

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7860 HOUSE JUDICIARY

HB

h b

A M E N D M E N T #1

OFFERED IN THE HOUSE  
TO: HB 119

BY REPRESENTATIVE ULMER

Page 3, line 31, following "units," through page 4, line 1:

Delete all material.

Insert "within the following ranges:

(A) for class A and unclassified misdemeanors, not to exceed  
365-day fine units;

(B) for class B misdemeanors, not to exceed 90-day fine units;"

*Mr. Luckhaupt  
No further action on this bill -*

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 12, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-7-93

The JUDICIARY Committee considered:  
HOUSE BILL NO. 119

HB 119

AUTHORIZE USE OF DAY FINES IN MISD. CASES

"An Act authorizing a sentencing court to impose a sentence of a day fine instead of a sentence of imprisonment on a defendant convicted of a misdemeanor; directing the Alaska Supreme Court to develop and implement a day fine plan; requiring the Department of Corrections to report to the legislature on the use of day fines; amending Alaska Rule of Criminal Procedure 32; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CS HB119 (JUD)  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) Court 3/12/93

zero fiscal note DEPT OF ADMIN. (2)  
DEPT. OF PUB. SAF.

zero fiscal note(s) Law 3/12/93

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian J. Porter</i>	✓				
<i>Gail Phillips</i>	✓				
<i>Tom Donohue</i>	✓				
<i>Jeanette James</i>	✓				
<i>Kate Fox</i>	✓				
<i>Joseph Paul</i>	✓				

*Brian J. Porter*  
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: April 7, 1993  
Place: Capitol Room 120

SB 105 Motor Vehicle Dealers  
HB 128 Early Acknowledgement of Paternity  
HB 122 Child Custody Procedures  
HB 65 Financial Administration of State Government

Subject of Meeting: HB 119 Use of Day Fines  
HB 188 Forfeiture of Property

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
STEVEN ALLWINE	ALASKA AUTO DEALERS	8725 Mallard St Juneau	99801		789-1386	<input checked="" type="checkbox"/> N	House CS/SB105
Dan Sturdy	AK DOL	PO Box 21149, Juneau	99802		465-6003	<input checked="" type="checkbox"/> N	CS HB 65
✓ ART SNOWDEN	COURT	303 K ST	99801		244-0547	<input checked="" type="checkbox"/> N	HB 119
✓ CHRIS CHRISTENSEN	COURT SYSTEM	303 K ST ANCH	99501		264-8228	<input checked="" type="checkbox"/> N	HB 122
✓ Cheryl FRASCA	OMB	Bx 110020 JUNEAU	99811		465-4681	<input checked="" type="checkbox"/> N	HB 65
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO: HE 119

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An act authorizing a sentencing court to  
impose a sentence of a day fine BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Representative Ulmer  
 Requestor: House Judiciary COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>REVENUE FUND SOURCE:</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

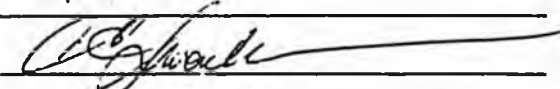
POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 4/02/93  
 Approved by Commissioner:  Date: 4/02/93  
 Agency: Richard T. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 119

Revision Date: March 8, 1993  
Title: "...authorizing a sentencing court to impose a sentence of a day fine instead of imorisonment..."  
Sponsor: Representative Ulmer  
Requestor: Representative Ulmer

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: March 8, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Date: March 8, 1993

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 119

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act authorizing a sentencing court to impose a BRU: Office of Public Advocacy  
sentence of a day fine on a defendant convicted of a Component: Office of Public Advocacy  
misdemeanor . . . ."  
 Sponsor: Representatives Ulmer, Davis, Davies, Brown  
 Requestor: (H) Sta COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usery Date: 3/8/93  
 Agency: Department of Administration

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# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

FISCAL NOTE

BILL NO. HB 119

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Revision Date: March 8, 1993  
Title: "...authorizing a sentencing court to impose a sentence of a day fine instead of imprisonment..."  
Sponsor: Representative Ulmer  
Requestor: Representative Ulmer

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: March 8, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Date: March 8, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 119

ANALYSIS (Continued):

This bill would amend the sentencing provisions in the state's Code of Criminal Procedure, AS 12.55, to establish a system of day fines as an intermediate punishment alternative to short-term incarceration and probation supervision. Under the bill, defendants convicted of non-violent misdemeanors could be sentenced to fines based upon the severity of the offense, a defendant's criminal history, and a defendant's daily income, as adjusted for a defendant's ability to pay the fine. The bill does not repeal existing misdemeanor sentencing provisions, but rather it provides an alternative to those provisions.

Section 5 of the bill would provide that a sentence imposing a day fine shall be considered a civil judgment for the day fine. And the section further provides that the Department of Law shall enforce the judgment and may utilize any procedure available for the enforcement of civil judgments. If the department uses the civil process of the court to enforce or collect a day fine, the department would be awarded costs and attorney fees.

The Department of Law's collections unit currently collects unpaid criminal fines and was recently assigned the responsibility for collecting unpaid legal fees for state-provided criminal defense. The costs for these collections has averaged about one-third of the amount collected. However, the cost ratio for collection is expected to diminish as collections increase, and as collections procedures become more efficient, including establishment of electronic interfaces between the courts and the Department of Law, and between the Department of Law and the Department of Revenue.

At this point we are unable to determine if the bill will have an impact for our department. It is not known whether day fine sentencing provisions will result in a change in the number of unpaid fines that we currently handle, nor is it clear whether the amount in arrears will change. The court must undertake a comprehensive effort to develop and implement a day fine program. Consequently, a fiscal impact, if any, will not be known until sometime after the new sentencing provisions have been in effect. It does appear that day fine sentences would help reduce the growing cost of incarceration and supervised probation.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 119

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act authorizing a sentencing court to impose a BRU: Office of Public Advocacy  
sentence of a day fine on a defendant convicted of a Component: Office of Public Advocacy  
misdemeanor . . . ."  
 Sponsor: Representatives Ulmer, Davis, Davies, Brown  
 Requestor: (H) Sta COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usery Date: 3/8/93  
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 119

Revision Date: \_\_\_\_\_  
Title: "An Act authorizing a sentencing court to impose a sentence of a day fine on a defendant convicted of a misdemeanor . . ."  
Sponsor: Representatives Ulmer, Davis, Davies, Brown  
Requestor: (H) STA

Department Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: John Salemi, Public Defender  
Division: Public Defender Agency

Phone: 279-7541  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usera  
Agency: Administration

Date: 3/8/93

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. H.B. 119

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: "An Act authorizing a sentencing  
court to impose a sentence of a day fine..." BRU: Institutions  
 Sponsor: Representative Ulmer Component: Institutions  
 Requestor: House State Affairs COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY98	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1.5	1.5	1.5	1.5	1.5	1.5
SUPPLIES	.5	.5	.5	.5	.5	.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEDUS						
<b>TOTAL OPERATING</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2.0	2.0	2.0	2.0	2.0	2.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

Please see attached fiscal analysis.

Prepared by: Dana LaTour, Special Assistant  
 Division: Commissioner's Office  
 Approved by Commissioner: Lloyd G. Rupp  
 Agency: Department of Corrections

Phone: 465-3376  
 Date: 03-10-93  
 Date: 03-10-93

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HB 119 provides for the development of a day fine plan which would permit courts to order a defendant, upon the conviction of a misdemeanor, to be sentenced to pay a day fine. If a day fine is imposed then the defendant may not be sentenced to imprisonment or placed on probation.

The bill directs the Alaska Supreme Court to develop the plan, the Department of Law to collect the day fines, and the Department of Corrections to report to the legislature on the use of day fines.

The Department of Corrections would be charged with annually evaluating the program and reporting a comparison of the number of defendants receiving a day fine to those receiving another sentence; a comparison of the recidivism rates; the potential savings to the state; the amount of day fines collected, the success rate of collections, and the number of civil actions required to collect the day fines; and offering recommendations to improve the program.

