to order the removal of the records of certain offenses from CourtView, the online record database for the Alaska Court System.

The Commission's recommendation was based on testimony and studies showing that online records of conviction can inhibit a person's ability to find employment, often long after the date of the conviction. Furthermore, there are records of conviction on CourtView for offenses which have since been reclassified or for convictions that were later set aside.

Suspended Imposition of Sentence (SIS) is a sentencing mechanism available in certain cases. At sentencing, the court may suspend a defendant's sentence and impose probation. If the defendant successfully completes the term of probation, the court may set aside the defendant's conviction.[4] Setting aside a conviction after a successful term of probation therefore means that the defendant has taken the opportunity to turn things around and has not reoffended. Many defendants who received an SIS believed that if they successfully completed probation and had their conviction set aside, the conviction would "disappear." The record of this set aside conviction, however, is still available on CourtView.

Minor consuming alcohol (MCA) has been criminalized in various ways in the past. It has been both a misdemeanor and a violation for a first-time offense. Recently, only the third offense was a misdemeanor. In 2016, SB165 reduced all MCA offenses to a violation.[5] It also directed the Court System not to publicly publish the record of any such violation. This means that going forward, records of MCA violations will not be accessible to the public on CourtView. Past records, however, are still publicly accessible.

The offenses of minor on unlicensed premises, minor operating a vehicle after consuming alcohol, minor refusal to submit to a chemical test, and minor driving during the 24 hours after being cited for alcohol or breath test offenses are also all based on a person under 21 consuming alcohol (but do not involve intoxicated driving, which is covered under the DUI statutes). These offenses were not reduced to a violation, but the Commission feels they should be treated similarly to MCA.

The Commission therefore voted to recommend that the above offenses be removed from the public view on CourtView. The Commission recognizes that this will not achieve the effect that a more global expungement statute would have, but the Commission felt that it would give some relief to those who have experienced some barriers to employment, lending, or housing based on the records of these offenses being publicly available. The Commission will continue to look into expungement in the coming year.

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[4] See AS 12.55.085.
[5] Ch. 32 SLA 2016.

III. SB 91 Implementation

SB 91 directed the Commission to oversee the implementation of justice reinvestment. The Commission is required to track outcomes of any changes made to the law pursuant to the Commission's 2015 Justice Reinvestment Report. The Commission must receive and analyze data from the Department of Corrections, the Alaska Court System, and the Department of Public Safety. These agencies are required to send information to the Commission every quarter. The Commission also must continue to make recommendations for reinvestment should additional savings be realized.

Implementing the reforms has required a substantial amount of work on the part of the departments and agencies tasked with making operational changes. The Commission is monitoring the progress of these efforts. Also on the Commission's agenda is to monitor the funding appropriated by the Legislature for treatment, programming, and victim's priorities as part of the reinvestment package. The Commission's findings on the progress of implementation are detailed below; its report on reinvestment activities is contained in section IV.

A. Prison Population has Changed

The following is an analysis of the data that has been provided to the Commission thus far. **It is important to note that it is too soon to calculate some metrics, such as recidivism measures,** because not enough time has passed since the enactment of SB 91 for enough offenders to be sentenced under the new law, serve time, and be released to produce a representative sample. The Commission is only now starting to see data that *may* indicate the bill's effect. We will not have the full picture of SB 91's impact for some years.

Information from the Department of Corrections shows that some post-reform changes are already evident in the form of a reduction in the total prison population, a significant shift in the composition of inmates to include fewer supervision violators, and a modest decrease in nonviolent offenders compared to violent offenders.

Decrease in total prison population. Figure 5 shows that the post-reform average daily population at DOC's prisons has decreased compared to what it would have been without reform.

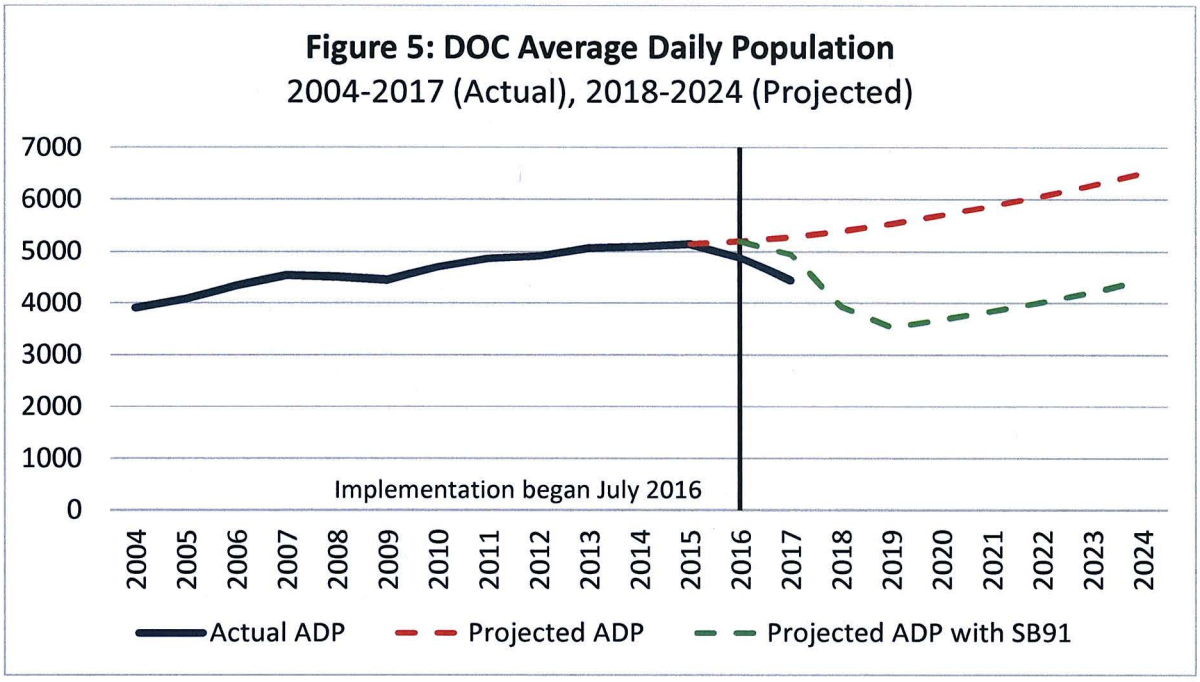

Figure 5 Source: Department of Corrections

The figure also shows that the actual population has decreased more than was projected as a result of SB 91.

Sentenced offenders, pretrial defendants, and supervision violators. Figure 6 shows the pre-reform status of offenders in DOC facilities sorted by those who had been sentenced for crimes, those who had been returned to prison for committing technical violations of their parole or probation conditions ("supervision violator"), and those who had been charged but not convicted of a crime ("pretrial"). On a single day in 2014, supervision violators were 22% of the prison population, pretrial detainees were 28%, and sentenced offenders were half. By 2016 these ratios had begun to change, with the proportion of supervision violators falling, while pretrial detainees and sentenced offender ratios

increased. The changes accelerated in 2017, following the effective date of SB 91's reforms to community supervision practices.

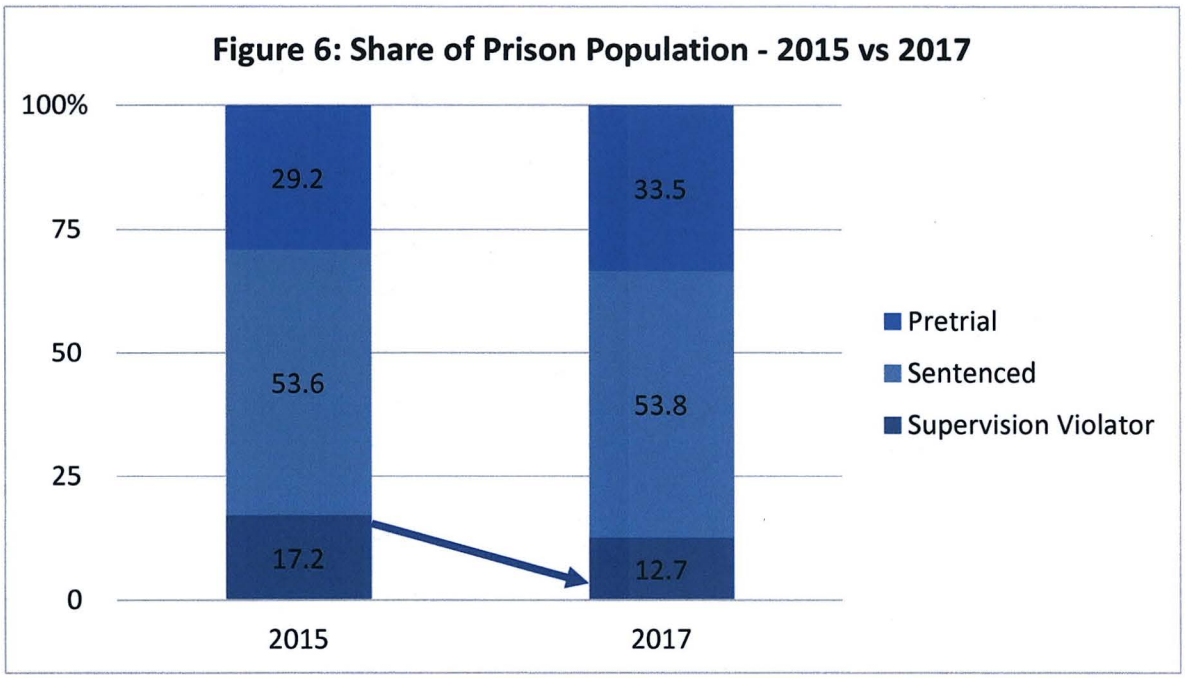

Figure 6 Source: Department of Corrections

A decrease in supervision violators was expected due to the probation and parole reforms described above. Further, to the extent that the proportion of beds being occupied by pretrial defendants increased, that result would be consistent with the fact that SB 91's pretrial reforms do not go into effect until January of 2018.

Violent and nonviolent offenders. In 2014, the Commission found that 62% of post-conviction admissions to prison were nonviolent misdemeanants. The Commission's research also showed that for many people in the criminal justice system, noncustodial sanctions and shorter prison stays provide sufficient accountability and work at least as well as longer periods of incarceration to reduce recidivism. The Commission therefore recommended limiting the use of prison beds for lower-level and nonviolent misdemeanor offenders. Limiting prison bed use for lower-level offenders also allows the system to focus resources on serious and violent offenders—the "people we're afraid of."

The figures below compare the situation with respect to violent and nonviolent offenders pre- and post-reform. Figure 7 shows the ratio of violent andnonviolent offenders. It indicates a small post-reform decline in the ratio of nonviolent offenders.

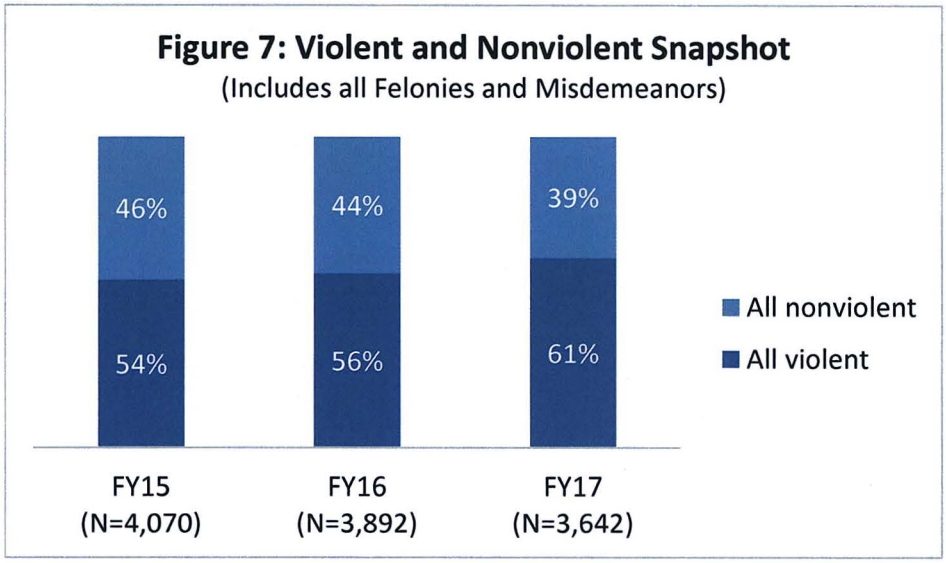

Figure 7 Source: Department of Corrections

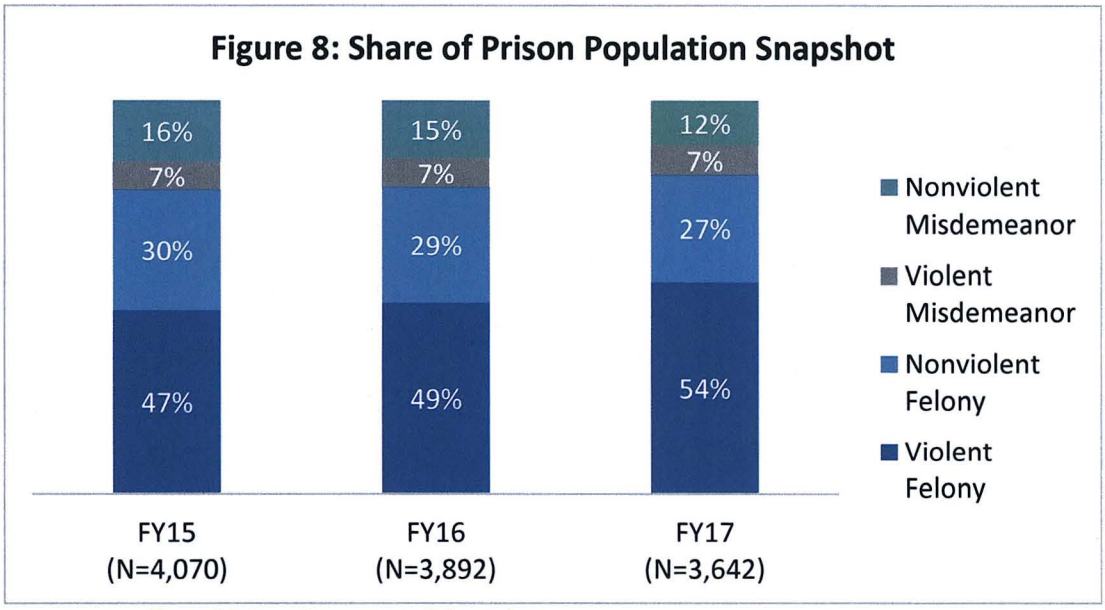

Figure 8 Source: Department of Corrections

Figure 8 shows the composition of prisoners on a snapshot day, broken down by level of offense.[6] Snapshot data is illustrative of what the population looks like at a sample moment in time. Again, this

[6] The FY17 snapshot was calculated as the average of July 1, 2016, October 1, 2016, January 1, 2017 and April 1, 2017.

figure shows moderate progress toward the criminal justice reform goal of reducing prison-bed usage among nonviolent misdemeanants, and concentrating resources on violent offenders.

Figure 9 shows admission patterns. The figure illustrates that the majority of offenders admitted to a DOC facility in FY17 were non-violent misdemeanants. This is illustrative of the "churn" that occurs, where, among admissions, low-level offenders are booked and released in quick succession. Despite the large number of non-violent misdemeanor admissions, the data does show a moderate decrease in the share of admissions for nonviolent misdemeanors and a moderate increase in the share of admissions for violent felonies.

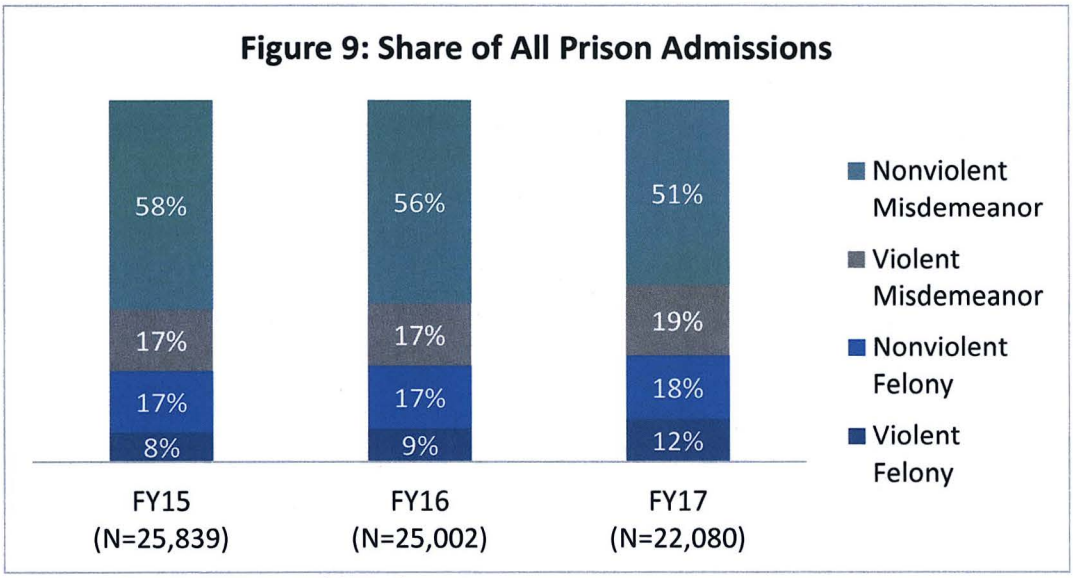

Figure 9 Source: Department of Corrections

Drug offenders. The Commission recommended reclassifying simple possession of heroin, meth, and cocaine to an A misdemeanor, and limiting the maximum penalties for first- and second-time possession to suspended sentences for the first two offenses.[7] The Commission also recommended creating a tiered system for commercial drug offenses based on the amount of drug to be bought or sold.

The Commission made these recommendations because in the decade leading up to SB 91, admissions to prison for drug offenses increased by 35%, while the average length of stay for felony drug offenders increased by 16%. The Commission's research also showed that long prison terms have a low deterrent value for drug offenders. Typical street-level drug transactions have such a low risk of detection, so drug offenders are unlikely to be dissuaded by the remote possibility of a longer stay in prison.

Data from the Department of Corrections shows that admissions for Class C felony drug possession dropped 68% after the changes in SB 91 went into effect (from 835 admissions in FY15 to 259 in FY17). At the same time, admissions for Class A misdemeanor drug offenses rose by 46% (from 97 in FY15 to 181 in FY17). These changes were in line with expectations.

[7] First offense: up to 30 days suspended; second offense: up to 180 days suspended; third and all subsequent: 30 days or 10 days of active incarceration. See SB 91 section 93.

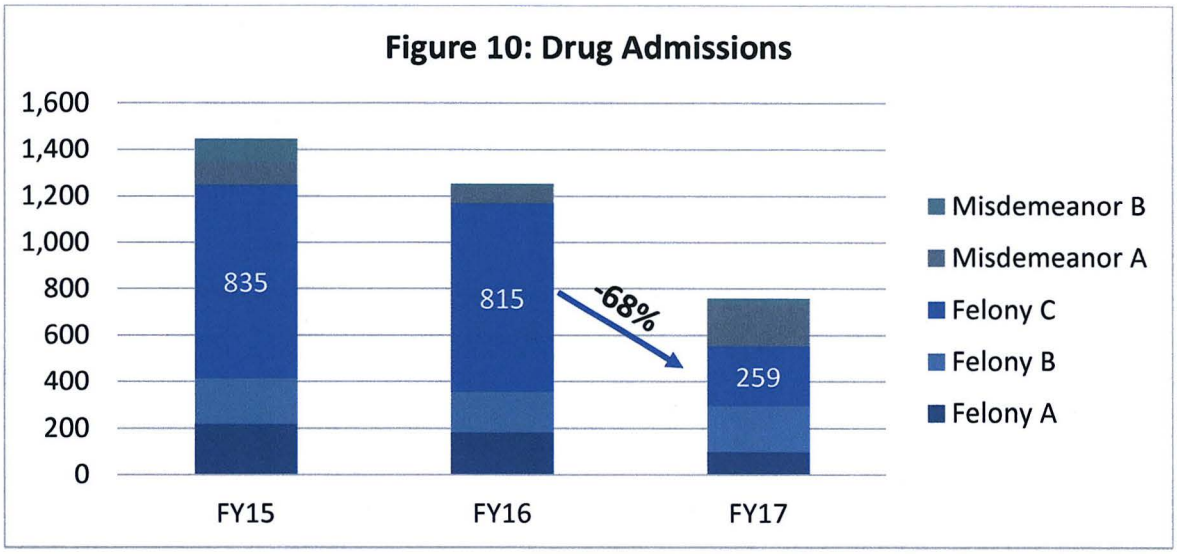

Figure 10 Source: Department of Corrections

The Commission also examined the number of misdemeanor drug cases being processed by the courts. Court records show that only 160 misdemeanor drug possession cases were filed statewide between July 1, 2016 and June 30, 2017,[8] and only 62 misdemeanor drug possession cases were disposed during that same period. In contrast, 528 misdemeanor drug possession cases were filed with the court in FY15, the year before the law changed. The decrease in the number of misdemeanor drug possession cases being processed by the courts was not predicted. The Commission will continue to monitor arrest, charging, and disposition trends for drug possession.

Theft offenders. As noted above, the Commission recommended limiting the use of incarceration for low-level misdemeanants. This included eliminating jail time for first- and second-time offenders convicted of Theft 4 (theft of property valued under $250).

SB 91 also raised the felony theft threshold from $750 to $1000, to be adjusted for inflation every 5 years. The Commission recommended this change because the original threshold was set at $500 in 1978. The equivalent value in today's dollars would be more than $1800. The Commission also noted that between 2001 and 2011, 23 states raised their felony theft thresholds. Analysis of these changes found that the change in the threshold had no statistically significant impact, up or down, in the states' overall property crime or larceny rates.

[8] All of these cases were charged by the Anchorage Municipal Prosecutor; none were charged by the Department of Law or other municipal prosecutors.

Figure 11 shows the number of admissions for felony and misdemeanor theft pre- and post-reform. Notably, admissions for felony theft increased 22% after the enactment of SB 91.

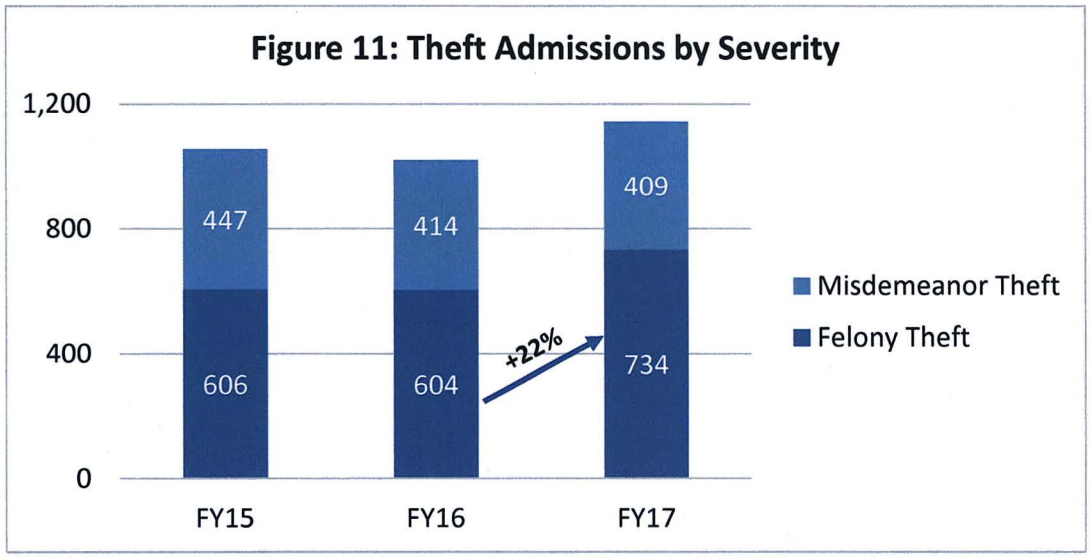

Figure 11 Source: Department of Corrections

Thus despite SB 91 reducing the use of incarceration for misdemeanor theft, there has not been a significant drop in admissions to prison for that offense. (The Commission will have data on length of stay for these offenders in the future.) And despite SB 91 increasing the felony theft threshold, felony theft admissions also have increased.

The picture on felony theft may be related to the changes in drug crime classification discussed above. Realignment of priorities at the Department of Law in response to budget cuts has included a focus on felonies and violent crimes, and a decrease in prosecution of nonviolent misdemeanors. Thus it may be that misdemeanor drug prosecutions have been displaced to some degree by felony theft prosecutions.

B. Creation of the Pretrial Enforcement Division

The number of pretrial inmates in Alaska's prisons grew by 81% over ten years (2004-2014), driven in large part by increases in how long defendants were staying behind bars before their cases were disposed. Moreover, the traditional bail system meant that in some cases, low-risk defendants who were unlikely to engage in new criminal activity remained behind bars because they couldn't afford bail, while high-risk defendants who were likely to engage in new criminal activity and who paid bail were released.

In response, SB 91 adopted evidence-based pretrial reforms designed to improve public safety and pretrial outcomes. These reforms will go into effect January 2018. A major part of these reforms is a new pretrial unit called the Pretrial Enforcement Division, housed within the Department of Corrections. Although SB 91 does not require the unit to be up and running until January 2018, DOC has been planning and preparing for the unit since August 2016.

The Pretrial Enforcement Division:
A new unit within the Department of Corrections that will assess and monitor defendants pretrial. It will begin operations in January 2018.

The Pretrial Enforcement Division will employ around 60 pretrial service officers who will provide pretrial risk assessments, court reports and recommendations, and monitoring and supervision of defendants who are released from custody pretrial and ordered to pretrial supervision as a condition of release. Pretrial services officers will remind defendants of court appearances and provide more intensive supervision if necessary. Alaska has never before had any state-run pretrial monitoring services. The following paragraphs explain the duties of the Pretrial Enforcement Division in more detail.

Development and use of a Pretrial Risk assessment tool. The pretrial officers will perform a risk assessment for each defendant who is arrested and booked into jail. An actuarial risk assessment tool has been developed for this task, and the Pretrial Enforcement Division is currently testing the tool prior to deployment.

To develop the tool, DOC worked in close collaboration with the Commission, with a large stakeholder group, and with qualified and experienced researchers from the Crime and Justice Institute (CJI) who are familiar with the creation and validation of risk assessment tools. The Commission and the stakeholder group advised DOC and CJI about local conditions and concerns that might affect development of the tool, and on logistical and implementation issues. Crucially, the tool was developed using Alaska data about Alaska defendants.

The current version of the risk assessment instrument is referred to as "AK – 2S" or the "Alaska 2 Scale". Researchers pored over large quantities of data on Alaska's defendants to determine which factors are most predictive of whether a defendant will be successful on pretrial release. **It is important to note that Alaska's Pretrial Risk Assessment Tool is developed from, and validated for, the Alaska population.**

The tool requires use of static data that is pulled from available data sources. The risk assessment process does not include an interview with the defendant.

The Alaska 2-Scale

Alaska's Pretrial Risk Assessment Tool

- Developed in 2017 using Alaska's data, specifically for use in Alaska
- Uses information contained in pre-existing databases on the defendant's criminal history
- Produces two scores, one assessing the risk that the defendant will fail to appear for court, and one assessing the risk that the defendant will be arrested again if released
- Validated to ensure no demographic group will be treated differently
- One of many factors to consider in the pretrial release decision

Pretrial officers will use the instrument to score a defendant's risk based on a number of factors. The scores indicate the risk that the defendant will fail to appear for court hearings or will be arrested for new criminal activity. The tool does *not* predict what type of offense someone might commit in the event they obtain release from pretrial secure custody.

The term "risk" does not necessarily imply a risk to community safety or likelihood of violence, but rather, a risk for failure to appear or risk for a new criminal arrest if the defendant is released from custody pretrial. While no risk assessment tool can perfectly predict the behavior for each and every defendant in each and every circumstance, research shows that the use of a risk assessment tool combined with professional judgment in the release decision typically produces better outcomes when compared to not using any assessment tool. Risk assessment scores are only one factor among many the judicial officers will consider in making release decisions or setting conditions of release.

Pretrial reports and release recommendations. For any defendant held in custody pretrial, pretrial officers must submit a report to the court. Officers will use the risk assessment score, combined with a review of the offense for which a defendant is charged, to prepare a release recommendation. The report will be sent to the court in time for the defendant's first court appearance, typically within 24 hours of booking. The report also will include recommendations for conditions of release in the event the defendant is released pretrial.

Supervision and monitoring. Pretrial officers will bring a new public safety function to the state of Alaska when and if a defendant obtains release from a secure setting. If a defendant is released, they may be required to comply with supervision by the pretrial officers while living in the community. For those

defendants, pretrial officers will be responsible for monitoring the defendants to ensure they comply with the conditions of release. Defendants may be required to comply with such things as meetings with officers, drug and alcohol testing, or electronic monitoring. Under the previous pretrial model, defendants were not monitored unless they hired a private company.

Release based more on risk. Additionally, in the new pretrial model, defendants will be released based on their risk of failure to appear or risk of a new criminal arrest. Under the previous model, defendants were released if they could make bail, without any benefit of a risk assessment instrument. The amount of bail was used as a proxy for risk. The new model enhances public safety by strategically identifying the individuals most likely to pose the greatest risk of pretrial failure.

Pretrial Release pre- and post- SB 91 – What's the Difference?

Pre-SB 91 (Current System)

- Release based on payment of a money bond to ensure appearance
- Amount of money bond is used as a proxy for a defendant's risk of flight or danger to the community
- No supervision of defendants who are released
- Heavy reliance on civilian third-party custodians

Post-SB 91 (Beginning January 2018)

- Release based on results of a risk assessment and the crime charged
- Risk assessment calculates the risk of a defendant's failure to appear and risk of a new arrest
- Supervision (based on risk level) of defendants who are released
- Restrictions on use of third-party custodians

C. Improved Parole and Probation Supervision Procedures

Felony offenders in Alaska are supervised by DOC probation or parole officers after conviction and/or release from prison. The role of the probation or parole officer is to ensure the offender completes any conditions of probation or parole and does not engage in new criminal activity or prohibited behavior. Probation and parole officers have the authority to return offenders to prison if they violate conditions of supervision, and judges or the parole board can impose suspended prison time on offenders who have violated their conditions of supervision.

If someone on probation or parole violates the conditions of their supervision but does not commit a new crime, that violation is called a technical violation. (Technical violations can include behaviors such as consuming alcohol, missing or failing drug tests, or failing to report to a probation or parole officer).

A need for a new approach. Before SB 91, many offenders would accumulate a number of technical violations before receiving any consequences, and then ultimately serve a long cumulative sentence for those violations. Between 2005 and 2014, the number of people who were returned to prison for violations of the conditions of their probation or parole increased by 32%. Approximately three quarters of these violations were for technical violations.

The Commission found that in 2014, offenders who were sent back to prison for supervision violations served about one month in custody *before* having a hearing. For those who were given a sentence of incarceration for their violations, the average post-hearing length of stay was 106 days.[9] Probation and parole officers also did not have many tools to incentivize compliance.

New strategies starting in January 2017. In response to these problems, SB 91 required Alaska to develop and adopt evidence-based strategies to increase success

Rethinking Probation and Parole

Before SB 91:

- Between 2005 and 2014, the number of people returning to prison for supervision violations increased by 32%
- In the same period, approximately 3 violations in 4 were technical violations
- Offenders accumulated a number of violations before being sanctioned
- Offenders charged with a violation spent a month in custody before having a hearing
- The average sentence for a violation was 106 days

[9] The data from this period did not specifically track whether violations were technical or non-technical, but it is estimated that around three-quarters of the violations were technical.

New Supervision Procedures

- **Swift, certain, and proportionate sanctions for violating conditions of probation and parole to encourage early course-correction**
- **Incentives to encourage compliance**
- **Reduced reliance on incarceration**
- **Frontloading supervision resources – most recidivism happens within the first year post-release**
- **Evidence-based practices**

rates for those supervised in the community. DOC has been working hard to implement these changes to post-incarceration supervision procedures, which became effective in January 2017. The Department of Corrections developed new policies and procedures for probation and parole officers to respond effectively to negative and positive offender behavior. It also trained all its probation and parole officers in the effective use of these sanctions and incentives, and on other new requirements.

Sanctions and incentives. Parole and probation officers now use a system of administrative sanctions and incentives to facilitate prompt and effective responses to compliance with or violations of conditions of supervision. The administrative sanctions are used before filing a petition with the court or the parole board to revoke probation or parole. The sanctions are designed to be swift, certain, and proportionate to the transgression; this is an evidence-based practice that studies show is more effective in encouraging course correction.

Incentives are available for those who meet case-specific goals of supervision. Research shows that providing rewards and incentives enhances individual motivation, and individuals on supervision are more successful (fewer violations, less recidivism) when rewards outnumber sanctions.

SB 91 requires the Department of Corrections to track how often its probation and parole officers are using the new administrative sanctions and incentives to address behavior informally before filing a formal petition to revoke probation or parole. After developing the program of administrative sanctions and incentives, and training all officers on how to use them, the Department of Corrections modified its case management system to allow probation and parole officers to record their use of administrative sanctions and incentives, and it trained officers to do so. The Department of Corrections is also required to report this information to the Commission. DOC has not yet been able to provide information about

the average number of sanctions issued before a petition to revoke parole or probation is filed.[10] The Commission looks forward to working with DOC to report and analyze this information in the future.

Earned compliance credits. Research shows that allowing probationers and parolees to earn their way off supervision for compliance with conditions encourages them to play by the rules, and allows probation officers to allocate resources based on which offenders are exhibiting problem behaviors. Since January 2017, probationers and parolees are eligible to earn 30 days off their total supervision time for each 30 days they are in compliance with supervision conditions (supervision conditions include requirements such as staying free of drugs or alcohol, paying victim restitution, and looking for employment).

These changes are intended to create a more intensive supervision atmosphere and concentrate supervision resources where they are needed—on offenders most likely to recidivate. In addition, this provision is expected to allow low-risk supervisees – who are the most likely to follow the rules and earn compliance credits – to leave caseloads sooner, thus freeing up probation officers to deal with higher-risk individuals.

The Department of Corrections has provided some preliminary data on the use of earned compliance credits. It is important to note that this data is preliminary; DOC employees are working to ensure that data collection and verification is accurate but these are new data points that DOC has not tracked before. Additionally, the earned compliance system has been in effect for only 10 months, and not all supervisees will have had an equal chance to earn compliance credits. For example, someone who has been on parole for just one month will have had less opportunity to earn compliance credits than someone who has been on parole for nine months. In other words, this is a simple snapshot of a complex situation. With those caveats in mind, this figure shows that about three-quarters of individuals earned compliance credit at least one time during the ten-month period.

Figure 12: Supervisees Who Earned Compliance Credits

January 1, 2017 through October 1, 2017

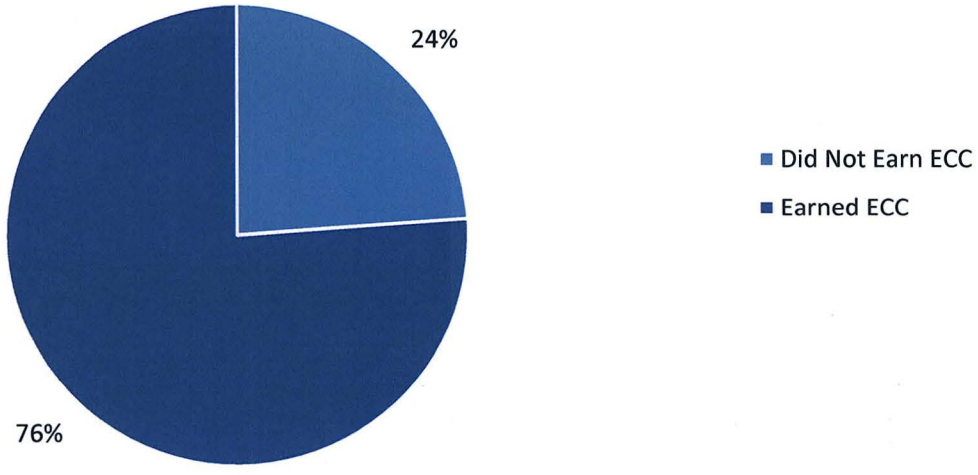

Figure 12 Source: Department of Corrections

[10] DOC is required to provide this information quarterly to the Commission under AS 44.19.645.

Preliminary data on the effect of changes to parole and probation supervision procedures. Baseline data from the Department of Corrections shows that before these changes went into effect in 2017, probation officers filed about 361 petitions to revoke probation and 81 parole revocations per month. In 2014, offenders who were remanded to prison for supervision violations spent about one month before the disposition of the petition to revoke probation. For those supervision violators who were given time to serve for their violations, the average post-resolution length of stay was 106 days.

Figure 13 shows that during the first eight months of implementation, officers filed on average slightly more petitions with the court (PTRP) and the parole board (PVR) than before reform.[11]

Figure 13: 2017 Statewide Probation & Parole Violation Filings Compared to Baseline*

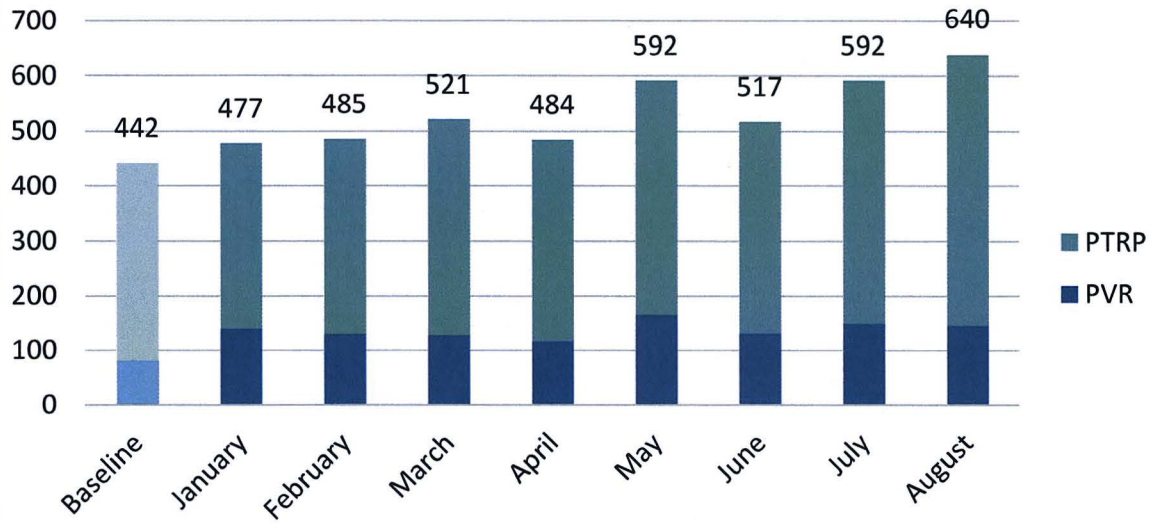

Figure 13 Source: Department of Corrections **Baseline is the average for October, November, and December 2016.*

By far the most common reasons for filing a technical violation against a supervisee were drug or alcohol use, or failure to report to the probation officer. Together, these two reasons for technical violations accounted for around 78% of all technical violations pre-reform, and about 83% of all technical violations post-reform. (The statistics do not include supervisees in the PACE program, an intensive supervision model for higher-risk supervisees. This model was employed before SB 91 and uses many of the same procedures that are now being used with all offenders on probation or parole.)

Some supervisees are charged with new crimes while being supervised in the community on probation or parole. Both pre- and post-reform, the situations in which a supervisee was charged with a new crime were a small fraction of the situations in which a supervisee was accused of a technical violation. Pre-reform, about 15% of all supervision violations involved accusation of a new crime. Post-reform, the average was closer to 10% in some months, although the data are too preliminary to draw

[11] Note: This figure does not include information about probation violators in the DOC's PACE program for higher-risk supervisees. The PACE program existed before criminal justice reform was enacted, and it already employed many of the same types of procedures that are now used with all supervisees.

solid conclusions. If this trend continues in the future, it could indicate that the officers are using the new revocation procedures more proactively to address problematic behavior early, in some instances preventing the supervisee from progressing to new criminal behavior.

Supervision violation filings do not always result in incarceration, but when they do the incarceration should be proportionate to the severity of the violation. SB 91's reforms were designed to sanction violators quickly and in more proportionate periods initially, allowing serial violators to be sanctioned more severely. It is important to know, then, when violators went to prison, how many days they stayed. Preliminary data shows that the average number of incarceration days for both technical and non-technical parole and probation violations decreased since enactment of the supervision reforms.

Figure 14 summarizes the average length of incarceration for non-PACE violators.[12]

Figure 14: Probation and Parole Violations by Length of Stay
Pre and Post SB 91

Pre SB 91		Post SB 91[13]		
Type	**Av. Length of Stay**	**Type**	**Violation Type[14]**	**Av. Length of Stay**
Before Hearing[15]	30 days	Parole	Non-Technical	24.44 days
After Hearing	106 days	Parole	Technical	15.44 days
		Probation	Non-Technical	19.07 days
		Probation	Technical	14.14 days

SB 91 made major changes to Probation and Parole prison stays. Despite the differences in data breakdowns for pre SB 91 and post SB 91 data, it is clear length of stay has dropped significantly post SB 91.

Figure 14 Source: Department of Corrections

[12] More recent data from DOC which calculated length of stay for PACE and non-PACE supervision violators through October of 2017 showed similar results.

[13] For those discharged from incarceration from 1/1/2017 through 10/17/2017.

[14] If an individual had both a technical and non-technical, it was counted as a non-technical

[15] "Before hearing" and "after hearing" here cannot be combined: some supervisees were released on time served at their hearing, and so are not counted in the "after hearing" section

This post-reform decrease in supervision violators' incarceration days likely contributed to the overall decrease in supervision violators in prison. Even though probation officers now remand supervisees to prison more often for technical violations, data available thus far shows that DOC's population of supervision violators decreased post-reform, as intended. Figure 15 below shows that supervision violators accounted for only about 13% of the average daily prison population. In contrast, two years before reform, supervision violators accounted for about 18% of prison beds. This data is taken from one-day snapshots.

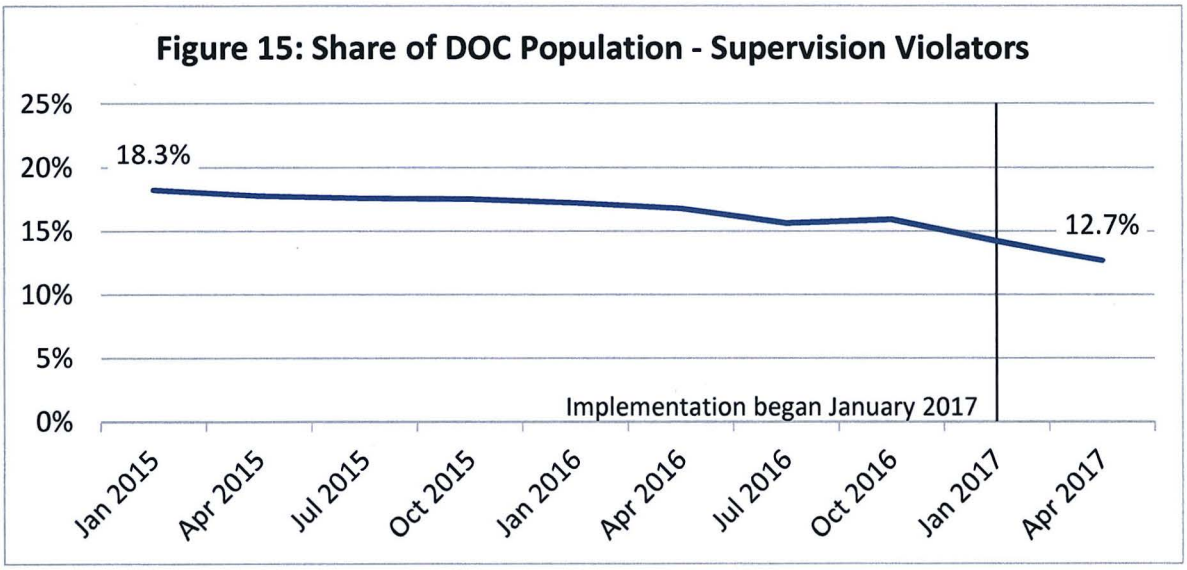

Figure 15 Source: Department of Corrections

D. New Parole Procedures and Expanded Parole Eligibility

Alaska law allows some imprisoned offenders to be released on parole before the end of their full sentence of incarceration. Release on parole is subject to review by the parole board, and the board can impose conditions of parole. Once released on parole, an offender is under the authority of the parole board and is supervised by an officer at the Department of Corrections. Under Alaska law, there are different circumstances under which a prisoner can be released on parole. Generally speaking, SB 91 expanded access to parole.

Discretionary parole process. A study of DOC's files in 2015 found that only a small percentage of inmates who were eligible for discretionary parole had in fact applied for parole or appeared before the Parole board. Commissioners heard from a number of sources that this low percentage was attributable to a cumbersome application and review process. In response, SB 91 streamlined the hearing process for discretionary parole by requiring the parole board to hold hearings for all prisoners who are eligible, rather than wait for prisoners to determine eligibility and prepare an application before a hearing.

Expanded eligibility for discretionary parole. Before SB 91, discretionary parole was available to a prisoner who had served either 1/4 or 1/3 of their active term of imprisonment, applied for parole, and was reviewed by the parole board. SB 91 expanded eligibility for discretionary parole for many, but not all, classes of offenders.[16]

Early data on discretionary parole reforms. These changes went into effect on January 1, 2017. It was expected that these reforms would increase the number of parole board hearings, and potentially result in more eligible offenders being released on parole than pre-reform. The parole board has provided information that in fact the number of discretionary parole hearings in 2017 increased 141% over the same period in 2016. As seen in Figure 16, these discretionary parole hearings have resulted in similar rates of grants, continuances, and denials as before SB 91's provisions went into effect.

