

HB

311

<TARGET><BILL>HB 311</BILL><SUBJECT>HB
311</SUBJECT><COMM>HSTA30</COMM></TARGET>

REPRESENTATIVE DeLENA JOHNSON

ALASKA STATE LEGISLATURE HOUSE DISTRICT 11

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HB311 - REPEAL OF COMPONENTS OF SB91

Sponsor Statement

Legislators work for the people of the State of Alaska and are directly responsible for creating law(s) essential to the assurance of the highest possible levels of public safety. They are equally charged with the imperative of recognizing when, in spite of the best intentions, those laws fall short of expectation.

While SB91 establishes some reforms enhancing public safety, it contains several components that have had the unintended consequence of creating conditions for increased crime on many levels.

The purpose of this legislation is to keep the effective reforms of SB91 in place, while repealing the components of SB91 that have clearly created a public safety deficit and opened a gateway to crime in our state.

Our citizens are demanding that their legislature address Alaska's issues with crime. This bill is strong affirmation to the people. It reestablishes the equilibrium relationship between crime and punishment, and upholds the public mandate for law and order.

I respectfully ask for your support of House Bill 311.

LEGAL SERVICES

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MEMORANDUM

February 5, 2018

SUBJECT: Sectional Summary of HB 311 (Work Order No. 30-LS1277A)

TO: Representative DeLena Johnson
Attn: Andrew Evans

FROM: Hilary V. Martin *HVM*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a session law should not be considered an authoritative interpretation of the session law -- the bill itself is the best statement of its contents.

Section 1: deletes language allowing restrictions on purchasing alcoholic beverages as a condition of probation or parole "for any other crime."

Sections 2 - 3: changes references to AS 11.71.021 and 11.71.030.

Sections 4 - 11: removes inflation adjustment language in theft crimes.

Section 12: adds a reference to AS 11.46.140(a)(4) for prior convictions.

Section 13: removes inflation adjustment language in vehicle theft crime.

Section 14: amends arson in the third degree statute to change "public" to "state or municipal" land and removes the element of the crime if a person intentionally damages a motor vehicle by starting a fire or causing an explosion while a vehicle is on private property.

Section 15: changes the crime of disregard of a highway obstruction from a violation to a class B misdemeanor.

Sections 16 - 21: removes inflation adjustment language in criminal mischief and other crimes.

Sections 22 - 23: amends the penalty for failure to appear. Removes language requiring a person to not make contact with the court or a judicial officer within 30 days after failing to appear or fails to appear in order to avoid prosecution. Removes language that

allows punishment as a violation, making failure to appear either a class C felony or a class A misdemeanor.

Section 24: amends violation of condition of release to make the crime either a class A or B misdemeanor.

Section 25: adds language that a person convicted of disorderly conduct shall receive a sentence of not more than 10 days imprisonment.

Section 26: makes promoting exhibition of fighting animals a class B misdemeanor for the second offense instead of a violation.

Sections 27 - 28: makes obstruction of highways a class B misdemeanor.

Section 29: removes language from sex trafficking in the first degree that requires inducing another person to engage in prostitution.

Section 30: requires intent to promote prostitution for sex trafficking in the third degree.

Section 31: deletes language requiring a person to receive compensation for prostitution services rendered by another in order to commit sex trafficking in the fourth degree.

Section 32: makes gambling a class B misdemeanor for the second and subsequent offenses.

Section 33: creates the crime of misconduct involving a controlled substance in the second degree, which punishes crime involving methamphetamines and precursors of methamphetamines.

Section 34: changes second degree misconduct involving a controlled substance to third degree. Adds a manufacturing and delivery crime for schedule IIA or IIIA controlled substances.

Section 35: makes third degree punishable as a class B felony.

Section 36: changes third degree misconduct involving a controlled substance to fourth degree. Adds various possession crimes.

Section 37: makes fourth degree punishable as a class C felony.

Section 38: changes fourth degree misconduct involving a controlled substance to fifth degree. Adds various possession crimes.

Section 39: changes fifth degree misconduct involving controlled substances to sixth degree.

Section 40: updates a reference to AS 11.71.050.

Section 41: requires a person arrested to be taken before a judge or magistrate within 48 hours and removes language relating to pretrial services officers.

Section 42: removes class C felonies from the list of crimes that an officer may issue a citation for instead of arresting.

Section 43: removes violation of conditions of release and failure to appear from the crimes where the presumption is arrest as opposed to citation.

Section 44: requires the time specified in the notice to appear to be at least five days after issuance of a citation.