The Department of Corrections does not have an adequate Management Information System and at this time does not have the capability to provide information on recidivism. The current system was installed 12 years ago and has not been updated to new computer platforms. The system was originally designed to track the movement of an offender through the jail process (bookings to release). It was not designed to be a data base that provided profiles upon request.

The \$2000 reflected in the fiscal note covers the cost of preparing, printing and distributing the annual reports.

The Department feels that HB 199 could in the long term, save the Department of Corrections money by reducing the misdemeanor population of the institutions.

FISCAL NOTE

BILL NO. HB 119

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Revision Date: March 8, 1993  
 Title: "...authorizing a sentencing court to impose a sentence of a day fine instead of imorisonment..."  
 Sponsor: Representative Ulmer  
 Requestor: Representative Ulmer

Department Affected: Department of Law  
 BRU: Legal Services  
 Component: Operations  
 COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division

Phone: 465-3672  
 Date: March 8, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law

Date: March 8, 1993

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## FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 119

### ANALYSIS (Continued):

This bill would amend the sentencing provisions in the state's Code of Criminal Procedure, AS 12.55, to establish a system of day fines as an intermediate punishment alternative to short-term incarceration and probation supervision. Under the bill, defendants convicted of non-violent misdemeanors could be sentenced to fines based upon the severity of the offense, a defendant's criminal history, and a defendant's daily income, as adjusted for a defendant's ability to pay the fine. The bill does not repeal existing misdemeanor sentencing provisions, but rather it provides an alternative to those provisions.

Section 5 of the bill would provide that a sentence imposing a day fine shall be considered a civil judgment for the day fine. And the section further provides that the Department of Law shall enforce the judgment and may utilize any procedure available for the enforcement of civil judgments. If the department uses the civil process of the court to enforce or collect a day fine, the department would be awarded costs and attorney fees.

The Department of Law's collections unit currently collects unpaid criminal fines and was recently assigned the responsibility for collecting unpaid legal fees for state-provided criminal defense. The costs for these collections has averaged about one-third of the amount collected. However, the cost ratio for collection is expected to diminish as collections increase, and as collections procedures become more efficient, including establishment of electronic interfaces between the courts and the Department of Law, and between the Department of Law and the Department of Revenue.

At this point we are unable to determine if the bill will have an impact for our department. It is not known whether day fine sentencing provisions will result in a change in the number of unpaid fines that we currently handle, nor is it clear whether the amount in arrears will change. The court must undertake a comprehensive effort to develop and implement a day fine program. Consequently, a fiscal impact, if any, will not be known until sometime after the new sentencing provisions have been in effect. It does appear that day fine sentences would help reduce the growing cost of incarceration and supervised probation.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill No. HB 119

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act authorizing a sentencing court BRU: Trial Courts  
to impose a sentence of a day fine... Components: \_\_\_\_\_  
 Sponsor: Ulmer  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	52.5	35.0	35.0	35.0	35.0	35.0
TRAVEL	24.8					
CONTRACTUAL						
SUPPLIES						
EQUIPMENT	2.8					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	80.1	35.0	35.0	35.0	35.0	35.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	80.1	35.0	35.0	35.0	35.0	35.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	80.1	35.0	35.0	35.0	35.0	35.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY	1.0					

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)  
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
 Division: Alaska Court System Date: 03/10/93

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 03/10/93  
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska Court System

Fiscal Analysis

HB 119

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Personal Services</u>			
Law Clerk I, 13D, Anchorage, NPP, 6 months <i>Provide legal research for day fine rule-making committee. One-time cost.</i>	15,912	1,575	17,487
Court Clerk II, 10A, Anchorage, PFT, 12 months <i>Assist judges statewide with income verification: review income tax returns and financial statements and perform credit checks. All judicial inquiries will be processed in Anchorage.</i>	24,012	10,998	35,010
Total personal services			<u>52,497</u>
<u>Travel</u> (one-time cost)			24,825
<i>Committee, appointed by Supreme Court, to develop rule on day fines. Committee will be comprised of two trial judges from each judicial district and two appellate judges. Committee will meet five times with meetings lasting approximately 3 days.</i>			
<u>Equipment</u> (one-time cost for permanent position)			2,800
<i>Desk, chair, computer and facsimile machine</i>			
			<u>\$80,122</u>

Note: The court system is not able to accurately estimate potential revenues from this legislation at this time.

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



### REPRESENTATIVE FRAN ULMER

March 11, 1993

#### MEMORANDUM

TO: Representative Brian Porter  
Chair, House Judiciary Committee

From: Representative Fran Ulmer

Subject: HB 119, Day Fines

This is to request that HB 119 be scheduled for hearing before the House Judiciary Committee as soon as possible.

HB 119 will establish a day fine system in Alaska, as a sentencing alternative to incarceration or probation in non-violent misdemeanor cases. Such structured fine systems, linked to the offender's daily income, are successfully used in Europe and in a growing number of jurisdictions in the United States.

We have spent millions of dollars during the past decade adding prison and jail beds and still the demand for justice outstrips the supply of cells. It is apparent that we must develop new approaches to delivering justly deserved punishment to criminal offenders. We must reserve expensive imprisonment for the violent, predatory criminal and devise a range of intermediate sanctions for less serious offenders. The day fine system is such an alternative.

In a two step process, the sentencing judge will determine the amount of a fine based on the seriousness of the offense and the offender's ability to pay. In that manner, the economic burden - the punitive effect of the fine - will be equalized across the range of offenders' incomes.

The Alaska Court System has done a great deal of research on day fines and supports HB 119.

It is time to do something new. The experiences of other countries and U.S. jurisdictions indicates that with a day fine system we will decrease the number of misdemeanants in expensive prison beds, increase the collection rate for fines and serve as a very real punishment.

Thank you for your consideration of this request. I look forward to an immediate hearing date.



# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 3, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 3/11/93

The STATE AFFAIRS Committee considered:

HB 119

HOUSE BILL NO. 119

AUTHORIZE USE OF DAY FINES IN MISD. CASES

"An Act authorizing a sentencing court to impose a sentence of a day fine instead of a sentence of imprisonment on a defendant convicted of a misdemeanor; directing the Alaska Supreme Court to develop and implement a day fine plan; requiring the Department of Corrections to report to the legislature on the use of day fines; amending Alaska Rule of Criminal Procedure 32; and providing for an effective date."

RECOMMENDATIONS:

the same title

be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		<i>[Signature]</i>		X	
<i>[Signature]</i>	X	<i>[Signature]</i>		✓	
<i>Betty Davis</i>	X				
<i>Pete Kott</i>	X	<i>Jerry Sanders</i>		✓	

*[Signature]*  
CHAIRMAN'S SIGNATURE



September 1987

# Fines as Criminal Sanctions

Sally T. Hillsman, Barry Mahoney, George F. Cole, and Bernard Auchter

The fine is one of the oldest forms of punishment, its history predating Hammurabi. In 1973 the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals found that "properly employed, the fine is less drastic,

far less costly to the public, and perhaps more effective than imprisonment or community service."

Until very recently, this recommendation has gone largely unheeded because too little was known of what

constitutes proper administration of fines. Today, however, with record jail and prison populations and probation caseloads steadily rising, the fine is gaining renewed attention—especially since Western Europe increasingly uses fines even in nontrivial cases.

## From the Director

The current options available in sentencing to criminal court judges, either incarceration or release of a convicted felon on probation, leave some caught between Scylla and Charybdis. While States are expanding prison capacity and improving conditions, the majority still operate under court order to relieve crowding conditions and must release prisoners into the community on probation.

This dilemma has created an urgent need to develop an effective range of constitutionally appropriate sanctions which reduce repeated victimization and serve as an effective penalty for those who have been convicted of illegal conduct.

A broad spectrum of sentencing choices was the subject of a National Institute of Justice *Research in Brief* published in January 1985. In it, Pierre S. du Pont IV, then Governor of Delaware, described the tremendous pressure exerted on State resources by corrections policy. As Governor, he developed a "more flexible and effective sentencing structure" for his State, which incarcerates more people per capita than all but two other States.

One of the features of that plan was its use of fines as a basic criminal penalty. In the past fines have been perceived as a more lenient sanction due to failure on the part of authorities to emphasize their collection and because of inequities built into the fine system itself.