New Parole Procedures

- **Discretionary parole eligibility increased; procedure streamlined.** Discretionary parole hearings have increased. The rate of grants and denials is largely the same.
- **Administrative and geriatric parole procedures created.** Only 3 inmates have been eligible for administrative parole and no inmates have been eligible for geriatric parole.

[16] For example, eligibility for discretionary parole was not expanded for Unclassified or Class A sex offenders.

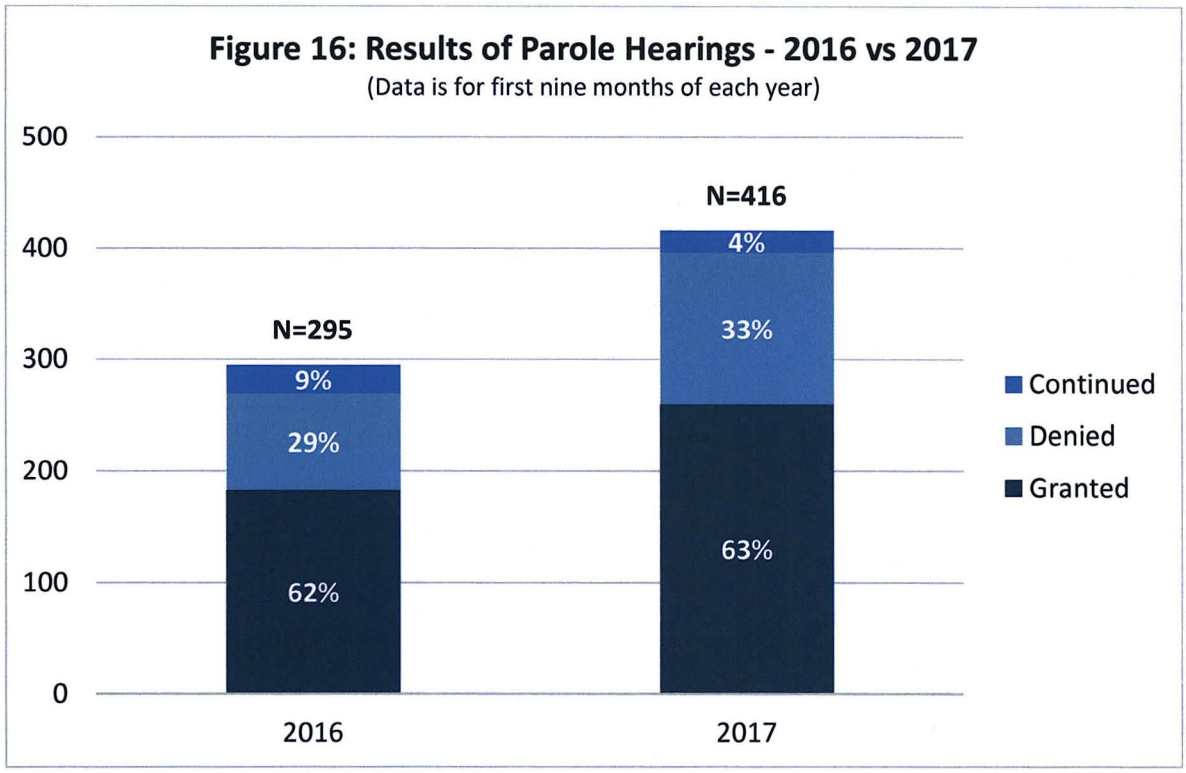

Figure 146 Source: Parole Board

The data are preliminary evidence suggesting that the goals of the parole process reforms are being met: namely, that more inmates who are eligible for discretionary parole are being considered, but the board of parole continues to exercise its judgment with respect to which inmates should be granted discretionary parole.

Administrative and geriatric parole. Before SB 91, Alaska law provided for three types of parole: special medical, discretionary, and mandatory.[17] SB 91 created two new types of parole: administrative and geriatric. Administrative parole allows inmates convicted of a first-time, non-violent Class C or B felony who are compliant with their case plan to release to parole without a parole hearing, unless a victim requests a hearing.

Geriatric parole is a new method by which an inmate may be considered for discretionary parole. The inmate must be 60 years of age or older, served 10 years of the active jail time imposed, and the offense cannot have been a sex offense or an Unclassified felony.

Adding these new types of parole appears to have had little effect thus far. As of October 1, 2017, three inmates have been released to administrative parole, and no inmates have been released to geriatric parole.

[17] Special medical parole was based on a medical need. Mandatory parole, otherwise known as "good time," is based on the accumulation of one day of "good time credit" for every three a defendant serves in prison without having caused behavioral problems.

E. Reentry Planning and Access to Health Care

In an effort to implement both SB 91 and SB 74 (the Medicaid reform bill), DOC and DHSS have been working together to improve treatment, reentry planning, and access to health care for those leaving DOC custody.

Medication Assisted Treatment at DOC. Many offenders released from DOC facilities suffer from serious opioid addiction. These reentrants are particularly vulnerable to relapse during the first few days of freedom, when they may suffer from drug cravings but not yet have stable treatment situations. Responding to this problem, DOC decided to offer medication assisted treatment (MAT) for releasing opioid addicts.[18] The idea is to administer medication before the prisoner is released to cut down on cravings, allowing the reentering citizen time to arrange counseling or other recovery supports. In March of 2017, DOC began offering one medication, Vivitrol, to some releasing offenders with serious opioid addiction.[19] From March to October of 2017, the Department of Corrections received just over 500 referrals for Vivitrol and administered 69 injections.[20] DOC also intends to secure case management services for these offenders upon release to help them continue with treatment and Vivitrol in the community. Vivitrol is just one

[18] Medication-assisted treatment (MAT) for opioid use disorder combines counseling and other recovery supports with prescribed medications. These medications help reduce the cravings and withdrawal symptoms that come from stopping opioid use. Research shows that using MAT can increase the chances of successful recovery. The longer people stay in treatment and use recovery support programs, the better they do at staying drug-free and maintaining recovery. But medications alone are usually not enough. Lifestyle changes and other services may be needed.

[19] Vivitrol currently is available for certain offenders releasing from Anchorage Correctional Complex, Hiland Mountain Correctional Center, Mat-Su Pretrial Facility, Fairbanks Correctional Center, Anvil Mountain Correctional Center, and Wildwood Correctional Center.

[20] Not all individuals referred met the DOC's participation requirements, and some referrals are in the process of being assessed for suitability.

SB 74- Medicaid Reform

In 2016, the Alaska Legislature passed a monumental Medicaid reform mandate. Senate Bill 74 (SB 74) is a multi-dimensional Medicaid reform package that includes direction to apply for a federal waiver to enable the state to more efficiently manage a **comprehensive and integrated behavioral health system**. The system will involve partnerships across a diverse network of providers and clinical disciplines to build a foundation for evidence and data-driven practices.

The bill also directs the state to **reduce operational barriers, minimize administrative burdens, and improve the effectiveness and efficiency of Alaska's behavioral health system**.

The Department of Health and Social Services is collaborating with the Department of Corrections to provide supports to the reentry population including case management. The federal waiver is the mechanism with which the Department of Health and Social Services will enhance programs to provide treatment and medically necessary behavioral health supports in efforts to reduce recidivism.

option in a Medication Assisted Treatment program, and the Department is looking at ways to implement a full MAT program.

In an example of inter-departmental coordination, the Department of Health and Social Services used a portion of its FY17 reinvestment allocation to fund a study of the effectiveness of the Department of Corrections' Vivitrol Intervention Program. This is a two-year study being conducted by the University of Alaska.

Medicaid and behavioral health reform. In addition to the above activities undertaken with SB 91 reinvestment allocations, the Division of Behavioral Health, per SB 74, has undertaken comprehensive reform to the Behavioral Health system, which will include services to help meet the treatment needs of the population impacted by SB 91. DHSS behavioral health treatment supports are leveraged with criminal justice specific supports such as: linkages to treatment providers pre-release; transitional, rapid or permanent housing placements; increased enrollment in Medicaid (to facilitate greater access to treatment resources); transportation support for individuals trying to make appointments; and cognitive behavioral supports.

As part of the combined Medicaid and criminal justice reform efforts, DOC and DHSS are working together to provide assistance in completing hardcopy Medicaid applications to offenders who are within 30 days to their release date. In FY17, 832 returning citizens were successfully enrolled in Medicaid. The Department is also continuing to work toward electronic submissions of the applications.

In addition, in FY17 $1.65 million was paid in Medicaid claims (total billed charges were $6.39 million) for hospital care for individuals in the custody of the DOC (130 inpatient stays).

Reentry planning and services. As noted above, collaboration efforts between DOC, DHSS, and the Alaska Mental Health Trust Authority have paved the way for a quick rollout of new services for reentrants. For its part, DOC has done significant work to revamp reentry planning. All offenders sentenced to 30 days or more are required to have an Offender Management Plan (OMP)/release plan completed. Ninety days before release, the OMP is updated by the institutional Probation Officer. This update includes information such as programming statuses and release information regarding things like housing, work, and treatment. SB 91 also required DOC to work with offenders to get them an ID upon release; through July 31, 2017, DOC expended $7,850 for 360 IDs of which 70 had an alcohol restriction.

As noted above, DHSS has put significant effort into leveraging the reinvestment money for reentry services to expand services provided by reentry coalitions and to implement case management services. The combined efforts from the two departments, along with the collaboration of the Alaska Mental Health trust, has streamlined reentry services starting before release. The increased communication between and within departments has facilitated a more fluid transition from DOC custody to community supervision.

The success of these reentry coordination efforts has been tempered somewhat by challenge of finding behavioral health treatment. Service providers report it is difficult to enroll reentrants in treatment programs immediately after release, and the waiting time for assessments (a prerequisite to enrolling in treatment) is long.

Cross-Department Collaboration on Reentry

Staff from the Department of Corrections, the Department of Health and Social Services, and the Alaska Mental Health Trust Authority have worked together to improve interdepartmental coordination for reentry services. This collaboration has produced innovations such as:

- **The facilitation of referrals from the DOC institutions to the community reentry case managers**
- **Information exchanges between DOC and reentry case managers starting 90 days before release**
- **One-on-one in-reaches with reentry staff for offenders inside of facilities 30-days before release**
- **Single-point-of-contact for reentry case managers within each DOC facility statewide**
- **Probation office contacts for each reentry case manager**

The Department of Corrections' Approach to Reentry

"The Department recognizes that there are many facets in providing effective services while maintaining secure facilities, and we are working to ensure we have a coordinated approach and a plan that best serves the offender population while maintaining public safety. This approach is to have an effective plan that allows a coordinated effort between resources within the facilities to outside supportive agencies particularly with emphasis on the current opioid epidemic and our efforts toward detoxing and treatment options for justice involved individuals returning to their communities."

- Department of Corrections Commissioner Dean Williams

F. Changes to CRCs

Community Residential Centers (CRCs), otherwise known as halfway houses, have the potential to effectively support offenders who are transitioning back to the community from prison. However, in 2015 the Commission found that Alaska's CRCs likely were mixing low and high risk offenders, which research has shown can lead to increased recidivism for the low risk offenders. Additionally, the Commission found that CRCs would be more effective at reducing recidivism if the facilities offered treatment for offenders in addition to supervision. This is because research shows that a combination of surveillance and treatment focused on offenders' criminogenic needs (changeable risk factors that increase an offender's likelihood of committing a crime, such as anti-social behavior and substance abuse) is more effective at reducing recidivism than supervision consisting of surveillance alone.

SB 91 included language, effective in July of 2017, explicitly requiring a treatment component at CRCs. The new language calls for "comprehensive treatment for substance abuse, cognitive behavioral disorders, and other criminal risk factors including aftercare support." The bill also directed the Commissioner of Corrections to add certain elements to DOC's regulations that govern the operation of CRCs to include quality assurance measures, standards for treatment, and a process to limit the mixing of low and high risk prisoners.

Before these changes went into effect, DOC had made changes that decreased use of CRCs. DOC cut 100 beds from the total number in Anchorage in 2016, and yet it still struggled to find people of the appropriate custody level who had sufficient time incarcerated to be appropriate for CRC placement. This situation resulted in part from DOC's increased use of furlough and electronic monitoring for lower custody level prisoners. Under DOC's policies, prisoners with large amounts of time left to serve, too many disciplinary infractions, or a sex offense conviction are not appropriate for CRC placement. Some communities also object to the placement of sex offenders in a CRC as opposed to a hard bed.

Instead of CRC placements, the Department is exploring how it might provide transitional housing on a smaller scale (10-15 people) for specific populations such as prisoners taking Vivitrol, Native-centered housing, religious-based housing, or a veterans' home. The housing would be combined with work release and possibly include small supports such as vouchers for clothing, transportation, and food, or possibly schooling.

G. Early Results, Concerns, and Adjustments

As noted elsewhere in this report, it is too soon to draw evidence-based conclusions about whether SB 91 is having its intended consequences on recidivism (to be meaningful, recidivism rates are calculated in three-year increments). However, some preliminary information can be gleaned about the initial effects of certain provisions. This section describes a few of the challenges and successes during the first 15 months of implementation.

During the weeks and months after the early provisions of SB 91 became effective, two things were clear: (1) SB 91 was the subject of intense public interest, and (2) the law was poorly understood. The first crucial months of implementation were hampered by a lack of understanding, or active misunderstandings, about how and what the law had changed. For example, many law enforcement officers erroneously believed that SB 91 restricted their arrest authority. These misunderstandings, some of which persisted for months, caused frustration and generated misplaced criticism. The Commission and others responsible for implementation responded by offering seminars, briefings, and presentations to the media and any others who were interested; however, those efforts did not completely remedy the misinformation.

- **Technical changes to SB 91:** SB 91 was a comprehensive bill, and it was complex. During the legislative process, it was anticipated that tweaks and drafting errors would be addressed later, as they became apparent. In the months after passage, the Commission and the Legislature became aware of technical or drafting errors that had been overlooked in SB 91. In January of 2017, after study and public input, the Commission voted to forward to the Legislature a number of technical fixes to SB 91; these recommendations became SB 55. SB 55 passed both the House and the Senate and was signed into law by Governor Walker in the summer of 2017.

- **Substantive Changes to SB 91.** Though SB 91 has not been in effect long enough to collect data on many outcomes, the Commission has heard both positive and negative commentary from the public and from practitioners during SB 91's implementation. After soliciting and hearing concerns from the public and practitioners about certain provisions of SB 91, the Commission voted in January 2017 to forward a number of recommendations to revise SB 91. In transmitting these recommendations to the Legislature, the Commission noted that contrary to its previous practice, the recommendations were not based on peer-reviewed or data-driven research, but rather on community feedback and anecdotal reports from prosecutors and law enforcement officers.

  The Commission's January 2017 recommendations for substantive changes to SB 91 became the subject of SB 54. During the 2016-17 regular session, SB 54 passed the Senate and was referred to committees in the House. More recently, Governor Walker set SB 54 on the agenda for the special legislative session on October 23, 2017.

SB 54 contains revisions to sentencing for first-time class C felony offenders, sentencing for repeat class A misdemeanor offenders, violating conditions of release, and repeat petty theft offenders. Some of the bill's provisions differ from the Commission's recommendations. The Commission's recommendations for substantive changes to SB 91 are included in Appendix F.

- **Violating conditions of release.** SB 91 reclassified violating conditions of release (VCOR) in most circumstances from a criminal offense to a violation. The purpose of this change was to handle VCOR behavior by bringing the defendant back before a judge to re-examine the release decision, rather than charging a new crime. Recognizing, however, that defendants who violate conditions of release may pose a risk to public safety, the Commission recommended and SB 91 provided that defendants in violation of their conditions of release are subject to arrest.[21]

  Despite this explicit arrest authority, it became clear in the first few months of implementation that law enforcement and others did not understand the new procedures. Some law enforcement officers were unaware of their authority to arrest and so took no action against release violators. Other officers were arresting defendants for VCOR but became frustrated when defendants were released as soon as they were brought to jail. In response, the Alaska Court System revised its bail forms to order defendants arrested for VCOR be held in jail and immediately be brought before a judge to have bail conditions reviewed.

  In January of 2017, the Commission heard complaints about the new procedure; it subsequently recommended that VCOR be changed back to a Class B misdemeanor. In the months since that recommendation, the Commission has received some information that the court system's new VCOR procedures are operating as intended.

- **Arrests and citations.** Before July of 2016, law enforcement officers were required by law to arrest all persons charged with felony offenses. After that date, they were given the discretion either to arrest persons charged with Class C felonies or to use a citation to summons them to court. Data from the Department of Public Safety shows that officers chose to issue a citation instead of arrest in about 9% of all situations involving a C felony (they arrested 4,231 C felons and cited 423). Officers mostly issued citations for non-violent C felonies (86% of the citations issued). Figure 17 shows all C felony arrests and citations for the first half of 2017.

[21] 2016 SLA Ch. 36, sections 29-30 (2016).

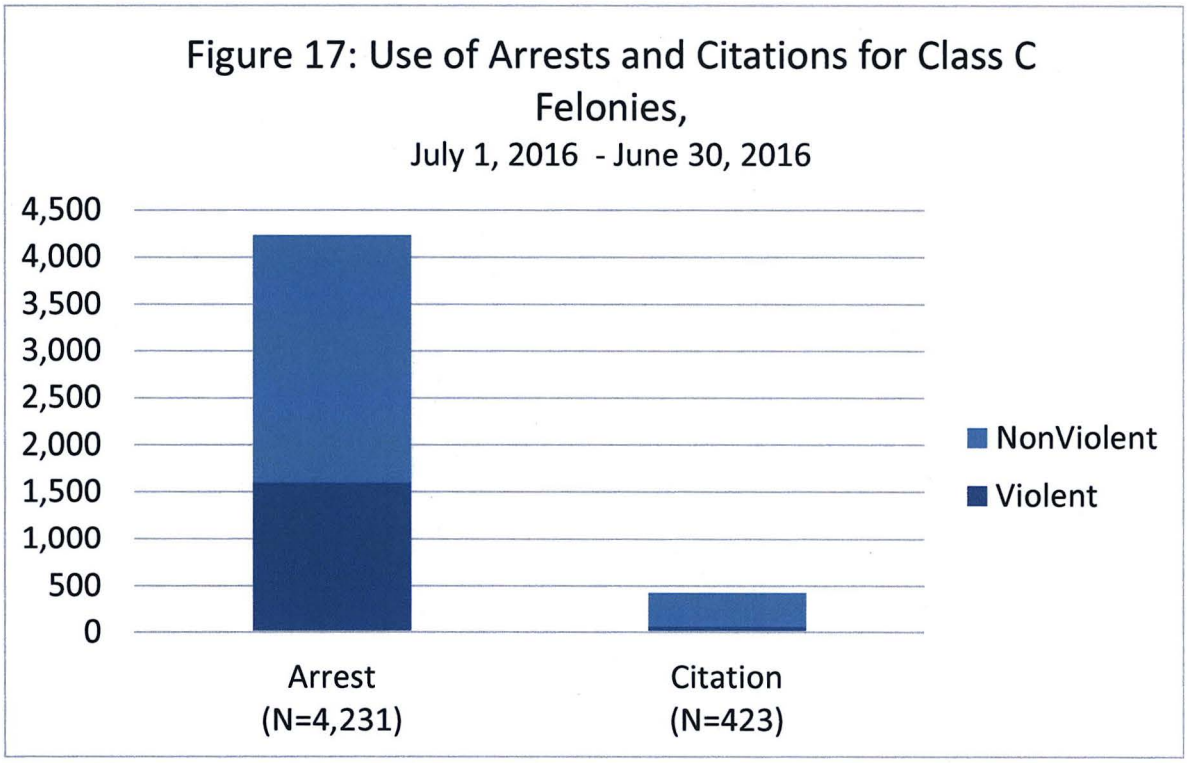

Figure 157 Source: Department of Public Safety

- **Suspended Entry of Judgment**: SB 91 created the Suspended Entry of Judgment (SEJ), a new mechanism that allows a court to defer the entry of judgment against a defendant, who is then be placed on probation. If the defendant completes probation successfully, the charges against the defendant will be dismissed and the defendant will not have a conviction on their record. (Certain violent felonies and crimes involving domestic violence are not eligible.) Both the prosecutor and the defendant must agree to the SEJ.

  Because this provision only became effective in July 2016, and recipients must complete a term of probation that is often longer than one year, it is not yet known how many SEJ defendants' cases have been completed, and no real information is available about the recidivism rate for recipients. Preliminary reports suggest that SEJs are being used, more often in some jurisdictions than in others. Information from court system dockets indicates that about 129 cases have involved an SEJ between July 1, 2016, and May 13, 2017. This represents only a very small fraction of criminal cases disposed during that time period. It also significantly less than cases disposed with an SIS during that time period. The Commission will monitor whether SEJ use increases, and if not, whether there are aspects of the disposition that are not meeting the justice system's needs.

  Soon after the SEJ disposition became effective, the Commission was asked whether incarceration should be permitted for recipients of the SEJ disposition. The Commission considered the question and recommended that incarceration not be available as part of the SEJ probationary disposition. This recommendation was included in SB 55 and has now been passed into law.

- **Food Stamps**: SB 91 lifted the restriction on eligibility for food stamps (SNAP) for persons convicted of drug felonies, so long as the person is compliant with the conditions of probation, or completed probation and required treatment. Outreach workers report that word has not reached everyone who might be eligible, and people are continuing to apply for waivers. Several who completed probation and treatment some time ago report having some difficulty obtaining the required documentation because their probation officer had left state employment. Those who have received a waiver report significant relief.

  The Division of Public Assistance estimates that around 252 individuals who may have had a drug felony conviction received SNAP benefits after SB 91 was enacted. This is a very rough estimate because DPA does not specifically track this population.

"I work as a reentry case manager, and I am a person who has benefited from SB 91. I am a graduate of the Juneau Therapeutic court and I am able to drive on a limited license today because of SB 91. This allows me to function as an adult. I am able to help other re-entrants today because I am able to get around.

I have a colleague who is also a therapeutic court graduate who is able to drive now because of SB 91. She is a peer support specialist and provides recovery coaching to people re-entering from prison. The re-entrants really get excited when they work with me and my colleague because it gives them hope. I plan to utilize some of the successful re-entrants to become reentry coaches to further inspire the future re-entrants. The main thing I see is that people need hope and a purpose. I am very grateful for the changes that have happened because of SB 91."

Michael VanLinden
Reentry & Recovery Support Coordinator, National Council on Alcoholism and Drug Dependence, Juneau Affiliate

IV. Reinvestment

Reinvestment in recidivism reduction and violence prevention is an important component of criminal justice reform. When SB 91 was passed, the Commission recommended that the Legislature directly reinvest savings expected to arise from the pretrial, sentencing, and corrections policy changes of the law. The Commission recommended part of the expected savings be reinvested in implementation activities, and that other funds be reinvested in programming to reduce recidivism, prevent violence and improve public safety.

The Commission has been following the progress of the initiatives funded with reinvestment funds. In FY17 and FY 18, reinvestment was allocated to four areas:

- Substance abuse treatment within DOC facilities (prisons and CRCs)
- Victims' services and violence prevention programs (through the Council on Domestic Violence and Sexual Assault)
- Reentry Services (administered by DHSS)
- Implementation activities for the Pretrial Enforcement Division, the Parole Board, the Alcohol Safety Action Program, and the Alaska Judicial Council.

Figure 18 summarizes the reinvestment allocations for FY17 and FY18. Per the fiscal note accompanying SB 91, a planned total of around $100 million is to be reinvested by 2022.

Figure 18: Summary of FY17 & FY18 Reinvestment Allocations
For Criminal Justice Reform Programs

Item	FY17	FY18 (SB 91 Fiscal Note)	Total FY17 & FY 18
DOC			
Substance Abuse Treatment in Prison	$700,000	$1,000,000	$1,700,000
Substance Abuse Treatment at CRCs	$300,000	$500,000	$800,000
DHSS			
Community-Based Reentry Services	$1,000,000	$2,000,000	$3,000,000
DPS			
CDVSA Victims' Services & Violence Prevention	$1,000,000	$2,000,000	$3,000,000
Treatment & Prevention Subtotal	**$3,000,000**	**$5,500,000**	**$8,500,000**
Implementation costs			
Pretrial Services, Commission staffing, ASAP, Parole Board	$5,828,000	$11,179,500	$17,007,500
Reinvestment Total	**$8,828,000**	**$16,679,500**	**$25,507,500**

Figure 168 Source: SB 91 Fiscal Notes

Starting in 2019 the state is planning to receive an estimated $6 million of this funding in the form of Medicaid reimbursement from the federal government.[22] Changes to Medicaid at the federal level could affect that plan.

A. Reinvestment in substance abuse treatment at DOC

Most incarcerated individuals in Alaska suffer from a diagnosable substance abuse disorder or mental illness. A report published in 2014 found that people with mental illness or substance abuse disorders accounted for 65% of inmates in a DOC facility on a given day in 2012.[23] Of these offenders with reported clinical characteristics, about 70% were substance abuse-related (many had both substance abuse and mental illness). For mentally ill or substance abusing offenders, the median length of a prison stay was significantly longer than for other offenders, and they recidivated at higher rates than other offenders.

Figure 19: Share of Alaska DOC Population with Mental Illness and/or Substance Abuse Issues - 2012

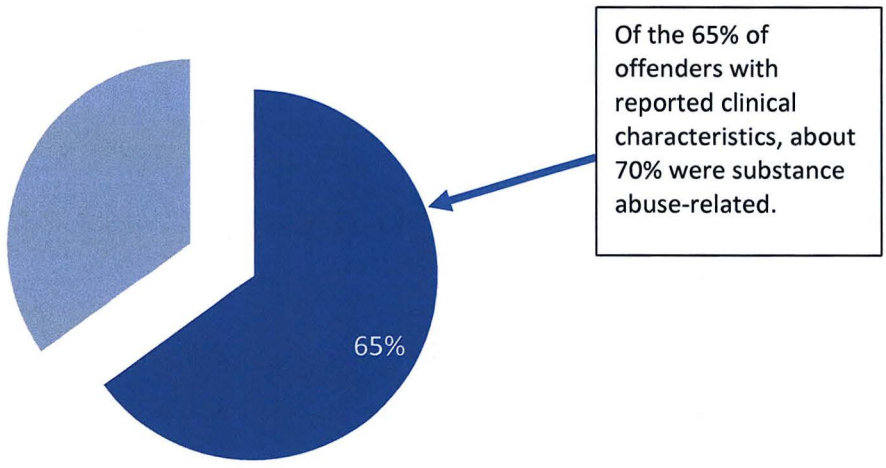

Figure 179 Source: Hornby Zeller Associates, Inc., TRUST BENEFICIARIES IN ALASKA'S DEPARTMENT OF CORRECTIONS (May 2014)

Research shows that substance abuse treatment programming for offenders while they are incarcerated decreases recidivism.[24] Thus, improving prisoners' access to substance abuse treatment was

[22] Starting in FY19, DHSS predicts it will have redesigned the behavioral health system such that a portion of reentry center services will be billable to Medicaid. This scenario assumes a blended rate of 75%, leaving 25% match to the State treasury. So, for example, in FY19 DHSS expects to receive $1,125,000 in federal Medicaid funds, matched by $375,000 in State funds, for a total of $1,500,000 to be spent on referral and case management services to expand access to treatment and support services.

[23] Hornby Zeller Associates, Inc., TRUST BENEFICIARIES IN ALASKA'S DEPARTMENT OF CORRECTIONS (May 2014).

[24] Alaska Justice Information Center, ALASKA RESULTS FIRST INITIATIVE: ADULT CRIMINAL JUSTICE PROGRAM BENEFIT COST ANALYSIS (September 29, 2017) at page 17.

one focus of reinvestment efforts. In FY17 the Legislature appropriated $1,000,000 to DOC to enhance substance abuse treatment for individuals in prisons and CRCs. Of that total, $700,000 was allocated for substance abuse treatment programs within DOC facilities, and $300,000 for substance abuse treatment programs at CRCs.

The DOC had difficulty maintaining substance abuse treatment programming in prisons after its sole treatment provider withdrew from its contract in December 2016. Because of these difficulties, final FY17 expenditures were below allocations (about $165,000 was spent). Despite this, DOC was able to continue basic substance abuse programming in several facilities while working to secure a new contract provider. DOC reports it is making progress in securing contracts for treatment programs inside of facilities. Substance Abuse Treatment materials/curriculum were purchased in anticipation of the new contract and expansion of substance abuse services.

In regard to expanding treatment options at CRCs, final expenditures for FY17 also were below allocations (about $13,991 was spent). Nevertheless, some services were expanded, including the addition of outpatient substance abuse services at the Nome Seaside Center. DOC intends to fully utilize the funding in FY18 due to the further expansion of treatment options that are currently underway. The Northstar Center in Fairbanks continues to offer CBI-SA, which is a low-level outpatient substance abuse treatment program that uses cognitive behavioral intervention. Outpatient treatment is currently being added to the Cordova Center in Anchorage. Next, the Department is hoping to expand these efforts and offer additional substance abuse treatment services at Glacier Manor in Juneau.

In FY18, the Legislature appropriated $1,500,000 to DOC for substance abuse treatment ($1,000,000 for substance abuse treatment programs within DOC, and $500,000 for substance abuse treatment programs at CRCs). The Department advises that it plans to fully utilize all substance abuse treatment funding in FY18.

B. Reinvestment in Victim's Services and Violence Prevention

An important goal of SB 91 was to focus criminal justice system resources on serious and violent crime. Alaska has for many years had high rates of violent crime, and high rates of domestic violence and sexual assault. When the Commission solicited input from victims' groups (including victims and advocates in rural Alaska) about how best to improve victim safety, services, and support, victims' advocates said a top priority was to expand programs focused on crime prevention and bystander intervention. The Commission thus recommended, and the Legislature agreed, to make violence prevention and bystander intervention a priority for reinvestment.

As part of the total FY17 reinvestment appropriation, the **Council on Domestic Violence and Sexual Assault (CDVSA)** received $1,000,000 for primary prevention programs. Alaska has used state resources for primary prevention programming since 2009, however, it was not until the passage of SB 91 that funding amounts for primary prevention work were stabilized. In FY17, the CDVSA used reinvestment funds for these programs:

- The COMPASS project – COMPASS promotes male and youth leadership through mentorship; uses a guide to help adult male mentors create a safe atmosphere for men and boys to learn about and practice healthy lifestyles, healthy identities, and safe and violence-free communities. In FY17, the focus was on sustaining existing efforts, expanding the Train the Trainer project,

providing technical assistance, and standardizing the model and evaluation tools for the Train the Trainer.

- Stand Up Speak Up – A media and engagement campaign to teach youth how to more effectively speak up and encourage other youth to stand up to end violence. FY17 funding supported mini-grants for community-based projects led by youth to promote healthy relationships, respect among peers, and leadership.

- Talk Now Talk Often – A parent engagement project for parents of teenagers; provides resources for parents to speak with their teens about healthy dating relationships. FY17 funds were used to develop a new engagement series for parents to talk to teens about healthy sexuality.

- Coaching Boys into Men – Engages athletic coaches of high school male athletic teams to help shape the attitudes and behaviors of young male athletes. The program equips coaches to talk with their athletes about respect for women and girls and that violence does not equal strength. In FY2017, training was held in Juneau and brought in 16 new high school coaches representing school districts from across the state.

- The Green Dot – A nationally recognized bystander intervention program with the goal of preparing organizations or communities to take steps to reduce power-based personal violence including sexual violence and domestic violence. The "green dot" refers to any behavior, choice, word or attitude that promotes safety for everyone and communicates intolerance for violence. FY17 funds were used to support ongoing technical assistance, expansion into two additional communities, contracts to maintain the existing Green Dot Alaska sites, and collation of evaluation data.

- Girls on the Run – An after school program for girls in the 3rd through 5th grade that encourages positive emotional, social, mental and physical development, healthy adult peer and adult role modeling, and healthy relationships. The FY17 funding was used for statewide coordination support and the addition of one new community to the program.

- Prevention summits, conferences, and victim's services training – A LeadON! conference was held in Anchorage with FY17 funds to engage youth to help change norms around teen dating violence. Also, the FY17 funds paid for a Prevention Summit (held every two years) at which participants learn about coalition building and then apply for mini-grants. Other funds went for statewide training of victim service providers on new legislation.

- Community Based Primary Prevention Grants (CBPPP) – FY17 reinvestment funding provided funding for a full time staff person in the community, and funding to prepare for CBPPP. Four communities that already were working towards comprehensive program planning and implementation under the Community Based Primary Prevention Program (CBPPP) grant were able to evaluate their efforts. In addition, reinvestment funding supported two new communities to build their agency capacity and community readiness.

All prevention programming funded through CDVSA has an evaluation component. Evaluation designs exist on a continuum from simple website metrics to peer-reviewed quality research.

The CDVSA successfully expended $977,711 of its FY17 allocation on these programs. In FY18, it received $2,000,000 for Victims' Services & Violence Prevention. During FY18, the CDVSA intends to continue developing violence prevention programs, with an emphasis on primary prevention, bystander intervention, and robust evaluation of effectiveness.

C. Reinvestment in reentry planning and services

One major driver of recidivism (and prison bed use) is the category of offenders who are released from prison, but who subsequently fail on community supervision. The Commission found that almost two-thirds of offenders released from prison returned to prison within three years; 62% of those offenders return to prison *within the first three months* of release.

Offenders fail on supervision for many reasons, but lack of housing, need for employment, and need for substance abuse or mental health treatment have been identified as important barriers to their successful reentry into the community. The fact that so many reentering offenders fail so quickly after release suggests that these barriers are immediate.

Evidence-based research shows that when support services are frontloaded for medium to high-risk offenders reentering the community, they are more likely to stay out in the community rather than return to prison. In order to reduce or delay offenders' failure on community supervision, funds were invested in programs whose goal it is to help offenders successfully reenter the community. In Alaska, these efforts have been undertaken by community reentry coalitions, reentry case managers, and existing community reentry programs, such as the Anchorage Partners Reentry center. Through community collaborations and partnerships, released offenders can be connected with necessary services and supports such as healthcare, employment, transportation, education/training, and housing.

SB 91 requires DOC officers to work with offenders to develop a reentry plan that the offender will follow upon release. DOC, DHSS, and the Alaska Mental Health Trust are working closely with each other and with local reentry coalitions to connect newly-released citizens with services. More details on this are included in subsection E below.

Reentry Services

Reinvestment funding supported direct services for reentrants in the areas of Anchorage, Fairbanks, the Mat-Su, and Juneau:

- **Individual case management**
- **Housing Assistance (Placement and Transitional Supports)**
- **Treatment (Linkage and non-Medicaid billable supports)**
- **Employment Assistance (Linkage, Job Search and Application Assistance)**
- **Medicaid Enrollment**
- **Public Assistance Linkage (including for SNAP assistance)**
- **Transportation Assistance**
- **Emergency Assistance Supports, including clothing vouchers and identification**

In FY17, DHSS received $1,000,000 to fund Reentry Services.[25] DHSS allocated 77% of these funds for rural reentry coalitions and direct service supports. The majority of the total funding went to reentry case management services and expanded services at the Anchorage Partners Reentry Center. In addition, rural coalitions on the Kenai Peninsula, and in Nome, Dillingham, and Ketchikan were supported with FY17 funds. Also, case managers were funded in Anchorage, Fairbanks, Mat-Su, Dillingham, and Juneau. All the case managers have been hired and have started taking referrals. The case managers target individuals exiting DOC facilities who are at a higher risk of reoffending. These are offenders who have served over 30 days in prison and are within 90 days of release who are medium to high-risk felons or high-risk misdemeanants. Case managers use the risk-needs-responsivity principle, and collect and monitor program data.

An important element of case management is DOC's ability to share information about reentrants with the community reentry programs. In order to improve information sharing, DHSS used a portion of its reinvestment funds for technology platform improvements to the Alaska Corrections Offender Management System (ACOMS) and the Alaska Automated Information Management System (AKAIMS). These improvements allowed secure case management tracking and increased functionality. DHSS spent about 23% of its reinvestment funding on these improvements as well as the study to evaluate the success of the Department of Corrections' Vivitrol Intervention Program, as mentioned above.

In FY18, DHSS was allocated $2,000,000 for reentry services. DHSS will continue to work in collaboration with DOC and other stakeholders to monitor and ensure the outcomes of SB 91. Reentry direct service supports and rural coalition initiatives will continue to be supported and enhanced, and efforts to improve the Medicaid eligibility process for justice-involved citizens will continue, including policy changes and enhanced data tracking by DHSS and DOC.

D. Funding for implementation

The Legislature recognized that SB 91 imposed new and increased responsibilities on some state agencies and it appropriated funding to ensure that the agencies could fulfill these duties. FY17 appropriation for implementation activities was $5,828,000. This included:

- **ASAP resources:** $30,300 to the Department of Health and Social Services to implement recommended improvements to the Alcohol Safety Action Program.
- **Parole Board**: $775,900 to the Department of Corrections for increased staffing and travel for the parole board for increases in the number of parole hearings (hearings increased by 141%).
- **Pretrial Enforcement Division**: $3,260,100 to the Department of Corrections to hire and train officers, develop a Pretrial Assessment Tool and software, lease office space, and buy office equipment.
- **Technical upgrades**: $1,500,000 to the Department of Corrections for database upgrades.

[25] In a separate appropriation, DHSS received $6,000,000 for Treatment and Recovery Grants, with the plan to distribute $2,000,000 in FY17, $2,000,000 in FY18, and $2,000,000 in FY19. These funds were not considered criminal justice reinvestment, and the programs were not targeted at criminal justice offenders or recidivism reduction.

- **Commission support**: $261,700 to the Alaska Judicial Council for staffing, travel, and research support for the Alaska Criminal Justice Commission.

The FY18 funding for implementation was $11,201,100 (the FY18 increase reflects full staffing of the Pretrial Enforcement Division). Breaking down the FY18 appropriations shows that Pretrial Enforcement received $10,187,700 (plus an additional allocation of $21,600 over the SB 91 fiscal note projection because of salary and health insurance increases); the Parole Board received $700,900; the Alaska Judicial Council received $261,700; and ASAP received $29,200. Full implementation of criminal justice reform through 2022 is expected to cost $73,226,700.

E. Programs funded by the Bureau of Justice Assistance

After SB 91 was passed in July 2016, the Commission sought technical assistance to support Alaska during the first two years of implementation. The Commission applied for and received a federal grant from the Bureau of Justice Assistance (BJA) to provide funding and technical assistance to implementation efforts. The technical assistance and grant management is being provided by the Crime and Justice institute (CJI, a division of the nonprofit Community Resources for Justice).

DOC training. BJA approved the Commission's request for the first round of funding in September 2016 for training and implementation assistance. CJI assisted the Department of Corrections (DOC) in implementing the reforms related to parole and probation. CJI assisted DOC in developing policies and procedures for probation and parole officers to respond effectively to negative and positive offender behavior, and trained all community supervision officers in the effective use of these sanctions and incentives, and on other new requirements. CJI also provided training for all institutional parole offices on effective case management practices. Subsequently, CJI provided a "Train the Trainer" course so that DOC has the capacity to train staff on the graduated responses and effective case management skills in the future. BJA funding covered the travel costs to bring DOC staff in for trainings.

The Crime and Justice Institute

- **A division of the Boston-based nonprofit Community Resources for Justice**
- **Provides nonpartisan policy analysis, consulting, and research services to improve public safety throughout the country**
- **Providing Alaska with technical assistance, including training for state employees, for the implementation of SB 91**

BJA approved the Commission's request for the second round of funding in July of 2017 for the following needs:

- **DOC Justice Reinvestment Coordinator**: The Coordinator, expected to begin work in October of 2017, will coordinate and oversee implementation efforts for various initiatives related to SB 91 and any successive bills relating to criminal justice reform and reinvestment efforts. This work will involve ensuring the successful completion of all SB 91 requirements, assisting with the reporting of performance measures to the Commission, reporting to the Legislature, and managing capacity building opportunities.

- **DOC Pretrial Diversion Coordinator**: AS 33.07.020 requires the Commissioner of Corrections to develop regulations that include guidelines for Pretrial Enforcement officers to make diversion recommendations to the court. The statute requires these regulations to be developed in consultation with the Department of Law, the public defense bar, the Department of Public Safety, the Office of Victims' Rights, and the Alaska Court System. To advance this initiative, the Commission supported DOC's request for federal grant funding to hire a coordinator to develop such a program. The funding approved in July of 2017 will be used to hire a coordinator for approximately one year; the Department is in the process of filling that position.

- **Juneau Avert Chronic Shoplifting Pilot Project:** A third need was identified after public testimony at a Commission meeting in Juneau in early 2017. The City and Borough of Juneau (CBJ) attorney shared frustration about chronic shoplifting offenders in Juneau, the effects their offenses were having on local merchants, and the inability of the criminal justice system to reform these repeat offenders.

  Commission staff subsequently reached out to the CBJ attorney and offered to help design and seek funding for a pilot program to reduce recidivism among these repeat petty theft offenders. A program was designed based on interventions that had worked in other contexts, partners in the community were solicited by the CBJ attorney, and the Commission agreed to seek federal grant funding for the project.

  The Juneau Avert Chronic Shoplifting Pilot Project began in October of 2017. This innovative program will identify 40 to 50 repeat petty theft offenders in the Juneau area and offer them a diversion opportunity. Program participants will be assessed in terms of risk of re-offense, and the municipal prosecutor will dismiss their case if they engage in motivational interviewing (an evidence-based practice), work on overcoming a personal obstacle, make restitution, and complete cognitive-behavioral therapy, which includes an anti-shoplifting program.

  The project is a collaborative effort with the City and Borough of Juneau, the Central Council Tlingit and Haida Indian Tribes of Alaska's Second Chance Reentry Program, and the Juneau Alliance for Mental Health. The Alaska Judicial Council has agreed to evaluate the effectiveness of the program.

V. Trends of Note: Crime Rates, Opioids, and Budget Cuts

Section III above contains the data the Commission has gathered thus far on the implementation of SB 91 and the effect it may be having on the prison population. This section includes data on crime rates, the opioid crisis, and the effect of budget cuts on public safety, all of which are provided here to help guide policymakers when considering further reforms to the criminal justice system.

A. Crime Rates

There has been a great deal of discussion and commentary on crime rates in Alaska, particularly following the release of the Department of Public Safety's 2016 crime report. In looking at crime rate data, it is important to note that the causes of crime are notoriously difficult to pinpoint. Evidence shows that crime is driven by a number of factors.[26]

The following graphs document the 30-year crime rate trends in Alaska, using data collected through the end of 2016.

Figure 20: Violent Crimes in Alaska per 100,000 Residents
1987-2016

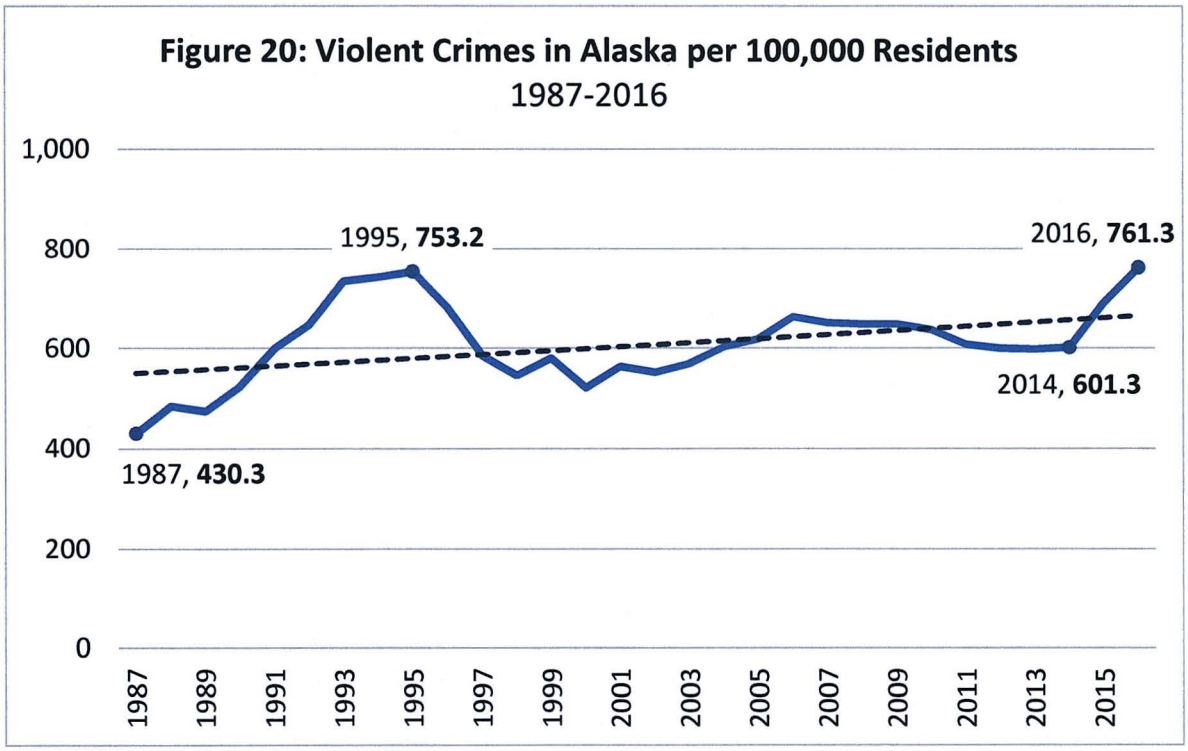

Figure 20 Source: Department of Public Safety

[26] Research indicates that incarceration rates cannot necessarily be correlated with crime rates. A recent study showed that between 2010 and 2015, the overall imprisonment rate in the United States fell by 8.4% and the violent and property crime rate fell by 14.6%. See http://www.pewtrusts.org/~/media/assets/2017/03/pspp_national_imprisonment_and_crime_rates_fall.pdf.