Section 45: allows a person charged with a felony to be detained for up to 48 hours to allow the prosecutor to demonstrate release would not ensure the appearance of a person or protect the victim, other persons, or the community.

Section 46: deletes language that requires a judicial officer to revise conditions of release that have prevented a defendant from being released.

Section 47: states that "new information" for a bail hearing does not include a person's inability to post bail and deletes language that allows only one bail review hearing solely for inability to pay.

Section 48: deletes language referring to a pretrial services officer.

Section 49: reverts AS 12.30.011, regarding bail procedures, to how it read prior to passage of ch. 36, SLA 2016.

Sections 50 - 51: removes references to pretrial services.

Section 52: for a person charged with manufacture of methamphetamines, if the person has previously been convicted of a similar crime, the judicial officer shall require posting of a minimum of \$250,000 cash bond before the person may be released.

Section 53: removes a reference to pretrial supervision under AS 33.07. Removes other conditions related to appointment of a third-party custodian.

Section 54: prevents a person from being appointed a third-party custodian if the person may be called as a witness in the prosecution.

Section 55: removes a reference to technical violations of probation.

Section 56: provides that credit towards a sentence of imprisonment for time spent on electronic monitoring only as provided in AS 12.55.027.

Section 57: repeals and reenacts AS 12.55.027(b) to set out the requirements for a defendant to get credit for time spent in a treatment facility.

Section 58: repeals and reenacts AS 12.55.027(c) relating to requirements for a treatment facility in order for a defendant to get credit for time spent in that facility credited against a sentence of imprisonment.

Section 59: removes references to AS 12.55.110 in AS 12.55.051(a).

Section 60: removes a reference to suspended entry of judgment.

Section 61: provides that community work in lieu of a fine is to be paid at \$3 for each hour instead of the state's minimum wage for each hour.

Section 62: amends AS 12.55.090(b) to allow a court to revoke or modify a condition of probation, or change the period of probation, but removes the ability of the court to terminate probation and discharge the defendant from probation.

Section 63: sets the maximum period of probation for a felony sex offense at 25 years, and 10 years for any other offense.

Section 64: removes limitations on the type of proceeding where a defendant and prosecutor can agree to a reduction of the period of probation.

Section 65: raises the presumptive sentence ranges for class A felonies.

Section 66: raises the presumptive sentence ranges for class B felonies.

Section 67: changes the presumptive sentence ranges for class C felonies.

Section 68: adds language to AS 12.55.125(q) stating that a defendant sentenced under AS 12.55.125(i) cannot have the period of probation set out in this section suspended or reduced.

Section 69: sets the punishment for a class A misdemeanor of up to one year.

Section 70: sets the punishment for a class B misdemeanor of up to 90 days.

Section 71: adds new language that a person may not receive a sentence of imprisonment or suspended imprisonment for possession of marijuana in violation of AS 11.71.060 if the possession was for personal use in the defendant's residence and the defendant has no previous marijuana possession convictions.

Section 72: requires a prosecutor to confer with a victim of a crime involving domestic violence, as opposed to a victim of any crime, before entering into a plea agreement.

Section 73: removes language that prevents an employer from penalizing a victim of a crime if the victim reports an offense or participates in the investigation of an offense. Adds a definition for "penalize."

Section 74: updates a reference to AS 11.66.130(a).

Section 75: allows a person to be held for up to 48 hours following an arrest before being taken before a judge or magistrate.

Section 76: removes physician assistant or advanced nurse practitioner from the list of options for the physician seat on the violent crimes compensation board.

Section 77: updates a reference to AS 11.66.130(a).

Section 78: removes language requiring a person to surrender a license if the person has been ordered to refrain from consuming alcoholic beverages as a condition of probation or parole for any crime. The section now applies to conviction under AS 28.35.030 or AS 28.35.032, or a similar municipal ordinance.

Sections 79 - 80: makes driving with license canceled, suspended, or revoked a class A misdemeanor and sets out the sentence for committing the crime.

Section 81: removes language that allows a court to reduce a person's fine or license revocation based on compliance with a treatment plan.

Section 82: makes changes to where imprisonment can be served under AS 28.35.030(k). Adds community residential center as a place where imprisonment can be spent. Removes language requiring imprisonment to be spent at a private residence if electronic monitoring is not available.

Section 83: removes language that requires regulations to include the cost associated with electronic monitoring.

Section 84: removes language relating to restoration of a license for a person with limited license privileges under AS 28.15.201(g).