The introduction of the "day-fine" concept brought a fair schedule to the assignment of fines. Under the "day-fine" system the number of days reflects the severity of the crime and the seriousness of the offender's prior record; the dollar amount is determined by factoring that number of days with the offender's economic resources, which include income from salary and other assets.

If two offenders with similar prior records (and no particular threat to community safety) were convicted of crimes of equal gravity, they might each be assessed a "5-day fine." If one earned only minimum wage, however, he or she would be fined \$135. If the other earned 10 times as much, the fine would be \$1,350. If both failed to pay the fine, each defaulter would serve the same number of days—5—in jail.

Using a system such as this, courts in Europe have made the fine a serious penalty, one that can be severe enough to constitute real punishment and thus carry a deterrent and rehabilitative message.

One advantage of the fine is that it actually brings money into the justice system, in contrast with the cost of incarceration—which sometimes drains tax resources up to \$35,000 a convicted person per year. In fact, those paying fines are literally paying a debt to society, rather than contributing to existing burdens on State resources. Fines can be combined with other penalties to

meet the specific objective of justice applicable to each offender.

A fine can be combined with restitution, community service, weekend incarceration, assessment of court costs — and with a sentence whose suspension will be revoked if the offender fails to meet all other requirements, including payment of the fine.

This *Research in Brief* summarizes three key research projects on fines as criminal penalties and the applicability of the day-fine system to American courts. The National Institute of Justice is currently funding an experiment in applying a day-fine system to the criminal courts of Staten Island, New York.

Careful use by judges of the option to fine may prove to be a valuable method of truly making the punishment fit the crime. This concept needs to be carefully evaluated to assess whether the reality reflects the intention of equitable punishment under the law before the use of fines is adopted as criminal justice policy.

Criminal justice is too important a field to suffer unintended consequences. Knowledge about practices, to find out what works, is what criminal justice research is all about.

James K. Stewart  
Director  
National Institute of Justice

In the United States, fines are more widely used than many recognize: Well over a billion dollars in fines are collected in criminal courts each year. This form of punishment is used in some form by virtually all American courts, ranging from its rare use as the sole sanction for a felony in general jurisdiction courts to its regular use either alone or combined with other, often noncustodial sanctions in courts of limited jurisdiction.

How can fines be used more effectively in criminal cases? In the studies summarized in this *Research in Brief*, researchers describe and analyze court experience with imposition and enforcement of fines, concluding that judges and prosecutors need to consider more innovative uses of fines, particularly when offenders pose no serious threat to community safety.

An effective fine program requires that judges have adequate information about offenders' economic circumstances and use it in setting fine amounts. It also requires improved collection methods. The result can relieve pressure on probation services and jails while promoting confidence that sentences are fair and punishment is certain.

### Pros and cons

Proponents of the wider use of fines argue that—

- It can be an effective punishment and deterrent for crimes of varying levels of severity. It can deprive offenders of their ill-gotten gains and, for some, contribute to rehabilitation.
- It can combine with other noncustodial sanctions to meet multiple sentencing goals.
- It can be adjusted to a level appropriate to an offender's individual circumstances and the seriousness of the offense.

*Points of view or opinions expressed in this publication are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

*The Assistant Attorney General, Office of Justice Programs, provides staff support to coordinate the activities of the following program Offices and Bureaus: National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.*

Table 1

Frequency of fine utilization for cases other than parking and routine traffic matters, by type of court

Type of court	All or virtually all cases	Most cases	About half	Seldom	Never	Total
Limited jurisdiction	19	38	10	7	0	74
General jurisdiction (felony, misdemeanor, ordinance violation)	1	15	7	5	0	28
General jurisdiction (felony only)	0	5	4	13	2	24
Total	20	58	21	25	2	126

Source: Hillsman, Sichel, and Mahoney, telephone survey

- It is relatively inexpensive to administer, usually relying on existing agencies and procedures.
- It is financially self-sustaining; unlike incarceration and probation, fines produce revenue.

However, critics argue that—

- Because fines cannot achieve the sentencing goal of incapacitation, they are inappropriate for offenders who pose a risk to the community.
- Even when incapacitation is not the goal, fines tend to be low, thus limiting their degree of punishment.
- Fines are easier for more affluent offenders to pay than for poorer offenders.
- If a fine is high enough to avoid those problems, it is difficult to collect and adds to the administrative burdens of the court.
- It is impossible to fine indigent offenders because the fine cannot be collected and may result in imprisonment for default.

These conflicting views reflect different perceptions of how fines actually work and their potential utility. Recent research on the use of fines, here and abroad, provides a base for improving policy and practice in this area.

### Current uses of fines

A survey of 126 different types of courts around the country shows fines being used extensively (see Table 1), including use for a broad range of criminal offenses some of which are not trivial (see Table 2).

Judges in courts of limited jurisdiction report they impose fines, either alone (36 percent) or in combination with another penalty, in an average of 86 percent of their sentences. General jurisdiction judges report imposing fines about half as often (42 percent); fines as a sole penalty in less than 10 percent on average.

Fines are most often imposed on first offenders with known ability to pay. A third or more judges overall report imposing a fine in more than half the cases in which an adult first offender is sentenced for offenses such as these:

- Sale of an ounce of cocaine.
- Fraud in a land deal.
- Embezzlement of \$10,000.
- Assault with minor injury.
- Auto theft of \$5,000 value.
- Harassment.
- Bad check.

However, fines are not now being used in American courts as an alternative to incarceration or probation. If fines are used at all in cases at risk of imprisonment or community supervi-

sion, they tend to be add-ons to other sanctions. Few judges seem to use the fine alone if the offender has a prior record and the offense is moderately serious.

This contrasts sharply with practices in some Western European criminal courts where the fine is often a sole penalty and is widely used for repeat offenders.

As a policy matter, fines are viewed as an alternative to short-term imprisonment. In West Germany, when new legislation encouraged judges to avoid sentences to imprisonment of 6 months or less, such sentences dropped from 113,000 a year (20 percent of the total) to under 11,000 (1.8 percent) without any increase in longer term imprisonment.

Instead, fine-alone sentences increased from 63 percent of the total to more than 80 percent.<sup>1</sup>

### Amounts of fines

Most State penal codes set maximum amounts of fines for particular classes of offenses. Within that maximum, judges have wide discretion in setting the amounts of fines. Maximums tend to be low, although legislatures in many States are increasing them in anticipation that judges will need higher amounts to fine better-off offenders.

Fines actually imposed by judges tend to be well below statutory limits, partially reflecting the frequent judicial practice of imposing other monetary penalties as part of the sentence. These include restitution, victim compensation, court costs, directed contributions to governmental or private social agencies, probation supervision fees, and payment for alcohol or drug treatment.

At least 31 States authorize imposition of court costs; 11 States authorize surcharges on fines; 7 States permit "penalty assessments" on offenders. One Texas judge explained why he used fines infrequently: "After paying \$56 court costs, \$10 fee to the Crime Victim Compensation Fund, \$200 public defender fee, and \$100 to \$500 in probation supervision fee, the defendant will be sufficiently punished."

"Tariff systems," however, appear to account more than other factors both for the low amounts imposed as fines in the United States and the limited use of fines as sanctions.

Tariff systems are informal understandings that fixed fine amounts will be imposed on all defendants convicted of a particular offense. These amounts are generally based on what can be paid by the poorest offenders. But the retributive trend in sentencing tends to focus judges' attention on the severity of a crime.