Figure 20 shows violent crime rates in Alaska have risen over the last thirty years on average, with a recent uptick starting in 2015. Property crime rates, on the other hand, have declined over the last thirty years on average.

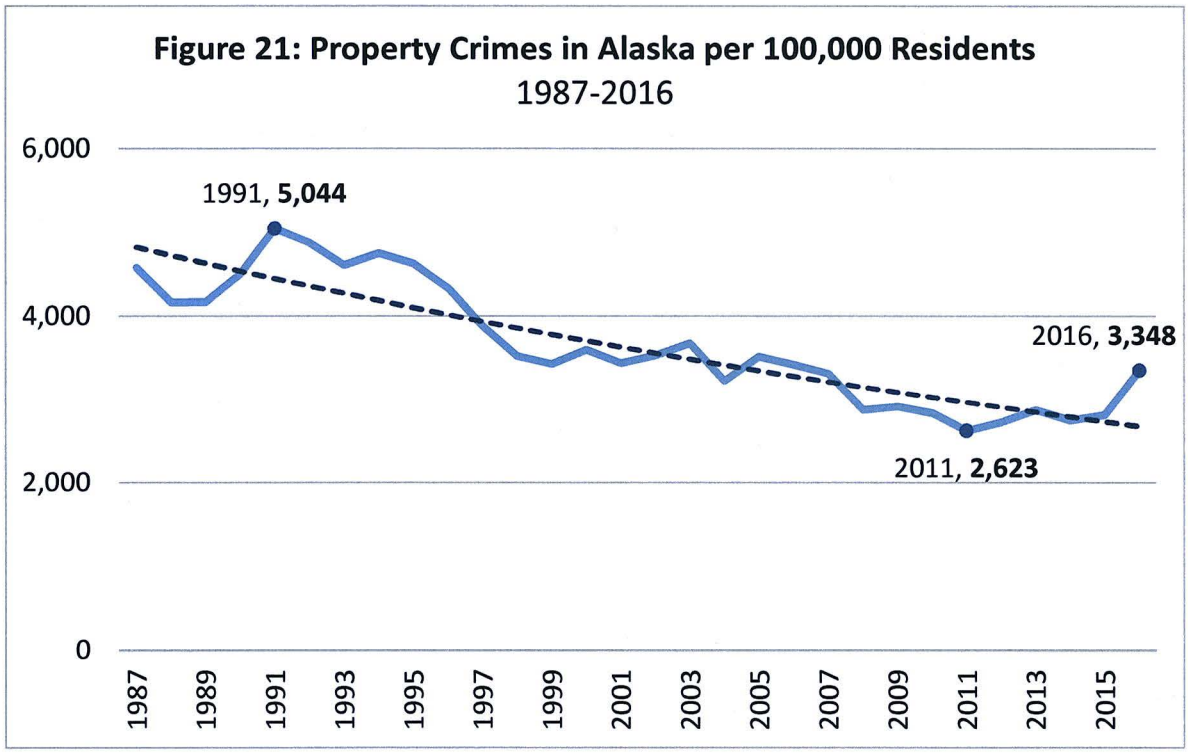

Figure 21 Source: Department of Public Safety

Despite a 30-year downward trend, there was an uptick in property crime rates starting in 2011. In addition, data from Anchorage over the same period shows crime rates following a similar trend.

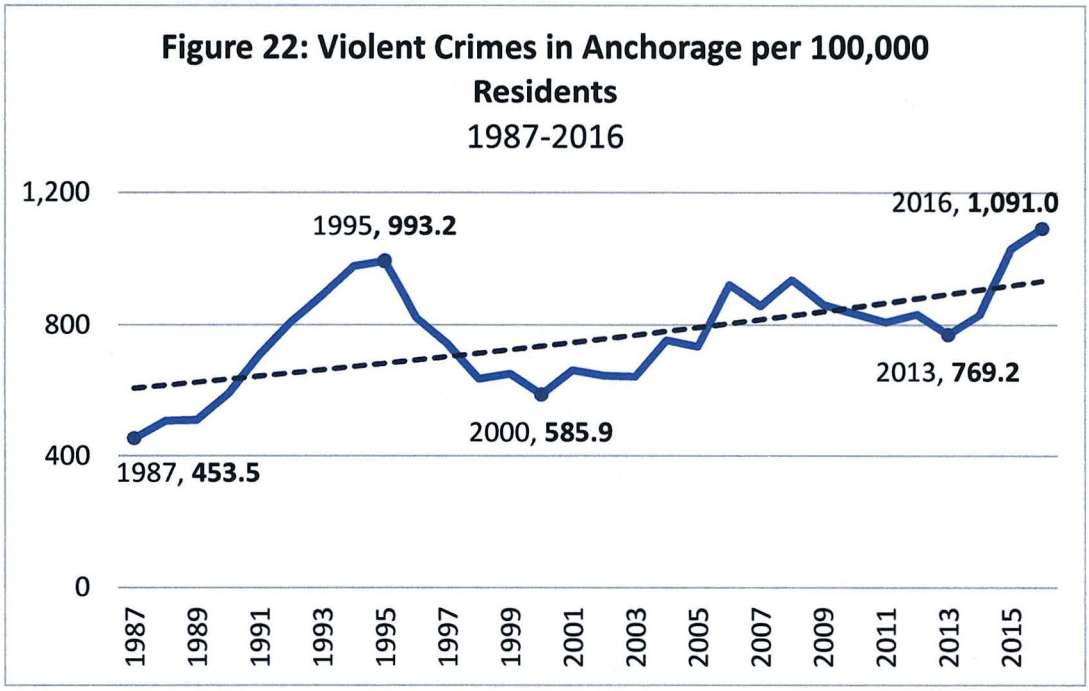

Figure 22 Source: Department of Public Safety

Looking at historical crime rates in Anchorage from 1985–2016 for shoplifting, burglaries, motor vehicle thefts, and larceny thefts, 2016 rates are neither the highest nor lowest over the last 30 years.

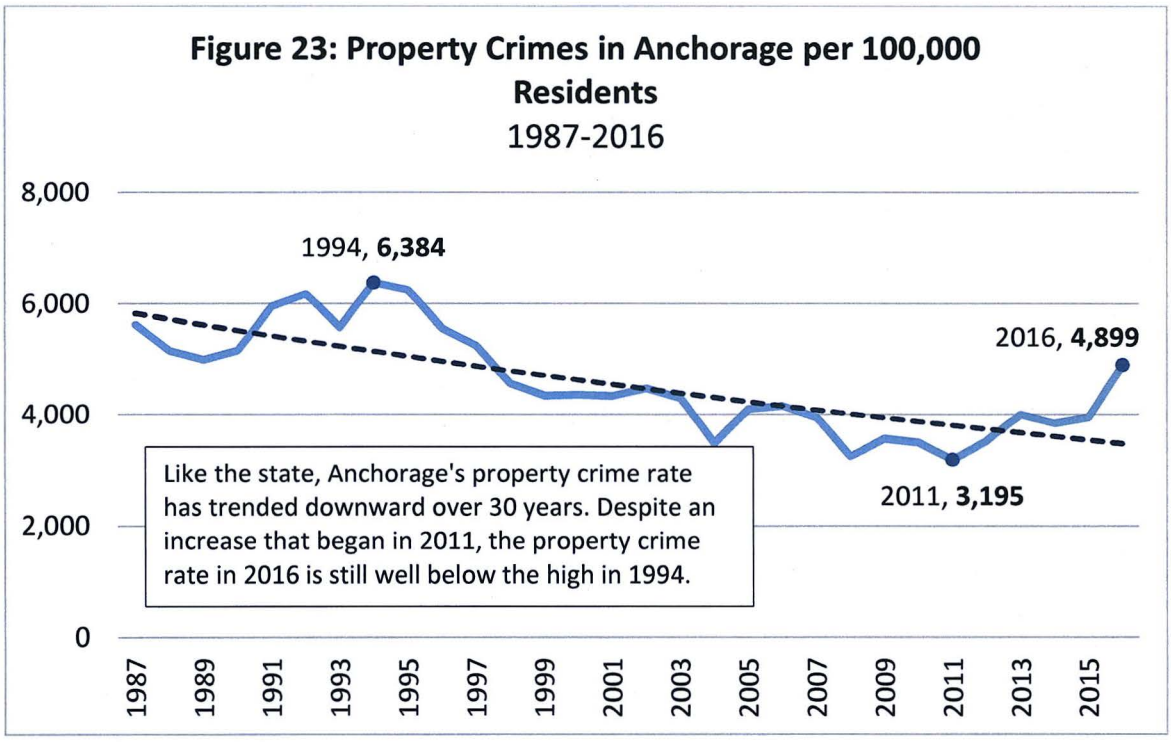

Figure 183 Source: Department of Public Safety

B. The Opioid Crisis

The opioid crisis has likely affected crime rates and should be kept in mind in any discussion concerning criminal justice policy. The crisis led Governor Walker to issue a disaster declaration in February 2017.[27] The rise in opioid use in recent years has produced some startling statistics:[28]

- From 2008 to 2012, hospitalizations in Alaska for heroin poisoning nearly doubled, and heroin-related inpatient and outpatient hospital costs exceeded $2million.
- The number of Medicaid health care services payment requests in Alaska for heroin poisoning increased almost ten-fold from 2004 to 2013.
- During the years 2009–2013 in Alaska, heroin-related admissions to publicly funded substance use treatment centers nearly doubled, and the majority of patients admitted for heroin use treatment were aged 21–29 years; the number of treatment admissions for all patients reporting heroin as their primary substance of choice increased by 58%; and the number of treatment admissions for patients aged 21–29 reporting heroin as their primary substance of choice increased by 74%.

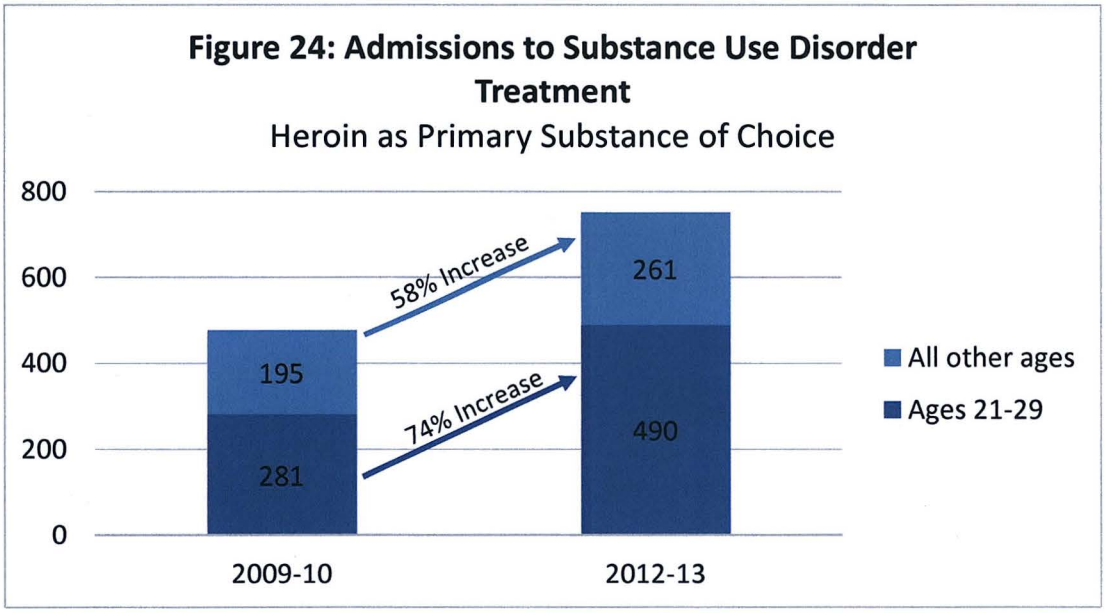

Figure 194 Source: Alaska Department of Health and Social Services, Division of Public Health

- From 2009 to 2015, the number of heroin-associated deaths in Alaska more than quadrupled.

[27] See https://gov.alaska.gov/newsroom/2017/02/governor-walker-issues-disaster-declaration-on-opioid-epidemic/

[28] Statistics from http://dhss.alaska.gov/dph/Director/Pages/heroin-opioids/data.aspx and http://epibulletins.dhss.alaska.gov/Document/Display?DocumentId=12

- In 2012, Alaska's prescription opioid pain reliever overdose death rate was more than double the national average. Alaska's heroin-associated overdose death rate was over 50% higher than the national average.

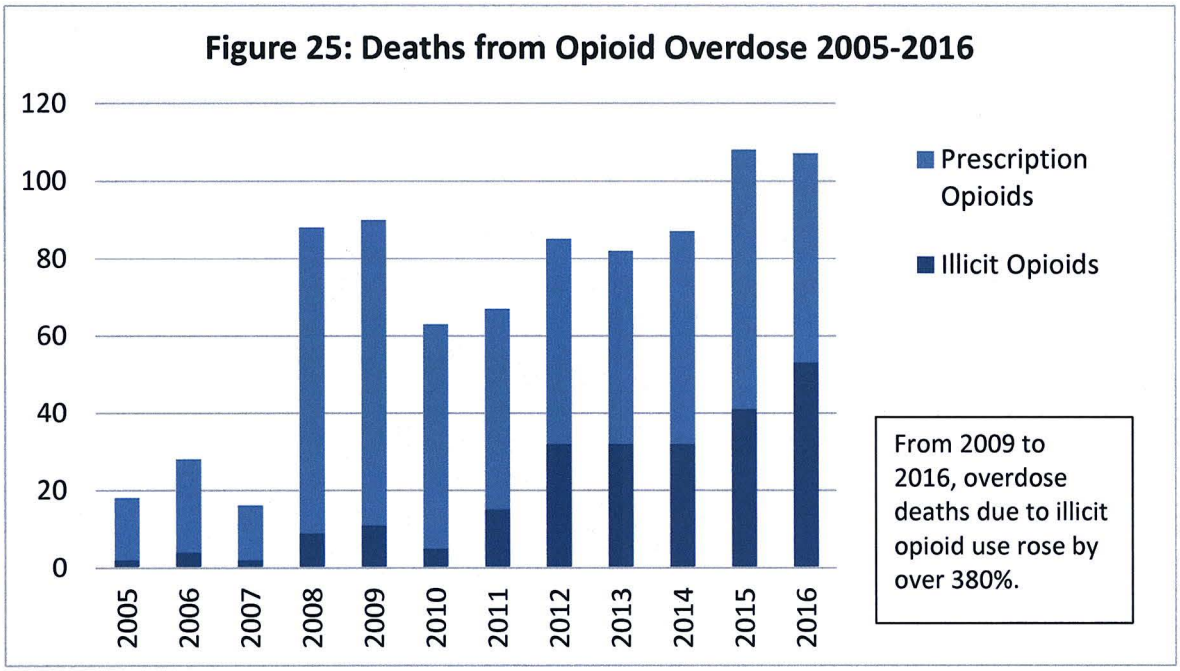

Figure 205 Source: Alaska Department of Health and Social Services, Division of Public Health

C. Budget cuts

Revenue available to fund state government has declined significantly over the last three years in Alaska. The Alaska Legislature has responded by decreasing the operating budget, which funds criminal justice agencies and the court system. Cuts to the budgets of criminal justice agencies and the court system impact the ability of the system to respond to crime.

Department of Law. Compared to FY14, the Criminal Division of the Alaska Department of Law had 22 fewer filled attorney positions in FY17. DOL had 19 fewer filled support staff positions in FY17 compared to FY14. DOL estimates that its capacity to prosecute misdemeanors is down 33% (or 6,863 prosecutions) compared to 2013. The capacity to prosecute felony crimes is down 3% (or 187 cases) compared to 2013. When deciding how to allocate prosecution resources, the DOL has had to prioritize felonies over misdemeanors, and violent crimes over property crimes.

The Department of Corrections' budget decreased 7.1% between FY15 and the current FY18 budget. DOC submitted a fiscal note with SB 91 containing budget reductions of $3,594,600 in FY17 based on projections of reduced prison population, and for FY18 a reduction of $18,713,600.

The **Department of Public Safety**'s operating budget has been reduced by 7% since FY15. As a result, the DPS has lost 37 Trooper positions and closed 8 Trooper posts. In addition, DPS reports 36 current Trooper vacancies (of which 8 are wildlife troopers) because of recruitment and retention

problems. The Village Public Safety Officer Program's budget has been cut by 23.8% since FY15. DPS had 77 filled VPSO positions in June of 2015, compared to 61 in June of 2016 and 51 in June of 2017.

The **Office of Public Advocacy** and the **Public Defender Agency** budgets have not kept up with the workload. When criminal defense attorneys must carry larger caseloads or more serious cases, it can contribute to delay in resolution of cases.

In the last three years, the **Alaska Court System** budget has been managing a 10.1% cut, equal to about $11,000,000. To meet the budget challenges, the court system reduced the number of employees by almost 9%, significantly reduced expenditures on supplies and equipment, increased operational efficiency through improved use of technology and other means, closed courts statewide on Friday afternoons, and received savings from employees across the state who took voluntary leave without pay.

VI. Savings and Recommendations for Reinvestment

AS 44.19.645 requires the Alaska Criminal Justice Commission to "annually make recommendations to the governor and the Legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism." This section of the report first examines savings related to criminal justice reform, and it then sets forth four principles that the Commission recommends should be followed when making decisions about reinvestment.

A. Analysis of Savings from Criminal Justice Reforms

This section examines predicted and actual cost savings in the criminal justice system that have occurred since criminal justice reform began in July of 2016. Included in this discussion is an analysis of predicted and actual savings attributable to changes in prison bed usage at DOC, and money appropriated to the Recidivism Reduction Fund created by SB 91.

Savings at DOC- Predicted savings. The criminal justice reforms contained in SB 91 were anticipated to decrease use of prison beds and result in $380 million in savings to the state: $169 million in avoided costs over ten years and $211 million of net savings over the next eight years. Both of these items are discussed below.

- Avoided Costs. Before criminal justice reform was enacted, DOC projected that its average daily prison population would increase by 1,146 inmates by 2024. This growth would have surpassed DOC's existing capacity by 2017 and forced the state to reopen a closed facility, and then either transfer inmates out of state or build a new prison. The department estimated that accommodating the projected growth would cost at least $169 million by 2024.[29] Breaking down the $169 million figure by year, it was estimated that the state would have needed to spend an extra $3.8 million to house increasing numbers of offenders between July of 2016 and July of 2017 unless reform were enacted.
- Net Savings. The predicted net savings of $211 million were to be accrued by reducing the prison population 13% by 2024. In 2017, it was estimated that SB 91 would reduce prison bed use by 328 beds, resulting in an anticipated net savings of $4,973,620.[30]

Savings at DOC- Actual reductions in prison bed usage. Since Alaska's criminal justice reform package was enacted in July of 2016, DOC has not surpassed its existing capacity, thus averting the need to spend an additional $169 million on prison bed expansion ($3.8 million in the first year of reform). Also as predicted, the DOC population decreased during the first year of criminal justice reform, driven primarily as expected by the big drop in the supervision population and the parole changes. Quantifying the magnitude of this reduction depends on the methodology used to count bed use. A straightforward

[29] With the projected growth, DOC calculated that institutional capacity (around 5,200 beds) would be reached in 2017. To accommodate growth after that, it was assumed that DOC would first re-open a closed 128-bed facility (an additional $3.8 million/year in operating costs). After that capacity was projected to be filled, the overage would be contracted out of state at a cost of $100/day for housing and $2,000/person for roundtrip travel. Using these assumptions, the total cost of accommodating the projected growth through 2024 was estimated at $168,968,500.

[30] Calculated using the marginal per-inmate cost savings, which DOC has estimated at $41.49/day. The calculation is 328 x $41.49 x 365 = $4,973,620.

point-in-time comparison[31] of the DOC population on July 1, 2016 (when the first reforms began to go into effect) to July 1, 2017 shows there were 4,658 inmates on July 1, 2016, and only 4,221 inmates on July 1, 2017, **a post-reform decrease of 437**. Alternatively, beds in use on July 1 of 2017 can be compared to beds in use on July 1 of 2014 (the last full year before reform legislation was introduced). The difference between beds in use on July 1, 2014 and beds in use on July 1, 2017 is 874 fewer beds.

Another approach is to compare the average prison bed use over one year to the average use over a subsequent year (yearly daily average). Using this method shows that the yearly daily average for prison bed use in FY16 (before reform) was 4,873, compared to 4,437 in FY17, **a decrease of 436 beds on average** during the year. This method has the advantage of accounting for the daily fluctuations in the number of beds being used; however, it is somewhat more complicated to calculate than point-in-time estimates.

As time goes on, other methods may be used to examine changes in prison bed use.[32] Any method of understanding prison bed use has advantages and drawbacks. The point-in-time estimates fail to account for bed changes over the course of the year, but they are easy to understand and replicate. The daily averages are more complicated to calculate but could give a more accurate accounting of changes over the course of the year.

Whichever method is used to examine the post-reform changes in the prison population, the results are the same: **prison bed use decreased faster than predicted**. Depending on which method is used, the actual decrease varies; however, both methods described above yield results exceeding the predicted decrease of 328 for the first year of implementation.

Context for Understanding Bed Usage and Cost Savings at DOC. Discussions of bed usage and cost savings must be understood in the context of ongoing budget cuts at DOC. In the very first year of criminal justice reform, the Legislature and the Department of Corrections enacted funding cuts based on anticipated annual population reductions.[33] For example, in FY17 the DOC budget was decreased by $7,094,600. These cuts were calculated on the assumption that a year's worth of anticipated bed reductions would be achieved beginning on Day 1 of the fiscal year. This assumption of course is not exactly accurate, because a year's worth of bed decreases does not occur all at once; rather it occurs over the course of the year. So even though DOC eventually surpassed the targeted 326 bed reduction for FY17, it did not do so until more than half of the fiscal year was over. In other words, for at least half of the FY17 fiscal year, the population remained above the target and DOC's costs to house those inmates were therefore higher than allocated.

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[31] This method has several benefits: It is easy to explain and understand, simple to replicate going forward, and consistent with earlier analyses. It is also the method used to inform the Commission's justice reinvestment recommendations. On the negative side, point-in-time comparisons do not account for fluctuations in the number of beds being used over the course of the year.

[32] Another approach is to compare the number of beds in use after one year of reform (July 1, 2017) to predictions of how many beds would have been in use on that same day if reform had not been enacted. If reform had not been enacted, prison bed use on July 1, 2017 was projected to have been 1,051 beds higher than it actually was. Like method 1, this method does not take into account the daily fluctuations in the number of beds being used.

[33] The Department of Corrections submitted a fiscal note for SB 91 projecting annual savings totaling $17,350,500 over six years.

The Commissioner of Corrections responded to the FY17 short funding in part by closing a facility. The Commissioner closed the 500-bed Palmer Correctional Center during phases in 2016 and sent the inmates to other facilities. Closing Palmer saved DOC an estimated $5.6 million over the course of 2016 even though the inmates went to other facilities, including 128 beds at the Point McKenzie Farm that were brought online specifically to handle the Palmer inmates.

The Legislature cut DOC's budget by an additional amount in FY18 based on continuing anticipated decreases to the prison population. Thus, in the time that Alaska has been discussing and implementing criminal justice reform, the Legislature has decreased institutional funding for DOC by a total of $18,713,600.[34] Because of this decreased funding and because bed reductions were not achieved starting at the beginning of each fiscal year, DOC is currently operating at a deficit. In other words, while the intended bed reductions did happen, the exact timing of those reductions over the year impacted savings.

It also may be useful to consider the post-reform reductions in prison bed use in the context of historical trends in DOC bed use. Before 2014, the prison population in Alaska had risen 27% in the prior 10 years, and the prison utilization rate had risen 13%. After 2014, however, DOC bed usage began falling. Figure 26 shows the institutional population as a snapshot on July 1 of each year since 2015. The

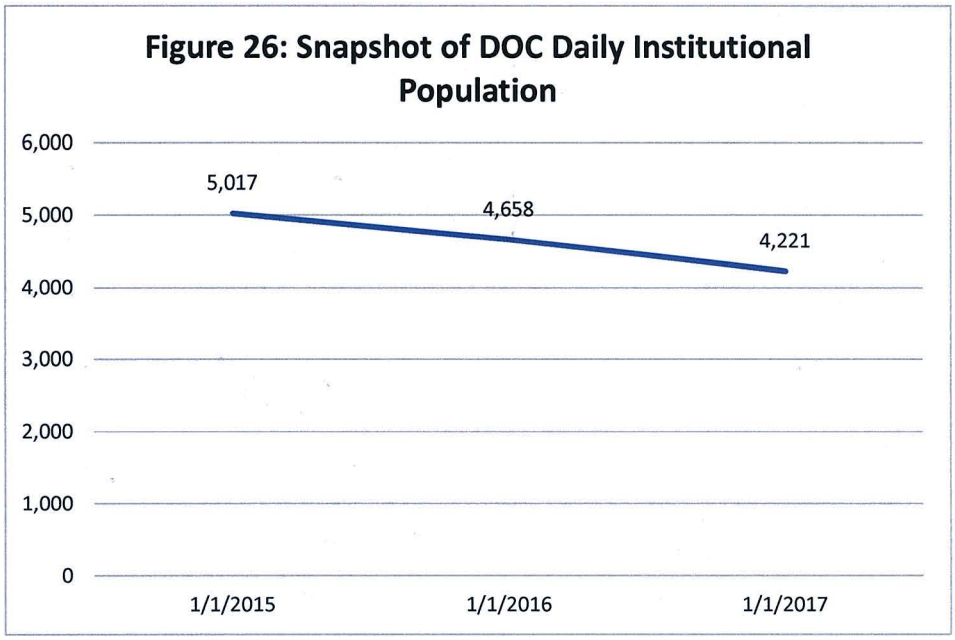
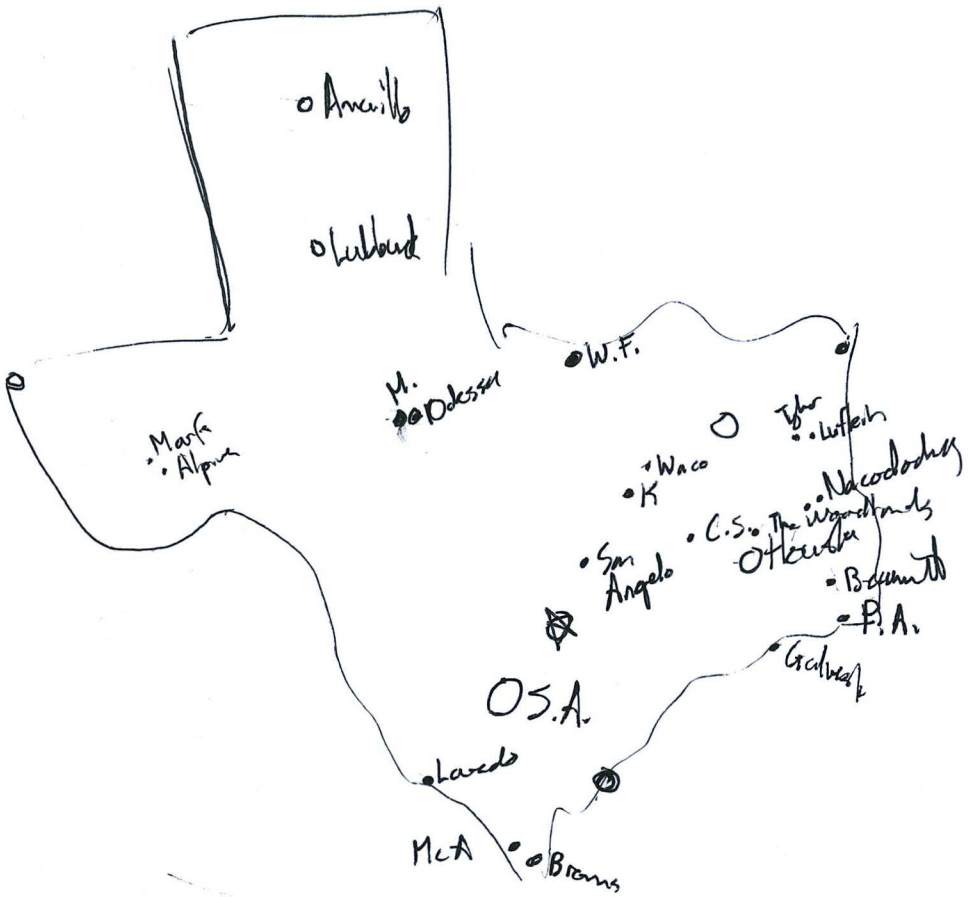


Figure 216 Source: Alaska Department of Corrections

downward trend shown by Figure 26 is likely attributable to a number of factors, including: budget cuts to the Departments of Law and Public Safety; changes made by practitioners in anticipation of criminal justice reform being enacted; SB 91 reforms to criminal sentencing laws that went into effect in July of 2016; and SB 91 changes to post-release supervision practices that went into effect in January of 2017.

[34] Decrements in addition to the ones discussed here have been made to DOC's budget; however, the items described here are the decrements explicitly tied to criminal justice reform.


Amarillo
Lubbock
W.F.
Waco
San Angelo
C.S.
Beaumont
P.A.
Laredo
Brownsville
Nacogdoches

Tax Revenue from Marijuana Sales. The Legislature supplemented its initial reinvestment of savings by establishing a Recidivism Reduction Fund using 50% of the state's new tax revenue from the sale of marijuana.[35] These monies are available to the Legislature to make appropriations to the Department of Corrections, the Department of Health and Social Services, or the Department of Public Safety to fund recidivism reduction programs.[36]

In August of FY17, the Department of Revenue reported that it had collected $1,748,500 in marijuana tax revenue. Of that amount, DOR transferred 50% ($838,391) to the Department of Administration's Recidivism Reduction Fund.[37] Just over $3 million has been collected by Alaska's tax division since marijuana payments began in October of 2016.

B. Recommendations for Reinvestment

Recommendations for Further Reinvestment. The Commission is tasked by statute to make recommendations to the Legislature for reinvestment. As demonstrated in the discussion above, the Legislature invested $8,500,000 in criminal justice reform programs in FY17 through FY18. From July 2016 through July 2017, the state set aside an additional $838,391 in marijuana revenue for reinvestment in recidivism reduction programs.

Implementation funding and investment over the last two years has provided important resources to Alaskan communities. Nevertheless, the Commission recommends that the Legislature continue to increase its investment in recidivism reduction programs. Savings the state has accrued because of SB 91 will only be temporary if Alaska does not continue to concurrently invest resources to tackle the broader societal issues that drive individuals into the criminal justice system. Though the full amount of savings

The Commission recommends the Legislature devote substantial funding for justice reinvestment now, in advance of the total anticipated savings to be achieved long-term.

[35] See AS 43.61.010(c): "The recidivism reduction fund is established in the general fund. The Department of Administration shall separately account for 50 percent of the tax collected under this section [excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or manufacturing facility] and deposit it into the recidivism reduction fund."

[36] AS 43.61.010(d). If the marijuana taxes collected were lower than projected for fiscal year 2017, the Legislature intended to cover the shortfall by supplementing the fund with appropriations from the alcohol and other drug abuse treatment and prevention fund established in AS 43.60.050. See Section 1 of SB 91 which amends the uncodified law of the State of Alaska as follows: "LEGISLATIVE INTENT.... (a) It is the intent of the Legislature that, if the taxes collected under AS 43.61.010 are lower than projected for fiscal year 2017, the Legislature appropriate funds from the alcohol and other drug abuse treatment and prevention fund established in AS 43.60.050 to cover the shortfall", and "(b) It is the intent of the Legislature that reinvestment of excess funds be made into providing additional law enforcement resources in communities throughout the state."

[37] Allocations from the Recidivism Reduction Fund are controlled by the Department of Administration. The money DOR received in July for June activities was accrued and included as a total in its Annual Report, but the monthly transfer to the Department of Administration was in FY18.

has not yet been realized, the projected net savings through 2024 was over $200,000,000. The Commission recommends "frontloading" the reinvestment of this anticipated savings.

Without investing in behavioral health treatment, education, and violence prevention, Alaska may see the financial gains from criminal justice reform disappear within a matter of years. The Commission therefore recommends a robust reinvestment commitment to support and redouble ongoing state efforts to aid those facing mental health crises, drug and alcohol addiction, homelessness, and cycles of violence—problems which are commonly found in criminal offenders.

Additional reinvestment must continue to be targeted and focused on individual rehabilitation, promoting healthier communities and public safety. The Commission's duty is to make recommendations based on research and best practices. To that end, the Commission has carefully considered how best to optimize Alaska's investment in adult criminal justice programs. The Commission's analysis and approach is based in large part on the work of the Alaska Justice Information Center's *Results First* project.[38] The *Results First* benefit-cost analysis and AJiC's findings are explained below, followed by the Commission's recommendations.

Alaska Justice Information Center/Results First. AJiC used the *Results First* model to develop comprehensive estimates of the benefits and costs of state-funded adult criminal justice programs in Alaska. Benefit-cost analysis is an analytical method that assesses the *costs* associated with each adult criminal justice program, and the avoided costs (*benefits*) to the state and crime victims achieved through recidivism reduction. For the state, avoided costs include the arrest process, incarceration, court, and probation. Associated societal costs to crime victims include both tangible and intangible costs. Tangible costs include items such as lost wages and medical care. Intangible costs include emotional hardship, pain, and suffering.

AJiC used data supplied by the administrators of Alaska's criminal justice programs to estimate the costs of delivering those programs. It also used Alaska-specific data about recidivism rates and the costs of recidivism in Alaska to estimate the benefits that are expected to be generated by each program's

[38] Report available at: https://www.uaa.alaska.edu/academics/college-of-health/departments/justice-center/alaska-justice-information-center/alaska-results-first.cshtml .

ability to reduce recidivism. It should be noted that AJiC used national data, not Alaska-specific data, to determine the ability of each program to reduce recidivism.[39]

AJiC's inventory of adult criminal justice programs in Alaska provides important information about how Alaska spends its criminal justice program dollars. AJiC's inventory identified 54 adult criminal justice programs operating in Alaska. It found that 32 of those programs matched the national evidence base. Of the 32 programs matched, 26 were funded wholly or in part by the State of Alaska. Approximately 90% of the state's total monetary investment in adult criminal justice programs is directed to programs matched to the evidence base.[40]

Of the 32 programs in the evidence base, 19 qualified for further analysis in the *Results First* model.[41] These 19 programs accounted for 82% of the state's total monetary investment in adult criminal justice programming. The programs ultimately included in the model were: the Alcohol Safety Action Program administered by DHSS: batterer intervention programs certified by the Council on Domestic Violence and Sexual Assault (CDVSA); electronic monitoring programs administered by DOC

Results First

- An analysis of the cost effectiveness of Alaska's criminal justice programs
- Conducted by the Alaska Justice Information Center
- Looked at 19 programs which represent 82% of the state's investment in criminal justice programming
- Cost-benefit analysis based on the ability of each program to reduce recidivism

[39] AJiC could not use Alaska-specific program data on recidivism reduction effects because no Alaska program has been rigorously evaluated as to effects on recidivism. Before adopting a national recidivism effect size, AJiC consulted with program administrators in Alaska to "match" the Alaska programs to similar programs in the national evidence base. If the Alaska program "matched" a program in the evidence base, AJiC assumed that the Alaska program would achieve the same effects on recidivism as had been shown by the national evidence base.

[40] Reasons some of the programs did not qualify for further analysis included: (1) the program was in the evidence base but its purpose was not to reduce recidivism (for example, 12-step programs); (2) the evidence was insufficient to determine a reliable recidivism reduction effect (too few studies, studies of substandard scientific rigor), and (3) the program did not receive dedicated state funding (for example, the Ignition Interlock program, which is essentially self-pay).

[41] Reasons some of the programs did not qualify for further analysis included: (1) the program was in the evidence base but its purpose was not to reduce recidivism (for example, 12-step programs); (2) the evidence was insufficient to determine a reliable recidivism reduction effect (too few studies, studies of substandard scientific rigor), and (3) the program did not receive dedicated state funding (for example, the Ignition Interlock program, which is essentially self-pay).

for sentenced offenders[42], intensive outpatient substance abuse treatment (community-based, prison-based and dual diagnosis); Probation Accountability with Certain Enforcement (PACE); Psych-Educational Substance Abuse Program; residential substance abuse treatment administered by DOC; sex offender treatment administered by DOC (community-based outpatient, prison "outpatient," and residential/therapeutic community); therapeutic courts; and vocational/adult general education. Of these 19 adult criminal justice programs, all but one produced positive return on state investment.

The AJiC Results First report is a baseline report of Alaska's ongoing state funded programs. The Commission urges entities administering adult criminal justice programs to review the Results First report with an eye toward analyzing cost structure, cost drivers, and addressing those problems where possible (for example, increase program capacity or usage; re-negotiate treatment contracts, etc.), with the goal of reaching "break even" or positive return on investment.

Suggested Principles for Reinvestment Decisions. The Commission recommends state investment in programs based on the following principles.

Principle 1: Reinvestment should be strategic, data-driven and collaboratively implemented.

The Commission also recognizes that reinvestment spending must be coordinated in order to be most effective. While the programming that has been funded has improved the lives of many Alaskans, the return on investment of such efforts can be maximized through a coordinated approach. The Commission therefore recommends appropriating reinvestment funds according to a strategic plan. The strategic plan should pay particular attention to the need for substance abuse treatment, which has been shown to reduce recidivism, and mental health treatment. The need for treatment is great, and funding should be coordinated so as to have the maximum benefit to Alaskans.

Key criminal justice stakeholders should regularly review updated data to determine what factors drive who enters the criminal justice system and why. Collaborative and strategic planning is especially important when reinvesting around populations that are significantly overrepresented in the criminal justice system – such as those with mental and other behavioral health disorders – and are also high utilizers of state services. Implementation of reinvestment programs should be collaborative to reduce gaps between agencies that must cooperate to implement successful programing and to break down funding silos that prevent maximum service delivery to shared populations.

Principle 2: Most reinvestment should be directed towards programs in the evidence base.

The Commission recommends funding be directed to the extent possible to programs that have been rigorously evaluated. By focusing primarily on programs within the evidence base, Alaska maximizes its ability to predict program effects, and minimizes the chance of investing in programs that have no effect on recidivism or even increase recidivism. Currently, 90% of state investment in adult criminal justice programs goes to programs matched in the evidence base; the state should endeavor to maintain this ratio of investment in evidence-based programs.

[42] These are offenders who qualify to serve part of their sentence at home (see www.correct.state.ak.us/probation-parole/electronic-monitoring).

Of particular note are programs to treat substance abuse. Many substance abuse treatment programs, which can be administered in prison or in the community while the offender is under community supervision, are in the evidence base. Alaska already invests and has reinvested in evidence-based substance abuse treatment programs, but the Commission has heard repeatedly from the public and stakeholders that treatment slots are inadequate and are not available soon enough.

The Commission does not recommend that *all* state funding be directed to programs in the evidence base, because opportunity for innovation and adaptation is needed. State funding for programs not in the evidence base should be limited to programs that target Alaska-specific problems or cultural groups. To be eligible for state funding, programs not in the evidence base should demonstrate that they follow some evidence-based practices or are based on best available research. To the extent that the state funds recidivism reduction programs that are not within the evidence base, funding should include a rigorous evaluation component.

Principle 3: Reinvestment should be directed towards evidence-based programs that have been shown to reduce repeat offending, thereby decreasing future crime.

Programs that have been shown to reduce recidivism should be chosen over programs that have no effect or a negative effect on recidivism. This principle holds public safety paramount, because programs that reduce recidivism avoid future victimization.

Again, the Commission would point out the effectiveness of programs that treat substance abuse in reducing recidivism. Alaska already invests and has reinvested in evidence-based substance abuse treatment programs, but the Commission has heard repeatedly from the public and stakeholders that treatment slots are inadequate and are not available soon enough.

As explained below, the Commission also strongly supports funding of evidence-based violence prevention. It also supports innovation in programs designed to reduce domestic violence recidivism, and rigorous evaluation of all adult criminal justice programs currently operating in Alaska.

The Commission understands that some programs that do not reduce recidivism may have other positive attributes or outcomes. For example, studies have shown that batterer intervention programs (BIPs) using the Duluth Model can have a negative impact on recidivism;[43] however, these programs also provide a great deal of support to victims. Regulations governing state-certified BIPs in Alaska are generally understood to require conformance to the Duluth model.[44]

The Commission acknowledges that Alaska's BIPs have not been individually evaluated, and therefore it cannot be known what effect our specific programs may have on offender

[43] It should be noted that victim advocacy agencies in Alaska do not agree that Duluth-based batterer intervention programs do not reduce recidivism.

[44] Specifically, the regulations (at 22 AAC 25.010 - .090) require state-certified programs to, among other things, require attendance for a minimum of 24 weeks in gender-specific counseling sessions; use confrontation as an educational tool; address "issues of power and control, the beliefs and values that lead to domestic violence in our society, and a participant's responsibility for domestic violence"; and report program participants' non-compliant behavior to the court, the prosecutor, the local law enforcement agency, and the participant's probation or parole officer.

recidivism.[45] It is possible that Alaska's programs perform better than the national average, although it is also possible that they perform the same (or worse) than the national average. Programs operating in Alaska have changed over the years, and new BIP certification regulations have been proposed by CDVSA that more accurately reflect the actual programs being offered in Alaska. The Commission strongly supports opportunities for rigorous evaluation of Alaska's batterer intervention programs to understand their current functioning and their effect on recidivism before investing more funds into these programs.

Principle 4: Whenever possible, reinvestment should be directed towards programs that generate tangible monetary benefits and positive return on investment.

When a program achieves significant recidivism reduction effects, it creates tangible benefits in the form of reduced future criminal justice administration and future victimization costs. Yet, due to inherent structural and contextual factors that inflate programmatic costs (for example, small populations and/or geographic isolation) even some highly effective Alaska adult criminal justice programs cannot produce benefits that exceed programmatic costs. Rural Alaska, as an example, is a high-cost environment where service delivery is often more expensive than elsewhere. Nevertheless, recidivism-reducing programs in rural areas and programs that target important groups of offenders who may live in rural areas should receive state investment.

The Commission urges entities administering adult criminal justice programs to analyze cost structure, identify cost drivers, and address those problems where possible (for example, increase program capacity or usage; re-negotiate treatment contracts, etc.), with the goal of reaching "break even" or positive return on investment.

Principle 5: Prioritize funding for programs that target high risk (and medium risk) offender groups.

High-risk offenders tend to have substantial problems in multiple areas, little motivation to change, live in criminogenic environments, and engage in a wide range of antisocial behaviors. They often are more difficult to manage than lower-risk offenders and therefore are often the first to be excluded from programming. Yet when high risk offenders reoffend, the composition and severity of the reoffending patterns are a greater threat to safety and community well-being than low risk offenders. Thus, state investments in adult criminal justice should be directed primarily at recidivism reduction efforts aimed at high-risk offenders.

This principle should not be construed to recommend excluding any funding for programs that divert low-level offenders from further involvement in the criminal justice system. The Commission is concerned about the inappropriate use of incarceration for the mentally ill.

To the extent that resources permit, appropriate services tailored to the needs of low-risk offenders should also be funded, in accordance with the risk-needs-responsivity principle. This evidence-based practice dictates that programs should match the level of service to the offender's risk to re-offend – and also adjust supervision accordingly. Therefore low-risk offenders should receive some degree of attention, but not so much that it produces a negative result.

[45] DOC's regulations require state-certified BIP programs to monitor program participants' recidivism for 12 months after the participant completes or drops out.

Principle 6: Reinvestment should be targeted at all areas of the state, including rural Alaska.

The Commission has received testimony about the dearth of adult criminal justice programs in rural Alaska, as well as the need for expanding program capacity in urban areas. The Commission recommends that some reinvestment funds be directed to capacity building for community-based justice services in rural Alaska (for example, rural reentry coalitions). Building capacity in rural Alaska would allow at least some offenders to return to their home communities or rural hubs to complete treatment or programming. Offenders who wish to complete treatment or programming closer to home believe they will be better supported and more successful than doing so while living in urban areas.

This principle may operate in tension, to some degree, with principle 4. Running programs in rural areas of Alaska tends to be costly and therefore a monetary return on investment may be more difficult to demonstrate. Nevertheless, there is a great need for services in rural Alaska, and rural Alaskans have an equal right to the services enjoyed by their urban counterparts. Of particular concern is the availability of substance abuse treatment services in rural Alaska, since many such programs are in the evidence base and have been shown to reduce recidivism.

Principle 7: Maintain and expand funding for victim's services and violence and other prevention programming.

The Commission strongly supports funding for evidence-based violence prevention programming, because prevention has the effect of reducing offending. For example, many of the efforts of the CDVSA in recent years have been directed at prevention, and the most recent Alaska Victimization Survey shows that fewer women reported being victims of domestic violence and sexual assault compared to the previous survey.[46] The Commission is encouraged by these results.

The Commission also supports funding for evidence-based prevention programming that target at-risk youth and children who may be affected by adverse childhood experiences (ACEs). Research shows that children affected by ACEs are overrepresented in the criminal justice population. Funding should be directed toward breaking the intergenerational cycle of criminal justice involvement.