Section 85: makes changes to where imprisonment can be served under AS 28.35.032(o). Adds community residential center as a place where imprisonment can be spent. Removes language requiring imprisonment to be spent at a private residence if electronic monitoring is not available.

Sections 86 - 87: removes a reference to AS 29.25.070(g), which is repealed in sec. 123.

Section 88: removes references to the administrative sanctions and incentives program for probation officers. Removes language requiring a probation officer to recommend early termination from probation.

Section 89: removes a reference to special medical parole. Previously, a prisoner who is not eligible for special medical parole was to be released on discretionary parole after a certain period of time.

Section 90: removes a requirement that the parole board consider suitability for discretionary parole at least 30 days before the prisoner's first date of eligibility.

Section 91: removes language requiring a person to be released on discretionary parole if the prisoner is at least 60 years old, has served at least 10 years, and has not been convicted of an unclassified or sexual felony.

Section 92: expands the list of crimes that are eligible for release on discretionary parole.

Section 93: removes language that limits discretionary parole only to those convicted of an unclassified felony.

Section 94: removes a reference to preparole reports.

Section 95: authorizes the parole board, if the board denies discretionary parole, to make a prisoner ineligible for further consideration of discretionary parole or require additional time be served before the prisoner can be considered for discretionary parole.

Section 96: removes a reference to a parole plan. Removes prisoner information that was prevented from being shared with the victim of a crime.

Section 97: removes a reference to AS 33.16.090, so that the parole board does not have to notify a victim if a prisoner is released under AS 33.16.090.

Section 98: removes victims of sexual assault from the people required to be informed by the board in advance of a hearing considering discretionary parole.

Section 99: repeals and reenacts AS 33.16.130, relating to applications for discretionary parole.

Section 100: removes a reference to AS 33.30.011(a)(10), which is repealed in sec. 108.

Section 101: removes various duties from the commissioner of corrections, including establishing an administrative sanctions and incentives program for parolees.

Section 102: increases the period of time required to be served on parole before unconditional discharge from one year to two years.

Section 103: requires a person to serve at least two years on mandatory parole before unconditional discharge.

Section 104: removes a reference to technical violations of parole.

Section 105: removes a reference to preliminary parole hearings.

Section 106: removes language requiring tolling of the period of probation for a person who has absconded and provides that the parole board cannot extend the period of parole beyond a person's original maximum release date.

Section 107: provides that a prisoner may not be awarded a good time deduction for any time spent in a treatment program, in a private residence, or while under electronic monitoring.

Section 108: removes duties from the commissioner of corrections, including requirements of a written case plan for prisoners, establishing a reentry program for prisoners, and establishing minimum standards for electronic monitoring.

Section 109: removes a requirement that the commissioner of corrections notify the victim if the offender is discharged from parole under AS 33.16.

Section 110: removes a reference to private electronic monitoring contractors.

Section 111: removes certain requirements and standards for correctional restitution centers.

Section 112: updates a reference to the misconduct involving a controlled substance statutes in light of the changes in secs. 33 - 39.

Section 113: updates a reference to the sex trafficking in the third degree statute in light of the changes in sec. 30.

Section 114: removes a requirement that the Alaska Criminal Justice Commission make annual recommendations to the governor and legislature on how savings from the criminal justice reforms should be reinvested to reduce recidivism.

Section 115: removes certain requirements from the annual report filed by the Alaska Criminal Justice Commission.

Section 116: sunsets the Alaska Criminal Justice Commission on June 30, 2018.

Section 117: updates references to the misconduct involving a controlled substance statutes in light of the changes in secs. 33 - 39.

Section 118: changes the types of crimes that can be referred to the alcohol safety action program.

Section 119: makes changes related to the alcohol substance abuse monitoring program and removes the requirement that the department of corrections contract for the program.

Section 120: changes the recidivism reduction program to only apply to transitional re-entry programs.

Section 121: changes the requirements of transitional re-entry programs.

Section 122: amends the repeal date for AS 22.20.210 to June 30, 2018. AS 22.20.210 is a statute requiring the judicial council to provide staff and administrative support to the Alaska Criminal Justice Commission.

Section 123: repeals various statutes.

Section 124: repeals a court rule change section from ch. 36, SLA 2016. Repeals conditional effect sections from ch. 1, 4SSLA 2017.

Section 125: provides the applicability provisions for the bill.

Section 126: repeals effective date provisions from ch. 36, SLA 2016 and ch. 1, 4SSLA 2017.

Section 127: provides for an immediate effective date.

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