Lacking models of other ways to set fine amounts and also often lacking adequate financial information on defendants, judges apparently limit

Table 2

Types of offenses for which fines are commonly imposed, by type of court

	Limited juris. N = 74	Gen. juris. (felony, misd., and ordinance) N = 28	Gen. juris. (felony only) N = 24	Total N = 126
Driving while intoxicated/DUI	54	22	2	78
Reckless driving	30	9	0	39
Violation of fish and game laws and other regulatory ordinances	24	3	0	27
Disturbing the peace/breach of the peace/disorderly conduct	32	3	1*	41
Loitering/soliciting prostitution	15	4	0	19
Drinking in public/public drunken- ness/carrying an open container	14	5	0	19
Criminal trespass	10	2	1	13
Vandalism/criminal mischief/ malicious mischief/property damage	9	3	3	15
Drug-related offenses (including sale and possession)	23	10	11	44
Weapons (illegal possession, carrying concealed, etc.)	6	2	1	9
Snoplifting	17	3	0	20
Bad checks	14	2	0	16
Other theft	15	9	8	36
Forgery/embezzlement	2	3	2	7
Fraud	1	4	1	6
Assault	29	14	5	48
Burglary/breaking and entering	2	6	6	14
Robbery	0	1	3	4

\* Superior Court, Cobb County—1 percent of caseload includes misdemeanors

Source: Hillsman, Siegel, and Mahoney, telephone survey

1. Robert W. Gillespie, "Fines as an alternative to incarceration: The German experience," *Federal Probation* 44:4 (December 1980): 20-26.

their use of the fine because tariff systems restrict their ability to reflect the seriousness of a crime.

### Information for sentencing

Judges were asked to indicate how often they were provided information on an offender's background and economic status and how useful they found this information.

In all courts, judges were more likely to have information about criminal records and the instant offense than about the offender's family and economic status. In fact, although courts of limited jurisdiction are more likely to assess fines, general jurisdiction judges have more economic information (Table 3).

In both kinds of courts, judges said the criminal record and circumstance of the offense are the most helpful information in determining the sentence and that the assets and income of the offender are the *least useful* information.

In view of the tariff system, this opinion is less anomalous than it might seem. If the variation in amounts of fines is limited and is related primarily to the seriousness of offenses, judges would have relatively little use at sentencing for information on offenders' economic status.

This in turn may explain the lack of consideration judges give to fines as sole sanctions for repeat offenders convicted of nontrivial crimes. If we are to explore policies emphasizing fines as a primary sanction and as an alternative to incarceration and probation, we must help judges routinely obtain information on offenders' economic circumstances and to increase the weight such information is given.

Obtaining financial information is relatively simple. Many European courts have been accomplishing these tasks smoothly for years, often in order to use a system of fine-setting known as "day fines."

Under day-fine systems, the number of fine units (or severity of punishment) is determined by the seriousness of the offense but *without regard to the offender's means*. The monetary value of each unit is then set explicitly

Table 3

Judges' information on offenders' economic status, by jurisdiction

	General (%)	Limited (%)
Employment	88	64
Income	74	41
Assets	57	25

Source: Cole, Mahoney, Thomson, and Hanson, mail survey

in relation to what the offender can afford.

In Europe, this second stage relies primarily on self-reported information. These courts, which use fines extensively and in high amounts, find that reliance on defendants to provide information on their economic status is not a barrier to the wider imposition of fines.

### Judges' attitudes on fines

Judges across this country acknowledge many of the supposed advantages of fines as sentences. Furthermore, they disagree with many of the arguments against them. However, there seems to be little relationship between judges' attitudes toward fines and their use of them.

Judges tend to agree that fines are relatively easy to administer, that they help prevent crowding in correctional facilities, that they can be adjusted to fit the severity of the offense and the offender's income, and that fines help reimburse the costs of maintaining the criminal justice system.

The majority of judges also *disagreed* that statutes prevented them from imposing high fines, that decisions of the U.S. Supreme Court prevented their fining poor people, and that fines have no rehabilitative effect.

The survey revealed, however, that two views about fines commonly held among judges are a major impediment to the wider use of fines: That fines allow more affluent offenders to "buy their way out," and that poor offenders cannot pay fines.

Over half the judges agreed that "fines ordinarily have little impact on the affluent offender"—61 percent in courts of general jurisdiction and 53 percent in limited jurisdiction. While 61 percent of general jurisdiction judges agreed that "there is no effective way to enforce fines against poor people," half the limited jurisdiction judges—who do most of the fining in American courts—disagreed.

Upper-court judges are charged with sentencing offenders who are convicted of the more serious range of offenses. They would tend to hold the traditional assumption that high fine amounts are required to reflect offense severity and to regard it as unreasonable to assess such amounts on the poor. Equity considerations would also suggest to these judges that they cannot sentence more affluent offenders to significantly higher fine amounts.

While these same issues arise in the lower courts, they are probably less of an impediment because of the more limited range of seriousness of offenses dealt with in these jurisdictions. The low fine amounts in these courts reflect less serious offenses; they are viewed as collectable from poorer offenders and, as tariffs, may be applied to the more affluent as well.

The survey revealed, finally, that judges' attitudes about fines, whether positive or negative, are not held very intensely. Until very recently, there has been little systematic examination of fine use and administration and virtually no attention to the potential advantages, disadvantages, or operational implications of expanded use of fines.

### Collection and enforcement

Among criminal sanctions, monetary penalties are typically the only ones implemented primarily by the court. For most other sanctions, the sentencing judge relies on another agency of government, usually in the executive branch, to see that the sentence is carried out.

The effectiveness of administration has important implications for the fine as a penal sanction and for the court as an institution. A fine is a court order. If it is not paid, the integrity and credibility of the court is called into question.

If fines *are* collected and enforcement regarded seriously, on the other hand, the resulting punishment may have rehabilitative value and deterrent consequences. If fines are known to be collected, judges and prosecutors may be more likely to see them as a useful alternative to incarceration or probation.

Finally, the payment of fines may be seen by the community as an important means of rendering deserved punishment while reimbursing the public treasury.

Many judges perceive problems in fine collection and enforcement procedures, but they are generally unaware what practices are effective. Research in the United States and in England emphasizes, for example, that aspects of the sentencing process itself are associated with the subsequent effectiveness of fine collection. These include setting the amount at a level the offender is able to pay, making only limited use of installment payment plans, and allowing relatively short periods of time for payment. However, such practices are not commonly followed by American courts.

### Effective enforcement

What can be done if the offender fails to pay a fine? Research in England and West Germany indicates that simple procedures, such as prompt notification to an offender that payments are in arrears, have positive results. Full payment occurs in many cases without further, more coercive and costly action.

In American courts, however, routine notification letters are not common. Instead courts tend to move immediately to issuance of an arrest warrant for the offender who has not paid. Sixty-eight percent of upper court judges and 85 percent of lower court judges said this was their procedure.

Reliance on warrants raises several important policy issues, including relationships within the justice system. Although enforcement of a warrant is important to the court, evidence abounds that serving a warrant for nonpayment of a fine has low priority for law enforcement agencies. And American courts generally give little professional administrative attention to enforcing fines.

A major reason for this is that many professional court administrators dislike taking the role of bill collector when the administrative costs may be greater than the amount of the fine. As a result, courts rarely designate one person or position as having ultimate responsibility for overseeing the outcome of a sentence to a fine and for seeing to it that the process is properly carried out.

Thus, no one is responsible or accountable if enforcement breaks down. There are few incentives to make fining a success, but rather incentives to pass the enforcement task on to someone else—to the police via an arrest warrant, for example.

Judges tend to view the actions of offenders as the major fine-collection problem rather than inadequacies in the court's administrative mechanisms. Sentencing judges tend not to be familiar with the administrative tasks involved in enforcing fines except when defendants in default are brought before their bench.

However, research both in England and in the United States indicates that sound administrative procedures must be set for fines to be collected routinely. It should be possible to do this without overly burdensome costs or undesirable levels of coercion.

Assuming fines are set properly in the first place with respect to the offense and to the offender's means, the court must make plain at sentencing that it views the fine as a serious obligation for which it unequivocally expects payment. Otherwise, specific coercive means will be employed.

The offender's payments must be closely monitored by people who take the collection responsibility seriously and who are held accountable for it. When an offender does not meet the terms set by the court, enforcement actions would be immediate and personal, with a steady progression of responses creating mounting pressure and increased threats of greater coercion.

Careful tracking of payments, swift notification by letter and telephone that payments are due, and credible threats of greater coercion (including the seizure of property) are effective. Research suggests that most nonpay-

ment cases result from improperly set fines, administrative ineptitude, and failure to credibly threaten at the proper time.

### Fines and fairness

Many persons convicted of criminal offenses are poor. To what extent is it feasible to impose a fine and enforce it as a punishment for criminal behavior by such persons?