Furthermore, funding for victim's services provides an element of restorative justice that is often overlooked in the criminal justice system. Providing support to victims takes many forms and the Commission commends the many organizations working across Alaska working in this field. Similarly, the Commission encourages the facilitation of victim restitution as outlined in its December 2016 report—including expanded funding for "bridging" funds which help cover victim expenses until the defendant is able to pay restitution.

[46] Comparing results of the 2015 Alaska Victimization Survey to the results of the 2010 survey shows that 50.3% of adult women in Alaska experienced sexual violence, intimate partner violence, or both, in their lifetime, versus 58.6% in 2010 – a rate that is still too high but nevertheless represents a seven percentage point reduction. Similarly, 8.1% of adult women in Alaska experienced sexual violence, intimate partner violence, or both in the past year, versus 11.8% in 2010.

VII. Conclusion

Attempts to change a system as large and complex as Alaska's criminal justice system cannot be accomplished immediately, and the effects of any changes will take time to manifest. The agencies charged with implementing SB 91 have worked hard to improve their policies and procedures in accordance with the law, while managing staff shortages and reduced operating budgets.

Understanding that few conclusions about outcomes can yet be drawn, the Commission has submitted in this report its findings on some initial trends in the use of prison beds, supervision and discretionary parole procedures, and an accounting of accomplishments to date from reinvestment initiatives. With a few exceptions, these results are positive or trending in the expected direction.

But the Commission's assessment also has highlighted factors other than changes to the law that are significantly impacting criminal justice practice – namely, reductions in the operational capacity of criminal justice agencies and courts (and the concurrent realignment of priorities); the rise of opioid drugs; and an unexpectedly pervasive misunderstanding about key provisions of the law, even among law enforcement. The Commission also has heard complaints about rising crime rates and has attempted to investigate these concerns. The best available data shows that any increasing crime trends began some time before SB 91, crime rates are different in different cities, crime has many variables and is influenced by many factors, and crime is best understood by taking the long view rather than a few months. Attempting to quantify the effects any of these situations may be producing compared to the effects of reform is difficult.

Finally, the Commission has carefully considered reinvestment. Reinvestment in treatment and other recidivism reduction programs is key to achieving good public safety outcomes. The Commission has submitted for consideration a few principles for reinvestment that emphasize coordination of efforts, statewide distribution of resources, and reliance on evidence-based programs most likely to deliver positive benefits.

The Commission wishes to thank all the individuals who provided data for this report, and looks forward to updating its findings in future reports.

Further information

For more information regarding the work of the Criminal Justice Commission, contact Commission Staff Attorney Barbara Dunham at 907-279-2526 or bdunham@ajc.state.ak.us.

APPENDIX A: Organization

Representation. The legislative history of SB64's enactment showed a desire for convening a diverse group of agencies and interested parties in the criminal justice area who could work jointly to identify, vet and forward proposed reforms to the Legislature. Although the statute allowed for the designation of representatives, Commissioners almost always directly participate in Commission meetings.

Leadership. SB64 required the yearly election of Commission leadership. The Commission's first Chair, retired Supreme Court Justice Alexander O. Bryner, was elected in September 2014. Gregory Razo, elected in October 2015 and re-elected August 2016 and August 2017, succeeded Justice Bryner. Brenda Stanfill is the Vice Chair, filling in when Commissioner Razo is absent.

Voting. The two Commission chairs have sought to have proposals resolved by consensus. Policies which lack consensus but have majority support will also be forwarded to the Legislature, with an explanatory note regarding majority support.

Meetings. The Legislature expected the Commission to meet "at least quarterly" as a plenary body. It adopted a monthly meeting schedule for its first 18 months. Later, the Commission moved to an every-other-month schedule. The Commission chair occasionally calls special meetings outside the typical schedule if there are time-sensitive matters to discuss.

The Commission typically meets in Anchorage or Juneau. Commission and public members utilize video- and audio-conferencing facilities to attend meetings when physical attendance is not possible.

In addition to attending plenary sessions, individual Commissioners have been present at numerous workgroup (committee) meetings staffed by the Alaska Judicial Council.

Workgroups. The Commission has several workgroups and one standing committee which engage stakeholders and community members in studying various aspects of the criminal justice system. The groups identify problems and then develop recommendations for solutions to these problems. Workgroup recommendations are then vetted by the full Commission, and if the full Commission approves the recommendation, it is forwarded to the Legislature, the Governor, or other appropriate authority for consideration and implementation.

The Commission has active workgroups covering the subjects of sex offenses, sentencing, and barriers to reentry, as well as a standing committee devoted to the subject of behavioral health. These workgroups and the standing committee were all active over the last year, and their recommendations are detailed in section II of this report.

Additionally, the Commission has two workgroups which were dormant this past year; they were devoted to drug and alcohol-related driving offenses (Title 28) and restitution and restorative justice. These groups produced the findings and recommendations in two reports that were sent to the Legislature last year. They may reconvene if the Legislature acts upon those reports.

Public notice and participation. All meetings are noticed on the State's online public notice website, as well as the Commission's website. Interested persons can also be placed on pertinent mailing lists notifying them of upcoming meetings and content. An audio-teleconference line is used for all meetings. All meetings allocate time for public comment.

Staffing. Although the Commission is one of the boards and commissions organized under the Office of the Governor, the Legislature and the Governor's Office tasked the Alaska Judicial Council (AJC) with its staffing and administrative support. A full-time attorney and a part-time research analyst hired by the Judicial Council staff the Commission; they are assisted by existing Judicial Council staff.

Assessments & evaluations. The Commission is required to receive and analyze information to measure changes to the criminal justice system related to laws enacted in SB 91. The Alaska Judicial Council and the Justice Center at the University of Alaska are jointly reviewing and analyzing data for the Commission, in consultation with the Criminal Justice Working Group. Alaska Statute 44.19.645 requires DOC, DPS, and the Court System to send information to the Commission on a quarterly basis.

Website. The Commission maintains a website with meeting times, agendas, and summaries for all plenary meetings and workgroup meetings. The website also has extensive substantive information, including research that the Commission has relied upon in formulating its recommendations.

Outreach and Education. The Commission is committed to engaging with the public and continues to seek opportunities for public participation in and education about the Commission's work. The Commission's meetings are open to the public and advertised on the Commission's website. These meetings are routinely attended by at least 15-20 community stakeholders and interested citizens. Each meeting has a designated time for public comment and any public testimony is recorded by staff.

Commissioners and staff have also been invited to make numerous presentations to community and professional groups and attend community events, including forums on public safety. Commissioners and staff have also responded to requests to brief media, attorney groups, and citizen groups about SB 91. The Commission's website also contains a wealth of explanatory and educational materials about the Commission's work, the research behind the Commission's recommendations, and the provisions in SB 91.

APPENDIX B: Commission Members

Joel H. Bolger

Justice Joel H. Bolger was appointed to the Alaska Supreme Court in January 2013. Born and raised in Iowa, he received a B.S. in Economics from the University of Iowa in 1976 and a J.D. in 1978. He came to Alaska as a VISTA attorney with Alaska Legal Services Corporation in Dillingham and also served as a public defender in Barrow and in private practice in Kodiak. Justice Bolger was appointed to the District Court in Valdez in 1997, to the Superior Court in Kodiak in 2003, and to the Alaska Court of Appeals in 2008. He serves as chair of the Fairness, Diversity, and Equality Committee and co-chair of the Criminal Justice Working Group.

Sean Case

Captain Sean Case was raised in Alaska and received his Bachelor's Degree in Justice from the University of Alaska, Anchorage. He began his law enforcement career at the Los Angeles Police Department before returning to Alaska to work for the Anchorage Police Department. He has been with APD for 16 years and has served in multiple areas of the department including as a School Resource Officer, Canine Handler, SWAT Operator, Internal Affairs, Shift Commander, and Captain of the Inspection Division. Captain Case has a Master's Degree in Criminology from Indiana State University and is currently working on a Master's Degree in the Psychology of Leadership from Penn State University. He now serves as Acting Deputy Chief of Administration.

John Coghill

John Coghill is a third-generation Alaskan and grew up in Nenana. He attended the University of Alaska Fairbanks. Coghill served in the US Air Force, worked as a school teacher, pastor's assistant and has been a small business owner. He began his political career in 1999 when he became a member of the House of Representatives for the 11th district. From 2003 to 2006, he was the House Majority Leader. In 2009, he was elected State Senator for District A. Coghill became the Senate Majority leader in 2013.

Matt Claman

Matt Claman first came to Alaska in 1980 to work in a mining camp. After graduating from law school, Matt returned to Alaska to make his home, raise his family, and establish his career. Matt was elected to the Alaska State House in November 2014 and now serves as the Chair of the House Judiciary Committee. Prior to service in the State House, Matt served on the Anchorage Assembly beginning in 2007, was elected Chair of the Anchorage Assembly in 2008, and served as the Acting Mayor of Anchorage in 2009. An attorney for over 29 years, Matt managed his own small law business for over 11 years, taught law classes at the University of Alaska Anchorage, and was elected to the Board of Governors of the Alaska Bar Association in 2002, serving as its President in 2007-08.

Jahna Lindemuth

Jahna Lindemuth was born and raised in Anchorage and received her J.D. from U.C. Berkeley in 1997. Ms. Lindemuth started her new role as Attorney General for the State of Alaska on August 8, 2016. Before becoming Attorney General, she spent 18 years in private practice at Dorsey & Whitney, LLP. While

keeping up a full caseload, she donated many hours providing pro bono legal services to clients who could not afford an attorney, including representing one of the Fairbanks Four in a post-conviction relief proceeding in 2015. In reaching a settlement with the State of Alaska in December 2015, she helped secure the Fairbanks Four's release after eighteen years of imprisonment and the court vacated their convictions.

Walt Monegan

Walt Monegan is of Irish, Yupik, and Tlingit descent and grew up in Nyac, Alaska. He has a degree in Organizational Management from Alaska Pacific University and received training at Northwestern University, the John F. Kennedy School at Harvard University, and the FBI National Executive Institute. He was a member of the Anchorage Police Department and its chief, and served as the Interim Commissioner of the Alaska Department of Corrections. Currently, he is the Public Safety Commissioner.

Gregory P. Razo

Greg Razo is of Yupik and Hispanic descent and grew up in Anchorage. He is the Vice President of Government Contracting for Cook Inlet Region, Inc. (CIRI). Mr. Razo has a J.D. degree from Willamette University. Before working at CIRI, Razo practiced law in Kodiak. He has also served as a deputy magistrate and Assistant District Attorney. He is a director of Alaska Legal Services Corporation, the Alaska Federation of Natives, the Alaska Pro Bono Program, and is the board vice-chair for the Alaska Native Justice Center.

Stephanie Rhoades

Stephanie Rhoades moved to Alaska in 1986. She has a J.D. from Northeastern University School of Law. Rhoades worked in private practice and as an Assistant District Attorney. In 1992, she was appointed to the District Court in Anchorage. In 1998, she established the first mental health court in Alaska. Judge Rhoades served on the Alaska Criminal Justice Assessment Commission from 1997 to 2000 where she chaired the Decriminalizing the Mentally Ill Committee. She also served on the Alaska Prisoner Reentry Taskforce.

Brenda Stanfill

Brenda Stanfill is the Executive Director of the Interior Alaska Center for Non-Violent Living and has been a victim advocate in the state of Alaska for 20 years. She holds a Master's Degree in Public Administration from the University of Alaska, Southeast and serves on the Governing Board of the Alaska Network on Domestic Violence and Sexual Assault. Ms. Stanfill is active in many groups in her community such as the Domestic Violence Task Force, the Housing and Homeless Group, and the Wellness Coalition.

Quinlan Steiner

Quinlan Steiner was raised in Anchorage and is a fourth-generation Alaskan. He holds a Juris Doctor from the Northwestern School of Law of Lewis and Clark College and a B.A. in Business Administration from Seattle University. Mr. Steiner has been an attorney for the State Public Defender agency since 1998 and was appointed Public Defender and head of the agency in 2005. He has been a member of the Criminal Rules Committee since 2006 and the Criminal Justice Working Group since 2008.

Trevor Stephens

Trevor Stephens was raised in Ketchikan. After obtaining a JD degree from Willamette University, he returned to Ketchikan, working in private practice, as an Assistant Public Defender, Assistant District

Attorney and the District Attorney. On the bench since 2000, Stephens is the presiding judge of the First Judicial District, a member of the three-judge sentencing panel, and a member of the Family Rules Committee, Jury Improvement Committee, and the Child in Need of Aid Court Improvement Committee.

Dean Williams

Dean Williams started his state career in 1981 as a youth counselor in juvenile justice. He was the juvenile justice superintendent in Nome, and then eventually moved back to Anchorage to finish his first state career as the juvenile justice superintendent at McLaughlin Youth Center. There, he focused on school discipline and the over use of expulsion/suspension. Along with many partners, Commissioner Williams spearheaded the start of Step Up, Anchorage's first alternative school focused on expelled and suspended youth. The work on expulsion/suspension lead to several national appointments to continue the work on closing the "school to prison pipeline." Commissioner Williams then came back to public service as a special assistant in the Department of Public Safety, which eventually lead him to be Governor Walker's special assistant. He is currently the Commissioner of the Department of Corrections where he has the privilege to lead a fantastic team.

Steve Williams

Steve Williams has lived in Alaska since 1992. He holds a master's degree in social work from the University of Michigan focused on mental health and nonprofit management and a bachelor of arts from Loyola University Maryland. For most of his career, Williams has worked on statewide policies and programs focused on achieving better outcomes for Alaskans who have been involved with the criminal justice system and improving the overall effectiveness and efficiency of the criminal justice and community health systems. Currently, he is the chief operating officer for the Alaska Mental Health Trust. He has been a member of the Criminal Justice Working Group since 2008 and is chair of its therapeutic court and legal competency subcommittees.

APPENDIX C: Recommendations to Date

No.	Recommendation	Date of vote	Any action taken?	Result
1-2015	Enact a waiver for SNAP (food stamp) ban for people with felony drug convictions	Jan. 23, 2015	Y	Included in SB 91 (Enacted 2016)
2-2015	Invite technical assistance from Pew Justice Reinvestment Initiative and Results First Initiative	Feb. 24, 2015	Y	Invitation sent and technical assistance provided
3-2015	Alaska Court System should provide ongoing judicial education on evidence-based pretrial practices and principles	Mar. 31, 2015	Unknown	Unknown
4-2015	Amend the Community Work Service (CWS) statute to convert any unperformed CWS to a fine, rather than jail time	Mar. 31, 2015	Y	Included in SB 91 (Enacted 2016)
5-2015	Amend the SIS statutes	Oct. 15, 2015	Y	Included as the SEJ provision in SB 91 (Enacted 2016)
6-2015	JRI package	Dec. 10, 2105	Y	Included in SB 91 (Enacted 2016)
1-2016	Add two new mitigators for sentencing offenders who have accepted responsibility for their actions	Oct. 13, 2016	N	
2-2016	DOC should establish a voluntary Pretrial Diversion program	Aug. 25, 2016	Y	DOC applied for a grant for a Pretrial Diversion coordinator
3-2016	Allow defendants to return to a group home on bail with victim notice and consent	Aug. 25, 2016	N	

4-2016	Enact a statute for a universally accepted release of information form for health and behavioral health care service providers	Aug. 25, 2016	N	
5-2016	Include behavioral health information in felony presentence reports	Aug. 25, 2016	N	
6-2016	Include the Commissioner of the Department of Health and Social Services on the Commission	Oct. 13, 2016	N	
7-2016	DHSS should review the proposed statutory changes recommended in the UNLV report and report back to the Commission on its findings in September 2017	Oct. 13, 2016	Y	DHSS delivered a report at the August 23 Commission meeting
8-2016	Restitution report	Nov. 29, 2016	Y	Rep. Kopp is working on a bill
9-2016	Title 28 report	Nov. 29, 2016	N	
1-2017	Return VCOR to misdemeanor status, punishable by up to 5 days in jail	Jan. 19, 2017	Y	Included in SB 54 (currently in House)
2-2017	Increase the penalty to up to 10 days in jail for an offender's third Theft 4 offense	Jan. 27, 2017	Y	Included in SB 54 (currently in House), modified
3-2017	Amend the "binding provision" of SB 91 to allow municipalities to impose different non-prison sanctions for non-criminal offenses	Jan. 27, 2017	Y	Included in SB 54 (currently in House)
4-2017	Revise the sex trafficking statute to clarify the intent of that statute and define the term "compensation"	Jan. 27, 2017	Y	Included in SB 54 (currently in House)

5-2017	Enact a presumptive term of 0-90 days for Class C Felonies for first-time felony offenders	Jan. 27, 2017	Y	Included in SB 54 (currently in House), modified
6-2017	Enact an aggravating factor for Class A misdemeanors for defendants who have one prior conviction for similar conduct; would allow a judge to impose a sentence of up to 60 days	Jan. 27, 2017	Y	Included in SB 54 (currently in House)
7-2017	Clarify the law so that people cited for Minor Consuming Alcohol may participate in the Alcohol Safety Action Program (ASAP).	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
8-2017	Ensure that sex offenders are required to serve a term of probation as part of their sentence	Jan. 27, 2017	Y	Included in SB 54 (currently in House)
9-2017	Clarify the length of probation allowed for first- and second-time Theft 4 offenders	Jan. 27, 2017	Y	Included in SB 54 (currently in House)
10-2017	Require courts to provide certain notifications to victims if practical	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
11-2017	Reconcile the penalty provisions for DUI and Refusal	Jan. 27, 2017	Y	Included in SB 54 (currently in House)
12-2017	Clarify which defendants shall be assessed by the Pretrial Services program	Jan. 27, 2017	Y	Included in SB 54 (currently in House)
13-2017	Fix a drafting error in SB 91 regarding victim notification	Jan. 27, 2017	Y	Included in SB 55 (Enacted 2017)
14-2017	Technical fixes to SB 91	Jan. 19, 2017	Y	Included in SB 54 (currently in House) or SB 55 (Enacted 2017)

15-2017	Shock incarceration should not be used for SEJ	Feb. 23, 2017	Y	Included in SB 55 (Enacted 2017)
16-2017	Use the highest of the two risk assessment scores for pretrial release decisions	Aug. 23, 2017	Y	DOC has adopted this procedure
17-2017	Amend the three-judge panel statute	Aug. 23, 2017	N	
18-2017	Enact a vehicular homicide statute	Oct. 12, 2017	N	
19-2017	Remove SIS and underage cases from CourtView	Oct. 12, 2017	N	

APPENDIX D: Currently on the Agenda

Currently on the agenda for the Behavioral Health Standing Committee. The Commission also made recommendations in 2016 that the Behavioral Health Standing Committee is working to address. First, the Commission recommended that the state implement a universal release of information (ROI) that would be accepted universally by all providers in Alaska. The Commission has heard testimony that justice-involved individuals with behavioral health needs were struggling with continuity of treatment because of differing ROI standards among providers. The Commission's recommendation was to enact a statute providing for the universal ROI. That remains the Commission's recommendation; however, the Standing Committee is working with DHSS to develop a recommended ROI for implementation.

The Commission was asked by the Criminal Justice Working Group to review a report developed by the University of Las Vegas Nevada (UNLV) that assesses Alaska's behavioral health statutes. The report includes a number of recommendations to improve certain civil, criminal, and juvenile justice statutes that relate to behavioral health issues. The Commission agreed to review the report to see which if any recommendations it might endorse. As part of that review, it asked DHSS to respond to the suggestions in the report. In September of 2017, DHSS sent the Commission a detailed response to the suggestions in the UNLV report. The Commission then asked the Behavioral Health Standing Committee to continue to work with DHSS to identify consensus-based reforms to these statutes.

Finally, the Commission recommended that DOC develop and implement a Pretrial Diversion program for the behavioral health population. AS 33.07.020 requires the Commissioner of Corrections to develop regulations that include guidelines for Pretrial Services officers to make diversion recommendations to the court. The statute requires these regulations to be developed in consultation with the Department of Law, the Public Defender, the Department of Public Safety, the Office of Victims' Rights, and the Alaska Court System. To advance this initiative, the Commission supported DOC's request for federal grant funding to hire a coordinator to develop such a program. The Department of Corrections did receive grant funding to hire a coordinator for approximately one year starting in October of 2017. The Standing Committee on Behavioral Health will assist the DOC Coordinator, with participation and consultation from the statutorily-mandated stakeholders, to develop a vision for that program.

Currently on the agenda for the Sentencing Workgroup. In addition to the recommendations contained in this report, the Sentencing Workgroup has also discussed the law surrounding Guilty But Mentally Ill (GBMI) verdicts and has gathered a great deal of information on the subject from practitioners. Very few people are convicted with a GBMI finding, though there may be many people in DOC custody who have a mental illness severe enough to warrant that verdict. But because the consequences of a GBMI verdict are severe—a defendant could be held in DOC custody indefinitely, even after completing the prescribed prison sentence—defendants and their counsel very rarely reveal the existence of the defendant's mental illness to the court.[47] This means that there are potentially people who need mental

[47] Alaska's standard for being found not guilty by reason of insanity is quite narrow, and there are even fewer defendants found not guilty by reason of insanity than are found GMBI.

health treatment, or who may even be appropriate for diversion programs, who are not being identified in the system. The workgroup has not yet come up with any proposal on this topic.

The Sentencing Workgroup has also recently begun to talk about the automatic waiver provision for juvenile offending. The automatic waiver provides that juveniles ages 16 and 17 will automatically be charged as adults for certain crimes. The workgroup is in the process of gathering information on this topic and has not decided whether to pursue a proposal.

Currently on the agenda for the Barriers to Reentry Workgroup. Expungement is a mechanism by which those who have a conviction on their record and have demonstrated rehabilitation can mitigate the collateral consequences of that conviction by limiting access to the record of conviction. Alaska has no expungement statute, although dismissed charges may be removed from CourtView and in certain cases sealed at the Department of Public Safety. The Barriers Workgroup is in the process of taking a comprehensive look at expungement practices around the country to see if an expungement statute might work for Alaska.

In addition to the above, the Barriers Workgroup has also been looking at the regulations which prevent people from getting professional licenses in certain fields if they have certain crimes on their records (barrier crimes). The group has also been discussing ways to encourage employers to hire people with criminal convictions.

Many jurisdictions around the country have implemented "Ban the Box" policies in recent years. This effort aims to limit the use of questions about a person's criminal history on job applications, to give those with a record more opportunities to reach the interview stage in the application process. The Workgroup looked at the Ban the Box model, but noted that some preliminary studies indicate that Ban the Box can have the unintended consequence of increasing racial disparities in hiring. Because of this, and because Ban the Box is a relatively new concept, the Workgroup elected to table consideration of this policy until further studies become available.

Forthcoming Report: Sex Offenses. The Commission established a Sex Offenses Workgroup in response to language in SB 91 requiring it to send the Legislature a report on sexual offending. This workgroup began meeting in December 2016. The Workgroup is gathering information and data from a variety of stakeholders and practitioners to inform the report that will be sent to the Legislature. Though the Legislature did not set any particular deadline for this report, the Commission hopes to send the report in advance of the 2019 legislative session.

APPENDIX E: Sentencing Recommendations

Three judge panel. The Commission recommends the following statutory amendments:

AS 12.55.165(a)-(b) **Extraordinary Circumstances** is amended to read:

(a) If the defendant is subject to sentencing under AS 12.55.125(c), (d), (e), or (i) and the court finds by clear and convincing evidence that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155, **FROM REQUIREMENTS FOR CONSECUTIVE SENTENCING, FROM RESTRICTIONS ON DISCRETIONARY PAROLE ELIGIBILITY**, or from imposition of a sentence within the presumptive range, whether or not adjusted for aggravating or mitigating factors, the court shall enter findings and conclusions and cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175.

(b) [REPEALED]

AS 12.55.175(b)-(e) **Three-judge sentencing panel** is amended to read:

(b) Upon receipt of a record of proceedings under AS 12.55.165, the three-judge panel shall consider all pertinent files, records, and transcripts, including the findings and conclusions of the judge who originally heard the matter. The panel may [HEAR ORAL TESTIMONY TO] supplement the record before it **AND** [. IF THE PANEL SUPPLEMENTS THE RECORD, THE PANEL] shall permit the victim to **ADDRESS** [TESTIFY BEFORE] the panel. If the panel finds that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155, **FROM REQUIREMENTS FOR CONSECUTIVE SENTENCING, FROM RESTRICTIONS ON DISCRETIONARY PAROLE ELIGIBILITY**, or from imposition of a sentence within the presumptive range, whether or not adjusted for aggravating or mitigating factors, it shall sentence the defendant in accordance with this section. If the panel does not find that manifest injustice would result, it shall remand the case to the sentencing court, with a written statement of its findings and conclusions, for sentencing under AS 12.55.125 **UNLESS THE PARTIES AGREE THAT THE PANEL MAY IMPOSE A SENTENCE AUTHORIZED BY LAW APART FROM THIS SECTION**.

(c) The three-judge panel may in the interest of justice **GRANT DISCRETIONARY PAROLE ELIGIBILITY DURING ANY PORTION OF THE ACTIVE TERM OF IMPRISONMENT IMPOSED, AND** sentence the defendant to any definite term of imprisonment up to the maximum term provided for EACH [THE] offense or to any sentence authorized under AS 12.55.015. **IF THE PARTIES AGREE THAT THE PANEL MAY IMPOSE SENTENCE AUTHORIZED BY LAW APART FROM THIS SECTION, THE PANEL SHALL IMPOSE SENTENCE IN ACCORDANCE WITH SENTENCING LAW GOVERNING ORDINARY SENTENCING COURTS.**

(d) Sentencing of a defendant or remanding of a case under this section shall be by a majority of the three-judge panel.

(e) [REPEALED]

Additionally, the Commission recommends adding the following statutory mitigators:

AS 12.55.155(d) **Factors in aggravation and mitigation** is amended to read:

(22) THE DEFENDANT HAS AN EXTRAORDINARY POTENTIAL FOR REHABILITATION;

(23) THE DEFENDANT ENGAGED IN EXEMPLARY BEHAVIOR AFTER THE OFFENSE.

Vehicular homicide offenses. The Commission also recommends enacting the following:

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

LEGISLATIVE FINDINGS AND INTENT OF THIS ACT. It is the intent of the Legislature to create a specific offense related to homicide committed when operating a motor vehicle. Nothing in this Act should be interpreted by a court to overturn the decisions in *State v. Dunlop*, 721 P.2d 604 (Alaska 1986) and *Jeffries v. State,* 169 P.3d 913 (Alaska 2007). It is the intent of the Legislature that the holdings in these cases apply to cases brought under the aggravated vehicular homicide and vehicular homicide statutes enacted in Sec. 2 of this Act.

*** Sec. 2**. AS 11.41 is amended by adding a new sections to read:

Sec. 11.41.131. Aggravated vehicular homicide.

(a) A person commits the crime of aggravated vehicular homicide if the person causes the death of another person while operating a motor vehicle under circumstances manifesting an extreme indifference to the value of human life.

(b) Aggravated vehicular homicide is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.41.132. Vehicular homicide.

(a) A person commits the crime of vehicular homicide if the person recklessly causes the death of another person while operating a motor vehicle under circumstances not amounting to aggravated vehicular homicide.

(b) Vehicular homicide is a class A felony.

Sec. 11.41.133. Negligent Vehicular Homicide.

(a) A person commits the crime of negligent vehicular homicide if, with criminal negligence, the person causes the death of another person while operating a motor vehicle.

(b) Criminally negligent homicide is a class B felony.

*** Sec. 3.** AS 11.41.140 is amended to read:

In AS 11.41.100-11.41.140,

(a) "person", when referring to the victim of a crime, means a human being who has been born and was alive at the time of the criminal act. A person is "alive" if there is spontaneous respiratory or cardiac function or, when respiratory and cardiac functions are maintained by artificial means, there is spontaneous brain function**;**

(b) **"motor vehicle" has the meaning in AS 28.90.990(a)(17).**

*** Sec. 4.** AS 11.41.135 is amended to read:

If more than one person dies as a result of a person committing conduct constituting a crime specified in **AS 11.41.100-11.41.133** [AS 11.41.100 - 11.41.130], each death constitutes a separately punishable offense.

*** Sec. 5.** AS 11.81.250 is amended to read:

(a) For purposes of sentencing under AS 12.55, all offenses defined in this title, except murder in the first **degree,** [AND] **murder in** the second degree, **aggravated vehicular homicide,** attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, murder of an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first degree, misconduct involving a controlled substance in the first degree, sex trafficking in the first degree under AS 11.66.110(a)(2), and kidnapping, are classified on the basis of their seriousness, according to the type of injury characteristically caused or risked by commission of the offense and the culpability of the offender. Except for murder in the first **degree,** [AND] **murder in** the second degree, **aggravated vehicular homicide,** attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, murder of an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first degree, misconduct involving a controlled substance in the first degree, sex trafficking in the first degree under AS 11.66.110(a)(2), and kidnapping, the offenses in this title are classified into the following categories:

(1) class A felonies, which characteristically involve conduct resulting in serious physical injury or a substantial risk of serious physical injury to a person;

(2) class B felonies, which characteristically involve conduct resulting in less severe violence against a person than class A felonies, aggravated offenses against property interests, or aggravated offenses against public administration or order;

(3) class C felonies, which characteristically involve conduct serious enough to deserve felony classification but not serious enough to be classified as A or B felonies;

(4) class A misdemeanors, which characteristically involve less severe violence against a person, less serious offenses against property interests, less serious offenses against public administration or order, or less serious offenses against public health and decency than felonies;

(5) class B misdemeanors, which characteristically involve a minor risk of physical injury to a person, minor offenses against property interests, minor offenses against public administration or order, or minor offenses against public health and decency;

(6) violations, which characteristically involve conduct inappropriate to an orderly society but which do not denote criminality in their commission.

*** Sec. 6.** AS 12.37.010 is amended to read:

The attorney general, or a person designated in writing or by law to act for the attorney general, may authorize, in writing, an ex parte application to a court of competent jurisdiction for an order authorizing the interception of a private communication if the interception may provide evidence of, or may assist in the apprehension of persons who have committed, are committing, or are planning to commit, the following offenses:

(1) murder in the first or second degree under AS 11.41.100 - 11.41.110;

(2) kidnapping under AS 11.41.300;

(3) a class A or unclassified felony drug offense under AS 11.71;

(4) sex trafficking in the first or second degree under AS 11.66.110 and 11.66.120; or

(5) human trafficking in the first degree under AS 11.41.360;

(6) aggravated vehicular homicide under AS 11.41.131.

*** Sec. 7.** AS 12.50.201(b) is amended to read:

(b) A peace officer who temporarily detains a person under (a) of this section may

(1) detain the person only as long as reasonably necessary to accomplish the purposes of that subsection;

(2) take one or more photographs of the person, if photographs can be taken without unreasonably delaying the person or removing the person from the vicinity; and

(3) if the person does not provide valid government-issued photographic identification or other valid identification that the officer finds to be reliable to identify the person, or the officer has reasonable suspicion that the identification is not valid,

(A) serve a subpoena on the person to appear before the grand jury where the crime was committed; and

(B) take the person's fingerprint impressions if

(i) the crime under investigation is murder, attempted murder, **aggravated vehicular homicide,** or misconduct involving weapons under AS 11.61.190 or 11.61.195(a)(3); and

(ii) fingerprint impressions can be taken without unreasonably delaying the person or removing the person from the vicinity.

*** Sec. 8.** AS 12.55.035(b) is amended to read:

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of not more than

(1) $500,000 for murder in the first or second degree, **aggravated vehicular homicide**, attempted murder in the first degree, murder of an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first degree, kidnapping, sex trafficking in the first degree under AS 11.66.110(a)(2), or misconduct involving a controlled substance in the first degree;

(2) $250,000 for a class A felony;

(3) $100,000 for a class B felony;

(4) $50,000 for a class C felony;

(5) $25,000 for a class A misdemeanor;

(6) $2,000 for a class B misdemeanor;

(7) $500 for a violation.

*** Sec. 9.** AS 12.55.125(a) is amended to read:

(a) A defendant convicted of murder in the first degree or murder of an unborn child under AS 11.41.150(a)(1) shall be sentenced to a definite term of imprisonment of at least 30 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, firefighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(D) aggravated vehicular homicide under AS 11.41.131;

(3) the defendant subjected the murder victim to substantial physical torture;

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery; or

(5) the defendant is a peace officer who used the officer's authority as a peace officer to facilitate the murder.

*** Sec. 10.** AS 12.55.125(b) is amended to read:

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree**, aggravated vehicular homicide,** or murder of an unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of imprisonment of at least 15 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

*** Sec. 11.** AS 12.55.127(c) is amended to read:

(c) If the defendant is being sentenced for

(1) escape, the term of imprisonment shall be consecutive to the term for the underlying crime;

(2) two or more crimes under AS 11.41, a consecutive term of imprisonment shall be imposed for at least

(A) the mandatory minimum term under AS 12.55.125(a) for each additional crime that is murder in the first degree;

(B) except as provided in subsection (G) below, the mandatory minimum term for each additional crime that is an unclassified felony governed by AS 12.55.125(b);

(C) the presumptive term specified in AS 12.55.125(c) or the active term of imprisonment, whichever is less, for each additional crime that is

(i) manslaughter; or

(ii) kidnapping that is a class A felony;

(D) two years or the active term of imprisonment, whichever is less, for each additional crime that is criminally negligent homicide;

(E) one-fourth of the presumptive term under AS 12.55.125(c) or (i) for each additional crime that is sexual assault in the first degree under AS 11.41.410 or sexual abuse of a minor in the first degree under AS 11.41.434, or an attempt, solicitation, or conspiracy to commit those offenses; and

(F) some additional term of imprisonment for each additional crime, or each additional attempt or solicitation to commit the offense, under AS 11.41.200 - 11.41.250, 11.41.420 - 11.41.432, 11.41.436 - 11.41.458, or 11.41.500 - 11.41.520.

(G) one-fourth of the mandatory minimum term specified under AS 12.55.125(b) or one fourth the presumptive term specified under AS 12.55.125(c) for each additional crime that is aggravated vehicular homicide under AS 11.41.131, vehicular homicide under AS 11.41.132 or negligent vehicular homicide under AS 11.41.133.

*** Sec. 12.** AS 18.67.101 is amended to read:

The board may order the payment of compensation in accordance with the provisions of this chapter for personal injury or death that resulted from

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of crime; or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses:

(A) murder in any degree;

(B) manslaughter;

(C) criminally negligent homicide;

(D) assault in any degree;

(E) kidnapping;

(F) sexual assault in any degree;

(G) sexual abuse of a minor;

(H) robbery in any degree;

(I) threats to do bodily harm;

(J) driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender is under the influence of an alcoholic beverage, inhalant, or controlled substance;

(K) arson in the first degree;

(L) sex trafficking in violation of AS 11.66.110 or 11.66.130(a)(2);

(M) human trafficking in any degree; or

(N) unlawful exploitation of a minor**;**

(O) aggravated vehicular homicide, vehicular homicide, or negligent vehicular homicide under AS 11.41.131-11.41.133.

*** Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act applies to offenses committed on or after the effective date.

*** Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).

APPENDIX F: Recommendations to Amend Certain Provisions of SB 91

Recommendations 1-14 2017, Approved January 19 and January 27, 2017.

Submitted to the Legislature on January 30, 2017.

The following recommendations from the Alaska Criminal Justice Commission are the result of discussions at the Commission's plenary meetings on January 19 and 27, 2017. At these meetings, the Commission solicited and considered information and views from a variety of constituencies to represent the broad spectrum of views that exist with respect to possible approaches to sentencing and administration of justice in the state.

When the Commission was created in 2014, the Legislature directed the Commission to make recommendations based on, among other things:

- The need to rehabilitate the offender;
- The sufficiency of state resources to administer the criminal justice system;
- The effect of state laws and practices on the rate of recidivism; and
- Peer-reviewed and data-driven research.[48]

Since the Commission began operation, it agreed to forward only recommendations that were backed by data and were evidence-based. In 2015, the Legislature further directed the Commission to forward recommendations that would either (1) avert all future prison growth, (2) avert all future prison grown and reduce the current prison population by 15%, or (3) avert all future prison grown and reduce the current prison population by 25%.

As part of SB 91, the Legislature tasked the Commission with monitoring the efficacy of the reforms using data collected from certain state agencies. Because SB 91 was enacted in July of 2016, and parts of the bill will not go into effect until January 2018, the Commission does not yet have enough data to assess whether SB 91 is achieving its intended outcomes. Thus, the recommendations below are not based on data-driven research and they are not based on the data that the Legislature instructed the Commission to collect and analyze. Moreover, they are not expected to reduce the prison population, reduce recidivism, or reduce the criminal justice system's usage of state resources.

Rather, the recommendations below are based on feedback from members of law enforcement, prosecutors, and the public. This feedback reflected other factors the Commission has been directed to consider in making recommendations, including:

- The need to confine offenders to prevent harm to the public;
- The effect of sentencing in deterring offenders; and
- The need to express community condemnation of crime.[49]

The Commission recognizes that the factors it has been instructed to consider in formulating its recommendations often work in tension. Not all of the recommendations below received unanimous

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[48] *See* AS 44.19.646. This statute was enacted in 2014 as part of SB 64.
[49] *Id.*

support from the Commission. If a recommendation did not receive unanimous support from the Commission, the recommendation includes an explanation of the concerns of the Commissioners who did not support that recommendation.

Recommendation 1-2017: Return VCOR to Misdemeanor Status

In 2015, the Commission recommended that the crime of Violation of Conditions of Release (VCOR) be downgraded to a non-criminal violation, punishable by a fine. This recommendation was enacted in SB 91.[50] Implementation of this provision did not immediately occur as the Commission intended. The Commission's recommendation was that those who violate conditions of their release would be arrested and held in jail until the judge in their underlying case could review bail. While SB 91 included an arrest provision so that defendants who violated conditions of their release could be arrested,[51] some of those arrested were not being held in jail—they were being released as soon as they were brought to jail.

The Alaska Court System has now altered its bail forms to order defendants held in jail if they violate the conditions of their release; however, the Commission has heard anecdotal reports that this solution is not working universally. The Commission therefore recommends that the Legislature enact a statute that would return VCOR to a crime. Specifically, **the Commission recommends that Violation of Conditions of Release become a Class B Misdemeanor, punishable by up to 5 days in jail**.

This recommendation did not receive unanimous approval from the Commission. Those who were in favor of this recommendation noted that this will ensure that offenders will be held in jail until they get to a bail hearing in front of the judge in their underlying case. That judge will then be familiar with the case and will be able to re-set bail.

Those who opposed this recommendation voiced concern that it was an unnecessary criminalization of conduct to solve an administrative issue, that it would simply stack crimes for defendants and increase unnecessary use of costly jail beds, and that the solution from the Alaska Court System (the change to the bail form) should be given time to work. There was also a concern from victims that if VCOR were to become a separate crime once again, it may encourage the practice of allowing defendants to plead to VCOR in exchange for dismissal of the underlying charge. The Commission does not condone this practice and may revisit this topic if it finds that this practice is occurring.

Recommendation 2-2017: Increase penalties for repeat Theft 4 offenders.

Theft in the fourth degree (Theft 4) penalizes simple theft (theft that does not involve burglary or violence) of items or services valued at $250 or less. Theft 4 is a Class B misdemeanor, and SB 91 limited the penalties for this offense: for a defendant's first and second convictions of this offense, no jail time may be imposed (though fines and restitution may be imposed). For a defendant's third or subsequent conviction of this offense, the maximum term is 5 days suspended with 6 months of probation.[52] The Commission's original recommendation to limit jail time for this offense was based on information from

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[50] 2016 SLA Ch. 36 ("SB 91") §§ 29-30.

[51] SB 91 § 51.

[52] SB 91 § 93. When a sentence is suspended, it means that the offender will not serve the term "up front"; the offender will be placed on probation and will serve this time only if the offender commits a major violation of the conditions of probation or commits a new crime.

the Department of Corrections showing that these low-level offenders stole mostly toiletries and alcohol, and they accounted for a significant number of prison beds in a year.[53]

The Commission has received a good deal of feedback about this provision of SB 91. Business owners, law enforcement officers, and prosecutors feel this provision has emboldened some offenders to commit more lower-value theft crimes. They believe some prospect of jail time provides deterrence and reflects community condemnation. **The Commission therefore recommends that for third-time Theft 4 offenders, this offense should be punishable by up to 10 days in jail.** (This third-time offense would remain a Class B Misdemeanor).

This recommendation did not receive unanimous approval from the Commission. Those who voted against the recommendation believed it did not go far enough and would have preferred a recommendation to re-enact a statute (which was repealed by SB 91[54]) that made an offender's third Theft 4 within five years a Class A misdemeanor rather than a Class B misdemeanor.

The Commissioners voting in favor of this provision thought it would be a way to address the community's concerns regarding theft crime. The Commission did not have any data that this recommendation would prevent these types of theft. Studies of Alaskan offenders sentenced prior to SB 91 show that misdemeanor property offenders such as these have historically recidivated at very high rates. There is no evidence to support the notion that rates of petty theft are related to prison sentences. Rates of property crime in Alaska have been rising for the past two to three years—a trend that began before SB 91 was introduced in the Legislature.[55]

While debating this recommendation, some Commissioners noted that for offenders struggling with homelessness and behavioral health disorders, jail is not a deterrent, but rather a housing option: some offenders will commit crimes to be assured a warm place to sleep at night, particularly during the winter. It was also noted that some offenders who are addicts commit low-level thefts to obtain resources to pay for their drug of choice.

All Commissioners agreed that further solutions are needed to address the problem of persistent low-level offending, including more options to treat mental illness, addiction, and chronic homelessness. Robust and comprehensive solutions are needed to get at the root causes of theft crime.

Recommendation 3-2017: Allow municipalities to set different non-incarceration punishments for non-criminal offenses that have state equivalents.

In order to ensure that state statutes and municipal code provisions were not working at cross purposes, SB 91 limited the amount of jail time a municipality could impose for a municipal offense that has a state equivalent to the amount of jail time called for in state statute. [56] In other words, state and municipal crimes that are equivalent must have equivalent punishments.

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[53] In 2014, 324 offenders were admitted to prison for Theft 4, and these offenders spent an average of 23 days behind bars after being convicted.

[54] SB 91 § 179. (Referring to former AS 11.46.140(a)(3).)

[55] The 30-year trend lines for Part I property crimes in Alaska and in Anchorage are downward; however, the shorter-term trend for these property crimes - between 2011 and 2015 – is upward in Anchorage, and upward to a lesser degree statewide.

[56] SB 91 §113.

The provision as currently enacted, however, has been interpreted to apply not just to prison terms but to all forms of punishment, including fines for non-criminal offenses such as speeding. Municipalities have expressed concern that fines for equivalent state offenses are much lower than fines for municipal offenses, and this has been a significant change for the municipalities. **The Commission therefore recommends that the "binding provision" of SB 91 be amended so that it does not apply to non-criminal offenses found in municipal codes and regulations.** This recommendation passed unanimously.

Recommendation 4-2017: Revise the sex trafficking statute.

The provisions of SB 91 that altered the sex trafficking statutes were not based on any recommendation from the Commission. The legislative history suggests these provisions were intended to ensure that sex workers simply working together—not exploiting one another—could not be prosecuted for trafficking each other or trafficking themselves.[57] However, as passed, the provisions could be read so that a person who might otherwise be found guilty of sex trafficking (i.e., someone receiving money for the sex work performed by others) could avoid prosecution if that person engaged in sex work personally (i.e., they also received money for sex work performed themselves.) **The Commission therefore recommends repealing sections 39 and 40 of SB 91 and amending existing statutes as follows:**

- **AS 11.66.130(a): After "a person" insert "receiving compensation for prostitution services rendered by another"**
- **AS 11.66.130(a)(3): Delete "as other than a prostitute receiving compensation for personally rendered prostitution services,"**
- **AS 11.66.135(a): After "a person" insert "receiving compensation for prostitution services rendered by another"**

The Commission also recommends that the Legislature define the term "compensation" as used in these statutes. "Compensation" should be defined so that it applies only to compensation for services performed and does not include things like shared rent, shared gas money, or shared hotel fees in instances where sex workers are working together to split costs.

Recommendation 5-2017: Enact a 0-90 day presumptive sentencing range for first-time Class C Felonies.

SB 91 provides that Class C Felonies are punishable by a suspended term of 0-18 months for first-felony offenders.[58] This means that a first-time felony offender convicted of a Class C Felony is presumed to receive a probationary sentence that would include some amount of suspended time. A person receiving a probationary sentence with suspended time does not spend any time in jail up front, but is subject to jail time if they violate conditions of probation.

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[57] SB 91 §§ 39 and 40.

[58] SB 91 § 90. A second-time felony offender would receive a sentence of 1-3 years to serve if convicted of a Class C. A third-time (and subsequent) felony offender would receive a sentence of 2-5 years to serve if convicted of a Class C.

The purpose of this provision was to provide community supervision for first-time offenders to (1) allow the offender to maintain pro-social ties to the community and (2) ensure that the offender would comply with conditions of probation such as remaining sober, not committing new crimes, and paying fines and restitution to victims. If the offender did not succeed with these conditions, that offender could be made to serve part or all of the suspended time in jail.

The Commission heard numerous concerns about this provision in particular. Prosecutors felt that some violent Class C Felonies warranted jail time for a first-time offense, and were concerned that there was not enough of an incentive to encourage these offenders to get into treatment. Members of law enforcement were frustrated that this provision was overbroad and did not provide for an offender's immediate incarceration if the offender posed a danger to the community. Members of the community were offended by this provision and felt that it did not express community condemnation strongly enough.

Prosecutors and law enforcement preferred a provision that would allow a judge discretion in sentencing and would provide for immediate incarceration if necessary. They thought that while there were some cases where a probationary term was warranted for a first-time offender, the judge should be able to impose jail time in some instances, particularly cases involving violence.