Being poor does not necessarily mean being entirely without financial resources. There are varying degrees of poverty, somewhat obscured by uniform application of the label "indigent."

Some poor people have income for comforts as well as necessities. Others have few comforts, but manage on small budgets. Still others are destitute, people who have no home and receive no social services. At the low end of the poverty spectrum—where we find a group of offenders who are in extreme need—fines are probably inappropriate, unless the offense is trivial and a nominal fine can be suspended.

Fines are meaningful elsewhere along the spectrum, however, even for persons with income well below the poverty line—including welfare recipients, the working poor, the temporarily or seasonally unemployed.

A fine imposed on a member of these groups may require substantial economy—and it should do so if it is to be truly a punishment. But paying a fine need not require grave hardship if it is tailored not only to the offense but also to the offender's resources.

At the other end of the spectrum are those offenders who are not by any conventional definition poor. Significant amounts of fines may be required to ensure an appropriate sanction in these cases, even if the offense is not major.

Many judges recognize these realities and tend to focus on a defendant's ability to pay a particular fine rather than whether he or she is too poor to be fined at all. Indeed, poor people *are* being fined both in this country and in Europe, although both practices and views vary considerably.

Most judges surveyed indicated that they would be less likely to impose a fine if the defendant was unemployed

or on public assistance—but 38 percent of the limited jurisdiction court judges said that this would make no difference in their sentencing decision. Another 6 percent said it would increase the likelihood they would impose a fine.

In order to develop an effective fine policy, we must think of offenders as ranging along a spectrum of economic circumstances as well as along a spectrum of offense severity and culpability. Only thus can prosecutors and judges think of fines not as a penalty for less serious crimes or an addition to other penalties, but as an integral part of their sentencing repertoire.

Table 4 shows how judges tend to think now. However, there would seem to be some potential for reducing the use of incarceration in cases such as this in which the criminal behavior carries a low risk of danger yet the offense seems to require punishment and not merely an admonition.

Experiences of courts in several Western European countries provide tested sentencing methods—particularly the use of the day fine—that could enable American judges to tailor fine amounts more precisely to variations in both severity of offenses and means of offenders.

### The day fine

The day-fine system is a Scandinavian sentencing practice that has been adapted for use in West Germany. It enables sentencing judges to impose monetary punishments commensurate with the seriousness of the offenses and the culpability of the offender, while at the same time taking account of offenders' differing economic circumstances.

The basic notion is that the punishment should be proportionate to the severity of the offense but equal across individuals with differing financial resources.

Consider two offenders with similar criminal histories convicted of similar offenses but with different incomes and assets. Both would be "fined" the same number of units of punishment; however, the one who is more affluent would be fined a total dollar amount that is greater than the poorer offender is fined.

In the event of default, however, the sanctions imposed (e.g., jail time) would be the same for both because they would be based on the number of units of punishment, not the dollar amount.

Could European day-fine systems be adapted to American courts? About four out of five judges agreed that one of the advantages to fines is that they can be adjusted to fit the income of offenders as well as the severity of offenses. We can observe individual judges around the country attempting

to do just this by modifying tariff systems to approximate the more-formal day-fine systems of Europe.

U.S. judges cannot always accomplish this in a systematic fashion, partly because of the lack of routine information on offenders' means. But many judges (and prosecutors) around the country appear to be open to the idea: over half the judges felt a day fine could work in their own courts, and many said they were willing to try it.

The day-fine concept is attracting increased attention among American

Table 4

#### Judges' choice of sanctions in hypothetical larceny case, by type of court

The hypothetical case: A 24-year-old male defendant is charged with larceny and criminal possession of stolen property. He is alleged to have removed a \$40 pair of slacks from a department store, concealing them in a box that had a forged store receipt and leaving without paying. He was arrested outside the store. The defendant pleaded guilty to the criminal possession charge and the larceny charge was dropped.

Custody status: On \$1,000 bail.

Family status: Single with no dependents.

Employment status: Janitor earning \$160 per week.

Offender's record: 1979 Bad check Convicted—restitution.

1980 Bad check Dismissed.

1981 Larceny Convicted—6 months probation.

1982 Larceny Convicted—1 year probation.

The instruction: On the basis of this information we would like your estimate of the sanction you would likely impose.

Sanction	General juris. N = 631 judges		Limited juris. N = 478 judges	
	%	N	%	N
Jail/prison only	40	252	27	130
Jail/prison plus fine	15	92	27	130
Jail/prison plus fine plus other	18	112	23	111
Jail/prison plus sanctions other than fine	17	109	11	54
Fine only	2	15	4	20
Fine plus sanctions other than jail	5	34	6	28
Other sanctions, alone or in combination, not including jail, prison, or fine	3	17	1	5
Total	100	631	100	478

Source: Cole, Mahoney, Thornton, and Hanson, mail survey

criminal justice planners and practitioners as they struggle with the problems of crowding in jails and prisons and as they become more dissatisfied with present sentencing alternatives.

A first effort to test the concept scientifically in American courts is underway in Staten Island, New York, with support from the National Institute of Justice, where a day-fine experiment is being planned by the Vera Institute of Justice in collaboration with the Richmond County District Attorney and the Richmond County Criminal Court.

### Recommendations for judges

- Fines and other monetary sanctions are punishments and should be imposed high enough to reflect the seriousness of the offense and the prior record of the offender. At the same time, the amount must be within the offender's ability to pay.
- In setting the fine, accurate information on the offender's economic status should be sought and the total of all monetary sanctions taken into account.
- The defendant should be informed that prompt payment is expected, be told where to pay it, and advised of the consequences of nonpayment. The time allowed for payment should be relatively short, although unusual circumstances may suggest some flexibility.

Incentives should be used to encourage prompt payment. They may include reductions for early payment, penalties for lateness, and imposition of a suspended sentence to jail or community service.

- Judges should use data on sentencing practices to periodically reexamine the ways they use fines, both alone and combined with other sentences.

### Recommendations for court administrators and clerks

- Courts should ascertain what offender-related information is regularly provided to sentencing judges. Where there are gaps such as lack of information on offender income and assets, procedures should be devised to ensure that such information is consistently provided. For example, a probation department, pretrial services agency,

or defense counsel could provide the information on a simple one-page form.

- Judges should be regularly given data on the types of sanctions imposed on offenders convicted of specific types of crimes.
- Using individual case records, fines-management information systems should be developed, containing six basic types of data: sentence imposed, inventory information, input-output information, effectiveness in collecting fines, processing times and procedures, and identification of problem cases. Courts should improve collection methods, and sentencing judges should be aware of the methods used.
- Administrative responsibility for enforcing monetary sanctions should be clearly fixed, with a senior member of administrative staff held accountable for the court's performance.

- Goals for effective fine administration (e.g., percentage of cases in which fines are fully collected within 30 or 60 days) should be set, and the court's enforced performance monitored against these goals.
- Procedures should be established to identify defaulters promptly and institute action against them.
- Courts should make direct contact with offenders who fail to pay within the time period set. Prompt, noncoercive reminder letters and phone calls should be tried before a warrant issues. Judges should be fully aware of the procedures and their effectiveness.

### Recommendations for legislation

- Where statutory ceilings on fine amounts are low, these should be raised.
- Judges should be required to take account of offenders' economic circumstances in imposing fines and other monetary sanctions.
- Statutory restrictions on the use of the fine as a sole sanction for specific offenses should be removed.
- Statutes that provide for flat "dollars-to-days" equivalencies when fine balances are unpaid should be revised

to ensure that offenders convicted of similar offenses and with similar prior records should serve essentially similar jail terms in the event of default.

- Courts should undergo a periodic outside audit at least every 2 years to ensure that records are adequately maintained and that appropriate procedures are followed in enforcing fines and handling the money paid.
- State court administrators should be explicitly authorized to establish basic minimum standards or requirements for recordkeeping and statistical reporting.

### About the authors

Bernard Aucter is a research project monitor on the staff of the National Institute of Justice. George Cole is a professor of political science at the University of Connecticut. Sally Hillsman is Director of Research at the Vera Institute of Justice, and Barry Mahoney is Director of Research at the Institute for Court Management of the National Center for State Courts.