The Commission therefore recommends that Class C Felonies carry a presumptive jail term of 0-90 days for first-felony offenders. The Commission also recommends retaining the provision allowing up to 18 months of suspended time.

This recommendation did not pass unanimously, and was the subject of considerable debate among the Commissioners. Those who voted against it would have preferred a much stronger provision; another proposal was to expand the sentencing range to 0-18 months for all class C felonies. The Attorney General was willing to compromise at 0-12 months for violent offenders and to 0-6 months for non-violent offenders.

This Commissioners debated the amount of time that might incentivize an offender to get treatment—some Commissioners thought that first-time felony offenders would not need long treatment programs (in the range of 60-90 days) while other Commissioners thought that some first-felony offenders would need longer treatment programs and a greater incentive to complete that treatment. Commissioners in favor of this recommendation noted that this sentence could be enhanced (up to 5 years) if the judge or jury found certain aggravating factors.

Commissioners in favor of a shorter presumptive term were concerned that a longer term would constitute a more significant reversal of the intent behind SB 91, which was to supervise first time offenders in the community to encourage their rehabilitation and reduce the recidivism rate. The Commission relied on research showing that for first-time offenders, time in prison can actually make the offender more likely to recidivate after leaving prison. The Commission did not have any data or empirical evidence to show that a term of 0-90 days would reduce recidivism; this recommendation will almost certainly increase the prison population. However, Commissioners noted the strong public outcry around this provision and wanted to meet the community's standards for condemnation of crime.

Recommendation 6-2017: Enact an aggravator for Class A Misdemeanors for defendants who have a prior conviction for similar conduct.

SB 91 enacted a presumptive sentence range of 0-30 days for most Class A Misdemeanors.[59] This sentence can be increased up to 1 year (the previous limit) in some cases: for certain violent offenses and sex offenses, for cases where the conduct was among the most serious conduct included in the definition of the offense, and for cases where the defendant has two or more criminal convictions for similar conduct.

Prosecutors voiced concern over the provision allowing for a longer sentence for defendants who have past convictions for similar conduct, because it requires proof of at least *two* prior convictions. This proved to be a particular problem for second-time DUI (and Refusal) offenders. The minimum jail term for a second-time DUI/Refusal offender is 20 days; with a maximum of 30 days for a Class A Misdemeanor, that leaves only 10 days to suspend as a method of enforcing conditions of probation.

The Department of Law and the Department of Public Safety believe that judges should have the option for an increased penalty for defendants who have *one* prior conviction for similar conduct. This would allow a judge to impose more suspended time for second-time offenders and provide a greater incentive for defendants to get into treatment.

The Commission therefore recommends enacting an additional aggravating factor for Class A Misdemeanors for defendants who have one prior conviction for similar conduct. This aggravating factor would allow a judge to impose a sentence of up to **60 days**. This recommendation passed unanimously.

Recommendation 7-2017: Clarify that ASAP is available for Minor Consuming Alcohol.

The Alcohol Safety Action Program provides monitoring for misdemeanor DUI and Refusal cases to ensure that defendants are going to court-ordered treatment. In 2015 the Commission found that the ASAP program was overextended, and recommended that the program either be more robustly funded or be restricted only to DUI and Refusal offenders (rather than all offenders with alcohol-related convictions, as was the case). Accordingly, SB 91 limits ASAP to offenders who have been convicted of DUI and Refusal offenses. [60]

SB 165, also passed in 2016, made Minor Consuming Alcohol a violation (rather than a criminal offense). It also provided that the fine for this violation may be reduced if the defendant goes through ASAP. It therefore contemplates that ASAP will be available for these non-DUI offenders. This provision is in conflict with the above-referenced provisions in SB 91. **The Commission therefore recommends that ASAP be available for people cited for Minor Consuming Alcohol.**

Recommendation 8-2017: Enact a provision requiring mandatory probation for sex offenders.

In an apparent oversight, SB 91 eliminated the statutory provision requiring sex offenders to serve a period of probation. **The Commission therefore recommends that the Legislature enact a provision requiring sex offenders to serve a period of probation as part of their sentence.**

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[59] SB 91 § 91.
[60] SB 91 §§ 170-173.

Recommendation 9-2017: Clarify the length of probation allowed for Theft 4.

SB 91 provides that an offender's third Theft 4 conviction be punishable by up to 5 days of suspended jail time and 6 months of probation.[61] The law is silent, however on the allowable probationary term for a first or second Theft 4 conviction. (Theft 4 is a Class B Misdemeanor; misdemeanors generally carry a maximum probation term of 1 year.[62]) **The Commission therefore recommends that the Legislature clarify the allowable probationary period for first and second Theft 4 convictions.** The Commission believes that a probationary term is appropriate for these offenses.

Recommendation 10-2017: Require victim notification only if practical.

SB 91 requires the court, at the time of sentencing, to provide the victim with information on where to find information about the defendant's sentence or release, and the potential for a defendant's release.[63] However, not all victims want to participate in sentencing, and the court will not always have current contact information for victims. Even if the victim has an address on file with the court, the victim may not want to automatically be sent information which would remind the victim of the crime. **The Commission therefore recommends that AS 12.55.011 be amended as follows**:

"(b) At the time of sentencing, the court shall, **if practical**, provide the victim with a form..."

Recommendation 11-2017: Felony DUI sentencing provisions should be in one statute.

Section 90 of SB 91 amends the provision in Title 12 that sets the presumptive sentencing ranges for Class C felonies. This section of SB 91 also includes sentencing ranges for Felony DUI and Refusal. In Title 28, where the statutes creating the offenses of Felony DUI and Refusal are found, those offenses are given a mandatory minimum, not a presumptive range. Essentially there are two punishment provisions for the same offenses in two different statutes, which creates confusion. **The Commission therefore recommends that the Legislature place the penalty provision for Felony DUI and Refusal sentences in one statute only.**

Recommendation 12-2017: Clarify who will be assessed by Pretrial Services.

Section 117 of SB 91 states: "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"(emphasis added).

The bill therefore contemplates that "all" defendants should be assessed. However, the purpose of the Pretrial Assessment Tool is to assist judges and pretrial services officers with the decision to release a defendant before trial. Not all defendants will be in custody pretrial; some will be issued citations and a summons to appear before the court. Typically these defendants will be low risk (because the officer who issued them the citation likely believed the person to be low risk, and did not arrest the person). **The Commission therefore recommends that AS 33.05.080 be amended as follows:**

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[61] SB 91 § 93.
[62] SB 91 § 79.
[63] SB 91 § 65.

"The commissioner shall establish and administer a pretrial services program that provides a pretrial risk assessment for all defendants **brought into custody or at the request of a prosecutor at the next hearing or arraignment.** [,] **The pretrial services program shall make** recommendations to the court concerning pretrial release decisions, and **provide** supervision of defendants released while awaiting trial as ordered by the court."

Recommendation 13-2017: Fix a drafting error regarding victim notification.

SB 91 currently contains the following provisions:

- Section 122: **33.16.089. Eligibility for administrative parole**: "A prisoner convicted of a misdemeanor or a class B or C felony that is not a sex offense as defined in AS12.63.100 or an offense under AS 11.41."
- Section 132: **33.16.120(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 33.16.089."
- Section (a) of AS 33.16.120 provides that a victim of a crime against a person (found in 11.41) or a victims of Arson in the first degree (a Class A felony) has a right to request notice of a hearing for *discretionary* parole.

Therefore, prisoners convicted of a Class A felony or a crime against a person (found in 11.41) will *not* be eligible for administrative parole. Section 132 of SB 91, however, provides for a victim's right to request a notice of a hearing for administrative parole in these cases—i.e. to request notice of a hearing that will never happen because this class of offender is not eligible for administrative parole. **The Commission therefore recommends that section 132 be repealed.**

Recommendation 14-2017: Enact the following technical corrections to SB 91.

The Commission considers the following recommendations purely technical; they are designed to fix drafting or oversight errors.

- For the crimes of issuing a bad check, fraudulent use of an access device, and defrauding creditors, SB 91 pegged the threshold amount for a B-level felony ($25,000) to inflation.[64] **The Commission recommends removing this inflation adjustment for the B-felony amounts.** This change would mean that the B-level amount would remain at $25,000 absent further legislative action.
- SB 91 changed driving on a suspended license to an infraction in most cases. However, driving without a valid license (arguably, less serious conduct than driving on a suspended license) continues to be a misdemeanor. **The Commission recommends that the crime of driving without a valid license also be reduced to an infraction** to be consistent with the changes made for driving with a suspended/revoked license.
- SB 91 Section 47; page 25; line 13: **The Commission recommends deleting the reference to "(B)" in "11.71.060(a)(2)(B)."** This change limits charging MICS 4 for possession of a compound containing a schedule VIA drug (similar to marijuana) to an ounce or more.

[64] SB 91 §§ 12, 13, 23.

- **The Commission recommends enacting the following changes regarding Suspended Entry of Judgment (SEJ)**, which will clarify that the crimes for which SEJ may not be used are the current crimes charged, and will add SEJ to the list of authorized sentences.
    - SB 91 Sec. 77; page 44; line 19: Delete "is convicted of" and insert "is charged with"
    - SB 91 Sec. 77; page 44; line 23: Delete "is convicted" and insert "is charged"
    - SB 91 Sec. 77; page 44; line 29: Delete "is convicted of" and insert "is charged with"
    - SB 91 Sec. 77; page 45; line 8: Delete "has been convicted of" and insert "is charged with"
    - SB 91 Sec. 77; page 45; line 11: Delete second "of" and after "original probation," and insert "was imposed,"
    - AS 12.55.015(a)(8): Insert "suspend entry of judgement under AS 12.55.078;"
- Sending an explicit image of a minor to another person (a B misdemeanor AS 11.61.116(c)(1)) has an enhanced penalty under SB 91 of up to 90 days.[65] However, posting an explicit image of a minor to a publically available website is limited to 30 days (an A misdemeanor pursuant to AS 11.61.116(c)(2)). **The Commission therefore recommends adding AS 11.61.116(c)(2) to AS 12.55.135(a)(1)(F) to align penalties for posting and sending explicit images of a minor**.
- **The Commission recommends adding the following language to SB 91 Sec. 79; page 45; line 17**: After "AS 11" insert "not listed in (1) of this subsection;". This will clarify that the maximum probation term for felony sex offenses is 15 years, while all other unclassified felonies have a maximum probation term of 10 years.
- **The Commission recommends adding the following language to Sec. 164; page 105; line 7**: After "AS 33.05.020(h)" insert "or 33.16.270". SB 91 requires DOC to provide the Commission with data on earned compliance credits for probationers; this change would extend that requirement to parolees as well.
- **The Commission recommends amending sections 148 and 151 of SB 91 for clarity as to their applicability**. Section 185 of SB 91 states that sections 148 and 151 apply to parole granted before, on, or after the effective date of those sections. Section 190 states that the effective date of sections 148 and 151 is January 1, 2017.
    - Section 148 adds a new tolling provision for parolees who abscond. It also provides that the board may not extend the period of supervision beyond the maximum release date calculated by the department on the parolee's original sentence. It therefore creates a different scheme for calculating an offender's parole, and it would be difficult to apply this section to parole calculated under the previous scheme.
        - The Department of Corrections would like this language added to section 148: "The provisions of this section shall not be construed as invalidating any decision of the Board, issued prior to 1/1/17, which extended the period of supervision beyond the maximum release date on the original sentence."

[65] SB 91 § 91.

- The Department also would like similar language added to section 151, which provides for earned compliance credits for parolees. This also requires a new time accounting system that would not apply to parole calculated under the previous scheme.

Senate Bill 54
An Overview

SB 54 Summary

1. Violation of Conditions of Release (VCOR)
2. Sex Trafficking
3. C-Felony Sentencing
4. Sex Offender Probation
5. A-Misdemeanor Sentencing
6. B-Misdemeanor Sentencing (Theft 4)
7. No Valid Operator's License (NVOL)
8. Pretrial Risk Assessments
9. Alcohol Safety Action Program

Violation of Conditions of Release (VCOR)

Sections 1, 2, 9

SB 91

Reclassified VCOR as an arrestable, detainable violation, rather than a misdemeanor.

SB 54

Returns VCOR to a misdemeanor punishable by 0-5 days active imprisonment.

Sex Trafficking

Sections 3, 4, 5, 13, 14, 20, 22

SB 91

HB 349 (inserted into SB 91) created an inadvertent loophole to prosecution of sex trafficking in the 3rd and 4th degrees.

SB 54

Repeals inadvertent loophole and addresses over-broadness of sex trafficking statutes.

C-Felony

Section 6

SB 91

Established a presumptive range of 0-18 months suspended imprisonment for first-time felony offenders.

SB 54

Establishes a presumptive range of 0-365 days active imprisonment for first-time felony offenders.

Sex Offender Probation

Section 7

SB 91

Eliminated conflicting probation term lengths, leaving no minimums.

SB 54

Requires felony sex offenders serve minimum terms of probation depending on severity of offense:

- 15 years for an unclassified felony
- 10 years for an A or B felony
- 5 years for a C felony

Class A Misdemeanors

Sections 8, 11, 12

SB 91

Established a 0-30 day presumptive sentencing range, allowing 0-1 year for certain offenses and repeat convictions.

SB 54

Allows for a 0-60 day sentence for offenders with one prior similar conviction and 0-1 year for third and subsequent convictions. Includes a 5-year "look back" period.

Theft 4

Section 10

SB 91

Reduced first- and second-time theft offenses under $250 to non-jailable misdemeanors, and 0-5 days *suspended* imprisonment for third or subsequent offenses.

SB 54

Provides for 0-5 days suspended imprisonment for a first offense, 0-5 days active imprisonment for a second offense, and 0-10 days active imprisonment for third or subsequent offense.

No Valid Operator's License (NVOL)

Section 15

SB 91

Reclassified driving with a suspended license (DWLS) to a violation when the underlying suspension is not related to DUI.

SB 54

Similarly reclassifies driving without a valid license to an infraction.

Pretrial Risk Assessments

Section 17

SB 91

Required assessment of every defendant for risk prior to a pretrial release decision.

SB 54

Limits assessment to defendants in custody after arrest.

Alcohol Safety Action Program

Section 21

SB 91

Limited referrals to DUI and Refusal offenders.

SB 54

Expands referrals to include drug possession offenders.

SB 54 Summary

1. Violation of Conditions of Release (VCOR)
2. Sex Trafficking
3. C-Felony Sentencing
4. Sex Offender Probation
5. A-Misdemeanor Sentencing
6. B-Misdemeanor Sentencing (Theft 4)
7. No Valid Operator's License (NVOL)
8. Pretrial Risk Assessments
9. Alcohol Safety Action Program

Questions?

ALASKA CRIMINAL JUSTICE COMMISSION

House Judiciary Committee

October 23, 2017

COMMISSION PROCESS

Research	-	What works to reduce recidivism
Stakeholder outreach	-	Public meetings & discussions
System assessment	-	How is the system currently operating
Proposals from work groups	-	Debated and voted on at Commission meetings

GOALS of CRIMINAL JUSTICE REFORM

- Reinvest in Programs Proven to Reduce Recidivism & Protect Public Safety
- Implement Evidence-Based Pretrial Practices
- Focus Prison Beds on Serious & Violent Offenders
- Strengthen Probation & Parole Supervision
- Improve Reentry Programming
- Ensure Oversight and Accountability

GOALS of CRIMINAL JUSTICE REFORM

Reinvest in Programs Proven to Reduce Recidivism & Protect Public Safety –

Reinvestment in FY17 & FY18

Substance Abuse Treatment	$2,500,000
Reentry Support	$3,000,000
Violence Prevention Programs	$3,000,000
Two-year total	$8,500,000

GOALS of CRIMINAL JUSTICE REFORM

Reinvest in Programs Proven to Reduce Recidivism & Protect Public Safety

Future Reinvestment 2019 - 2022

- **$4,000,000** for treatment in CRCs
- **$4,000,000** for treatment in prison
- **$8,000,000** for treatment in the community and re-entry services (note about ¼ of this amount projected to come from Medicaid reform)
- **$8,000,000** for violence prevention programs in the community

GOALS of CRIMINAL JUSTICE REFORM

Invest in Evidence-Based Pretrial Practices

Pretrial Enforcement	**$13,447,800**

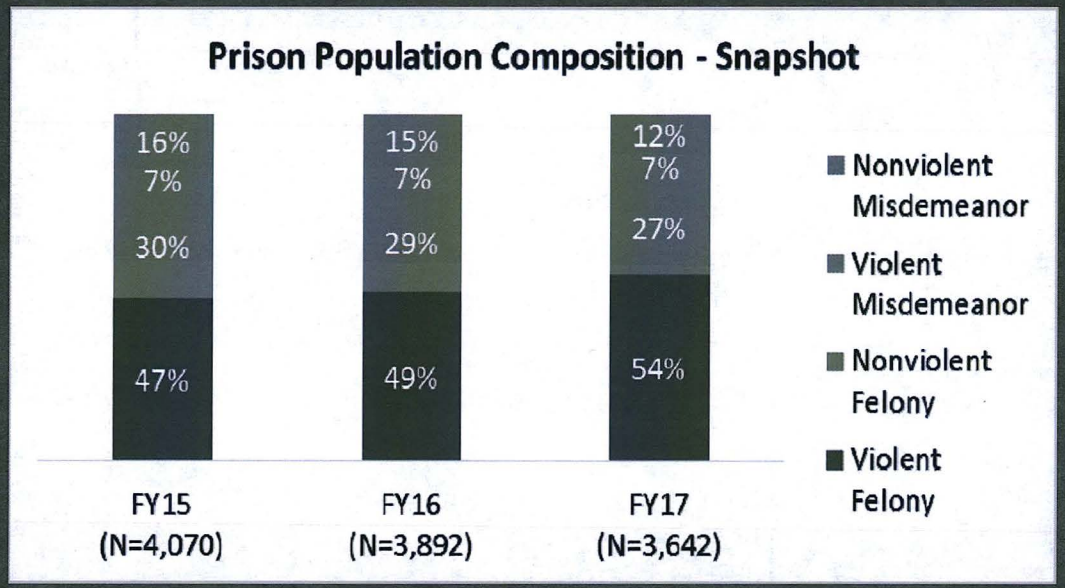
Beginning January 2018

EVIDENCE-BASED PRETRIAL PRACTICES

Pretrial Before and After SB 91 – What's the Difference?	
Pre-SB 91	***Starting January 2018***
✓ Release based on payment of bail to ensure appearance ✓ Amount of bail set is used as a proxy for a defendant's risk ✓ No supervision of defendants who are released ✓ Heavy reliance on civilian third-party custodians	✓ Release based on results of a risk assessment and the offense ✓ Risk assessment calculates a defendant's risk of failure to appear and of a new arrest ✓ Supervision (based on risk level) of defendants who are released ✓ Restrictions on use of third-party custodians

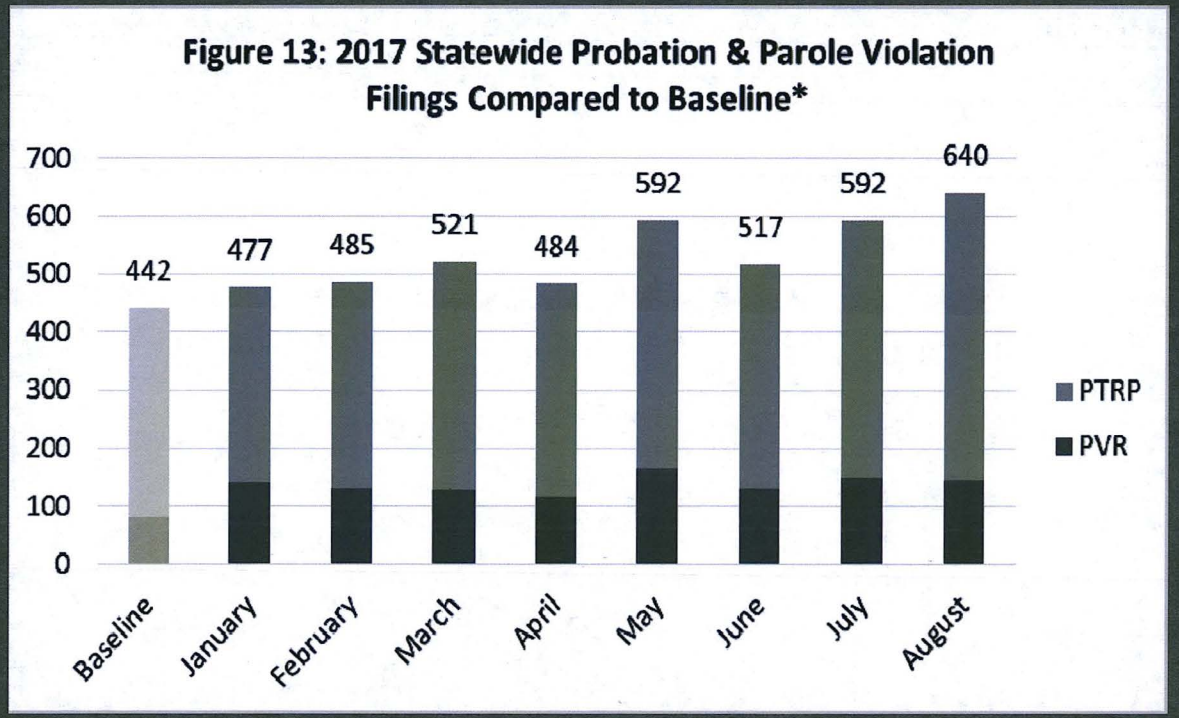
GOALS of CRIMINAL JUSTICE REFORM

Focus Prison Beds on Serious & Violent Offenders



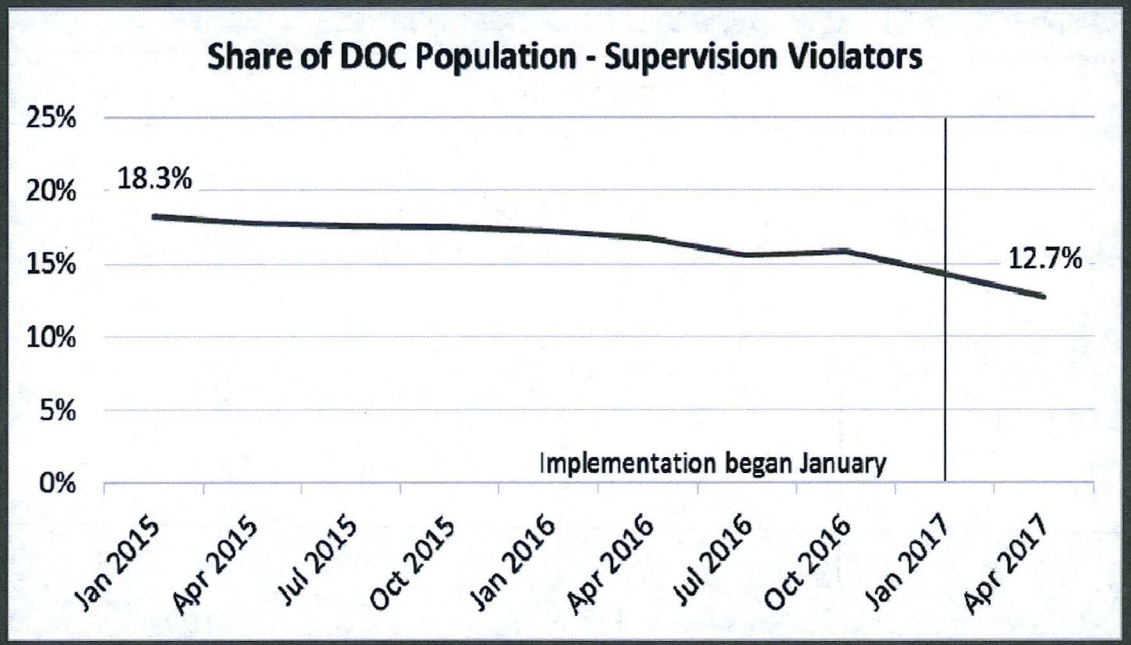
GOALS of CRIMINAL JUSTICE REFORM

Strengthen Probation & Parole Supervision

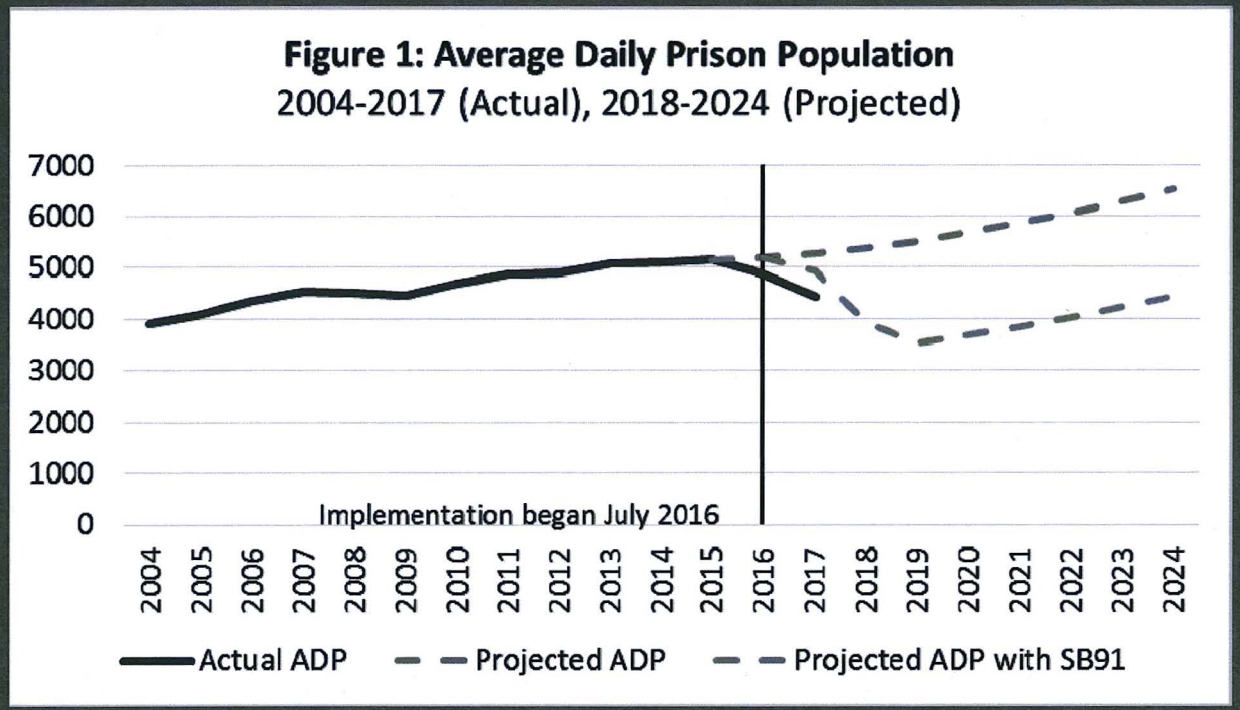


GOALS of CRIMINAL JUSTICE REFORM

Strengthen Probation & Parole Supervision



REDUCE PRISON EXPENSES WHILE PRESERVING PUBLIC SAFETY



PRISON POPULATION DECREASED **437** BEDS SINCE IMPLEMENTATION

- Avoided costs:
  $3.8 million in annual prison growth costs in FY17

  Reduced operational costs:
  - ✓ $5.6 million saved by DOC's closure of the 500-bed Palmer Correctional Center (inmates were sent to other facilities);
  - ✓ About $42/day to house a prisoner

ALASKA CRIMINAL JUSTICE COMMISSION RECOMMENDED CHANGES TO SENTENCES

For first-time Class C Felonies

COMMISSION RECOMMENDATION

Enact a 0-90 day presumptive sentencing range

Retain suspended time of up to 18 months

(Not unanimous)

CURRENT SB54 contains a zero-to-one year presumptive sentencing range

ALASKA CRIMINAL JUSTICE COMMISSION RECOMMENDED CHANGES TO SENTENCES

Return VCOR to misdemeanor status

- B Misdemeanor
- Punishable by up to 5 days in prison
- Allow imposition of a term of probation

Increase penalties for repeat Theft 4 offenders (e.g., shoplifting)

- Up to 10 days in jail for third-time offenders

Note: SB54 allows up to 10 days active time for third-time petty theft offenders, and also raises penalties for first- and second-time offenders to include active jail time

ARREST & INTOXICATION ISSUES

New project for the Commission

How to handle people charged with crimes who are intoxicated

At request of law enforcement, hospitals, and other stakeholders

Complex legal, constitutional, policy, and logistical issues

THANK YOU

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MEMORANDUM

STATE OF ALASKA
Department of Law

To: Alaska Criminal Justice Commission

Date: January 9, 2017

From: Departments of Law and Public Safety

Subject: Recommended Amendments

The Departments of Law and Public Safety ask the Commission to consider the recommendations outlined below which reflect the experience of and feedback from victims, victim advocates, law enforcement, prosecutors, judges, and the public at large. The first five recommendations are more substantive, while the second set of seven are more technical that address potential drafting errors, omissions, or provide clarification.

1.) Jail Time for Class C Felonies: SB 91 reduced the presumptive sentence for a first time class C felony to probation with a suspended term of 0-18 months. AS 12.55.125(e). This term applies to all class C felonies including assault in the third degree, sexual abuse of a minor in the third degree, sex trafficking in the third degree, stalking in the first degree, vehicle theft in the first degree, burglary in the second degree, etc. A person can now do more jail time for a misdemeanor than they can for a first time class C felony.

   The current authorized sentence is also less than the sentences that were authorized before the legislation in 2005 that created presumptive ranges in response to the case *Blakely v. Washington*. At that time a first C felony could be sentenced up to just under 2 years – the presumptive term for a second C felony.

   Recommendation: Amend AS 12.55.125(e) to a presumptive term of 0-18 months for first time class C felonies.

2.) Adjust The New Aggravator For Misdemeanors To Require Only One Prior Conviction Instead Of Two. SB 91 created a presumptive range for class A misdemeanors, which effectively capped the amount of time jail – both active and suspended - that can be imposed. This impacts probation for repeat DUI offenders, repeat offenders of domestic violence restraining orders, and repeat theft offenders among others. Section 91 enacted an aggravator when the offender has *two or more* prior convictions for similar conduct. See AS 12.55.135(a)(1)(C), but this leaves little discretion to judge to suspend jail time to enforce probation conditions on a second offense.

   Recommendation: Amend the aggravator so it applies with only one prior conviction similar in nature. This gives the judge discretion to impose the amount of time called for in each individual case and to incentivize complying with conditions of probation.

3.) Re-enact Recidivist Statute For Low Level Theft Offenses: Section 93 of SB 91 limits the available sentence for a first theft conviction under $250 to a fine and probation – no jail. Under the previous law such offenses could be sentenced up to 90 days in jail.

Also previously AS 11.46.140(a)(3) made a third theft of under $250 within five years a higher-level crime. Section 179 repealed that recidivist provision for multiple thefts under $250.

These changes emboldened criminals and they have become more brazen in committing thefts under $250.

Recommendation: Re-enact AS 11.41.140(a)(3) to allow recidivist thefts to be prosecuted at a higher level.

4.) Sex Trafficking: Secs. 39 and 40 of SB 91 amend the crimes of sex trafficking in the third and fourth degrees. These amendments were not based on recommendations of the Commission, but are presumably intended to prevent the state from prosecuting cooperatives of independent sex workers working in the same location as a trafficking enterprise. However, the practical effect of Sections 39 and 40 will be to allow individuals to operate a place of prostitution if they claim that they themselves also practiced prostitution in that location because prosecutors will now have to show that the accused *induced or caused another person* to engage in prostitution, which is a much higher standard than the prior standard for sex trafficking in the third degree. If the person did not induce or cause, then prosecutors will have to prove that the person *never engaged in prostitution at that location.* This would be very difficult, if not impossible, to prove.

Recommendation: Add language to AS 11.66.130(a) and AS 11.66.135(a) clarifying that a person must engage in sex trafficking separately from acting as a prostitute receiving compensation for personally rendered services.

5.) Return Violations Of Conditions Of Release To A Misdemeanor. In 2000 violating one's conditions of release on bail was turned into a crime to address issues of enforcing bail conditions. SB 91 reduced this crime to a violation. Once again, problems exist with enforcing bail conditions, such as whether a person violating their conditions can be arrested or held until the court can review those conditions. While the court system has proposed adding language to bail orders, this solution has not been universally accepted by judges in the court system.

Recommendation: Make violating conditions of release a class B misdemeanor with a maximum of 10 days in jail.

The remaining seven recommendations address potential drafting errors, omissions, or provide clarification. None of these recommendations conflict with previous Commission recommendations.

1.) Add "Posting An Explicit Image of a Minor" To Exceptions To Misdemeanor Presumptive Sentencing Range. *Sending* an explicit image of a minor to another person (a B misdemeanor AS 11.61.116(c)(1)) has an enhanced penalty under SB 91 of up to 90 days. However, *posting* an explicit image of a minor *to a publically available website* is limited to 30 days (an A misdemeanor pursuant to AS 11.61.116(c)(2)). Posting an explicit image of a minor to the internet is a more serious conduct than merely sending it to another individual. The sentencing scheme for these offenses appears to be inconsistent; this was not a recommendation of the Commission.

   Recommendation: Add posting an explicit image of a minor to AS 12.55.135(a)(1)(F) to provide consistency and logic to the sentencing scheme.

2.) Re-enact Mandatory Probation for Sex Offenders: Repealing AS 12.55.125(o) was proposed to resolve a conflict between that section of law and a proposed section in an early version of SB 91. The final version of the bill resolved the earlier conflict with AS 12.55.125(o), but still repealed subsection (o). The full repeal of AS 12.55.125(o) means that a person can receive a sentence on a sex offense and not be required to serve a period of probation. This is a significant flaw since Alaska's sex offender treatment program is what is called a "containment model." Probation is required for that containment model to work. The elimination of *required* probation leaves a significant hole in Alaska's strategy for addressing sex offenses. Since the testimony on SB 91 clearly indicates that the legislature did not intend to change sentences for sex offenses, it is likely that they did not intend to allow a sex offender to receive a sentence with no probationary period. This was not a recommendation of the Commission

   Recommendation: Renact AS 12.55.125(o).

3.) Inconsistent Probation Terms for Theft in the Fourth Degree: SB 91 adjusts the probation terms for all offenses. The maximum probation term for a person convicted of most misdemeanor offenses is one year. However, for a person convicted of Theft in the Fourth Degree two or more times, the maximum probation term is six months. Therefore, on a person's **first** conviction for Theft in the Fourth Degree they can receive a maximum probation term of **one year**, however, on their **third** conviction they can only receive a probation term of **six months**.

   Recommendation: Amend the probation terms for Theft in the Fourth Degree to be consistent.

4.) Driving without a Valid License: SB 91 changed driving on a suspended license to a violation in most cases. However, driving without a valid license (arguably, less serious conduct than driving on a suspended license) continues to be a misdemeanor.

Recommendation: Amend the crime of driving without a valid license to be consistent with the changes made for driving with a suspended/revoked license.

5.) Clarifying Sentencing Terms for Felony DUI: The changes to the sentencing ranges in felony DUI's appears to create a presumptive term which may be imposed. There is a difference between a mandatory minimum term and a presumptive range. A mandatory minimum term is the minimum that must be imposed upon conviction. A presumptive range means that a sentence usually falls within that range unless an aggravator or mitigator is found. Locating these concepts in different titles of the statutes has created some confusion.

Recommendation: Move the sentencing provisions related to DUI presumptive ranges to the same section of the statutes in which the mandatory minimums are located to ensure clarity.

6.) Inconsistency with Shock Incarceration for Suspended Imposition of Sentence: AS 12.55.086 allows a court to impose jail time as a condition of probation when issuing a Suspended Imposition of Sentence (SIS). This is often termed as "shock incarceration." The reference to shock incarceration has been deleted in AS 12.55.125(e). However, AS 12.55.086 has not been repealed. It is unclear whether the legislature intends for the court to continue to have the ability to impose shock incarceration for people with an SIS.

Recommendation: Clarify the court's ability to impose shock incarceration.

7.) Align Discretion Of Bail And Pretrial Services Officers To Make Recommendations With Judge Discretion To Impose Bail: S.B. 91 limits the discretion of both judges and pretrial services officers with regard to bail. Some of those limitations are inconsistent. SB 91 requires pretrial services officers to recommend that a person be released on their own recognizance depending on the defendant's risk and level of offense. The table[1] below illustrates when pretrial services officer is required by law under SB 91 to recommend an OR release – even if they think a higher bail is appropriate under the circumstances.

1 The tables are from *Practitioner Guide to SB 91* by the Alaska Criminal Justice Commission.

	Misdemeanors [exceptions[2]]	Class C felonies [exceptions[3]]	DUI/refusal	FTA/VCOR	Other
Low-risk	OR recommended	OR recommended	OR recommended	OR presumptively recommended	OR presumptively recommended
Mod-risk	OR recommended	OR recommended	OR recommended	OR presumptively recommended	SB authorized
High-risk	OR recommended	OR recommended	OR presumptively recommended	SB authorized	SB authorized

Conversely, judges have the discretion to impose bail in five of those eight circumstances, as illustrated in the table below.

	Misdemeanors	Class C felonies	DUI/refusal	FTA/VCOR	Other
Low-risk	Mandatory OR	Mandatory OR	Presumptive OR	Presumptive OR	Presumptive OR
Mod-risk	Mandatory OR	Presumptive OR	Presumptive OR	Presumptive OR	SB Authorized
High-risk	Presumptive OR	Presumptive OR	Presumptive OR	SB Authorized	SB Authorized

This inconsistency was not recommended by the Commission and is illogical.

Recommendation: Align the discretion for pre-trial services officers to make release recommendations in AS 33.07.030(c)and (d) (SB 91 Section 117) with the discretion judges have in setting bail found in AS 12.30.011 (SB 91 Section 59).

2 Exceptions for both pretrial service officers and judges: Domestic violence offenses, person offenses, failure to appear, or violation of a release condition.

3 Exceptions for both pretrial service officers and judges: Domestic violence offenses, person offenses, or failure to appear.

State of Alaska
DEPARTMENT OF LAW

FREQUENTLY ASKED QUESTIONS:

SB54

September 26, 2017

1. What changes did SB 91 make to the criminal justice laws when it went into effect in July 2016?

Senate Bill 91 comprehensively reformed our criminal justice system by changing the classification and sentences for a number of crimes, adding pretrial and probation services, and focusing on rehabilitation of criminals and treatment for those with substance abuse problems. Based on evidence and positive experience of other states, SB 91 brought proven solutions to bear on the upward trend of crime and recidivism in Alaska.

What was happening in Alaska's prison system prior to the passage of SB91 was not sustainable. Between 2005-2014, Alaska' prison population grew by 27 percent. By 2024 Alaska would be forced to build another prison or start sending inmates out of state. Alaska wanted to get a better return for its money and decided to focus prison beds on those offenders who are violent or pose a risk to the community. Other lower level, non-violent offenders should be given opportunities to return to the community and address the underlying issues which are the cause of their criminal behavior. Research from other states showed that reinvesting in community programs, treatment, and victims' services reduced recidivism and cost less.

SB 91 is scheduled to reinvest $99 million over six fiscal years. The state has reinvested $22 million in the first two years alone. Assuming the reinvestment plan advances as planned in FY19, the state will have reinvested a total of $39.3 million dollars in 3 fiscal years in community programs, treatment and victims' services.

2. How does SB 54 change SB 91?

SB 54 makes several changes to the law enacted by SB 91. It provides judges, prosecutors, and law enforcement with more tools.

- SB 91 reduced the possibility of incarceration for non-aggravated first time class C felonies from 0-2 years of jail to probation with the ability to impose up to 18 months of jail time only if the defendant commits another crime or violates the terms of probation. SB 54 would change that to 0-1 year of jail time for the first offense. This will allow judges more discretion in crafting appropriate sentences.
- SB 91 made theft of property under $250 (theft in the fourth degree) punishable by no jail time for the first two convictions and only a suspended sentence of 5 days on the third and subsequent conviction. SB 54 allows for a suspended sentence of 5 days on the first conviction, up to 5 days of active imprisonment on the second conviction and up to 10 days of active imprisonment on the third and subsequent conviction.

- SB 54 also closes a loophole in the law created by SB 91. One of the unintended consequences of an amendment to SB 91 was to potentially allow a sex trafficker to avoid prosecution if they themselves also practiced prostitution when operating a place of prostitution. SB 54 amends the law so independent sex workers can work together without being charged for trafficking while still allowing prosecution those who operate a place of prostitution.
- SB 91 downgraded the crime of violation of conditions of release (VCOR) to a non-criminal violation, punishable by only a fine. While law enforcement officers retained the authority to arrest a person for VCOR, this has led to delays in getting defendants who violate their conditions of release while awaiting trial off the streets because judges were reluctant to keep people in jail for a violation and have wanted to wait until the defendant's attorney could be present, which means the defendant could remain on the streets for longer putting the public at risk. SB 54 returns violating conditions of release to a misdemeanor. It will be punishable by up to 5 days in jail. This allows immediate action and time for the court to conduct a bail review in the underlying case on which the defendant had been released pending trial.
- In an apparent oversight, SB 91 eliminated the statutory provision requiring sex offenders to serve a period of probation. Intensity of treatment and length of supervision are the key factors associated with successful management of sex offenders. While supervised probation for sex offenders does not eliminate an offender's propensity for sexual victimization, it does provide a method for managing and preventing the behaviors while on supervision. This suggests, and research supports, that long periods of supervision are critical to protecting communities from sexual predators. The elimination of mandatory probation for sex offenders leaves a significant hole in Alaska's strategy for addressing sex offenses. SB 54 reenacts mandating periods of probation for sex offenders.

3. How would SB 54 make my community safer?

SB 54 returns much need discretion to judges, which will allow them to craft a sentence that will appropriately balance both public safety and rehabilitation.

4. What evidence is there to support up to one year for first-time Class C felonies?

The evidence before the Commission was that smaller sentences were just as effective as long sentences for many crimes. But SB 91 not just reduced the amount of jail time for Class C felonies, it took away a court's discretion to impose any jail time.

After the passage of SB 91 anecdotal evidence began to mount indicating that the reforms were not working as intended. Some criminals seemed emboldened by the lack of sanctions for Class C felonies. Though police ***could*** arrest people for lower level crimes, those arrested were immediately released from jail and faced the real possibility of receiving no jail time even when convicted. Thus, the practical effect was that making an arrest in these cases – as opposed to issuing a summons – was not worth the time or risk of injury to police or offender.

This anecdotal evidence of increased crime has been validated by the Department of Public Safety's annual report: Crime in Alaska 2016. The larceny and vehicle theft data supports what we have suspected for the past year.

Moreover, the evidence behind SB 91 showed that treatment would be better than jail time when substance abuse was the primary causal factor for the offense. But without the threat or ability to impose jail time, prosecutors and judges found themselves unable to incentivize or require treatment. Allowing up to a year in jail for non-aggravated first time class C felonies will give necessary discretion and tools back to judges, law enforcement, and prosecutors that will help them better address these crimes and build a safer Alaska

5. Wasn't crime on the rise prior to SB 91? Why will SB 54 help?

It is true that crime generally was on the rise prior to passage of SB 91. Sentences for the sex offenses and homicides were not changed by SB 91, and the rise in the incidents of those crimes is unrelated to SB 91. But what the 2016 Uniform Crime Report shows us is that thefts increased 16.1% between 2015 and 2016, much higher than any prior increases since 2012. In fact, the prior two years had seen a downturn in thefts. Motor vehicle thefts show an even starker uptick, increasing 48.7% between 2015 and 2016. With our ongoing opioid crisis and the State's fiscal crisis, SB 91 is likely not the sole cause in the increase in crime, but the evidence does show a significant increase in theft crimes in the same year as SB 91 was passed. SB 54 will give necessary discretion and tools back to judges, law enforcement, and prosecutors that will help them better address these property crimes and build a safer Alaska. (See the Department of Public Safety's Uniform Crime Report.)

6. Wasn't SB 91(criminal justice reform) based on evidence and data? What evidence do we have that SB 54 will help bring down crime?

Although there was a lot of research and data presented to the Alaska Criminal Justice Commission, there was no evidence presented that lowering non-aggravated first-time C Felony offenses to no jail time would reduce recidivism and bring down crime rates. In fact, the Department of Law did a review of the other 49 states, and no other state has gone this far in their reforms. (See memorandum from the Department of Law.) There has also been anecdotal evidence that has been backed up by the Department of Public Safety's report: Crime in Alaska 2016. Further explanation is provided in FAQs 4 and 5.

7. Doesn't the 2016 Uniform Crime Report show crime is actually up, so SB 91 hasn't worked?

As addressed in question 5, you have to look at overall trends. As examples, murder crime rates steadily increased from 2013-2015, as did the crime rates for rape. Alaska has been struggling for decades with the highest domestic violence and sexual assault rates in the nation. SB 91 did not cause this. We need to look at the whole picture—the various causes of crime and the number of treatment options available—something SB 91 will helped with money it allocated to be invested in treatment programs.

8. Do we need to repeal all of SB 91? Would prosecutors support a wholesale repeal?

See FAQs 5 and 7. The evidence behind SB 91 still exists—we need to be smarter about how we design our criminal justice system and work on rehabilitating individuals who can be rehabilitated. This January, as part of SB 91, the Department of Corrections will have 60 armed pre-trial officers to help take dangerous offenders off the streets as quickly as possible while also helping offenders who can be rehabilitated find the right services and treatment as early as possible. We need to give the reforms on the whole a chance to work, while making necessary tweaks, such as SB 54, when they are needed.