This *Brief* was drawn from three Institute-funded projects whose reports are available from the National Institute of Justice/NCJRS (National Criminal Justice Reference Service). For information, telephone 800-851-3420. From Maryland or the Metropolitan Washington, D.C., area, call 301-251-5500. The reports are:

*Fines in Sentencing: A Study of the Use of the Fine as a Criminal Sanction.* By Sally T. Hillsman, Joyce L. Sichel, and Barry Mahoney; a joint project of the Vera Institute of Justice and the Institute for Court Management. Full report, 341 pp., NCJ 094812. Executive summary, 84 pp., NCJ 096334.

*Enforcement of Fines as Criminal Sanctions: The English Experience and Its Relevance to American Practices.* By Silvia S.G. Casale and Sally T. Hillsman, Vera Institute of Justice. Full report, 388 pp., NCJ 106271. Executive summary, 54 pp., NCJ 104329.

*Practices and Attitudes of Trial Court Judges Regarding Fines as a Criminal Sanction.* By George F. Cole, Barry Mahoney, Marlene Thornton, and Roger A. Hanson; a joint project of the University of Connecticut and the Institute for Court Management. Executive summary, 71 pp., NCJ 106270.

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# DAY FINES

Alaska Court System  
Office of the Administrative Director

# MEMORANDUM

Alaska Court System

**TO:** Arthur H. Snowden, II  
Administrative Director

**DATE:** February 2, 1993

**FROM:** Cathryn Jansson   
Legal Administrative Asst.

**SUBJ:** Day Fines

Alaska, like many states, is struggling with prison overcrowding. During the last five years, the daily number of prisoners has fluctuated just above and below prison capacity.<sup>1</sup> Other jurisdictions, in an effort to relieve overcrowding, are considering alternative punishments for non-violent crimes; one of these alternatives is day fines. This memorandum discusses the history and use of day fines as an intermediate criminal sanction<sup>2</sup> and the feasibility of implementation in Alaska.

## I. Definition.

Day fines (also called structured fines, means-based fines or unit fines) are an intermediate sanction which allows the court to fine

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<sup>1</sup> Alaska Sentencing Commission, 1991 Annual Report to the Governor and the Alaska Legislature 1 (1991).

<sup>2</sup> An intermediate sanction is a sanction which is more stringent than traditional probation but less stringent (and usually less expensive) than imprisonment. Intermediate sanctions include house arrest, electronic monitoring, "shock" incarceration, community residential centers and work release centers.

an offender based on the gravity of the offense and the offender's ability to pay. Typically, under a day fine system each offense is assigned a number of "fine units" based on the severity of the offense compared to other crimes. When a defendant is convicted, the judge determines the number of fine units which have been assigned to the offense and the defendant's available daily income. The judge then multiplies these two figures to determine the fine amount. (The term "day fine" is used because the fine is linked to the defendant's daily income.)

## II. Fines as an Alternative to Short-Term Incarceration

Proponents of fines make the following arguments in support of fines versus other criminal sanctions:

(1) Unlike incarceration and probation, fines generate revenues to reimburse costs of the justice system. Well over a billion dollars in fines are collected in criminal courts each year.

(2) Fines are inexpensive to administer compared to other to intermediate sanctions such as supervised probation and halfway houses.

(3) Fines are already used in some form by virtually all American courts. Therefore, the mechanisms to impose and collect fines are already in place.<sup>3</sup>

Moreover, studies show that fines -- if set high enough -- have a punitive impact on offenders and value as a deterrent.<sup>4</sup>

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<sup>3</sup> Sally Hillsman, Barry Mahoney, George F. Cole, & Bernard Auchter, Fines as Criminal Sanctions, Nat'l Inst. of Just. Research in Brief 2 (Sept. 1987) [hereinafter Hillsman, Mahoney, Cole, & Auchter].

<sup>4</sup> Sally Hillsman, Fines and Day Fines, in 12 Crime and Justice: A Review of Research 49, 50 (Michael Tonry and Norval Morris eds., 1990) [hereinafter Hillsman].

Fines are already used as a sanction for a broad range of offenses; however, they are usually used in conjunction with probation or short-term incarceration and are rarely used as an alternative to these penalties.<sup>5</sup>

Researchers offer several explanations for the low use of fines as a sole penalty. According to a 1984-85 survey of judges, most judges set fines well below the statutory limit. Researchers believe that this is because most judges use the "tariff" or "fixed fine" system to determine fine amounts. Under this system, approximately the same fine amount is imposed on all defendants who are convicted of a particular offense. The "tariff" or "going rate" for an offense is generally based on what the poorest offenders can afford to pay. Thus, fine amounts "tend to cluster near the bottom of the statutorily permissible range. This limits the range of offenses for which judges consider the fine an appropriate sole penalty."<sup>6</sup>

In the 1984-85 survey, judges also expressed concern about the fairness of fines. Under a tariff system, defendants with higher incomes have an obvious advantage -- a \$500 fine has a greater punitive impact on a defendant who earns \$1500 per month than on a defendant who earns \$4000 per month. Sixty-one percent of the judges who responded to the survey agreed with the statement that

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<sup>5</sup> Hillsman, Mahoney, Cole, & Auchter, supra note 3, at 2.

<sup>6</sup> Hillsman, supra note 4, at 63.

finer allow affluent offenders to "buy" their way out.<sup>7</sup> Sixty percent also agreed that fines are not an effective sanction for indigent defendants because there is a significant risk that the fine will be uncollectible.<sup>8</sup>

Proponents of fines believe that day fines address many of the concerns that are raised about traditional fines. Because day fines are set in proportion to the seriousness of the offense and adjusted to a defendant's income, they result in an equivalent level of hardship for defendants convicted of the same offense.<sup>9</sup> In addition, under a day fines system, fines can be set high enough to effectively penalize affluent defendants and low enough to reflect what poorer defendants can realistically afford to pay.<sup>10</sup>

### III. Use of Day Fines in Other Jurisdictions

#### A. Europe

The day fine system is an innovation of Western Europe. Day fines were implemented in Europe to reduce prison overcrowding by providing an alternative to short-term imprisonment.<sup>11</sup> The first day fine system was implemented in Finland in 1921, followed by

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<sup>7</sup> Hillsman, Mahoney, Cole, & Auchter, supra note 3, at 4.

<sup>8</sup> Id.

<sup>9</sup> Hillsman, supra note 4, at 51.

<sup>10</sup> Id.

<sup>11</sup> Id. at 75.

Sweden in 1931, Denmark in 1939, West Germany and Austria in 1975.<sup>12</sup> In both West Germany and Sweden, day fines have been successful in reducing the number of short-term prison sentences. In 1968, West Germany imposed 113,273 prison sentences for six months or less; following the implementation of day fines in 1975, the number of prison sentences for six months or less dropped to 23,664. By 1979, the number was further reduced to 10,609.<sup>13</sup>

In both West Germany and Sweden, a fine is used as the sole penalty for most criminal offenses, including many serious offenses. In 1984, 75 percent of all non-traffic criminal offenses in West Germany were disposed of by a fine as the sole penalty; fines were used in one third of all sexual offenses and in 73 percent of all crimes of violence against the person.<sup>14</sup> In 1988, Sweden imposed day fines for 83 percent of all criminal offenses, including 40 percent of all offenses against persons.<sup>15</sup>

#### B. United States

Day fines are currently being used in eight locations in the United States: Phoenix, Arizona; Bridgeport, Connecticut; Des Moines,

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<sup>12</sup> Sally Hillsman & Judith Greene, Tailoring Criminal Fines to the Financial Means of the Offender, 72 *Judicature* 38, 44 (1988).

<sup>13</sup> Gary M. Friedman, Comment, The West German Day-Fine System: A Possibility for the United States?, 50 *U.Chi.L.Rev.* 281, 291 (1983).

<sup>14</sup> Hillsman, supra note 4, at 61.

<sup>15</sup> Id.