9. Shouldn't we give SB 91 a chance to work before making changes?

Yes, but with any large legislation totaling more than 130 pages, you are going to have areas that need to be corrected. As explained in FAQs 4, 5 and 6, SB 54 is targeted at specific provisions in SB 91 that did not have the evidence supporting improved results when the bill passed and have clearly emboldened criminals by taking away a judge's discretion to impose appropriate jail time. SB 54 merely makes necessary tweaks to SB 91. These types of changes are necessary with almost every large omnibus legislation. As a whole, we need to continue to monitor over the next three to five years if SB 91 has worked as intended.

10. Won't jail sentences take away money that could have been used for treatment?

It should be remembered that SB 54 only gives the discretion back to judges to impose some jail time; it does not mandate jail time. There are circumstances where a judge would find that jail time is not needed, and others where the maximum sentence should be imposed. This will lead to an increase in those in jail for short periods, but will not take away from the efforts towards treatment which should ultimately lower the number of repeat offenders and free up beds in our jails.

11. What if the crime rate continues to go up after passing SB 54?

We have always said this is a multi-faceted problem that will require many solutions. SB 54 will simply restore some of the tools necessary to address non-aggravated first-time C felony offenses and lower level theft cases. We need to be vigilant about providing treatment options and continuing to get dangerous individuals off the streets. In the coming months, the Governor and Attorney General will be outlining further plans to improve public safety in our state.

12. Department of Law has seen a reduction in their budget because of the fiscal crisis. What is the point of increasing penalties if there aren't enough prosecutors to handle the cases?

The fiscal crisis and the opioid crisis are likely both contributing factors to the rise in crime. Economic downturns have historically meant an uptick in crime can be expected. But this does not mean that giving the necessary tools to our judges, prosecutors, and law enforcement is fruitless. Prosecutors must continually weigh priorities and decide where their resources will make the most difference. Giving some tools back to prosecutors can both assist in deterring individuals from committing the crime in the first place and allow prosecutors to advocate for the most effective punishment or treatment in a particular case. SB 54 is important for these reasons and can make a difference regardless of the budget situation.

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C Felonies in AS 11 Affected by SB 91

The felonies listed below are class C felonies found in Title 11 that fall within AS 12.55.155 - that is, if convicted of one of the listed non-aggravated class C felonies offenses, a first-time offender will receive a 0-18 month probationary sentence. Although Title 11 encompasses the vase majority of criminal conduct in Alaska, other affected class C felonies may be found in other titles, including Title 4, 16, 28, and others.

1	11.41.220(a)(1)(A)	Assault in the Third Degree	Causing someone fear of serious physical injury or death using a dangerous instrument (ie: Pointing a gun at another person)			
2	11.41.220(a)(1)(B)	Assault in the Third Degree	Injuring a person with a weapon (ie: Stabbing another person without seriously injuring the person)			
3	11.41.220(a)(1)(C)(i)	Assault in the Third Degree	An adult injuring a child under 12 that results in the need for medical attention			
4	11.41.220(a)(1)(C)(ii)	Assault in the Third Degree	An adult repeatedly injuring a child under 12			
5	11.41.220(a)(2)	Assault in the Third Degree	Repeatedly threatening to cause serious physical injury to or kill another person or their family member			
6	11.41.220(a)(3)	Assault in the Third Degree	An adult knowingly injuring a child age 12 to 15 and the injury requires medical attention			
7	11.41.220(a)(4)	Assault in the Third Degree	Negligently causing another person serious injury with a dangerous instrument			
8	11.41.220(a)(5)	Assault in the Third Degree	Causing physical injury to another person after having been convicted twice prior in the past 10 years for similar conduct			
9	AS 11.41.270(a)(1)	Stalking in the First Degree	Placing someone in fear of death or serious injury through a course of nonconsensual contact and the stalking actions **violate** a domestic violence or stalking **protective order** issued by the court.			
10	AS 11.41.270(a)(2)	Stalking in the First Degree	Placing someone in fear of death or serious injury through a course of nonconsensual contact and the stalking actions **violate** a condition of **probation, parole,** or **release** before or after trial			
11	AS 11.41.270(a)(3)	Stalking in the First Degree	Placing someone in fear of death or serious injury through a course of nonconsensual contact and the **victim** of the stalking is **under 16** years of age			
12	AS 11.41.270(a)(4)	Stalking in the First Degree	Placing someone in fear of death or serious injury through a course of nonconsensual contact and the **stalker possesses** a **deadly weapon**			
13	AS 11.41.270(a)(5)	Stalking in the First Degree	Placing someone in fear of death or serious injury through a course of nonconsensual contact and the stalker has been **previously convicted** of misdemeanor stalking			
14	AS 11.41.270(a)(6)	Stalking in the First Degree	Placing someone in fear of death or serious injury through a course of nonconsensual contact and - the stalker has **previously committed** any one of a range of **assaultive** crimes **against the victim**			
15	AS 11.41.320	Custodial interference in the First Degree	Removing a child from the state in violation of a custody order			
16	AS 11.41.438 (registerable sex offense)	Sexual Abuse of a Minor in the Third Degree	Person 17+ has sexual contact with a child 13-15 and 4+ yr age difference (ie:A 22 year old man befriends a 13 year old girl, lures her into his house, and fondles her naked body or convinces her to touch his penis)			
17	AS 11.41.530(a)(1)	Coercion	Compelling a person to engage in or abstain from particular behavior by theat of force			
18	AS 11.41.530(a)(2)	Coercion	Compelling a person to engage in or abstain from particular behavior by theat of accusing another of a crime			
19	AS 11.41.530(a)(3)	Coercion	Compelling a person to engage in or abstain from particular behavior by theat of expose a secret or confindetial information			
20	AS 11.41.530(a)(4)	Coercion	Compelling a person to engage in or abstain from particular behavior by theat of taking or withholding action a s a public servant			
21	AS 11.41.530(a)(5)	Coercion	Compelling a person to engage in or abstain from particular behavior by theat of strike or boycott			
22	AS 11.41.530(a)(6)	Coercion	Compelling a person to engage in or abstain from particular behavior by theat of providing or withholding information in a legal claim or defense			
23	AS 11.46.130(a)(1)	Theft in the Second Degree	Theft of property worth $1,000 - $25,000			
24	AS 11.46.130(a)(2)	Theft in the Second Degree	Theft of guns or explosives			
25	AS 11.46.130(a)(3)	Theft in the Second Degree	Theft of property taken off another person (ie: pick-pocket or purse snacther)			
26	AS 11.46.130(a)(4)	Theft in the Second Degree	Theft of safety or survival equipment from a vessel (ie: steals life preservers from a fishing boat)			
27	AS 11.46.130(a)(5)	Theft in the Second Degree	Theft of safety or survival equipment from an aircraft (ie: steals an emergency locator transmitter from a plane)			
28	AS 11.46.130(a)(6)	Theft in the Second Degree	Theft of $250 - $1,000 and within the past five years twice convicted of similar conduct			
29	AS 11.46.130(a)(7)	Theft in the Second Degree	Theft of an access device (ie: theft of credit card, social security number, ATM card or ATM code, etc.)			
30	AS 11.46.220(a) and (c)(1)(A)	Concealment of Merchandise	Without authority conceals firearm with intent to steal it			
31	AS 11.46.220(a) and (c)(1)(B)	Concealment of Merchandise	Without authority conceals merchadise worth $1,000 - $25,000 with intent to steal it			
32	AS 11.46.220(a) and (c)(1)(C)	Concealment of Merchandise	Without authority conceals merchadise worth $250 - $1,000 with intent to steal it and twice before convicted within 5 years			
33	AS 11.46.260(a)(and (b)(1)	Removal of Identification Marks	Remove or alter serial number or other ID marks from a vehicle, bicycle, firearm, construction equipment, appliance, etc. AND value of item is greater then $1,000			
34	AS 11.46.270(a) and (b)(1)	Unlawful Possession	Possess item knowing ID marks removed AND value of item is greater then $1,000			
35	AS 11.46.280(a) and (d)(2)	Issuing a Bad Check	Issue a check for $1,000 - $25,000 knowing it will not be honored			
36	AS 11.46.285(a) and (b)(2)	Unauthorized Use of an Access Device	Attempting unauthorized use an access device to obatin $1,000 - $25,000 worth of goods or service (ie: Identity theft)			

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37	AS 11.46.290	Obtaining an Access Device or Identification Document by Fraudulent Means	Obtaining an access device or identification document by fraudulent means (ie: Identity theft)			
38	AS 11.46.310	Burglary in the Second Degree	Illegally entering a building with intent to commit a crime inside (ie: break into a business to commit a crime like theft or assault)			
39	AS 11.46.360	Vehicle Theft in the First Degree	Stealing a car, truck, or motorcycle			
40	AS 11.46.420(a)(1)	Arson in the Third Degree	Setting a vehicle on fire on public land			
41	AS 11.46.420(a)(2)	Arson in the Third Degree	Setting another person's vehicle on fire on private land			
42	AS 11.46.427	Criminally Negligent Burning in the First Degree	Negligently damages another property by fire or explosion and previously convicted twice within last 10 years for similar conduct			
43	AS 11.46.482(a)(1)	Criminal Mischief in the Third Degree	Intentionally causing more than $1,000 in property damage			
44	AS 11.46.482(a)(2)	Criminal Mischief in the Third Degree	Creating a risk of damage greater than $100,000 to property by widely dangerous means (ie: Fire, explosion, poison, avalanche, radioactive material, bacteria, flood, collapse of building, etc.)			
45	AS 11.46.482(a)(3)(A)	Criminal Mischief in the Third Degree	Defacing or desecrating a cemetery, tomb, grave, or memorial			
46	AS 11.46.482(a)(3)(B)	Criminal mischief in the Third Degree	Removes human remains from a cemetery, tomb, or grave			
47	AS 11.46.505	Forgery in the Second Degree	Forging a check, public record, or legal document			
48	AS 11.46.520	Criminal Possession of Forgery Device	With intent to defraud or aid another to defraud, possesses plate die or other item used for forgery			
49	AS 11.46.530	Criminal Simulation	Makes, alters, possesses, or utters an object such that it appears to be more valuable than it is due to rarity, age, source, or authorship and the false value is $1,000 or more			
50	AS 11.46.550	Offering a False Instrument for Recording	Knowingly submitting a fraudulent deed or lien for recording in the public records			
51	AS 11.46.630	Falsifying Business Records	Altering, erasing, and falsely entering business records			
52	AS 11.46.660/670	Commercial Bribe Receiving/Commercial Bribery	Receiving or offering a bribe to an employee or agent who has a fiduciary duty			
53	AS 11.46.710	Deceptive Business Practices	Engaging in fraudulent business practices over the internet			
54	AS 11.46.740(a)(1)(A)	Criminal Use of a Computer	Accessing a computer without authorization and obtains information about ar person			
55	AS 11.46.740(a)(1)(B)	Criminal Use of a Computer	Accessing a computer without authorization and introduces false information with intent to damage or enhance the data record or financial reputation of a person			
56	AS 11.46.740(a)(1)(C)	Criminal Use of a Computer	Accessing a computer without authorization and introduces false information with criminal negligence that *does* damage or enhance the data record or financial reputation of a person			
57	AS 11.46.740(a)(1)(D)	Criminal Use of a Computer	Accessing a computer without authorization and obtains proprietary information			
58	AS 11.46.740(a)(1)(E)	Criminal Use of a Computer	Accessing a computer without authorization and obatin information only available to the pubic for a fee			
59	AS 11.46.740 (a)(1)(F)	Criminal Use of a Computer	Accessing a computer without authorization andintroduces code that harms the computer or system			
60	AS 11.46.740(a)(1)(G)	Criminal Use of a Computer	Accessing a computer without authorization and encrypts or decrypts data			
61	AS 11.51.100(a)(1)	Endangering the Welfare of a Child in the First Degree	Abandoning a child under 16 in a place where the child will likely suffer injury			
62	AS 11.51.100(a)(2)	Endangering the Welfare of a Child in the First Degree	Leaving a child under 16 with a sex offender or child kidnapper			
63	AS 11.51.100(a)(3) and (d)(2)	Endangering the Welfare of a Child in the First Degree	Leaving a child under 16 with a person knowing that person has beaten or had sexual contact any child, and the person seriously injures or engages in sexual contact with the child			
64	AS 11.51.100(a)4)	Endangering the Welfare of a Child in the First Degree	Failing to provide adequate food or water to the point that the child under 16 suffers long term damage			
65	AS 11.51.120(a) and (d)	Criminal Nonsupport	Failing to pay child support: (1) in an amount of greater than $20,000; (2) has not made a payment in 24 months; (3) previously convicted and failed to pay over $5,000; or (4) previously convicted and not made a payment in six months			
66	AS 11.51.121	Aiding the Nonpayment of Child Support in the First Degree	A person (often an employer) knowing that another person (the obligor) has the duty to pay child support and intentionally participates in an arraignment that allows the obligor to avoid paying all or some of the support when at a C level felony			
67	AS 11.51.200	Endangering the Welfare of a Vulnerable Adult in the First Degree	Abandoning a vulnerable adult in a place where they will likely suffer serious injury			
68	AS 11.56.205	Unsworn Falsification in the First Degree	Intentionally providing false information on a permanent fund dividend application			
69	AS 11.56.230	Perjury by Inconsistent Statements	Making two or more irreconcilably contradictory statements under oath			
70	AS 11.56.320	Escape in the Third Degree	Escaping from official detention during any transport for a misdemeanor.			
71	AS 11.56.335	Unlawful Evasion in the First Degree	While charged with or convicted of a felony, the person fails to return to official detention after being allowed out on a pass or furlough			
72	AS 11.56.370	Permitting an Escape	A prison guard allowing someone to escape from detention.			
73	AS 11.56.375(a)(1)	Promoting Contraband in the First Degree	Bringing into or possessing a deadly weapon in a jail			
74	AS 11.56.375(a)(2)	Promoting Contraband in the First Degree	Bringing into or possessing an item intended to be used to facilitate an escape in a jail			
75	AS 11.56.375(a)(3)	Promoting Contraband in the First Degree	Bringing into or possessing drugs in a jail			
76	AS 11.56.540	Tampering with a Witness in the First Degree	Inducing a witness to testify falsely or unlawfully withhold testimony in a trial or be absent from a trial to which the witness has been summoned			
77	AS 11.56.590	Jury Tampering	Communicating with a juror in a way that is prohibited during an official proceeding and intending to influence the juror's vote or otherwise affect the outcome of the official proceeding			
78	AS 11.56.600	Misconduct by a Juror	Agreeing to vote for a certain verdict prior to the evidence being presented			

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79	AS 11.56.610(a)(1)	Tampering with Physical Evidence	Destroying or concealing physical evidence with intent to make it unavailable for trial or investigation			
80	AS 11.56.610(a)(2)	Tampering with Physical Evidence	Makes or presents physical evidence, knowing it to be false, intending to mislead a trial juror or police during an investigation			
81	AS 11.56.610(a)(3)	Tampering with Physical Evidence	Preventing the production of physical evidence in a trial or investigation by the use of force or threat			
82	AS 11.56.705	Harming a Police Dog in the First Degree	Intentionally killing or causing serious physical injury to a police dog			
83	AS 11.56.730	Failure to Appear	Failing to appear at a court hearing while on release in a felony case and not making contact with the court or a judicial officer within 30 days after the person failed to appear			
84	AS 11.56.760	Violating an Order to Submit to DNA Testing	Refusing to submit to DNA testing as required by a court order			
85	AS 11.56.762(a)(1)	Unlawful Use of DNA Samples	Possessing or allowing another person access to blood, oral, or tissue sample collected for inclusion in the DNA identification registration system			
86	AS 11.56.762(a)(2)	Unlawful Use of DNA Samples	Possessing or allowing another person access to identification data or records derived from DNA samples			
87	AS 11.56.770	Hindering Prosecution in the First Degree	Helping someone who has committed felony evade apprehension, prosecution, conviction, or punishment, or assisting the person in profiting from the crime			
88	AS 11.56.810(a)(1)(A)	Terroristic Threatening in the Second Degree	Make a false claim human life is at risk and a person reasonablly fears this to be true			
89	AS 11.56.810(a)(1)(B)	Terroristic Threatening in the Second Degree	Make a false claim human life is at risk and causes an evacutation of a building or public place			
90	AS 11.56.810(a)(1)(C)	Terroristic Threatening in the Second Degree	Make a false claim human life is at risk and causes serious public inconvienence			
91	AS 11.56.810(a)(1)(D)	Terroristic Threatening in the Second Degree	Make a false claim human life is at risk by means of biological, chemical, bateriological, or radioactive substance in a public place			
92	AS 11.56.810(a)(2)	Terroristic Threatening in the Second Degree	Make a false claim that a circumstance exists that is dangerous to a pipeline			
93	AS 11.56.815	Tampering with Public Records in the First Degree	With the to harm or benefot a person falsely makes, alters, or withholds an entry in a public record with the intent ot conceal a fact material to an investigation			
94	AS 11.56.827	Impersonating a Public Servant in the First Degree	While pretending to be a peace officer a person attempts to exercise police autority over another person			
95	AS 11.56.835	Failure to Register as a Sex Offender or Child Kidnapper in the First Degree	Knowingly failing to register as a sex offender and has been previously convicted for knowingly failing to register as a sex offender			
96	AS 11.61.100	Riot	Five people engaging in violent conduct in a public place creating the likelihood of damage to property or injury to any person			
97	AS 11.61.123	Indecent Viewing or Photography	Taking or viewing a picture of the genitals, anus, or female breast of without the consent of the person 13+ years of age and the person's guardians if the person under age 16. This is a felony when the person is under age 18.			
98	AS 11.61.128 (registerable sex offense)	Distribution of Indecent Material to Minors	Giving pornography to a minor under 16 years of age			
99	AS 11.61.140(a)(1)	Cruelty to Animals	Causing severe or prolonged pain or suffering to an animal			
100	AS 11.61.140(a)(2)	Cruelty to Animals	Negligently fail to care for an animal in such a fashion that the animal dies or is subjected to severe pain or prolonged suffering AND previously convicted of animal cruelty or promoting animal fighting within the past 10 years			
101	AS 11.61.140(a)(3)	Cruelty to Animals	Killing an animal with a decompression chamber			
102	AS 11.61.140(a)(4)	Cruelty to Animals	Killing a pet or livestock using poison			
103	AS 11.61.140(a)(5)	Cruelty to Animals	Kills or injures an animal to intimidate or threaten another person AND previously convicted of animal cruelty or promoting animal fighting within the past 10 years			
104	AS 11.61.140(a)(6)	Cruelty to Animals	Engages in sexual conduct with an animal AND previously convicted of animal cruelty or promoting animal fighting within the past 10 years			
105	AS 11.61.140(a)(7)	Cruelty to Animals	Permits sexual conduct with an animal at the person's premises AND previously convicted of animal cruelty or promoting animal fighting within the past 10 years			
106	AS 11.61.145	Promoting an Exhibition of Fighting Animals	Owning or training an animal with intent that it engage in animal fighting or promoting an exhibition of fighting animals			
107	AS 11.61.160	Recruiting a Gang Member in the First Degree	Threatening harm or actually harming a person to induce the person to participate in a criminal street gang or to commit a crime on behalf of a criminal street gang			
108	AS 11.61.200(a)(2)	Misconduct Involving Weapons in the Third Degree	Selling a concealable (on one's person) firearm to a felon within 10 years of unconditional discharge from felony			
109	AS 11.61.200(a)(3)	Misconduct Involving Weapons in the Third Degree	Selling or manufacturing a prohibited weapon (i.e. nerve gas, land mines, bombs, grenades, silencers, fully automatic weapons, short barreled rifles) unless within accord with National Firearms Act			
110	AS 11.61.200(a)(4)	Misconduct Involving Weapons in the Third Degree	Selling a firearm to a person impaired by drugs or alcohol			
111	AS 11.61.200(a)(5)	Misconduct Involving Weapons in the Third Degree	Removing or covering a firearm's serial number with the intent to make it untraceable			
112	AS 11.61.200(a)(6)	Misconduct Involving Weapons in the Third Degree	Possessing a firearm with the serial number removed with the intent to make it untraceable			
113	AS 11.61.200(a)(7)	Misconduct Involving Weapons in the Third Degree	Commit a criminal trespass while impaired by drugs or alcohol and armed with a firearm			
114	AS 11.61.200(a)(8)	Misconduct Involving Weapons in the Third Degree	Commit a criminal trespass in a home or vehicle in violation of a protective order and while possessing a deadly weapon			
115	AS 11.61.200(a)(9)	Misconduct Involving Weapons in the Third Degree	Communicates with a person in violation of a protective order and while possessing a deadly weapon			

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116	AS 11.61.200(a)(11)	Misconduct Involving Weapons in the Third Degree	Discharging a firearm from a moving vehicle			
117	AS 11.61.240	Criminal Possession of Explosives	Building or possessing a bomb with the intent to use that bomb to commit a class B felony			
118	AS 11.61.250	Unlawful Furnishing of Explosives	Giving a bomb to another person knowing that the other person intends to use the bomb to commit a crime			
119	AS 11.66.100 (a)&(e) (AS 11.66.100(a)(2) is a registerable sex offense if the prostitue is under 20)*	Prostitution - under age	A patron of a prostitute engages in or agrees to engage in sexual conduct in return for a fee, provided the prostitute is under 18 years of age and the patron is over 18 years of age and three years older than the prostitute			
120	AS 11.66.130(a)(1)	Sex Trafficking in the Third Degree	Owning or managing a place of prostitution			
121	AS 11.66.130(a)(2) (registerable sex offense if person trafficked is under 20)	Sex Trafficking in the Third Degree	Person other than patron induces or causes person 20+ to engage in prostitution			
122	AS 11.66.130(a)(3)	Sex Trafficking in the Third Degree	Receive compensation for prostitution services not personally rendered			
123	AS 11.66.130(a)(4)	Sex Trafficking in the Third Degree	Promote prostitution by instituting, aiding, or facilitating a protstitution enterprise			
124	AS 11.66.210	Promoting Gambling in the First Degree	Promoting or profiting from an unlawful gambling enterprise			
125	AS 11.66.230	Possession of Gambling Records in the First Degree	Knowingly possessing a gambling record used in the operation or promotion of an unlawful gambling enterprise			
126	AS 11.71.040(a)(1)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Selling any amount of a schedule IVA or VA controlled substance (such as valium, anabolic steroids, and many prescription drugs			
127	AS 11.71.040(a)(2)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Selling one ounce or more of a schedule VIA substance (marijuana			
128	AS 11.71.040(a)(3)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Possessing any amount of certain schedule IA controlled substances (such as GHB, GBL, and GHV which are extremely dangerous and are often considered "date rape" drugs)			
129	AS 11.71.040(a)(4)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Possessing any amount of schedule IIIA, IVA, VA, or VIA controlled substance (such as marijuana, hash oil, and various prescription drugs and chemical compounds) within 500 feet of a school, recreation or youth center, or on a school bus			
130	AS 11.71.040(a)(5)	Misconduct Involving a controlled substance in the Third Degree (MICS 3)	Maintain a building for the purpose of storing or distributing controlled substances such as heroin, cocaine, methamphetamine, and other dangerous drugs			
131	AS 11.71.040(a)(6)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Creating a stamp or other device for creating a fake trademark or other identifying mark on a drug, with the intent to create counterfeit drugs			
132	AS 11.71.040(a)(7)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Pretending to have a license and registration to manufacture or sell controlled substances by using a registration number that is revoked, suspended, fake, or belongs to another person			
133	AS 11.71.040(a)(8)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Knowingly providing false information in an application, report, or record that is filed under the regulatory regime for controlled substances			
134	AS 11.71.040(a)(9)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Obtaining any amount of drugs at a pharmacy or hospital by pretending to be a different person or writing a fake prescription			
135	AS 11.71.040(a)(10)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Putting a false or forged label on a package or other container containing controlled substances			
136	AS 11.71.040(a)(11)(A)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Selling up to one gram of a schedule 1A substance (such as heroin, fentanyl, opium, oxycodone, methadone, etc.)			
137	AS 11.71.040(a)(11)(B)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Selling 25 tablets, ampules, or syrettes containing a schedule IA controlled substance			
138	AS 11.71.040(a)(11)(C)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Selling up to 2.5 grams of a schedule IIA or IIA substance (such as cocaine, LSD, methamphetamine, etc.)			
139	AS 11.71.040(a)(11)(D)	Misconduct Involving a Controlled Substance in the Third Degree (MICS 3)	Selling up to 50 tablets, ampules, or syrettes containing a schedule IIA or IIIA substance			
140	AS 11.73.010	Manufacture or Delivery of an Imitation Controlled Substance	Sells any amount of an imitation of any controlled substance			
141	AS 11.73.020	Possession of Substance with Intent to Manufacture	Possess certain chemical compounds with the intent to manufacture an imitation of a controlled substance			
142	AS 11.73.040	Advertisement to Promote the Delivery of an Imitation Controlled Substance	Places an advertisement for the purpose of selling an imitation of a controlled substance			
* If a prostitute is under 18 the patron may also be charged with sexual abuse of a minor in the first, second, third, or fourth degrees, depending on the circumstances.						

MEMORANDUM

STATE OF ALASKA
Department of Law-Criminal Division

To: Senator John Coghill **Date:** May 19, 2017

Thru: Robert Henderson
Deputy Attorney General

From: John Skidmore
Division Director
Department of Law – Criminal Division

Subject: **Survey of States Sentencing**

The Department of Law received several legislative inquiries about how Alaska's new sentencing scheme for typical first-time C felonies[1] compares to other states. This sort of analysis is complex and time-intensive for two reasons: first, Alaska's C felonies encompass a wide variety of conduct; and second, there can be substantial differences in how other states approach sentencing generally and how they classify their crimes specifically. This memo lays out how Law approached this analysis and what analyses have been completed to date.

Executive Summary

Alaska's sentencing reforms have been greater than any other state's sentencing reforms in the last decade. These reforms have left Alaskan judges with less discretion than judges in any other state to impose jail for the wide range of criminal conduct encompassed first time typical C felony. This means Alaska has the lowest authorized sentences in the nation for this wide range of conduct.

C Felonies In Alaska

Alaska classifies felony conduct into four groups or levels[2]: Unclassified, A, B, and C. Alaska's C felonies, our lowest level of felony conduct, cover a wide range of criminal conduct. There are over 100 C felonies in 12 different titles of the Alaska Statutes with the majority of those offenses found in Title 11. Class C felonies in Title 11 include crimes against persons, property, drug trafficking, family and vulnerable adults, public

[1] A typical C felony is one for which an aggravator or mitigator does not apply. If either applied, that would give the court discretion to depart from the presumptive sentencing range.
[2] There are a few non-classified felonies outside of AS 11.xx.xxx.

administration, public order, and public health and decency[3]. The current sentencing scheme for typical first time class C felonies in Alaska enacted under SB 91 is probation with a suspended term of imprisonment of 0-18 months.[4] The wide range of criminal conduct encompassed by class C felonies calls for more discretion in fashioning the appropriate response from the criminal justice system to effectively protect the public, deter future criminal conduct, and rehabilitate the offender.

Steps In The Analysis

This analysis looked at the sentencing structures for first felony offenders in the other 49 states and the District of Columbia. The ultimate goal was to produce a chart for comparison purposes. *See* attached chart "Authorized Sentences for Low Level Felonies". The first step considered whether the other states classify felonies (*i.e.,* place felonies into distinctive groups). Some states do not classify their felonies, but rather simply provide a sentence for each individual crime. Some states, such as Nevada and South Dakota, classify felony conduct into more than four groups or levels. If felonies were grouped into distinctive categories of offenses, then the next step was to determine if the state employs a presumptive sentencing scheme.[5] Finally, for states that classify felonies and use presumptive sentencing, the last step was to determine if the number of prior felonies (*i.e.,* criminal history) was used to differentiate the authorized sentences. Put another way, did the state have a different sentence for a first felony versus a 2nd or subsequent felony?

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[3] The following list provides some examples of the types of crimes encompassed by class C felonies: **Assault in the Third Degree** (pointing a gun in another person's face and even firing that gun so long as the victim is not hit); **Sexual Abuse of a Minor in the Fourth Degree** (a person 19 or older having sexual contact with a person 16-17 if there is a 3+ year age difference. This could include a 40 or 50 yr old person having sexual contact with a 16-17 year old.); **Arson in the Third Degree** (setting a fire to or exploding a vehicle); **Theft or Criminal Mischief $1,000-$25,000** (Criminal mischief is the intentional damaging of another's property); **Endangering the Welfare of a Minor in the First Degree** (abandoning a child or not providing adequate food and water for the child); **Tampering with a Witness; Tampering with a Physical Evidence; Harming a Police Dog** (intentionally killing the dog); **Promoting Contraband** (bringing a weapon, drugs, or implement for escape into a prison); **Riot**; **Misconduct Involving Weapons in the Third Degree** (felon in possession); **Criminal Possession of Explosives**; **Misconduct of a Controlled Substance in the Third Degree** (dealing 1 of heroin or 2.5 grams of meth/cocaine).

[4] This means imprisonment is not an option unless the court finds an aggravator. Before SB 91 was enacted, it was zero to two years of active jail time.

[5] Presumptive sentencing refers to a sentencing scheme in which the authorized jail term is set absent aggravating or mitigating factors being found by the trier of fact.

As mentioned above, a number of states do not classify offenses at all. Instead they prescribe a specific penalty range within each individual statute. For those states, this survey selected three C felonies in Alaska that were common, non-violent C felonies: vehicle theft, theft of property worth more than $1000, and commercial burglary. The authorized sentence for a first offender convicted of one of those three crimes was used in this survey for comparison purposes. Violent crimes were not used for comparison because in almost every state judges have the discretion to impose jail time (whereas in Alaska, judges do not have such discretion absent an aggravator).

Conclusion

The vast majority of states (44) provide judges the discretion to impose imprisonment (some states even require imprisonment) for first felony offenders convicted of the lowest category of felony. Only five other states have a "presumption" for probation (they are discussed individually in the chart), but even in those states judges have the discretion to impose imprisonment. Two of the five states with presumptive probation authorize up to a year of "shock incarceration" as a condition of probation. Alaska does not allow shock incarceration for those serving a presumptive probationary term. The remaining states that have a presumption of probation do not apply their presumption to the same wide range of conduct as Alaska does (these states exempt many offenses that are C felonies in Alaska). In short, even in those five states, judges have more discretion to impose jail for the wide range of criminal conduct that is classified as a C felony in Alaska.

It is also important to note that in those states which have engaged in criminal justice reform, none have reformed their respective sentencing scheme to the same extent as Alaska. In November 2016, the Pew Charitable Trusts released an overview of the criminal justice reform efforts undertaken since 2007.[6] *See* attached chart or hyperlink in the footnote. This document outlines the different reform measures 36 states have undertaken since 2007. The reforms are broadly broken down into four categories, including sentencing/pretrial. Within the sentencing and pretrial category, Pew identified four specific reforms related to general reductions in sentences: "Establish presumptive probation for certain offenses", "Revise sentencing enhancements", "Revise mandatory minimums", and "Revise sentencing guidelines/establish sentencing commission". According to Pew, sixteen states have implemented one or more of these four provisions, though any single provision has not been implemented in more than eight states. (These

[6] *See* "33 States Reform Criminal Justice Policies Through Justice Reinvestment", available at http://www.pewtrusts.org/~/media/assets/2016/12/33_states_reform_criminal_justice_policies_through_justice_reinvestment

numbers include Alaska.) However, as the chart makes clear, Alaska is an outlier. The other fifteen states implemented no more than two categories of reforms, while Alaska alone enacted *all four* reforms to sentencing.

A closer look at how other states implemented their reforms demonstrates that Alaska's changes have been unusually broad. First, Alaska decreased sentencing ranges for virtually all classified felonies[7] and class A misdemeanors, other states generally confined their amendments to limited types of offenses (generally drug or non-violent offenses) or made the new sentencing ranges advisory similar to the Federal Sentencing Guidelines. Second, while Alaska required a probationary sentence for all typical first C felonies, other states that created a presumption of probation generally limited the presumption to a narrower class of offense (again, generally drug offenses) and/or gave the sentencing judge the discretion to impose jail time. In other words, no other state established a presumptive probation for such a broad range of criminal conduct and eliminated the judge's discretion to impose any jail time. For example, Ohio, the state that comes closest to Alaska, still offers a significantly broader set of exceptions from the presumption – a list that has been expanded by subsequent legislative enactments, suggesting that the system proved unsatisfactory as designed.

[7] They did not sex sentence ranges for sex offenses and unclassified felonies do not have presumptive ranges.

Survey of States First Low Felony Sentencing

Reforms	49 States & DC	Classified felonies	Presumptive ranges	Lowest Level First Felony	Theft over $1,000	Vehicle Theft	Nonresidential burglary
•	Alabama	Y	Y	1 - 5	1 - 5	-	1 - 10
	Arizona	Y	Y	0.5 - 1.5	0.5 - 1.5	2.5 - 7	1.5 - 3
	Arkansas	Y	Y	0 - 6	0 - 6	-	3 - 10
	California	N	N	-	0 - 1	0 - 3	0 - 3
	Colorado	Y	Y	1 - 1.5	0.5 - 1.5	1 - 2	2 - 6
	Connecticut	Y	Y	0 - 3	-	0 - 10	0 - 5
	Delaware	Y	N	0 - 2	-	0 - 2	0 - 3
	Florida	Y	N	0 - 5	-	0 - 5	0 - 15
•	Georgia	N	N	-	-	1 - 5	1 - 8
•	Hawaii	Y	Y	1 - 5	1 - 5	1 - 5	1 - 5
	Idaho	N	N	-	1- 14	1 - 14	1 - 10
•	Illinois	Y	Y	1 - 3	-	-	-
	Indiana	Y	Y	0.5 - 2.5	-	-	-
	Iowa	Y	N	0 - 5	-	-	-
	Kansas	Y	Y	*KS	-	-	-
•	Kentucky	Y	Y	1 - 5	-	-	-
•	Louisiana	N	N	-	0 - 10	0 - 5	0 - 12
	Maine	Y	N	0 - 5	-	-	-
•	Maryland	N	N	-	-	0 - 5	0 - 3
	Massachusetts	N	N	-	0 - 5	-	0 - 20
	Michigan	N	N	-	0 - 5	-	0 - 10
	Minnesota	N	N	*MN	-	-	-
•	Mississippi	N	N	-	0 - 5	0 - 20	0 - 14
	Missouri	Y	Y	0 - 4	-	-	-
	Montana	N	N	-	-	-	0 - 20
•	Nebraska	Y	N	0 - 2	-	-	0 - 25
	Nevada*	Y	N	0 - 1	1 - 5	-	1 - 10
	New Hampshire	Y	N	0 - 7	-	-	-
	New Jersey	Y	Y	*NJ	-	-	-
	New Mexico	Y	Y	1.5	-	-	1.5
	New York	Y	Y	1 - 4	-	-	-
•	North Carolina	Y	Y	4-6 mo.	-	-	-
	North Dakota	Y	Y	0 - 5	-	-	-
•	Ohio	Y	Y	0.5 - 1	-	-	-

	Oklahoma	Y	N	-	-	0 - 5	2 - 7
•	Oregon	Y	N	*OR	-	1 - 3 mo.	1 - 3 mo.
	Pennsylvania	Y	Y	0 - 7	-	-	-
	Rhode Island	N	N	-	-	0 - 10	0 - 10
•	South Carolina	Y	N	0 - 5	-	-	-
•	South Dakota	Y	Y	*SD	-	-	0 - 15
	Tennessee	Y	Y	1 - 2	-	-	-
	Texas	Y	Y	0.5 - 2	-	-	-
•	Utah	Y	N	0 - 5	-	-	-
	Vermont	N	N	-	-	0 - 10	0 - 15
	Virginia	Y	N	1 - 5	-	-	-
	Washington	Y	N	0 - 5	-	-	-
	West Virginia	N	N	-	-	1 - 10	1 - 10
	Wisconsin	Y	Y	1 - 1.5	-	-	-
	Wyoming	N	N	-	-	0 - 10	0 - 10
	Washington DC	N	N	-	-	0 - 5	2 - 15

• states that have engaged in sentencing reform since 2007 per PEW

states with judical discretion to impose jail entences of 1 year or more

*KS: Presumptive probationary sentence for first felony, unless conviction is for hindering prosecution or vehicle theft.

*MN: uses a sentencing grid for presumptive sentences. Minnesota uses a criminal history score. A theft crime of $5,000 or less and non-residential burglary will be presumptively stayed for a first time felony offender, but the court discretion can impose a sentenced up to 1 year and one day, if the offender has the lowest possible criminal history score.

*NJ: Prison cannot be imposed unless the judge finds that "imprisonment is necessary for the protection of the public", that "there is a substantial likelihood that the defendant is involved in organized criminal activity" or case is domestic violence, or defendant is convicted of vehicle theft or identity theft. If prison is imposed,presumptive term is 4 years

*NV: First conviction for the lowest level felony (Class E) carries a 1 to 4 year prison term, but the court "shall suspend the execution of the sentence and grant probation" and can include 1 year of shock incarceration.

*SD: Class 5 and 6 felonies carry a maximum sentence of 5 and 2 years, respectively. A first conviction has a presumptive probationary sentence, but this presumption does not apply to escape, assault, stalking, DVPO violation, custodial interference, indecent exposure, or marijuana distribution

*OR: Oregon sets detailed presumptive ranges based on the offense: the ranges for the three designated offenses are given

Sentencing and Corrections Reforms in Justice Reinvestment States

See table notes on following page.

		2016		2015			2014		2013				2012						2011						2010			2009		2008				2007			
	Policy reform	AK	MD	UT	AL	NE	ID	MS	OR	SD	WV	KS	MO	DE	GA	PA	HI	OK	AR	KY	AL	LA	NC	OH	SC	NH	MI	IL	WI	AZ	PA	CT	RI	VT	KS	NV	TX	Total
Sentencing/pretrial	Reclassify/redefine drug offenses	✓	✓	✓	✓	✓		✓	✓	✓					✓				✓	✓			✓	✓														13
	Reclassify/redefine property offenses	✓	✓		✓	✓		✓	✓	✓					✓				✓					✓	✓													11
	Establish presumptive probation for certain offenses	✓				✓		✓	✓	✓							✓			✓				✓														8
	Revise sentencing enhancements	✓	✓	✓	✓			✓							✓					✓		✓	✓		✓													8
	Revise mandatory minimums	✓							✓						✓		✓								✓													7
	Reduce crack-powder cocaine disparity		✓										✓											✓	✓													4
	Revise sentencing guidelines/establish sentencing commission	✓		✓																			✓				✓										4
	Improve pretrial release systems	✓									✓			✓			✓			✓																		5
	Establish pre-sentence assessment	✓									✓			✓	✓			✓		✓														✓				7
	Revise drug-free school zone			✓																✓					✓													3
	Authorize risk-reduction sentencing																						✓	✓						✓								3
Release	Revise parole hearing/decision/eligibility standards	✓	✓	✓	✓	✓	✓	✓				✓					✓		✓	✓		✓			✓	✓	✓					✓	✓					17
	Expand good/earned-time prison credits/re-entry leave	✓	✓	✓				✓	✓			✓		✓	✓							✓	✓	✓	✓								✓		✓	✓		15
	Establish/expand geriatric or medical parole	✓	✓		✓			✓											✓			✓			✓		✓										8
	Establish/expand for earned discharge	✓	✓	✓			✓	✓	✓	✓		✓	✓	✓					✓	✓					✓	✓				✓								15
Community corrections	Authorize performance incentive funding		✓	✓	✓				✓				✓			✓			✓	✓				✓	✓			✓							✓			12
	Authorize administrative jail sanctions			✓	✓	✓	✓	✓			✓	✓	✓						✓	✓		✓	✓		✓	✓											15
	Authorize graduated responses for violations	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓			✓	✓		✓	✓		✓										✓	✓		20
	Cap revocation time	✓	✓	✓	✓		✓	✓				✓	✓		✓	✓	✓	✓			✓		✓														14
	Establish/improve electronic monitoring							✓			✓				✓				✓	✓		✓											✓				7
	Establish mandatory re-entry supervision				✓	✓					✓	✓						✓		✓			✓	✓	✓	✓											10
	Require/improve risk-needs assessment	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓		✓		✓	✓		✓	✓	✓	✓		✓	✓					✓					22
	Require evidence-based practices	✓	✓	✓	✓	✓				✓				✓	✓	✓			✓	✓				✓			✓	✓					✓			✓		16
	Reform/pilot specialty courts (HOPE, drug courts, etc.)							✓	✓	✓	✓				✓				✓	✓	✓	✓															9
Sustainability	Reduce probation terms	✓			✓												✓																✓			✓	5
	Improve interventions for substance abuse, mental health, CBT, etc.	✓		✓	✓	✓	✓			✓	✓	✓		✓									✓	✓			✓		✓		✓		✓	✓	✓	✓	18
	Require fiscal impact statements							✓	✓	✓										✓					✓			✓									6
	Establish leadership/board qualification requirements						✓															✓			✓												3
	Require data collection/performance measurement	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓	✓	✓	✓		✓	✓	✓	✓		✓		✓									22
	Establish measures to streamline/improve efficiency of system			✓		✓	✓	✓		✓	✓				✓	✓			✓	✓		✓		✓			✓				✓	✓						15
	Improve restitution/victim notification systems	✓	✓		✓	✓	✓	✓		✓						✓	✓								✓													10
	Establish oversight council	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓										✓													12

	Misdemeanors [exceptions[2]]	Class C felonies [exceptions[3]]	DUI/refusal	FTA/VCOR	Other
Low-risk	OR recommended	OR recommended	OR recommended	OR presumptively recommended	OR presumptively recommended
Mod-risk	OR recommended	OR recommended	OR recommended	OR presumptively recommended	SB authorized
High-risk	OR recommended	OR recommended	OR presumptively recommended	SB authorized	SB authorized

Conversely, judges have the discretion to impose bail in five of those eight circumstances, as illustrated in the table below.

	Misdemeanors	Class C felonies	DUI/refusal	FTA/VCOR	Other
Low-risk	Mandatory OR	Mandatory OR	Presumptive OR	Presumptive OR	Presumptive OR
Mod-risk	Mandatory OR	Presumptive OR	Presumptive OR	Presumptive OR	SB Authorized
High-risk	Presumptive OR	Presumptive OR	Presumptive OR	SB Authorized	SB Authorized

This inconsistency was not recommended by the Commission and is illogical.

Recommendation: Align the discretion for pre-trial services officers to make release recommendations in AS 33.07.030(c)and (d) (SB 91 Section 117) with the discretion judges have in setting bail found in AS 12.30.011 (SB 91 Section 59).

2 Exceptions for both pretrial service officers and judges: Domestic violence offenses, person offenses, failure to appear, or violation of a release condition.

3 Exceptions for both pretrial service officers and judges: Domestic violence offenses, person offenses, or failure to appear.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
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Mail Stop 3101

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

MEMORANDUM October 24, 2017

SUBJECT: Breath test (CSSB 54(FIN); Work Order No. 30-LS0461\N.32)

TO: Senator John Coghill
Attn: Jordan Shilling

FROM: Hilary V. Martin
Legislative Counsel

You have asked whether there are any legal problems with amendment 30-LS0461\N.32.[1]

Amendment N.32 requires the commissioner of corrections to conduct a chemical test of the prisoner's breath at the time of the prisoner's release and release the prisoner only if the test result indicates that the prisoner's breath has less than 0.08 grams of alcohol for each 210 liters of breath.

Holding a prisoner beyond when the prisoner should be released likely violates the prisoner's due process rights. If the prisoner is eligible for release, the commissioner does not have any authority to hold the prisoner for a longer period. As a custodian of that prisoner the Department of Corrections probably has a duty of care for a person that is unable to safely care for themself at the time of release. Involuntary commitment may be one option available to the department. In addition, it is not clear in the amendment what the commissioner should do with the prisoner if the prisoner has a breath test higher than 0.08 grams of alcohol for each 210 liters of breath.[2]

If I may be of further assistance, please advise.

HVM:dls
17-524.dls

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[1] A copy of amendment N.32 was provided to our office by Mr. Shilling.

[2] The amendment would prohibit release even if a responsible third party is available to take a prisoner home.

Community United For Safety And Protection

Advocating Safety and Protection for all people in Alaska's Sex Trade

www.sextraffickingalaska.com.

October 9, 2017

Re: No On Section 3, 5, 13, 14, 20 & 22 of SB54 & Support for SB 91

Dear Alaska House Representative,

No On Section 3, 5, 13, 14, 20 & 22 of SB54 of SB54

We oppose SB 54 because of section 20 which repeals "AS 11.66.130(a)(1) or (4), AS 11.66.130 (b) and AS 11.66.135(b)." This section was passed and signed into law the summer of 2016 as Sections 39 and 40 of SB91.

These sections closed loopholes that had allowed the Department of Law to charge sex workers with sex trafficking of themselves, such as in case 4FA-13-2273CR. In that case, an undercover officer was unable to get a woman to agree to perform a sex act for money and the woman repeatedly refused to sell a sex act, saying that she would only sell her time. She was charged with sex trafficking in the fourth degree, or "aiding or facilitating prostitution." A defense motion to dismiss was filed which clearly quoted the legislative intent of the 2012 passage of HB 359 (AS 11.66.110-135) which did not include charging people with sex trafficking of themselves. This resulted in the Department of Law amending the charge to AS 11.66.100, prostitution. The Department of Law later dismissed this charge as well because it was clear from the statements in the police report that no law had broken. However, when the sex worker's name is typed into CourtView, the sex trafficking charge still comes up, impacting her ability to obtain employment and housing. This case is a clear example of the need for timely legislative change to clarify for law enforcement what not to charge so as to not waste any more of Alaska's precious resources and cause undue harm to innocent people.

Despite this case, which the Department of Law was obviously aware of during the 2016 legislative session, the Department of Law wrote mendaciously in a June 17, 2016 letter that: "*SB91 amends both first degree and third degree sex trafficking to ensure that a person may not be prosecuted for trafficking themselves, as opposed to trafficking third persons. (We are not aware that this has ever happened and nor do we believe it could happen under either current law or SB91.)*"

In their recommendations to the Alaska Criminal Justice Commission (page 4, recommendation 4) the Department of Law wrote that the sections were "presumably intended to prevent the state from prosecuting cooperatives of independent sex workers working in the same location as a trafficking enterprise." While a "trafficking enterprise" isn't defined in statute, having a "prostitution enterprise" is defined in AS 11.66.120, or sex trafficking in the second degree. A person cannot be charged with an exception defined in a subsection of 11.66.130 to get away with conduct defined in 11.66.120, therefore repealing of these sections 20 is completely unnecessary and would have a negative effect on public safety, as charging independent sex workers with sex trafficking of themselves or each other prevents the reporting of crime.

The Department of Law's imaginary concerns about sections 36-40 of SB91 are both unreasonable and are far outweighed by the cases where the Department of Law has charged independent sex workers with trafficking of themselves or each other. Last year the House Judiciary was very clear in their intent that independent sex workers should not be charged with trafficking each other.

Additionally, the proposed language change in Section 3 of SB54 adds undue confusion. What is a "reasonably shared expense"? If an escort who lives in Fairbanks allows an escort from Anchorage to stay with her while visiting in exchange for a percentage of her income while there, is that a reasonably shared housing expense? What if two sex workers get a hotel room together and split the cost fifty fifty, but then one worker gets far more work than the other - is it still reasonable for the room cost to be shared equally? If a worker gets a call with security concerns so she pays a friend $20 to drive her to it and to wait outside for safety, is that a reasonably shared gas expense?

Alaskan sex workers should not be put in a situation to ask themselves and each other if they can safely report actual violent crimes like assault, robbery, or actual sex trafficking without being charged with sex trafficking for aiding or facilitating their own or each other's prostitution. The legislature should not pass another non-evidence based bill leaving it to the courts to expose how marginalized Alaskans charged under these proposed changes will bear the brunt of unintended consequences.

For these reasons, we urge you to please prioritize public safety for all and amend these sections so as not hold up the good work of SB 91.

Support for SB91

We are very concerned to see/hear members of the public state that they have called the police for help, and the police have stated that SB91 is preventing them from addressing the crime. This is confusing because the Anchorage Police Department has stated publically that it's not clear if SB91 has affected crime rates.

We at the Community United for Safety and Protection have had the privilege and pleasure of sitting through many of the legislative hearings on SB91. We not only listened, but participated in many of the Criminal Justice Commission's hearings and reviewed research, as well as the cost benefit analysis to move away from the failed "tough on crime" policies.

Research shows that charging a broad base of the public with felony charges creates social and financial burdens on society that ultimately serve no public good and SB91 was a start to putting a stop to that failed practice.

We supported SB91 because it addressed some of these incongruent laws regarding our community. We provided documentation towards this end.

One example is the Amber Batts (3AN-14-06159CR) conviction of running a prostitution enterprise that provided erotic service providers with various safety services. There were no victims in her case yet she was indicted on 8 counts of felony sex trafficking. She was originally over charged with 8 counts of sex trafficking, costing precious public resources in mounting a defense.

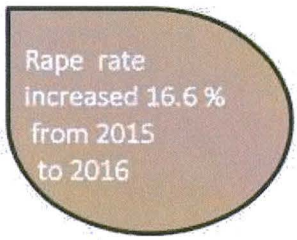
A warning about this type of prosecutorial abuse was put In a letter regarding Committee Substitute HB 349 (FIN) and HB 359, dated May 2, 2012, written by former Alaska Attorney General Michael Geraghty to then Governor Sean Parnell, the AG stated "The change proposed could result in a fairly broad prohibition of criminal activity. However, working with law enforcement and adopting appropriate case screening standards for prosecutors will address this potential concern." Those screening standards were not in place or used in her case.

Because those screening standards were either not in place or not used, Amber Batts was forced to plead to one count of Class B Sex Trafficking, and sentenced to 5.5 years at cost of $141 a day. Not only were extensive law enforcement resources expended in this case, there were also the hidden costs of funding her defense.
The same day she was sentenced Alexandra Ellis was sentenced to three years with two suspended on a charge of criminally negligent homicide, and a consecutive 360 days with 350 suspended for DUI for killing bicyclist Jeff Dusenbury while driving intoxicated in South Anchorage and leaving the scene of a crime.

The Batt's case is also in contrast to the more recent case of an individual who just recently plead guilty to sexual assault of a minor and received a 2 year sentence (3AN-16-03544CR). Jack Dalton was indicted on two counts of Class B Felony AS11.41.436(a)(1): Sex Abuse Minor 2- Penetrate, Victim age 13-15. Under a plea agreement Dalton pleaded guilty to the charge of attempted sexual abuse of a minor.

According to the FBI report, of the nearly 500 sexual assault cases are reported each year -- over the last two years -- fewer than 20 percent have been cleared.
http://www.ktva.com/story/36471313/report-arrests-made-in-less-than-13-of-alaskas-rape-cases

Year	Offenses	Index Change	Rate Change
2012	576	32.7%	n/a[1]
2013	919[2]	59.6%	n/a[1]
2014	764	-16.9%	-17.1%
2015	895	17.1%	16.8%
2016	1049	17.2%	16.6 %



Per an article from Juneau Empire, dated August 24th, 2017, JPD has 350 untested sex assault kits, Anchorage has 1,400. The Alaska State Troopers have more than 1,000 kits containing DNA evidence from sexual assaults across the state. Those kits have rested, shelved and untested, because of a lack of funding. Last fall, the state received $1.1 million to test those kits. Almost a year later, none have been tested. (http://juneauempire.com/state/news/2017-08-22/nearly-year-later-no-testing-done-sex-assault-kits)

This outcome is part of larger problem of how police in Alaska are only able to clear 13% of sexual assault cases, according to the recently released Federal Uniform Crime Report.

In this way, we see that criminal justice reform didn't go far enough because there is no mechanism that will hold police accountable as to investigate and solve the 87% of uncleared sexual assaults in Alaska.

The Anchorage Police Department has stated on record that they are not clear if SB91 has affected crime rates. The following article, dated September 20th, 2017, cites Anchorage Police Captain Sean Case and Anchorage City Prosecutor Seneca Theno, and shows the myriad of issues that APD has in analyzing data on offenders. It addresses how APD's data is collected in regards to SB91. Captain Case said it's an example of where police are working now to understand what's being captured and where it's being stored. https://www.adn.com/alaska-news/crime-courts/2017/09/19/anchorage-police-say-its-not-clear-whether-sb-91-has-affected-crime-rates/

According to Captain Case and other police officials, gathering data on offenders and arrests is no easy task. The Anchorage Police Department relies on a decentralized mix of police reports and calls for service, stored in separate computer systems. Captain Case is on record stating it isn't the agency's job to validate public feelings about SB91.

Standards and reform in both police and the way prosecutors are able to make charges are important to implement in order to achieve the additional needed changes beyond the goals of SB91. Taxpayers want accountability from lawmakers and law enforcement agencies and your duty is to focus on those issue not conceded to the knee jerk reaction of some who are calling back the same failed policies.

Stop Alaska from becoming a Penal Colony

Thank you,
Terra Burns
Maxine Doogan
Community United for Safety and Protection
http://sextraffickingalaska.com/

LIQUOR STORES
North America

101-17220 Stony Plain Road
Edmonton, AB T5S 1K6

October 12th, 2017

The Honorable Bill Walker

Office of the Governor

550 West 7th Avenue, #1700

Anchorage, Alaska 99501

Dear Governor Walker:

On behalf of Liquor Stores N.A. and all of our 160 employees at our Brown Jug locations in Alaska, we are writing to support the shoplifting provisions of SB 54 during the upcoming special session of the Legislature. These are important fixes to inadvertent consequences of SB 91 from 2016.

As a business with retail outlets in several regions across Alaska, Brown Jug's liquor stores have experienced an increase in theft since the passage of Senate Bill 91 last year. In addition, our store clerks have been subjected to escalations in brazen behavior by shoplifters, who rather than try to conceal or hide items they are stealing, flaunt it at clerks on their way out the door and some have gone as far as making comments about the "laws have changed."

Our own data shows that the shrink % since passage of Senate Bill 91 (July, 2016 to Aug, 2017), for our Anchorage stores, is as follows:

- Internal theft is up 88%
- Robbery is even YTD
- Shoplifting is up 84%
- Shoplifting $ amount is up 96.7%

As you can see the up-tick has been substantive as it pertains to internal theft and shop-lifting incidences, not to mention the dollar value associated with those shoplifting encounters, which leads us to believe that the repeat offenders are getting more brazen, thus taking more expensive products.

Alcohol is a product subject to strict legal and regulatory sale and distribution requirements for various important reasons, including age requirements and strict identification checks. Yet, when certain individuals feel emboldened to bypass that system by grabbing alcohol off the shelves and walking out the door, that entire system is bypassed and alcohol can end up in the hands of those it is designed to restrict.

During this increase in theft, our store personnel have found law enforcement increasingly reluctant to make arrests, even when given compelling evidence including photos of those perpetrating these crimes. Regardless of whether this increase in brazen theft is completely a result of the provisions of Senate Bill 91, court rule changes, or law enforcement budgets, perception on the streets is that the bar has been lowered for these crimes.

Senate Bill 54 makes important clarifications which are an important step in addressing this situation. We encourage the House to take action and pass this important bill during the fall 2017 Special Legislative session.

Sincerely,

Gerald Proctor *Vice President, Government & Community Affairs*

Liquor Stores NA
Gerald.Proctor@lsgp.ca

Cc: Attorney General Jahna Lindemouth

Alaska Legislature

NFIB
The Voice of Small Business®

ALASKA

October 12, 2017

The Honorable Bill Walker
Governor of Alaska
State Capitol Building
Juneau, Alaska 99801-1182

RE: Senate Bill 54

Dear Governor Walker:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully share our support for Senate Bill 54 and appreciation that you put it on the Special Session Call. The National Federation of Independent Business is the largest small-business advocacy group in Alaska. NFIB believes it is critically important that this bill pass this year.

SB 54 addresses the need to provide the criminal justice system the means to encourage violators to enter treatment to address the many issues driving them to violate our laws. Our members are experiencing substantially more theft by these same people as a result of the lack of tools our police have to deal with petty theft.

Senate Bill 54 corrects unintentional problems caused by the passage and interpretation of Senate Bill 91 passed by the legislature in 2016. It addresses penalties for 4th degree theft, class A-misdemeanors, and class C-felonies. SB 54, for the most part, reflects recommended changes from the Alaska Criminal Justice Commission.

While SB 54 may not resolve all concerns with SB 91, it is important to, at least, take this modest step now. We believe the changes in SB 54 will help deter misdemeanor crime and provide enforcement agencies the tools to help reduce criminal activity.

Sincerely yours,

Dennis L. DeWitt
Alaska State Director

Cc: NFIB/AK Leadership Council
Members of the Alaska House of Representatives

ANCHORAGE CHAMBER
of COMMERCE

October 18, 2017

Dear Anchorage Legislators:

The Anchorage Chamber of Commerce (ACC) business members have expressed their concerns regarding the increase in property crime, auto theft, and other serious offensives throughout Anchorage and Alaska. After review by our organization's Legislative and Executive Committees, the ACC urges passage of SB54. This measure adds penalties and consequences to these crimes, along with stricter punishment for parole violations.

The Anchorage Chamber believes that passing SB54, in its current form, is a necessary and much needed step to increase public safety in our city and state. It gives courts more discretion to tailor appropriate sentences for repeat theft offenders and first time Class C felonies. The measure also returns violating a 'condition of release' to a crime punishable by jail time. We believe that these changes will help to deter offenders and reduce crime.

SB54 responds to the concerns voiced daily by our citizens. In our review of the measure, we heard presentations by State Representatives, former prosecutors, and members of the Anchorage Police Department.

Public safety is top of mind for all citizens of Anchorage, and SB54 is a step in stemming crime. As such, we support its passage.

Regards,

Bruce Bustamante
President

1016 W. Sixth Avenue, Suite 303 • Anchorage, AK 99501
T 907.272.2401 • F 907.272.4117 • Anchoragechamber.org

October 23, 2017

The Honorable Matt Claman
House Judiciary Committee Chair
Alaska State Legislature
State Capitol, Room 118
Juneau, AK 99801

by email: Representative.Matt.Claman@akleg.gov

Re: Senate Bill 54: Take Quick Action and Return to Real Solutions

Dear Chair Claman and Members of the House Judiciary Committee:

We call on the Judiciary Committee and the House to take quick action on Senate Bill 54. SB 54 directly responds to the issues that have been raised most prominently by law enforcement and citizens. It is unfortunate that a confluence of circumstances has brought us to amend criminal justice reform so quickly after it was passed, but we recognize that this may be a needed change.

However, basing any further substantive changes to the criminal justice reform law on fear and anecdote—not research and data—is not only wrong, it is irresponsible. Any suggestion that data support the claim that Senate Bill 91 increased crime are **demonstrably false.**[1] Returning to a system that sent two of every three inmates who were released back to jail doesn't advance public safety, it only creates more victims.

Senate Bill 54's Changes

Although the ACLU of Alaska opposed SB 54 in the Senate, we recognize that a confluence of circumstances may call for this change. First, we have an opioid crisis exploding around the state, and although there is little data to support it, many have made the inference that this crisis is tied to an increase in theft. For example, specifically in Anchorage many have raised concerns about vehicle theft. The C Felony provisions in SB 54 will make changes to address those concerns. Similarly, burglary or break-ins would also be addressed by the same C Felony provisions in SB 54.

[1] UAA Justice Center. *Analysis of Crime Trends 2014-2016*, (Oct. 20, 2017), *available at* http://www.akleg.gov/basis/get_documents.asp?session=30&docid=27938.

AMERICAN CIVIL LIBERTIES UNION OF ALASKA FOUNDATION
1057 W. Fireweed Lane, Suite 207 | Anchorage, AK 99503 | Tel: 907.258.0044 | Fax: 907.258.0288
www.acluak.org | ACLUofAlaska | @ACLUofAlaska

Second, many business owners and members of the public report an increase in shoplifting. Although SB 91 does not prohibit the arrest of people who are suspected of shoplifting, many factors have converged to produce that result. Specifically, the court system has amended the bail schedule to reflect the notion that for minor offenses, like petty theft, there is little need to spend $163 per day incarcerating that person for lengthy periods before their trial. Also, sensibly, the Department of Corrections does not accept someone in their facilities when they would only be fingerprinted, booked, and turned out the door.

The unfortunate consequence of these circumstances is that many members of the public, including those who may feel emboldened to commit crimes, believe that law enforcement cannot arrest and therefore there are few consequences to this kind of crime. The changes to the provisions of Theft in the Fourth Degree would address these issues.

Incarcerating someone before a trial is not punishment. Nor should it be. Those who are held are *presumed innocent*, and should be held only because of a risk they present to society of committing new offenses—particularly those involving public safety—or because they are not likely to return for trial. Many have wrongly equated this period of incarceration to the punishment itself. While incarceration might be appropriate, the systemic flaw is not with the release of a person pretrial, it is that it takes an extraordinarily long time before the trial will happen to allow those who are convicted to be accountable.

The Real Causes and Solutions to Crime

What the Legislature can and should do right now to make Alaskans safer is to return our justice system to its ordinary operating capacity. Courts remain closed for half days on Fridays due to insufficient funding and an embarrassing shortage of funding for prosecutors, defense attorneys, and court personnel is a direct cause of these delays. Prosecutors have declined thousands of cases because they did not have the staff to prosecute them.[2] Since 2015, the Department of Public Safety has lost 77 full-time positions and closed eight trooper posts.

It makes no sense to be quibbling about adding days or months to criminal sentences when there are no troopers to investigate or prosecutors to prosecute

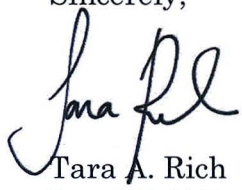
[2] For example, the criminal division at Department of Law reports that it has taken a twelve percent budget reduction in the last three years, losing 22 prosecutors.

crime. Ignoring deep cuts to public safety budgets, which are integrally tied to increases in crime, simply plays politics with the truth.

Conclusion

We all recognize that SB 91 has only been partially in effect for a little more than a year, and critical changes to the pretrial system will not happen until January. That is clearly not enough time to see any evidence in crime data of SB 91's impacts, positive or negative. While the remaining components of SB 91 go into effect and the Legislature works to fund the increased expenses incurred by SB 54, the lack of funding remains the single greatest impediment to implementing solutions that make Alaskans safer.

Sincerely,



Tara A. Rich
Legal & Policy Director

c: Rep. Fansler, Vice Chair, *Representative.Zach.Fansler@akleg.gov*
Rep. Kreiss-Tomkins, *Representative.Jonathan.Kreiss-Tomkins@akleg.gov*
Rep. LeDoux, *Representative.Gabrielle.LeDoux@akleg.gov*
Rep. Kopp, *Representative.Chuck.Kopp@akleg.gov*
Rep. Reinbold, *Representative.Lora.Reinbold@akleg.gov*
Rep. Millett, *Representative.Charisse.Millett@akleg.gov*
Rep. Stutes, *Representative.Louise.Stutes@akleg.gov*

CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

OFFICE OF THE MAYOR
Telephone: (907) 586-5240; Facsimile: (907) 586-5385
Ken.Koelsch@juneau.org

October 24, 2017

Representative Matt Claman, Chair
House Judiciary Committee
Alaska State House of Representatives
State Capitol, Room 118
Juneau, AK 99801

RE: Senate Bill 54

We understand that the Legislature will be considering proposed amendments to the crime reform bill during the upcoming special session.

The City and Borough of Juneau – the only other municipality besides Anchorage prosecuting the vast majority of misdemeanors within its community – joins Anchorage in support of SB 54.

If the State is going to continue to support criminal reform efforts under the SB 91 model, we urge the Legislature to pass SB 54.

In addition to the changes identified by the Anchorage Assembly in its recent resolution (allowing for an aggravator for second A misdemeanor convictions but asking that second convictions be punishable by up to one year in jail in light of the *Municipality of Anchorage v. Brooks*, 397 P.3d 346 (Alaska 2017) case; restoring the availability of the Alcohol Safety Action Program for any alcohol-related crimes; and restoring the ability to impose more than one year of probation in certain cases), the bill proposes some very important changes. Of particular interest to the City and Borough of Juneau, the bill would allow for the court to impose suspended time for first and second B misdemeanor theft (and theft-related) convictions and also allows for up to six months of probation in such cases. (Under SB 91, the Juneau court interprets SB 91 to prohibit the imposition of probation for first and second theft offenses.) The bill would also authorize the courts to impose up to ten days in jail for a third or higher B Misdemeanor theft conviction. This change would give prosecutors a better tool to facilitate getting higher risk offenders (those with multiple convictions) into some sort of rehabilitative program.

The City and Borough of Juneau understands the hesitation expressed by the Criminal Justice Commission (*see* Recommendations to the Alaska State Legislature by the Alaska Criminal Justice Commission, dated January 30, 2017). The changes proposed by SB 54 are not grounded in peer-reviewed evidence, but are instead recommendations made by those who are experiencing the changed environment caused by SB 91. But until money is made available to the communities to initiate the second, critical piece of criminal justice reform, change is necessary as the current path is untenable.

We understand that the Alaska Criminal Justice Commission was created to bring forward recommendations to implement a "smart justice" approach in Alaska. As we understand it, "smart justice" is the criminal reform philosophy whereby the focus becomes solving the drivers of crime as opposed to focusing solely on

punishment. As directed by the Legislature, the Commission's official task was to "develop 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." (*See*, Executive Summary to Justice Reinvestment Report, Alaska Criminal Justice Commission, December 2015.)

As noted by the Commission in its Reinvestment Report at pages 29 - 30:

> With the understanding that prison population reductions and the associated savings will likely be achieved in the near future, the Commission recommends that the state provide an upfront investment, and ongoing reinvestment based on guidance from the Justice Reinvestment Oversight Task Force, into the following priority services:
>
> . . .
>
> c. Violence prevention. Provide for community-based programming focused on prevention, education, bystander intervention, restorative justice, evidence-based offender intervention, and building healthy communities.
>
> d. Treatment services. Fund treatment and programming in facilities and in the community to address criminogenic needs, behavioral health, substance abuse, and sexual offending behavior.
>
> e. Reentry and support services. Expand transitional housing, employment, case management, and support for addiction recovery.

The City and Borough of Juneau urges the Legislature to fully commit to the criminal justice reform process it began with the adoption of SB 91 by making funding available to the communities to implement the necessary programs and services identified by the Commission above.

Sincerely,

Kendell D Koelsch

Kendell D. Koelsch
Mayor

cc: Senator John Coghill
Senator Dennis Egan
Representative Sam Kito
Representative Justin Parish

JUNEAU REENTRY COALITION

Promoting Public Safety &
Strengthening Our Community

October 20, 2017

The Honorable Matt Claman, Chair
House Judiciary Committee
Alaska House of Representatives
State Capitol
Juneau, AK 99801

Dear Representative Claman:

The Juneau Reentry Coalition (JREC) is very supportive of Alaska's change in their approach to criminal justice: i.e. *evidence-based Smart Justice* (AK Criminal Justice Commission, Annual Report, Nov. 1, 2016). We supported the Legislature's passage of SB 91 in May 2016, and continue to believe this is a hallmark piece of legislation for Juneau and our State.

JREC recognizes that Juneau and other communities from around the State are experiencing a rise in crime. We also recognize that many are second guessing our evidence-based Smart Justice approach and the passage of SB 91. However, a look at recent data from the Juneau Police Department indicates that our community's recent rise in crime began in our around 2014 – well before the passage of SB 91. Further, as you well know, SB 91 has not had sufficient time to be fully implemented. JREC recognizes that some adjustments to SB 91 may be needed to address the public good, but recommends against making any deep changes to the reforms that have proven in other states to reduce crime, same money, and rehabilitate, but have not yet had a realistic amount of time to show success in Alaska.

Although recidivism risk assessed case management has begun, additional community reinvestments into other identified evidence-based supports and services (housing, substance use and mental health treatment, employment, etc.) has not yet occurred. JREC recognizes this is something of a "chicken or egg" conundrum for the Legislature in that criminal justice savings need to be realized prior to the occurrence of additional community reinvestments. However, holding course to the original concepts of Smart Justice, including community reinvestment, and awaiting sufficient time for verifiable results to materialize is paramount.

In conclusion, the Juneau Reentry Coalitions asks you to continue the good Smart Justice work begun, give SB 91 sufficient time to be fully implemented, continue working on community reinvestment, and support legislative changes that serve the public good and are based on evidence.

Sincerely yours,

Kara Nelson

Kara Nelson
Presiding Co-Chair

211 4th Street - Suite 102 · Juneau, Alaska 99801 · juneaureentry@gmail.com · 907-463-3755

CENTRAL COUNCIL
Tlingit and Haida Indian Tribes of Alaska
[Department Name] • Edward K. Thomas Building
9097 Glacier Highway • Juneau, Alaska 99801

October 24, 2017

The Honorable Matt Claman
Alaska House of Representatives
120 4th Street
Juneau, AK 99801

Representative Claman and members of the House Judiciary Committee:

The Central Council of Tlingit and Haida Indian Tribes of Alaska (Tlingit & Haida) is writing in to urge you to please oppose any effort to repeal or gut Senate Bill 91. Not only does it enact tougher policies on violent crimes and invest in victims' services and programs that reduce recidivism and treat issues like substance abuse and mental illness, SB 91 contains many necessary reforms to our criminal justice system that help reduce recidivism.

It is wrong and irresponsible to blame SB 91 for a perceived increase in crime. Alaska is in the midst of the worst recession it has seen in decades, and the opioid crisis is exploding. The state has failed to budget for adequate minimum numbers of prosecutors, police officers, defense attorneys, and there we desperately need treatment options, including intensive substance abuse and mental health treatment to help address the root causes of incarceration.

A key element of SB 91 is the investment into programs and services that support successful reentry for people with substance use and mental health disorders—including access to substance abuse and mental health treatment, Medicaid enrollment, case management support, housing and employment assistance. Justice-involved individuals with these disabilities are more likely to remain stable, sober, and productive in the community when they have access to community supports like our Second Chance Program at Tlingit & Haida.

While the remaining components of SB91 go into effect and the legislature works to fund the increased expenses incurred by SB54, the lack of funding remains the single greatest impediment to implementing solutions that make Alaskans safer.

The conversation around criminal justice reform and the need for improved public safety is ongoing and there are plenty of policies that can be enacted to make Alaska safer, but repealing SB 91 is not one of them. I urge you to support improving our justice system instead of taking us backwards. We urge you to pass SB 54 quickly.

Sincerely,

Richard J. Peterson,
President

Alaska Regional Coalition

Representing 100 Communities

October 27, 2017

Subject: Pass a "clean" SB54 with limited amendments; provide resources for public safety, treatment, and reentry

Dear Senate President Pete Kelly, Speaker of the House Bryce Edgmon, and Honorable Members of the Alaska State Legislature:

As the legislature deliberates the various components found in SB54 and revisits the genesis and justification for SB91, we encourage you to exercise restraint as it relates to approving sweeping changes to criminal justice reform. In short, The Alaska Regional Coalition urges you to pass a "clean" SB54 with limited amendments. We also call on you to fund the treatment and reentry portions of SB91 so that positive change can happen in our state and our communities. Further, we hope you will seek ways to provide adequate resources for public safety, behavioral health, and the state's legal and correctional systems that hold people accountable for their actions.

SB91 has only been law for a little over one year; indeed, some elements have not even been put into effect. Yet SB91 unjustly bears the brunt of public frustration about the recent uptick in crime. This is not to minimize the righteous fear and anger of victims. There are other obvious significant factors at play in our communities, not least of which are a statewide economic recession and a surge in use of and addiction to prescription and illicit opioids.

To be clear, we believe that criminals should be held accountable for their actions. We believe jail time, probation, and parole are appropriate measures to ensure public safety and deliver unambiguous community condemnation of criminal activity. That said, SB91 encompasses a data-driven, scientifically-based comprehensive overhaul of a criminal justice system that aims to reduce recidivism and enhance rehabilitation, while also holding people accountable for their actions.

Each of our respective tribal entities, representing 100 Alaska Native communities, supported your efforts in recent years to come up with comprehensive criminal justice reform that included creative solutions that focus on accountability, treatment, anti-recidivism, and community work service, particularly in the face of a shrinking state budget. We cheered when SB91 was signed into law. However, Alaska was and still is in desperate need of criminal justice reform because the system was not producing acceptable outcomes. This remains true even after the passage of SB91. Our prisons are still overflowing (in direct contradiction to the falsely dubbed "catch and release" law) and millions of dollars are being spent warehousing our citizens.

We cannot afford to go back to the old status quo; it is not an option for us or our people. We need to double down on reform, with an eye on treatment of drug and alcohol addiction and reentry for our returning citizens. This was the missing piece from SB91 that was slow moving in the face of a rising crime rate and a growing opioid epidemic.

We also believe that the Criminal Justice Commission report and suggested amendments to SB91 by way of SB54 are appropriate and well thought out. We, as a Coalition, trust those experts to inform our path to reform.

Alaska Regional Coalition

Representing 100 Communities

Again, The Alaska Regional Coalition urges you to pass SB54 with limited amendments. We also urge you to support the treatment and reentry portions of SB91 so that positive change can happen in our state.

Thank you for your thoughtful consideration and for your service to Alaska.

Respectfully,

Richard Peterson
CCTHITA

Approved electronically on 10/26/17
Tim Gilbert
Maniilaq Association

Melanie Bahnke
Kawerak, Inc.

Victor Joseph
Tanana Chiefs Conference

Approved electronically on 10/26/17
Jan Vanderpool
Chugachmiut

The Alaska Regional Coalition is a consortium of five Native regional tribal nonprofits representing 65,000 Alaskans from Kotzebue to Ketchikan. We came together to ensure that lawmakers were provided with the information they need to make informed decisions about Alaska regional nonprofits and the 65,000 people we serve. ARC nonprofits – four regional nonprofits and one regional tribe – Tanana Chiefs Conference, Kawerak, Maniilaq, Chugachmiut, and Central Council Tlingit-Haida Indian Tribes of Alaska – are all recognized by the U.S. Indian Self-Determination Act to provide medical, behavioral, social, public safety, workforce development and judicial supports to the State of Alaska through contracts and grants. We represent 100 Tribes and we provide services to everybody in our communities, not solely Alaska Natives.

ALASKA FEDERATION OF NATIVES
2017 ANNUAL CONVENTION
RESOLUTION 17-15

TITLE: A RESOLUTION SUPPORTING CRIMINAL JUSTICE REFORM AND ENCOURAGING LEGISLATORS TO SHIFT PRIORITIES FOR PUBLIC SAFETY

WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska, and its membership includes 151 federally recognized tribes, 150 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortiums that contract and compact to run federal and state programs; and

WHEREAS: the mission of AFN is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community; and

WHEREAS: the root causes of the current public safety crisis are the opioid epidemic and the lack of funds that would allow for the sustainable funding of prosecutors, law enforcement officers, and critical behavioral and mental health services; and

WHEREAS: criminal justice reform is good and necessary policy, which garnered bipartisan support by modernizing our criminal justice system, diverting nonviolent drug offenders toward treatment and focusing on crime prevention to curb the epidemic of alcohol and drug abuse; and

WHEREAS: while the remaining components of SB91 go into effect and the Legislature works to fund the increased expenses incurred by SB54, the lack of funding remains the single greatest impediment to implementing solutions that make Alaskans safer; and

WHEREAS: there are important changes being considered currently in the Legislature in Senate Bill 54 that would address some of the most commonly heard complaints about crime currently, including vehicle theft, burglary, and shoplifting.

NOW THEREFORE BE IT RESOLVED by the delegates of the 2017 Annual Convention of Alaska Federation of Natives that AFN shall strengthen criminal justice reform by joining with stakeholder and government partners to jointly encourage the Legislature to quickly pass Senate Bill 54 and to focus on the root causes of crime. We encourage the Legislature to appropriate funds for prosecutors, troopers, VPSO's and critical behavioral and mental health services.

SUBMITTED BY: COUNCIL FOR THE ADVANCEMENT OF ALASKA NATIVES
COMMITTEE ACTION: BOARD APPROVED TO SEND TO CONVENTION FOR CONSIDERATION
CONVENTION ACTION: AMEND AND PASSED

FEDERATION OF ALASKA NATIVES INC. CORPORATE SEAL STATE OF ALASKA

Julie Kitka
President

30-LS0461\N.32
Martin
10/23/17

AMENDMENT #1 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE MILLETT

TO: CSSB 54(FIN)

Page 1, line 3, following "**probation;**":

Insert "**relating to the duties of the commissioner of corrections;**"

Page 11, following line 21:

Insert a new bill section to read:

"* **Sec. 19.** AS 33.30.011(a) is amended to read:

(a) 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;

30-LS0461\N.35
Martin
10/23/17

AMENDMENT #2 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE MILLETT

TO: CSSB 54(FIN)

Page 11, following line 12:

Insert a new bill section to read:

"* **Sec. 18.** AS 33.07.020, enacted by sec. 117, ch. 36, SLA 2016, is amended to read:

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 each judicial district;

(4) provide for the necessary supervision, training, expenses, including clerical services, and travel of pretrial services officers;

(5) **develop** [APPROVE] a risk assessment instrument that is objective, standardized, and 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; **the commissioner shall obtain the approval of the Department of Law, the Department of Public Safety, and the Alaska Court System before implementing the risk assessment instrument;** and

(6) adopt regulations in consultation with the Department of Law, the public defender, the Department of Public Safety, the office of victims' rights, and the Alaska Court System, consistent with this chapter and as necessary to implement the program; the regulations must include a process for pretrial services officers to make a recommendation to the court concerning a pretrial release decision and guidelines for

pretrial diversion recommendations."

Renumber the following bill sections accordingly.

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 30:

Delete all material and insert:

"* **Sec. 25.** Sections 17 and 18 of this Act take effect January 1, 2018."

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.50
Glover/Martin
10/23/17

AMENDMENT #4 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 11, following line 3:

Insert a new bill section to read:

"* **Sec. 17.** AS 33.05.020(h) is amended to read:

(h) The commissioner shall establish by regulation a program allowing probationers to earn credits for complying with the conditions of probation. The credits earned reduce the period of probation. Nothing in this subsection prohibits the department from recommending to the court the early discharge of the probationer as provided in AS 33.30. At a minimum, the regulations must

(1) require that a probationer earn a credit of **10** [30] days for each 30-day period served in which the defendant complied with the conditions of probation;

(2) include policies and procedures for

(A) calculating and tracking credits earned by probationers;

(B) reducing the probationer's period of probation based on credits earned by the probationer; and

(C) notifying a victim under AS 33.30.013."

Renumber the following bill sections accordingly.

Page 11, following line 21:

Insert a new bill section to read:

"* **Sec. 20.** AS 33.16.270 is amended to read:

Sec. 33.16.270. Earned compliance credits. The commissioner shall establish by regulation a program allowing parolees to earn credits for complying with the

conditions of parole. The earned compliance credits reduce the period of parole. Nothing in this section prohibits the department from recommending to the board the early discharge of the parolee as provided in this chapter. At a minimum, the regulations must

(1) require that a parolee earn a credit of **10** [30] days for each 30-day period served in which the parolee complied with the conditions of parole;

(2) include policies and procedures for

(A) calculating and tracking credits earned by parolees;

(B) reducing the parolee's period of parole based on credits earned by the parolee and notifying a victim under AS 33.30.013."

Renumber the following bill sections accordingly.

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, following line 29:

Insert new subsections to read:

"(d) AS 33.05.020(h), as amended by sec. 17 of this Act, applies to sentences imposed on or after the effective date of sec. 17 of this Act for conduct occurring on or after the effective date of sec. 17 of this Act and to time served on probation on or after the effective date of sec. 17 of this Act.

(e) AS 33.16.270, as amended by sec. 20 of this Act, applies to parole granted on or after the effective date of sec. 20 of this Act for conduct occurring on or after the effective date of sec. 20 of this Act."

Page 15, line 30:

Delete "Section 17"

Insert "Section 18"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 26"

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30-LS0461\N.52
Martin
10/23/17

AMENDMENT #5 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 11, following line 12:

Insert a new bill section to read:

"* **Sec. 18.** 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(c), (d)(2) - (4), (e)(3) and (4), or (i)** [AS 12.55.125(i)(1) AND (2)], 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(c), (d)(2) - (4), (e)(3) and (4), or (i)** [AS 12.55.125(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.

(8) to a single sentence under **AS 12.55.125(i)(3)(A) - (C)** [AS 12.55.125(i)(3)] and (4), 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, after a deduction for good time earned under AS 33.20.010, one-half of the active term of imprisonment imposed."

Renumber the following bill sections accordingly.

Page 15, following line 27:

Insert a new subsection to read:

"(c) AS 33.16.090(b), as amended by sec. 18 of this Act, applies to sentences imposed on or after the effective date of sec. 18 of this Act for conduct occurring on or after the effective date of sec. 18 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.42
Bruce/Martin
10/23/17

AMENDMENT #6 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 3, line 6:

Delete "**one year**"

Insert "**120 days**"

30-LS0461\N.40
Martin
10/23/17

AMENDMENT #7 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert a new bill section to read:

"* **Sec. 6.** AS 12.30.011, as repealed and reenacted by sec. 59, ch. 36, SLA 2016, is amended by adding a new subsection to read:

(*l*) Notwithstanding (c) of this section, a pretrial services officer may not assess a person as low risk if the person has been charged with a class C felony under

(1) AS 11.46.310 or 11.46.360;

(2) AS 11.51.100(d)(2) or (f) or 11.51.200;

(3) AS 11.56.320, 11.56.335, 11.56.540, 11.56.590, 11.56.610, 11.56.770, or 11.56.835; or

(4) AS 11.61.123(f)(1), 11.61.140(h), 11.61.200, 11.61.240(b)(3), or 11.61.250."

Renumber the following bill sections accordingly.

Page 11, following line 12:

Insert a new bill section to read:

"* **Sec. 19.** AS 33.07.030, enacted by sec. 117, ch. 36, SLA 2016, is amended by adding a new subsection to read:

(h) Notwithstanding (c)(2) of this section, a pretrial services officer may not assess a person as low risk if the person has been charged with a class C felony under

(1) AS 11.46.310, 11.46.360;

(2) AS 11.51.100(d)(2) or (f) or 11.51.200,

(3) AS 11.56.320, 11.56.335, 11.56.540, 11.56.590, 11.56.610, 11.56.770, or 11.56.835; or

(4) AS 11.61.123(f)(1), 11.61.140(h), 11.61.200, 11.61.240(b)(3), or 11.61.250."

Renumber the following bill sections accordingly.

Page 15, line 17:

Delete "and"

Page 15, following line 17:

Insert a new paragraph to read:

"(6) AS 12.30.011(*l*), enacted by sec. 6 of this Act; and"

Renumber the following paragraph accordingly.

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 16"

Page 15, line 21:

Delete "sec. 6"

Insert "sec. 7"

Page 15, line 22:

Delete "sec. 7"

Insert "sec. 8"

Page 15, line 23:

Delete "sec. 8"

Insert "sec. 9"

Page 15, line 24:
Delete "sec. 9"
Insert "sec. 10"

Page 15, line 25:
Delete "sec. 10"
Insert "sec. 11"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 12"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 13"

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 20"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 20"

Page 15, line 30:
Delete all material and insert:
"* **Sec. 26.** Sections 6, 18, and 19 of this Act take effect January 1, 2018."

Page 15, line 31:
Delete "sec. 24"

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30-LS0461\N.45
Martin
10/23/17

AMENDMENT #10 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 5, line 10:

Delete "**active**"

Page 5, lines 15 - 16:

Delete "**five days of** active [OR SUSPENDED] imprisonment **and a term of probation of more than six months**"

Insert "**seven days of** [ACTIVE OR SUSPENDED] imprisonment"

Page 5, line 22:

Delete "**and a term of probation of more than six months**"

30-LS0461\N.46
Bruce/Martin
10/23/17

AMENDMENT #11 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert a new bill section to read:

"* **Sec. 6.** AS 12.25.150(a), as amended by sec. 50, ch. 36, SLA 2016, is amended to read:

(a) A person arrested shall be taken before a judge or magistrate without unnecessary delay and in any event within 24 hours after arrest, absent compelling circumstances, including Sundays and holidays. The unavailability of a report prepared by the pretrial services officer under AS 33.07 or a delay in the transmittal of that report to the parties or to the court may not be considered a sufficient compelling circumstance to justify delaying a hearing beyond 24 hours. [THE HEARING BEFORE THE JUDGE OR MAGISTRATE MAY NOT TAKE PLACE MORE THAN 48 HOURS AFTER ARREST.] This requirement applies to municipal police officers to the same extent as it does to state troopers."

Renumber the following bill sections accordingly.

Page 9, following line 29:

Insert a new bill section to read:

"* **Sec. 15.** AS 12.70.130, as amended by sec. 98, ch. 36, SLA 2016, is amended to read:

Sec. 12.70.130. Arrest without warrant. The arrest of a person may also be lawfully made by a peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when arrested the accused must be taken before a judge or magistrate without

unnecessary delay and, in any event, within 24 hours after arrest, absent compelling circumstances, including Sundays and holidays, and complaint shall be made against the accused under oath setting out the ground for the arrest as in AS 12.70.120. [THE HEARING BEFORE THE JUDGE OR MAGISTRATE MAY NOT TAKE PLACE MORE THAN 48 HOURS AFTER ARREST.] Thereafter the answer of the accused shall be heard as if the accused had been arrested on a warrant."

Renumber the following bill sections accordingly.

Page 15, line 18:
Delete "sec. 15"
Insert "sec. 17"

Page 15, line 21:
Delete "sec. 6"
Insert "sec. 7"

Page 15, line 22:
Delete "sec. 7"
Insert "sec. 8"

Page 15, line 23:
Delete "sec. 8"
Insert "sec. 9"

Page 15, line 24:
Delete "sec. 9"
Insert "sec. 10"

Page 15, line 25:
Delete "sec. 10"

Insert "sec. 11"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 12"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 13"

Page 15, following line 27:
Insert a new subsection to read:
"(c) AS 12.25.150(a), as amended by sec. 6 of this Act, applies to offenses committed before, on, or after the effective date of sec. 6 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 20"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 20"

Page 15, line 30:
Delete "Section 17 of this Act takes"
Insert "Sections 6, 15, and 19 of this Act take"

Page 15, line 31:
Delete "sec. 24"

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Martin
10/23/17

AMENDMENT #12 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 1, line 3, following "**license;**":

Insert "**relating to revocation of a driver's license;**"

Page 15, lines 7 - 8:

Delete "and 12.55.125(e)(4)(D)"

Insert "12.55.125(e)(4)(D); and AS 28.15.165(e)"

30-LS0461\N.48
Martin
10/23/17

AMENDMENT #13 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 1, line 3, following "**license;**":

Insert "**relating to driving while license canceled, suspended, or revoked;**"

Page 10, following line 27:

Insert new bill sections to read:

"* **Sec. 16.** AS 28.15.291(a) is repealed and reenacted to read:

(a) A person is guilty of a class A misdemeanor if the person

(1) drives 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 in this or another jurisdiction; or

(2) drives in violation of a limitation placed on that person's license or privilege to drive in this or another jurisdiction.

* **Sec. 17.** AS 28.15.291(b) is repealed and reenacted to read:

(b) Upon conviction under (a) of this section, the court

(1) shall impose a minimum sentence of imprisonment

(A) if the person has not been previously convicted, of not less than 10 days with 10 days suspended, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(B) if the person has been previously convicted, of not less than 10 days;

(C) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in

AS 28.15.181(c)(1), if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, or if the person was driving in violation of an ignition interlock device requirement following that revocation, of not less than 20 days with 10 days suspended, and a fine of not less than $500, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(D) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(2), (3), or (4), if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, or if the person was driving in violation of an ignition interlock device requirement following that revocation, of not less than 30 days and a fine of not less than $1,000;

(2) may impose additional conditions of probation;

(3) may not

(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence;

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges; and

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036."

Renumber the following bill sections accordingly.

Page 15, line 17:

Delete "and"

Page 15, line 18, following "Act":

Insert ";

(7) AS 28.15.291(a), as repealed and reenacted by sec. 16 of this Act; and

(8) AS 28.15.291(b), as repealed and reenacted by sec. 17 of this Act"

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 20"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 20"

Page 15, line 30:

Delete "Section 17"

Insert "Section 19"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 26"

30-LS0461\N.49
Glover/Martin
10/23/17

AMENDMENT #14 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert new bill sections to read:

"*** Sec. 6.** AS 12.30.011(d), as repealed and reenacted by sec. 59, ch. 36, SLA 2016, is amended to read:

(d) A person charged **with a misdemeanor** under AS 28.35.030 or 28.35.032 who is assessed by a pretrial services officer as low, moderate, or high risk shall be released on the person's own recognizance or upon execution of an unsecured appearance bond or unsecured performance bond unless the judicial officer finds on the record that there is clear and convincing evidence that no nonmonetary conditions of release in combination with the release of the person on the person's own recognizance or upon execution of an unsecured bond can reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community.

*** Sec. 7.** AS 12.30.011(f), as repealed and reenacted by sec. 59, ch. 36, SLA 2016, is amended to read:

(f) A person charged with an offense who is not otherwise required to be released under (b) - (e) **or *(l)*** of this section and who is assessed by a pretrial services officer as

(1) low risk shall be released on the person's own recognizance or upon execution of an unsecured appearance bond or unsecured performance bond unless the judicial officer finds on the record that there is clear and convincing evidence that no nonmonetary conditions of release in combination with the release of the person on the person's own recognizance or upon execution of an unsecured bond

can reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community; or

(2) moderate to high risk may be required, singly or in combination, in addition to other conditions specified in this section, to deposit with the court and execute

(A) an appearance bond with a posting not to exceed 10 percent of the specified amount of the bond with the condition that the deposit be returned upon the appearance of the person at scheduled hearings;

(B) a bail bond with sufficient solvent sureties or the deposit of cash; or

(C) a performance bond with a full or partial 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.

* **Sec. 8.** AS 12.30.011, as repealed and reenacted by sec. 59, ch. 36, SLA 2016, is amended by adding a new subsection to read:

(*l*) A person charged with a felony offense under AS 28.35.030 or 28.35.032 who is assessed by a pretrial services officer as low, moderate, or high risk may be required, singly or in combination, in addition to other conditions specified in this section, to deposit with the court and execute

(A) an appearance bond with a posting not to exceed 10 percent of the specified amount of the bond with the condition that the deposit be returned upon the appearance of the person at scheduled hearings;

(B) a bail bond with sufficient solvent sureties or the deposit of cash; or

(C) a performance bond with a full or partial 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."

Renumber the following bill sections accordingly.

Page 15, line 17:

Delete "and"

Page 15, following line 17:

Insert new paragraphs to read:

"(6) AS 12.30.011(d), as amended by sec. 6 of this Act;

(7) AS 12.30.011(f), as amended by sec. 7 of this Act;

(8) AS 12.30.011(*l*), enacted by sec. 8 of this Act; and"

Renumber the following paragraph accordingly.