Iowa; and four county courts in Oregon.<sup>16</sup> Chicago, Houston and Philadelphia are in the active planning stage. Staten Island, New York imposed day fines for twenty-three months during 1988-90, but discontinued the program because of budget cuts. Milwaukee, Wisconsin used a day fine system for 12 weeks during 1989, but discontinued the project because it resulted in lower fine revenues for the court.

The programs in Staten Island, Phoenix, and Milwaukee are discussed in more detail below. The programs in Connecticut, Iowa, and Oregon have only recently gotten underway.

#### 1. Staten Island

Richmond County Criminal Court, a trial court of limited jurisdiction, was the first court in the United States to implement a day fines program.<sup>17</sup> Day fines were used for misdemeanors and violations for a period of 23 months during 1988 to 1990.<sup>18</sup> Between September 1988 and August 1990, day fines were imposed in

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<sup>16</sup> Each of these jurisdictions is part of a pilot project funded by a Bureau of Justice Assistance federal grant.

<sup>17</sup> Douglas C. McDonald, Judith Greene & Charles Worzella, Day Fines in American Courts: The Staten Island and Milwaukee Experiments, Issues and Practices in Criminal Justice, Nat'l Inst. Just. 13 (Apr. 1992) [hereinafter McDonald, Greene, & Worzella].

<sup>18</sup> A list of violations and misdemeanors to which the program applied appears in Appendix A.

two-thirds of all disposed cases.<sup>19</sup> The average day fine amount was \$440.83, twice the average pre-pilot fine amount, which was \$205.66.<sup>20</sup>

As part of its day fines project, Staten Island also experimented with a new collections strategy. Responsibility for collection of day fines was centralized in a "day fines officer." This person was given authority to work out an individualized payment plan with each defendant. Defendants were generally allowed only a short period to pay the fine, i.e., usually no more than three months, and payment dates were scheduled to correspond to the defendant's income receipt patterns. A computer program originally designed for small business applications was adapted inexpensively to track payment. A defendant's non-payment prompted the computer to generate an immediate reminder and warning letter. If non-payment was due to a change in the defendant's financial circumstances, the day fines officer could modify the defendant's payment plan within certain parameters.<sup>21</sup>

To measure the success rate of the new collection practices, the court divided day fine cases into two groups. One group, labeled

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<sup>19</sup> Laura Winterfield & Sally Hillsman, An Experiment to Introduce Means-Based Fining into an American Criminal Court: The Staten Island Day-Fines Project, Nat'l Inst. Just. 4 (Draft: Apr. 30, 1992) [hereinafter Winterfield & Hillsman].

<sup>20</sup> Id. at 5.

<sup>21</sup> McDonald, Greene, & Worzella, supra note 17, at 34.

"experimental," was subject to the new collection strategy. The other group, labeled "control," was subject to the court's existing collection practices. Researchers found 85 percent of the day fine experimental group paid in full, compared to 71 percent of the control cases and 76 percent of the pre-pilot fine cases. Six percent of the day fine experimental group resulted in no payment at all, compared to 26 percent of day fine control group and 22 percent of pre-pilot cases.<sup>22</sup>

Overall, the court found that "despite significantly higher average fine amounts and longer collection periods e.g. installment payments, day fines were collected in full at high rates - rates as high as the collection rates for the smaller fixed fines."<sup>23</sup> The total revenues generated by fines increased by 14 percent during the day fines project. Researchers estimate that total fine revenues from day fines would have been approximately 50 percent higher if day fines had not been constrained by statutory fine caps.<sup>24</sup>

The Staten Island program was discontinued because of budget cuts.<sup>25</sup>

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<sup>22</sup> Winterfield & Hillsman, supra note 19, at 6.

<sup>23</sup> Id. at 7.

<sup>24</sup> Id. at 5.

<sup>25</sup> Per a 9/22/92 phone conversation with Arnold Berliner, Assistant District Attorney; Staten Island, New York.

## 2. Phoenix

In April 1991 the Superior Court of Maricopa County in Phoenix, Arizona initiated a day fine demonstration project, known as "F.A.R.E. Probation" (Financial Assessments Related to Employability). The program was the first in the United States to apply day fines to both misdemeanor and low level felony cases.<sup>26</sup>

In a phone conversation with Marilyn Windust, Day Fine Project Manager, Adult Probation Department, she stated that overall the program has been very successful. The court evaluates defendants prior to sentencing and targets defendants who have low treatment and supervision needs, are employable or have a source of income, and do not owe restitution exceeding the day fine. Prior to implementation of the program, these defendants would probably have been placed on full supervision probation or sentenced to a short-term jail sentence.

Between April 1991 and July 1992, 247 defendants were sentenced to FARE probation. One hundred nine defendants successfully completed the program. Only two defendants have committed subsequent offenses. The lowest fine assessment under the program was \$60. The highest assessment was \$12,325. The court collected a total of \$120,889 and its collection rate was 98.2 percent. Forty-one

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<sup>26</sup> A list of the misdemeanors and felonies to which the program applies appears in Appendix B. Felonies include low level assault, burglary, child abuse, attempted child molestation, robbery, theft, attempted kidnapping, fraudulent schemes, escape, arson, sexual abuse, and many drug offenses.

percent of victims received full restitution and restitution was paid at a faster rate. Of the total number of offenses in which day fines were imposed, 58 percent were theft related offenses, 28.3 percent were drug related offenses, 2 percent were white collar offenses, and 11.7 percent were miscellaneous offenses.<sup>27</sup>

Even though initial funding for the program under a Bureau of Justice grant has ended, the court system has elected to continue the program and fund it through the Maricopa County budget.

### 3. Milwaukee

In 1989, the Milwaukee Municipal Court initiated a 12 week experiment to test the feasibility of substituting day fines for fixed fines for violations of municipal ordinances.<sup>28</sup> The experiment concentrated on first time offenders charged with offenses which are also crimes under state penal law. These offenses include: carrying a concealed weapon, disorderly conduct, theft from a retail store, vandalism, loitering, prowling, and low level assault and battery. Between October 1989 to January 1990, 192 violators received day fines.<sup>29</sup> The average day fine imposed was \$72 compared to an average of \$112 for fixed fine cases.<sup>30</sup>

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<sup>27</sup> The FARE probation program statistics were provided by Marilyn Windust, Day Fine Project Manager.

<sup>28</sup> A list of violations to which the program applied appears as Appendix C.

<sup>29</sup> McDonald, Greene, & Worzella, *supra* note 17, at 70.

<sup>30</sup> Id. at 72.

Collection rates basically stayed the same. The court found that the percentage of defendants failing to pay their fines differed little between day fines and conventional fines (59 percent versus 61 percent, respectively). However, defendants given day fines were more likely to pay in full (37 percent versus 25 percent). Differences in likelihood to pay were even more pronounced among the poorest violators. Of those persons having monthly incomes less than \$197, 33 percent of those given day fines paid in full, compared to 14 percent of those who received conventional fines.<sup>31</sup> Overall, the court found that the system imposed lower fines which led to reduced revenues to the county treasury. Since the Milwaukee court could not afford to subsidize the program, the program was discontinued.<sup>32</sup>

The Milwaukee experiment demonstrated that a day fines program can be operated in a fast-paced setting such as a municipal court. The collection rate data from Milwaukee and Staten Island indicates, however, that day fines are not inherently more collectible than traditional fines. In Milwaukee, the collection rates for day fines and traditional fines were approximately the same. In Staten Island, the collection rate for day fines in the control group (i.e, day fines which were not subject to the new collection

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<sup>31</sup> Id.

<sup>32</sup> Per a 8/28/92 phone conversation with Judith Greene, Director of Court Programs, Vera Institute of Justice; New York, New York.

practices) was approximately the same as the collection rate for traditional fines.

#### IV. Day Fines as an Alternative Sanction in Alaska

It is difficult to predict whether a day fines program would make a positive impact on Alaska's judicial system and corrections program. There is a shortage of data available on current sentencing patterns.

In 1992 the Sentencing Commission conducted a state-wide survey of felony sentences imposed between 1986 and 1991. The commission found that fines were imposed in only 4.4% percent of the cases. Fines ranged from \$250 to \$15,000 and were always combined with sentences of incarceration ranging from 18 months to 8 years.<sup>33</sup> The sampling indicates fines are not used as an alternative to incarceration in felony cases, but rather as an additional sanction.