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 18"

Page 15, line 21:

Delete "sec. 6"

Insert "sec. 9"

Page 15, line 22:

Delete "sec. 7"

Insert "sec. 10"

Page 15, line 23:

Delete "sec. 8"

Insert "sec. 11"

Page 15, line 24:

Delete "sec. 9"

Insert "sec. 12"

Page 15, line 25:

Delete "sec. 10"
Insert "sec. 13"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 14"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 15"

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 21"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 21"

Page 15, line 30:
Delete "Section 17 of this Act takes"
Insert "Sections 6 - 8 and 20 of this Act take"

Page 15, line 31:
Delete "sec. 24"
Insert "sec. 27"

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30-LS0461\N.51
Bruce/Martin
10/23/17

AMENDMENT #15 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 11, following line 12:

Insert a new bill section to read:

"* **Sec. 18.** AS 33.16.089(a) is amended to read:

(a) A prisoner convicted of a misdemeanor or a class [B OR] C felony that is not a sex offense as defined in AS 12.63.100 or an offense under AS 11.41 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 33.16.150;

(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, including completing programming in the case plan, under AS 33.30.011(8)."

Renumber the following bill sections accordingly.

Page 15, following line 27:

Insert a new subsection to read:

"(c) AS 33.16.089(a), as amended by sec. 18 of this Act, applies to sentences imposed on or after the effective date of sec. 18 of this Act for conduct occurring on or after the effective date of sec. 18 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.53
Glover/Martin
10/23/17

AMENDMENT #16 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert a new bill section to read:

"* **Sec. 6.** AS 12.55.027(g) is amended to read:

(g) A court granting credit against a sentence of imprisonment under (d) of this section may grant credit of not more than **120** [360] days against a total term of imprisonment [IMPOSED FOR

(1) A FELONY CRIME AGAINST A PERSON UNDER AS 11.41;

(2) A CRIME INVOLVING DOMESTIC VIOLENCE AS DEFINED IN AS 18.66.990;

(3) A SEX OFFENSE AS DEFINED IN AS 12.63.100;

(4) AN OFFENSE UNDER AS 11.71 INVOLVING THE DELIVERY OF A CONTROLLED SUBSTANCE TO A PERSON UNDER 19 YEARS OF AGE;

(5) BURGLARY IN THE FIRST DEGREE UNDER AS 11.46.300; OR

(6) ARSON IN THE FIRST DEGREE UNDER AS 11.46.400]."

Renumber the following bill sections accordingly.

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 16"

Page 15, following line 20:

Insert a new paragraph to read:

"(1) AS 12.55.027(g), as amended by sec. 6 of this Act;"

Renumber the following paragraphs accordingly.

Page 15, line 21:

Delete "sec. 6"

Insert "sec. 7"

Page 15, line 22:

Delete "sec. 7"

Insert "sec. 8"

Page 15, line 23:

Delete "sec. 8"

Insert "sec. 9"

Page 15, line 24:

Delete "sec. 9"

Insert "sec. 10"

Page 15, line 25:

Delete "sec. 10"

Insert "sec. 11"

Page 15, line 26:

Delete "sec. 11"

Insert "sec. 12"

Page 15, line 27:

Delete "sec. 12"

Insert "sec. 13"

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 30:

Delete "Section 17"

Insert "Section 18"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

L

30-LS0461\N.54
Bruce/Martin
10/23/17

AMENDMENT #17 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 11, following line 21:

Insert a new bill section to read:

"* **Sec. 19.** AS 33.16.270 is amended to read:

Sec. 33.16.270. Earned compliance credits. The commissioner shall establish by regulation a program allowing parolees to earn credits for complying with the conditions of parole. The earned compliance credits reduce the period of parole. Nothing in this section prohibits the department from recommending to the board the early discharge of the parolee as provided in this chapter. At a minimum, the regulations must

(1) require that a parolee earn a credit of **10** [30] days for each 30-day period served in which the parolee complied with the conditions of parole;

(2) include policies and procedures for

(A) calculating and tracking credits earned by parolees;

(B) reducing the parolee's period of parole based on credits earned by the parolee and notifying a victim under AS 33.30.013."

Renumber the following bill sections accordingly.

Page 15, following line 29:

Insert a new subsection to read:

"(d) AS 33.16.270, as amended by sec. 19 of this Act, applies to parole granted on or after the effective date of sec. 19 of this Act for conduct occurring on or after the effective date of sec. 19 of this Act."

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.61
Bruce/Martin
10/23/17

AMENDMENT #18 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 11, following line 3:

Insert a new bill section to read:

"* **Sec. 17.** AS 33.05.020(h) is amended to read:

(h) The commissioner shall establish by regulation a program allowing probationers to earn credits for complying with the conditions of probation. The credits earned reduce the period of probation. Nothing in this subsection prohibits the department from recommending to the court the early discharge of the probationer as provided in AS 33.30. At a minimum, the regulations must

(1) require that a probationer earn a credit of **10** [30] days for each 30-day period served in which the defendant complied with the conditions of probation;

(2) include policies and procedures for

(A) calculating and tracking credits earned by probationers;

(B) reducing the probationer's period of probation based on credits earned by the probationer; and

(C) notifying a victim under AS 33.30.013."

Renumber the following bill sections accordingly.

Page 15, following line 17:

Insert a new subsection to read:

"(c) AS 33.05.020(h), as amended by sec. 17 of this Act, applies to sentences imposed on or after the effective date of sec. 17 of this Act, for conduct occurring on or after the effective date of sec. 17 of this Act, for time served on probation on or after the effective date

of sec. 17 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 30:

Delete "Section 17"

Insert "Section 18"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

L

30-LS0461\N.56
Glover/Martin
10/23/17

AMENDMENT #19 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 11, following line 12:

Insert a new bill section to read:

"*** Sec. 18.** AS 33.16.089 is amended by adding a new subsection to read:

(e) Notwithstanding (a) of this section, a person is ineligible for administrative parole if the person has been convicted of a class C felony under

(1) AS 11.46.310 or 11.46.360;

(2) AS 11.51.100(d)(2) or (f) or 11.51.200;

(3) AS 11.56.320, 11.56.335, 11.56.540, 11.56.590, 11.56.610, 11.56.770, or 11.56.835; or

(4) AS 11.61.123(f)(1), 11.61.140(h), 11.61.200, 11.61.240(b)(3), or 11.61.250."

Renumber the following bill sections accordingly.

Page 15, line 26:

Delete "and"

Page 15, line 27, following "Act":

Insert "; and

(8) AS 33.16.089(e), enacted by sec. 18 of this Act"

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.38
Martin
10/23/17

AMENDMENT #20 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 1, line 2:

Delete "**relating to sex trafficking;**"

Page 2, lines 2 - 29:

Delete all material.

Renumber the following bill sections accordingly.

Page 8, line 28, through page 10, line 25:

Delete all material.

Renumber the following bill sections accordingly.

Page 11, lines 28 - 31:

Delete all material.

Renumber the following bill sections accordingly.

Page 15, line 7:

Delete "AS 11.66.130(b), 11.66.135(b);"

Page 15, line 14, following "Act;":

Insert "and"

Page 15, lines 15 - 17:

Delete all material.

Renumber the following paragraph accordingly.

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 10"

Page 15, line 21:

Delete "sec. 6"

Insert "sec. 3"

Page 15, line 22:

Delete "sec. 7"

Insert "sec. 4"

Page 15, line 23:

Delete "sec. 8"

Insert "sec. 5"

Page 15, line 24:

Delete "sec. 9"

Insert "sec. 6"

Page 15, line 25:

Delete "sec. 10"

Insert "sec. 7"

Page 15, line 26:

Delete "sec. 11"
Insert "sec. 8"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 9"

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 13"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 13"

Page 15, line 30:
Delete "Section 17"
Insert "Section 12"

Page 15, line 31:
Delete "sec. 24"
Insert "sec. 18"

30-LS0461\N.55
Bruce/Martin
10/23/17

AMENDMENT #21 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 11, following line 3:

Insert a new bill section to read:

"* **Sec. 17.** AS 33.05.020(h) is amended to read:

(h) The commissioner shall establish by regulation a program allowing probationers to earn credits for complying with the conditions of probation. The credits earned reduce the period of probation. Nothing in this subsection prohibits the department from recommending to the court the early discharge of the probationer as provided in AS 33.30. At a minimum, the regulations must

(1) require that a probationer earn a credit of **10** [30] days for each 30-day period served in which the defendant complied with the conditions of probation;

(2) include policies and procedures for

(A) calculating and tracking credits earned by probationers;

(B) reducing the probationer's period of probation based on credits earned by the probationer; and

(C) notifying a victim under AS 33.30.013."

Renumber the following bill sections accordingly.

Page 15, following line 17:

Insert a new subsection to read:

"(c) AS 33.05.020(h), as amended by sec. 17 of this Act, applies to sentences imposed before, on, or after the effective date of sec. 17 of this Act, for conduct occurring before, on, or after the effective date of sec. 17 of this Act, for time served on probation on or after the

effective date of sec. 17 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 30:

Delete "Section 17"

Insert "Section 18"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.34
Glover/Martin
10/20/17

AMENDMENT #22 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE MILLETT

TO: CSSB 54(FIN)

Page 1, line 4, following "**program;**":

Insert "**relating to the Alaska Criminal Justice Commission;**"

Page 11, following line 31:

Insert a new bill section to read:

"*** Sec. 21.** AS 44.19.645(a) is amended to read:

(a) **The mission of the commission is to protect and improve public safety while working toward a more efficient and cost-effective criminal justice system.** The commission shall evaluate the effect of sentencing laws and criminal justice practices on the criminal justice system to evaluate whether those sentencing laws and criminal justice practices provide for protection of the public, community condemnation of the offender, the rights of victims of crimes, the rights of the accused and the person convicted, restitution from the offender, and the principle of reformation. The commission shall make recommendations for improving criminal sentencing practices and criminal justice practices, including rehabilitation and restitution. The commission shall annually make recommendations to the governor and the legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism. In formulating its recommendations, the commission shall consider

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

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

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

(4) alternatives to traditional forms of incarceration;

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

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

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

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

(9) the effectiveness of the state's current methodologies for the collection and dissemination of criminal justice data; and

(10) whether the schedules for controlled substances in AS 11.71.140 - 11.71.190 are reasonable and appropriate, considering the criteria established in AS 11.71.120(c)."

Renumber the following bill sections accordingly.

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.41
Bruce/Martin
10/24/17

AMENDMENT #23 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert a new bill section to read:

"* **Sec. 6.** AS 12.55.090(g) is amended 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

(A) **four** [TWO] years on probation if the person was convicted of a class A [OR CLASS B] felony that is not a crime under (5) of this subsection; [OR]

(B) **three years on probation if the person was convicted of a class B felony that is not a crime under (5) of this subsection; or**

(C) one year on probation if the person was convicted of a crime that is not a crime

(i) under (A) **or (B)** of this paragraph; or

(ii) under (5) of this subsection;

(2) has completed all treatment programs required as a condition of probation;

(3) has not been found in violation of conditions of probation by the court for the period specified in (1) of this subsection;

(4) is currently in compliance with all conditions of probation for all of the cases for which the person is on probation; and

(5) has not been convicted of an unclassified felony offense, a sexual felony as defined in AS 12.55.185, or a crime involving domestic violence as defined

in AS 18.66.990."

Renumber the following bill sections accordingly.

Page 15, line 18:
Delete "sec. 15"
Insert "sec. 16"

Page 15, line 21:
Delete "sec. 6"
Insert "sec. 7"

Page 15, line 22:
Delete "sec. 7"
Insert "sec. 8"

Page 15, line 23:
Delete "sec. 8"
Insert "sec. 9"

Page 15, line 24:
Delete "sec. 9"
Insert "sec. 10"

Page 15, line 25:
Delete "sec. 10"
Insert "sec. 11"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 12"

Page 15, line 27:

Delete "sec. 12"

Insert "sec. 13"

Page 15, following line 27:

Insert a new subsection to read:

"(c) AS 12.55.090(g), as amended by sec. 6 of this Act, applies to probation ordered on or after the effective date of sec. 6 of this Act, for offenses committed on or after the effective date of sec. 6 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 30:

Delete "Section 17"

Insert "Section 18"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.59
Martin
10/23/17

AMENDMENT #24 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 1, line 4, following "**program;**":

Insert "**relating to involuntary commitment;**"

Page 11, following line 31:

Insert a new bill section to read:

"* **Sec. 21.** AS 47.30.715 is amended by adding a new subsection to read:

(b) An evaluation under (a) of this section must be conducted at a behavioral health unit of a facility or at a mental health facility. If the facility is not a mental health facility or does not have a behavioral health unit, or if the facility is at capacity, the facility shall promptly transfer the respondent to a facility with a behavioral health unit or a mental health facility that has capacity for evaluation."

Renumber the following bill sections accordingly.

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.65
Martin
10/24/17

AMENDMENT #25 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE FANSLER

TO: CSSB 54(FIN)

Page 3, line 6:

Delete "**one year**"

Insert "**90 days**"

30-LS0461\N.66
Martin
10/24/17

AMENDMENT #26 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE FANSLER

TO: CSSB 54(FIN)

Page 3, line 6:

Delete "**one year**"

Insert "**180 days**"

30-LS0461\N.63
Martin
10/24/17

AMENDMENT #29 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE KREISS-TOMKINS

TO: CSSB 54(FIN)

Page 1, line 4, following "**program;**":

Insert "**relating to peremptory challenges; amending Rule 24(d), Alaska Rules of Criminal Procedure;**"

Page 15, following line 6:

Insert a new bill section to read:

"* **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 24(d), Alaska Rules of Criminal Procedure, is amended to read:

(d) **Peremptory Challenges.** A party who waives peremptory challenge as to the jurors in the box does not thereby lose the challenge but may exercise it as to new jurors who may be called. A juror peremptorily challenged is excused without cause. If the offense is punishable by imprisonment for more than one year, each side is entitled to **six** [10] peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year, or by a fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow the defendants additional peremptory challenges and permit them to be exercised separately or jointly."

Renumber the following bill sections accordingly.

Page 15, following line 29:

Insert a new bill section to read:

"* **Sec. 25.** Section 22 of this Act takes effect only if sec. 22 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

Renumber the following bill sections accordingly.

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 26"

30-LS0461\N.81
Glover/Martin
10/24/17

AMENDMENT #30 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE LEDOUX

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert a new bill section to read:

"* **Sec. 6.** AS 12.55.027(g) is amended to read:

(g) A court granting credit against a sentence of imprisonment under (d) of this section may grant credit of not more than **120** [360] days against a total term of imprisonment imposed for

(1) a felony crime against a person under AS 11.41;

(2) a crime involving domestic violence as defined in AS 18.66.990;

(3) a sex offense as defined in AS 12.63.100;

(4) an offense under AS 11.71 involving the delivery of a controlled substance to a person under 19 years of age;

(5) burglary in the first degree under AS 11.46.300; or

(6) arson in the first degree under AS 11.46.400."

Renumber the following bill sections accordingly.

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 16"

Page 15, following line 20:

Insert a new paragraph to read:

"(1) AS 12.55.027(g), as amended by sec. 6 of this Act;"

Renumber the following paragraphs accordingly.

Page 15, line 21:
Delete "sec. 6"
Insert "sec. 7"

Page 15, line 22:
Delete "sec. 7"
Insert "sec. 8"

Page 15, line 23:
Delete "sec. 8"
Insert "sec. 9"

Page 15, line 24:
Delete "sec. 9"
Insert "sec. 10"

Page 15, line 25:
Delete "sec. 10"
Insert "sec. 11"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 12"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 13"

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 19"

Page 15, line 30:

Delete "Section 17"

Insert "Section 18"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.64
Martin
10/24/17

AMENDMENT #32 Failed

OFFERED IN THE HOUSE

TO: CSSB 54(FIN)

Page 5, line 9, following "AS 11.46.530(b)(3)":

Insert "**shall impose a sentence including restitution as required under AS 12.55.045 and**"

30-LS0461\N.16
Bruce/Martin
10/19/17

AMENDMENT #33 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 1, line 14:

Delete "**class B**"

Insert "**class A**"

30-LS0461\N.18
Martin
10/17/17

AMENDMENT #34 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert a new bill section to read:

"* **Sec. 6.** AS 12.55.090(c) is amended to read:

(c) The period of probation, together with any extension, may not exceed

(1) 15 years for a felony sex offense;

(2) 10 years for an unclassified felony under AS 11 not listed in (1) of this subsection;

(3) five years for a felony offense not listed in (1) or (2) of this subsection; **or**

(4) three years for a misdemeanor offense

[(A) UNDER AS 11.41;

(B) THAT IS A CRIME INVOLVING DOMESTIC VIOLENCE; OR

(C) THAT IS A SEX OFFENSE, AS THAT TERM IS DEFINED IN AS 12.63.100;

(5) 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

(6) ONE YEAR FOR AN OFFENSE NOT LISTED IN (1) - (5) OF THIS SUBSECTION]."

Renumber the following bill sections accordingly.

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 16"

Page 15, following line 18:

Insert a new subsection to read:

"(b) AS 12.55.090(c), as amended by sec. 6 of this Act, applies to probation ordered on or after the effective date of sec. 6 of this Act for offenses committed on or after the effective date of sec. 6 of this Act."

Reletter the following subsections accordingly.

Page 15, line 21:

Delete "sec. 6"

Insert "sec. 7"

Page 15, line 22:

Delete "sec. 7"

Insert "sec. 8"

Page 15, line 23:

Delete "sec. 8"

Insert "sec. 9"

Page 15, line 24:

Delete "sec. 9"

Insert "sec. 10"

Page 15, line 25:

Delete "sec. 10"

Insert "sec. 11"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 12"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 13"

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 19"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 19"

Page 15, line 30:
Delete "Section 17"
Insert "Section 18"

Page 15, line 31:
Delete "sec. 24"
Insert "sec. 25"

30-LS0461\N.19
Bruce/Martin
10/19/17

AMENDMENT #35 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 1, line 14, through page 2, line 1:

Delete all material and insert:

"(b) Violation of condition of release is a

(1) class A misdemeanor if the person is released from a charge or conviction of a felony;

(2) class B misdemeanor if the person is released from a charge or conviction of a misdemeanor [VIOLATION PUNISHABLE BY A FINE OF UP TO $1,000]."

30-LS0461\N.20
Bruce/Martin
10/20/17

AMENDMENT #36 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 1, line 3, following "**license;**":

Insert "**relating to restoration of a driver's license;**"

Page 10, following line 27:

Insert new bill sections to read:

"*** Sec. 16.** 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 electronic monitoring is not available, imprisonment required under (b)(1)(A) of this section **may** [SHALL] be served at **another appropriate place determined by the commissioner of corrections** [A PRIVATE RESIDENCE BY OTHER MEANS DETERMINED BY THE COMMISSIONER OF CORRECTIONS. A PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT REQUIRED UNDER (b)(1)(A) OF THIS SECTION BY ELECTRONIC MONITORING AT A PRIVATE RESIDENCE MAY NOT BE SUBJECT TO A SEARCH OF THE PERSON'S DWELLING BY A PEACE OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE]. 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 **provided, however, that the** [. 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. **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. 17.** 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. 18.** AS 28.35.030(o) is amended to read:

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

[(1)] may restore the driver's license if

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

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

(3) [(C)] 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 OR A REHABILITATIVE TREATMENT PROGRAM UNDER AS 28.15.201(h);

(C) 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;

(D) THE PERSON IS OTHERWISE ELIGIBLE TO HAVE THE PERSON'S DRIVING PRIVILEGES RESTORED AS PROVIDED IN AS 28.15.211; IN AN APPLICATION UNDER THIS SUBSECTION, A PERSON WHOSE LICENSE WAS REVOKED FOR A VIOLATION OF AS 28.35.030(n) OR 28.35.032(p) IS NOT REQUIRED TO SUBMIT COMPLIANCE AS REQUIRED UNDER AS 28.35.030(h) OR 28.35.032(*l*); AND

(E) THE PERSON PROVIDES PROOF OF FINANCIAL RESPONSIBILITY].

* **Sec. 19.** AS 28.35.032(o) is amended to read:

(o) Imprisonment required under (g)(1)(A) of this section shall be served at a **community residential center, or if a community residential center** [PRIVATE RESIDENCE BY ELECTRONIC MONITORING UNDER AS 33.30.065. IF ELECTRONIC MONITORING] is not available, **at another appropriate place as determined by the commissioner of corrections** [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. A PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT REQUIRED UNDER (g)(1)(A) OF THIS SECTION BY ELECTRONIC MONITORING AT A PRIVATE RESIDENCE MAY NOT BE SUBJECT TO A SEARCH OF THE PERSON'S DWELLING BY A PEACE OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE.] 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 **provided, however, that the** [. 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. **While at the community residential center or another 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."

Renumber the following bill sections accordingly.

Page 11, following line 27:

Insert a new bill section to read:

"* **Sec. 24.** AS 33.30.065(a) is amended to read:

(a) If the commissioner designates a prisoner to serve the prisoner's term of imprisonment or period of temporary commitment, or a part of the term or period, by electronic monitoring, the commissioner shall direct the prisoner to serve the term or period at the prisoner's residence or other place selected by the commissioner. The electronic monitoring shall be administered by the department [OR BY A PRIVATE CONTRACTOR APPROVED BY THE DEPARTMENT UNDER AS 33.30.011(10)(B)] and shall be designed so that any attempt to remove, tamper with, or disable the monitoring equipment or to leave the place selected for the service of the term or period will result in a report or notice to the department."

Renumber the following bill sections accordingly.

Page 15, line 26:

Delete "and"

Page 15, line 27, following "Act":

Insert ";

(8) AS 28.35.030(k), as amended by sec. 16 of this Act; and

(9) AS 28.35.032(o), as amended by sec. 19 of this Act"

Page 15, following line 27:

Insert a new subsection to read:

"(c) AS 28.35.030(o), as amended by sec. 18 of this Act, applies to revocation of a

driver's license, privilege to drive, privilege to obtain a driver's license, or an identification card or driver's license occurring on or after the effective date of sec. 18 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 22"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 22"

Page 15, line 30:
Delete "Section 17"
Insert "Section 21"

Page 15, line 31:
Delete "sec. 24"
Insert "sec. 29"

30-LS0461\N.22
Glover/Martin
10/17/17

AMENDMENT #38 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 10, following line 27:

Insert new bill sections to read:

"* **Sec. 16.** AS 28.15.291(a) is repealed and reenacted to read:

(a) A person is guilty of a class A misdemeanor if the person

(1) drives 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 in this or another jurisdiction; or

(2) drives in violation of a limitation placed on that person's license or privilege to drive in this or another jurisdiction.

* **Sec. 17.** AS 28.15.291(b) is repealed and reenacted to read:

(b) Upon conviction under (a) of this section, the court

(1) shall impose a minimum sentence of imprisonment

(A) if the person has not been previously convicted, of not less than 10 days with 10 days suspended, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(B) if the person has been previously convicted, of not less than 10 days;

(C) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(1), if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, or if the person was driving in violation of an ignition interlock device requirement following that

revocation, of not less than 20 days with 10 days suspended, and a fine of not less than $500, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(D) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(2), (3), or (4), if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, or if the person was driving in violation of an ignition interlock device requirement following that revocation, of not less than 30 days and a fine of not less than $1,000;

(2) may impose additional conditions of probation;

(3) may not

(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence;

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges; and

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036."

Renumber the following bill sections accordingly.

Page 15, line 17:

Delete "and"

Page 15, line 18, following "Act":

Insert ";

(7) AS 28.15.291(a), as repealed and reenacted by sec. 16 of this Act; and

(8) AS 28.15.291(b), as repealed and reenacted by sec. 17 of this Act"

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 20"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 20"

Page 15, line 30:

Delete "Section 17"

Insert "Section 19"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 26"

30-LS0461\N.24
Glover/Martin
10/19/17

AMENDMENT #40 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 2, following line 29:

Insert new bill sections to read:

"* **Sec. 6.** 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. 7.** 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 33.16.090** [AS 33.16.089, 33.16.090,] and 33.16.100."

Renumber the following bill sections accordingly.

Page 11, following line 12:

Insert new bill sections to read:

"* **Sec. 20.** 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. 21.** 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. 22.** AS 33.16.060(a) is amended to read:

(a) The board shall

(1) serve as the parole authority for the state;

(2) consider the suitability for parole of a prisoner who is eligible for

discretionary parole at least 90 days before the prisoner's first date of eligibility and upon receipt of the prisoner's application for special medical parole;

(3) impose parole conditions on all prisoners released under special medical, [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.

*** Sec. 23.** 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) 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) a prisoner is not eligible for consideration of discretionary parole if made ineligible by order of a court under AS 12.55.115;

(C) 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. 24.** AS 33.16.100(f) is amended to read:

(f) The board shall authorize the release of a prisoner who has been convicted of a class A, class B, or class C felony, or a misdemeanor, who is eligible for parole under AS 12.55.115 and AS 33.16.090, has met the requirement of a case plan created under AS 33.30.011(8), **and** has agreed to and signed the condition of parole under AS 33.16.150, [AND HAS NOT BEEN RELEASED ON ADMINISTRATIVE PAROLE UNDER AS 33.16.089,] 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 on parole. If the board finds that the incomplete case plan is not the fault of the prisoner or that the prisoner would not pose a threat of harm to the public if released on parole, the board may waive the case plan requirement.

*** Sec. 25.** 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. 26.** AS 33.16.130(a) is amended to read:

(a) The parole board shall hold a hearing 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) or (f), not less than 90 days before the first parole eligibility date [, UNLESS THE PRISONER IS ELIGIBLE FOR ADMINISTRATIVE PAROLE];

(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."

Renumber the following bill sections accordingly.

Page 11, following line 21:

Insert new bill sections to read:

"* **Sec. 28.** 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. 29.** 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 that accommodate the diligent efforts of the parolee to secure and maintain steady employment or to participate in educational courses or training programs;

(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 registration, per state editorial review of AS 33 system under AS 41.41.035;

(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. 30.** 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;

(12) refrain from traveling in the state to make diligent efforts to secure or maintain steady employment or to participate in educational courses or

training programs only if the travel violates other conditions of parole.

*** Sec. 31.** 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. 32.** 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. 33.** 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 comply with AS 33.30.011(10) and 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 parole 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. 34.** AS 33.16.150(h) is amended to read:

(h) In addition to other conditions of parole imposed under this section, for a prisoner serving a sentence for an offense involving the use of alcohol or controlled substances, the board may impose, as a condition of special medical, [ADMINISTRATIVE,] discretionary, or mandatory parole, a requirement that the prisoner comply with a program established under AS 33.16.060(c) or AS 47.38.020. The board may require a prisoner serving a period of parole and complying with a program established under AS 33.16.060(c) or AS 47.38.020 to pay all or a portion of the costs associated with the program.

*** Sec. 35.** 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 mandatory parole;

(5) [(6)] maintain records, files, and accounts as requested by the board;

(6) [(7)] prepare preparole reports under AS 33.16.110(a);

(7) [(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;

(8) [(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; and

(9) [(10)] 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.

* **Sec. 36.** 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."

Renumber the following bill sections accordingly.

Page 11, following line 31:

Insert a new bill section to read:

"* **Sec. 39.** AS 44.19.645(g) is amended to read:

(g) The Department of Corrections shall report quarterly to the working group authorized in (b)(3) of this section. The report shall include the following information:

(1) data on pretrial decision making and outcomes, including information on pretrial detainees admitted for a new criminal charge; detainees released at any point before case resolution; time spent detained before first release or case resolution; pretrial defendant risk level and charge; pretrial release recommendations made by pretrial services officers; pretrial conditions imposed on pretrial detainees by judicial officers, including amount of bail, and supervision conditions; and information on pretrial outcomes, including whether or not the defendant appeared in court or was re-arrested during the pretrial period;

(2) data on offenders admitted to the Department of Corrections for a new criminal conviction, including the offense type, number of prior felony convictions, sentence length, and length of stay;

(3) data on the population of the Department of Corrections, using a one-day snapshot on the first day of the first month of each quarter, broken down by type of admission, offense type, and risk level;

(4) data on offenders on probation supervised by the Department of Corrections, including the total number of offenders supervised using a one-day snapshot on the first month of each quarter; admissions to probation; assignments to a program under AS 33.05.020(f); probation sentence length; time served on the sentence; whether probation was successfully completed, any new convictions for a felony offense, and any sentences to a term of imprisonment while on probation;

(5) data on parole, including the number of offenders supervised on parole, using a one-day snapshot on the first month of each quarter; the number of parole hearings; the parole grant rate and number of parolees released on [ADMINISTRATIVE,] discretionary [,] and special medical parole; and information on parolees, including time spent on parole, whether parole was successfully completed, any new convictions for a new felony offense, and any sentences to a term of imprisonment while on parole;

(6) data on the implementation of policies from the 2015 justice reinvestment report, including the number and percentage of offenders who earn compliance credits under AS 33.05.020(h) or AS 33.16.270 in one or more months, and the total amount of credits earned; the average number of sanctions issued under AS 33.05.020(g) before a petition to revoke probation or parole is filed; and the most common violations of probation or parole; and

(7) data on probation and parole revocations, including information on probationers and parolees admitted for a supervision violation pre-case and post-case resolution; probationers and parolees admitted solely for a technical violation; probationers and parolees admitted for a new arrest; the number of previous revocations on the current sentence, if any; the length of time held pre-case resolution; the length of time to case resolution; and the length of stay."

Renumber the following bill sections accordingly.

Page 15, line 7:

Delete "and"

Page 15, line 8, following "12.55.125(e)(4)(D)":

Insert "; AS 33.16.010(f), 33.16.089, and 33.16.900(1)"

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 17"

Page 15, line 21:

Delete "sec. 6"

Insert "sec. 8"

Page 15, line 22:

Delete "sec. 7"

Insert "sec. 9"

Page 15, line 23:

Delete "sec. 8"

Insert "sec. 10"

Page 15, line 24:

Delete "sec. 9"

Insert "sec. 11"

Page 15, line 25:

Delete "sec. 10"

Insert "sec. 12"

Page 15, line 26:

Delete "sec. 11"

Insert "sec. 13"

Page 15, line 27:

Delete "sec. 12"

Insert "sec. 14"

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 27"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 27"

Page 15, line 30:

Delete "Section 17"

Insert "Section 19"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 43"

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10/19/17

AMENDMENT #4| Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 11, following line 12:

Insert new bill sections to read:

"* **Sec. 18.** 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

(1) [(A)] 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;

(2) [(B)] a prisoner is not eligible for consideration of discretionary parole if made ineligible by order of a court under AS 12.55.115;

(3) [(C)] 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. 19.** AS 33.16.090(b) is amended to read:

(b) A prisoner eligible under (a) [(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(c), (d)(2) - (4), (e)(3) and (4), or (i)** [AS 12.55.125(i)(1) AND (2)], 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(c), (d)(2) - (4), (e)(3) and (4), or (i)** [AS 12.55.125(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.

[(8) TO A SINGLE SENTENCE UNDER AS 12.55.125(i)(3) AND (4), 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, AFTER A DEDUCTION FOR GOOD TIME EARNED UNDER AS 33.20.010, ONE-HALF OF THE ACTIVE TERM OF IMPRISONMENT IMPOSED.]

* **Sec. 20.** 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(a)(1)] 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. 21.** AS 33.16.130(a) is amended to read:

(a) The parole board shall hold a hearing 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) [OR (f)], not less than 90 days before the first parole eligibility date, unless the prisoner is eligible for administrative parole;

(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."

Renumber the following bill sections accordingly.

Page 11, following line 21:

Insert new bill sections to read:

*** Sec. 23.** AS 33.16.210(a) is amended to read:

(a) The board may unconditionally discharge a parolee from the jurisdiction and custody of the board after the parolee has completed **two years** [ONE YEAR] of parole. A discretionary parolee with a residual period of probation may, after **two years** [ONE YEAR] of parole, be discharged by the board to immediately begin

serving the residual period of probation.

*** Sec. 24.** AS 33.16.210(b) is amended to read:

(b) Notwithstanding (a) of this section, the board may unconditionally discharge a mandatory parolee before the parolee has completed **two years** [ONE YEAR] 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."

Renumber the following bill sections accordingly.

Page 15, line 7:

Delete "and"

Page 15, line 8, following "12.55.125(e)(4)(D)":

Insert "; AS 33.16.100(f), and 33.16.100(g)"

Page 15, line 28:

Delete "sec. 18"

Insert "sec. 22"

Page 15, line 29:

Delete "sec. 18"

Insert "sec. 22"

Page 15, following line 29:

Insert new subsections to read:

"(d) The following sections apply to parole granted on or after the effective date of those sections for conduct occurring on or after the effective date of those sections:

(1) AS 33.16.090(a), as amended by sec. 18 of this Act;

(2) AS 33.16.090(b), as amended by sec. 19 of this Act;

(3) AS 33.16.210(a), as amended by sec. 23 of this Act; and

(4) AS 33.16.210(b), as amended by sec. 24 of this Act.

(e) AS 33.16.100(a), as amended by sec. 20 of this Act, applies to parole granted on or after the effective date of sec. 20 of this Act, for conduct occurring before, on, or after the effective date of sec. 20 of this Act."

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 30"

30-LS0461\N.26
Glover/Martin
10/20/17

AMENDMENT #42 Withdrawn

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 1, line 4, following "**program;**":

Insert "**relating to eligibility for temporary assistance;**"

Page 15, line 7:

Delete "and"

Page 15, line 8, following "12.55.125(e)(4)(D)":

Insert "; and AS 47.27.015(i)"

30-LS0461\N.13
Bruce/Martin
10/19/17

AMENDMENT #43 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 1, following line 5:

Insert a new bill section to read:

"* **Section 1.** AS 11.56.730(d) is amended to read:

(d) Failure to appear is a

(1) class C felony if the person was released in connection with a charge of a felony or while awaiting sentence or appeal after conviction of a felony [AND THE PERSON

(A) DOES NOT MAKE CONTACT WITH THE COURT OR A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING; OR

(B) DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING TO AVOID PROSECUTION];

(2) class A misdemeanor if the person was released in connection with a charge of a misdemeanor, while awaiting sentence or appeal after conviction of a misdemeanor, or in connection with a requirement to appear as a material witness in a criminal proceeding [, AND THE PERSON

(A) DOES NOT MAKE CONTACT WITH THE COURT OR A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING; OR

(B) DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING TO AVOID PROSECUTION; OR

(3) VIOLATION PUNISHABLE BY A FINE OF UP TO $1,000]."

Page 1, line 6:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 15, line 13:

Delete "sec. 1"

Insert "sec. 2"

Page 15, line 14:

Delete "sec. 2"

Insert "sec. 3"

Page 15, line 15:

Delete "sec. 3"

Insert "sec. 4"

Page 15, line 16:

Delete "sec. 4"

Insert "sec. 5"

Page 15, line 17:

Delete "sec. 5"

Insert "sec. 6"

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 16"

Page 15, line 21:
Delete "sec. 6"
Insert "sec. 7"

Page 15, line 22:
Delete "sec. 7"
Insert "sec. 8"

Page 15, line 23:
Delete "sec. 8"
Insert "sec. 9"

Page 15, line 24:
Delete "sec. 9"
Insert "sec. 10"

Page 15, line 25:
Delete "sec. 10"
Insert "sec. 11"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 12"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 13"

Page 15, following line 27:
Insert a new subsection to read:

"(c) AS 11.56.730(d), as amended by sec. 1 of this Act, applies to sentences imposed on or after the effective date of sec. 1 of this Act for offenses committed on or after the effective date of sec. 1 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 19"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 19"

Page 15, line 30:
Delete "Section 17"
Insert "Section 18"

Page 15, line 31:
Delete "sec. 24"
Insert "sec. 25"

30-LS0461\N.14
Bruce/Martin
10/19/17

AMENDMENT #44 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 5, following line 25:

Insert a new bill section to read:

"* **Sec. 11.** AS 12.55.135(n) is amended to read:

(n) A court sentencing a person convicted of misconduct involving a controlled substance in the fourth degree under AS 11.71.050(a)(4) or misconduct involving a controlled substance in the fifth degree under AS 11.71.060(a)(2) may not impose

(1) a sentence of active imprisonment, unless the person has previously been convicted more than once of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71; or

(2) a sentence of [SUSPENDED IMPRISONMENT GREATER THAN]

(A) **suspended imprisonment greater than** 30 days, if the defendant has not been previously convicted of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71; or

(B) **active imprisonment greater than** 180 days, if the person has been previously convicted of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71."

Renumber the following bill sections accordingly.

Page 15, line 18:
Delete "sec. 15"
Insert "sec. 16"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 12"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 13"

Page 15, following line 27:
Insert a new subsection to read:
"(c) AS 12.55.135(n), as amended by sec. 11 of this Act, applies to sentences imposed on or after the effective date of sec. 11 of this Act, for offenses committed on or after the effective date of sec. 11 of this Act."

Reletter the following subsection accordingly.

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 19"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 19"

Page 15, line 30:
Delete "Section 17"

Insert "Section 18"

Page 15, line 31:

Delete "sec. 24"

Insert "sec. 25"

30-LS0461\N.15
Bruce/Martin
10/20/17

AMENDMENT #45 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 1, following line 5:

Insert new bill sections to read:

"* **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), **11.71.021(a), 11.71.030(a)(2) or (9)** [11.71.030(a)(1), (2), OR (4) - (8)], 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), **11.71.021(a), 11.71.030(a)(2) or (9)** [11.71.030(a)(1), (2), OR (4) - (8)], 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."

Page 1, line 9:

Delete "**Section 1**"

Insert "**Sec. 3**"

Renumber the following bill sections accordingly.

Page 2, following line 29:

Insert new bill sections to read:

"* **Sec. 8.** AS 11.71 is amended by adding a new section to read:

Sec. 11.71.021. Misconduct involving a controlled substance in the second degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the second degree if the person

(1) manufactures or delivers any amount of a schedule IA controlled substance or possesses any amount of a schedule IA controlled substance with intent to manufacture or deliver;

(2) 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;

(3) 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;

(4) 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;

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

(6) 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.

(b) 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, to aid or abet another person to manufacture, or to 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 as a 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.

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

(d) Misconduct involving a controlled substance in the second degree is a class A felony.

*** Sec. 9.** 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 **third** [SECOND] degree if the person

(1) manufactures or delivers, or possesses with intent to manufacture or deliver,

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one gram or more containing a schedule IA controlled substance;

(B) 25 or more tablets, ampules, or syrettes containing a

schedule IA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of 2.5 grams or more containing a schedule IIA or IIIA controlled substance; or

(D) 50 or more tablets, ampules, or syrettes containing a schedule IIA or IIIA controlled substance;

(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;

(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**; or**

(9) under circumstances not proscribed under AS 11.71.021(a)(2) - (6), manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to manufacture or deliver.

*** Sec. 10.** AS 11.71.030(d) is amended to read:

(d) Misconduct involving a controlled substance in the **third** [SECOND] degree is a class B felony.

*** Sec. 11.** 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 **fourth** [THIRD] 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 [LISTED IN AS 11.71.140(e)];

(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 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;

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

(11) manufactures or delivers, or possesses with the intent to manufacture or deliver,

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one gram containing a schedule IA controlled substance;

(B) less than 25 tablets, ampules, or syrettes containing a schedule IA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than 2.5 grams containing a schedule IIA or IIIA controlled substance; or

(D) less than 50 tablets, ampules, or syrettes containing a schedule IIA or IIIA controlled substance.

* **Sec. 12.** AS 11.71.040(d) is amended to read:

(d) Misconduct involving a controlled substance in the **fourth** [THIRD] degree is a class C felony.

* **Sec. 13.** AS 11.71.050 is amended to read:

Sec. 11.71.050. Misconduct involving a controlled substance in the fifth [FOURTH] degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the **fifth** [FOURTH] 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) [REPEALED]

(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 11.71.030(a)(3), 11.71.040(a)(3), 11.71.040(a)(4), or 11.71.060(a)(2), possesses any amount of a schedule IA, IIA, IIIA, IVA, VA, or VIA controlled substance**; or**

(5) 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.

(b) Misconduct involving a controlled substance in the **fifth** [FOURTH] degree is a class A misdemeanor.

*** Sec. 14.** AS 11.71.060 is amended to read:

Sec. 11.71.060. Misconduct involving a controlled substance in the sixth [FIFTH] degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the **sixth** [FIFTH] 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 **sixth** [FIFTH] degree is a class B misdemeanor.

*** Sec. 15.** 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), 11.71.040(a)(3) or (4), **11.71.050(a)(5)** [11.71.050(a)(4)], 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), 11.71.040(a)(3) or (4), **11.71.050(a)(5)** [11.71.050(a)(4)], 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)(3) or (4), **11.71.050(a)(5)** [11.71.050(a)(4)], or 11.71.060(a)(1) or (2) was obtained as a result of the overdose and the need for medical assistance."

Renumber the following bill sections accordingly.

Page 11, following line 27:

Insert a new bill section to read:

"*** Sec. 30.** 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), **11.71.021(a), 11.71.030(a)(2) or (9)** [11.71.030(a)(1), (2), OR (4) - (8)], or 11.71.040(a)(1), (2), or (5);"

Renumber the following bill sections accordingly.

Page 15, lines 7 - 8:

Delete all material and insert:

"* **Sec. 33.** AS 11.66.130(b), 11.66.135(b); AS 11.71.030(a)(1), 11.71.030(a)(4), 11.71.030(a)(5), 11.71.030(a)(6), 11.71.030(a)(7), 11.71.030(a)(8), 11.71.030(c), 11.71.030(e), 11.71.040(a)(11), 11.71.050(a)(4); AS 12.55.125(e)(4)(B), 12.55.125(e)(4)(C), 12.55.125(e)(4)(D), and 12.55.135(n) are repealed."

Page 15, line 13:

Delete "sec. 1"

Insert "sec. 3"

Page 15, line 14:

Delete "sec. 2"

Insert "sec. 4"

Page 15, line 15:

Delete "sec. 3"

Insert "sec. 5"

Page 15, line 16:

Delete "sec. 4"

Insert "sec. 6"

Page 15, line 17:

Delete "sec. 5"

Insert "sec. 7"

Delete "and"

Page 15, following line 17:

Insert new material to read:

"(6) AS 11.71.021, enacted by sec. 8 of this Act;

(7) AS 11.71.030(a), as amended by sec. 9 of this Act;

(8) AS 11.71.030(d), as amended by sec. 10 of this Act;

(9) AS 11.71.040(a), as amended by sec. 11 of this Act;

(10) AS 11.71.040(d), as amended by sec. 12 of this Act;

(11) AS 11.71.050, as amended by sec. 13 of this Act;

(12) AS 11.71.060, as amended by sec. 14 of this Act; and"

Renumber the following paragraph accordingly.

Page 15, line 18:

Delete "sec. 15"

Insert "sec. 25"

Page 15, line 21:

Delete "sec. 6"

Insert "sec. 16"

Page 15, line 22:

Delete "sec. 7"

Insert "sec. 17"

Page 15, line 23:

Delete "sec. 8"

Insert "sec. 18"

Page 15, line 24:

Delete "sec. 9"
Insert "sec. 19"

Page 15, line 25:
Delete "sec. 10"
Insert "sec. 20"

Page 15, line 26:
Delete "sec. 11"
Insert "sec. 21"

Page 15, line 27:
Delete "sec. 12"
Insert "sec. 22"

Page 15, line 28:
Delete "sec. 18"
Insert "sec. 28"

Page 15, line 29:
Delete "sec. 18"
Insert "sec. 28"

Page 15, line 30:
Delete "Section 17"
Insert "Section 27"

Page 15, line 31:
Delete "sec. 24"
Insert "sec. 35"

30-LS0461\N.69
Glover/Martin
10/24/17

AMENDMENT #46 Failed

OFFERED IN THE HOUSE BY REPRESENTATIVE EASTMAN

TO: CSSB 54(FIN)

Page 1, following line 5:

Insert new bill sections to read:

"* **Section 1.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $1,000 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $250 or more but less than $1,000 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. 2.** AS 11.46.140(a) is amended to read:

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

(1) the value of the property or services [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $250 or more but less than $1,000; or

(2) [REPEALED]

(3) [REPEALED].

* **Sec. 3.** AS 11.46.150(a) is amended to read:

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than $250.

* **Sec. 4.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $1,000 or more; or

(C) the value of the merchandise [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $250 or more but less than $1,000 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $250 or more but less than $1,000; or

(B) [REPEALED]

(3) a class B misdemeanor if the value of the merchandise [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than $250.

* **Sec. 5.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $1,000 or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $250 or more but less than $1,000;

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than $250.

* **Sec. 6.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $1,000 or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $250 or more but less than $1,000;

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than $250.

* **Sec. 7.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $1,000 or more but less than $25,000;

(3) a class A misdemeanor if the face amount of the check [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $250 or more but less than $1,000;

(4) a class B misdemeanor if the face amount of the check [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than $250.

* **Sec. 8.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is $1,000 or more but less than $25,000;

(3) a class A misdemeanor if the value of the property or services obtained [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than $1,000.

* **Sec. 9.** AS 11.46.360(a) is amended to read:

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

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

(2) the propelled vehicle of another and

(A) the vehicle or any other property of another is damaged in a total amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of $1,000 or more;

(B) the owner incurs reasonable expenses as a result of the loss of use of the vehicle, in a total amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of $1,000 or more; or

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

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

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

(A) this section or AS 11.46.365;

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

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

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

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

* **Sec. 10.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of $1,000 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. 11.** 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 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of $250 or more but less than $1,000;

(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 a highway under construction.

* **Sec. 12.** AS 11.46.486(a) is amended to read:

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

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

(2) with intent to damage property of another, the person damages property of another in an amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] less than $250; or