No data is readily available on the number of misdemeanor cases in which fines are imposed as a sole penalty or in conjunction with other sanctions. However, according to information collected by

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<sup>33</sup> The offenses included bootlegging, driving under the influence, assault, second degree rape, second degree sexual assault, and drug offenses. A copy of the Commission's data appears in Appendix D.

the Sentencing Commission, misdemeanants currently make up approximately ten percent of Alaska's prison population.<sup>34</sup>

It should be noted that there is public support in Alaska for alternatives to incarceration. A recent public opinion report prepared by the Sentencing Commission found that the majority of those polled supported intermediate sanctions for non-violent felons and even for some violent felons. Overall, the surveyed group "believed that incarceration does not give the public its money's worth."<sup>35</sup> The group felt these offenders should be in programs which control criminal behavior, but which allow them to work, be self-supporting, and pay supervision costs and restitution.<sup>36</sup>

#### V. Implementation Requirements for a Day Fines Program

The following section identifies the changes that would be required to implement a day fines program in Alaska. There are four subsections which discuss the following topics: (1) necessary statutory changes; (2) improvement of existing collection mechanisms; (3) adoption of benchmarks; and (4) evaluation of a defendant's financial resources.

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<sup>34</sup> Alaska Sentencing Commission, 1991 Annual Report to the Governor and the Alaska Legislature app. 1-2 (1991).

<sup>35</sup> Alaska Sentencing Commission, Opinions on Sentencing in Alaska: Results of Five Focus Groups 10 (Aug. 20, 1992).

<sup>36</sup> Id.

**A. Statutory Changes**

At least one statutory change must be made in order to implement a day fines program and two additional changes may be desirable. These three statutory changes are discussed in more detail below.

**1. Financial Resources of the Defendant**

AS 12.55.035 governs the imposition of fines. Prior to 1992, this statute required the court to consider the financial resources of the defendant when setting a fine. The statute provided:

(a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law. In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden its payment will imposed. No defendant may be imprisoned solely because of inability to pay a fine.

The court was also required to consider the financial resources of the defendant when determining restitution. See AS 12.55.045.<sup>37</sup>

Both AS 12.55.035 and AS 12.55.045 were amended last session to eliminate the income evaluation requirement.<sup>38</sup> In adopting this

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<sup>37</sup> Prior to being amended in 1992, AS 12.55.045 provided:

(a) . . . In determining the amount and method of payment of restitution, the court shall take into account the

. . .

(3) financial resources of the defendant and the nature of the burden its payment will impose on dependents of the defendant.

<sup>38</sup> The amendment to AS 12.55.035 is shown below:

(a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this

change, the legislature specifically intended to prohibit the court from considering the defendant's financial circumstances when setting the amount of a fine or restitution:

Section 1. PURPOSE. It is the purpose of this Act to ensure full payment of fines imposed in criminal cases and to make full restitution available to all persons who have been injured as a result of criminal behavior, to the greatest extent possible, by

(1) requiring courts to consider whether a defendant has the ability to pay fines and restitution at a hearing held after a defendant has failed to pay, rather than asking courts to predict at the time of sentencing whether a defendant will have the ability to pay a fine or restitution in the future;

. . . .

Ch. 71 sec. 1 SLA 1992 (emphasis added).

Consideration of the defendant's financial resources is a critical sentencing component in a day fines system. When imposing a day fine, the judge multiplies the number of fine units which have been assigned to the offense and the defendant's available daily income to determine the fine amount. Under the current version of AS 12.55.035, a judge is precluded from considering the defendant's financial resources at the time the fine amount is set. Thus, in order to implement a day fines system, either the deleted language

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section or as otherwise authorized by law. [IN DETERMINING THE AMOUNT AND METHOD OF PAYMENT OF A FINE, THE COURT SHALL TAKE INTO ACCOUNT THE FINANCIAL RESOURCES OF THE DEFENDANT AND THE NATURE OF THE BURDEN ITS PAYMENT WILL IMPOSE. NO DEFENDANT MAY BE IMPRISONED SOLELY BECAUSE OF INABILITY TO PAY A FINE.]

of the statute must be reinstated or a new provision must be added to AS 12.55 which specifically authorizes the imposition of day fines. The latter option is probably preferable because it would allow the court to impose either day fines or traditional "tariff" or "going rate" fines. Thus, the court system could initially implement day fines on a trial basis.<sup>39</sup>

**2. Statutory caps on misdemeanors, violations, and infractions.**

AS 12.55.035 also sets maximum fine amounts for violations, misdemeanors and felonies. These statutory caps are shown below:

(b) Upon conviction of an offenses, 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 no more than

. . .

- (2) \$50,000 for class A, B, or C felony;
- (3) \$5,000 for a class A misdemeanor;
- (4) \$1,000 for a class B misdemeanor;
- (5) \$300 for a violation.

Because day fines are based on an offender's daily income, a fine for a defendant with a high income level may exceed the statutory cap. If a day fine is calculated above the cap amount, the

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<sup>39</sup> In Maricopa County, for example, day fines were implemented in four of the county's eight superior courts so that the two fine systems could be compared and evaluated. In a phone conversation with Marilyn Windust, Day Fine Project Manager, she stated that several private defense attorneys have suggested that the use of two fine systems raises equal protection problems. However, to date, this issue has not been litigated.

defendant would only be liable for the statutory amount, which diminishes the punitive impact of the fine.

Other jurisdictions have not necessarily eliminated their statutory fine limits when they initiated their day fine programs. Phoenix, Staten Island and Oregon elected to impose day fines within the statutory fine limits, at least initially. Phoenix and Oregon plan to evaluate the desirability of amending or repealing the statutory caps once they have determined the extent to which the caps prevent judges from imposing full day fines.

In Alaska, the present caps will limit the use of day fines, particularly for more serious offenses. A policy decision must be made whether to propose to the legislature a lifting of the existing caps or to operate the day fines program under existing statutory fine limits.

### **3. Statutory Felony Sentencing Structure**

Alaska operates under a statutory felony sentencing structure which dictates minimum, maximum and presumptive prison terms for felony convictions.<sup>40</sup> There are no mandatory minimum or presumptive sentencing rules for first time Class B<sup>41</sup> or C<sup>42</sup> felony convictions,

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<sup>40</sup> See AS 12.55.125.

<sup>41</sup> Class B felonies include robbery not using a deadly weapon, theft over \$25,000, selling cocaine or marijuana to minors, burglary in a dwelling, arson with no risk of injury, bribery or perjury, second-degree assault, sexual penetration with a person aged 13, 14 or 15, and sexual contact with anyone under 13, or a

unless the conduct was knowingly directed at a peace officer, firefighter or an emergency responder, e.g., emergency medical technician, paramedic, ambulance attendant.<sup>43</sup> However, for second and subsequent Class B felony convictions, there is a presumptive prison term of 4 and 6 six years, respectively and 2 and 3 years for Class C felonies. An offender will ordinarily receive these prison terms unless certain aggravating or mitigating factors are applicable.

Thus, under the current sentencing structure, judges can impose day fines for misdemeanors and first time low level felony convictions, but day fines cannot be used for repeat low level felonies. A policy decision must be made as to whether the state of Alaska wishes to include these repeat offenders in a day fines program and, if so, propose a statutory amendment to the legislature.

#### **B. Improvement of existing collection mechanisms**

Judges -- and the public -- are unlikely to consider day fines as an alternative to incarceration without assurance that such fines can be collected. According to researchers at the National Center for State Courts, "[p]art of the hesitancy that judges have in

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daughter or son under 18.

<sup>42</sup> Class C felonies include negligent homicide, burglary not in a dwelling, second-degree assault, theft over \$500, check forgery, possessing heroin or cocaine, and bootlegging.

<sup>43</sup> See AS 12.55.125(d)(3) and AS 12.55.125(e)(3).

using the fine as a sole or primary sanction apparently stems from a sense that collecting the payment is difficult."<sup>44</sup>

In Alaska, fines, restitution and forfeited bonds under \$250 are collected by the court system while fines over \$250 are collected by the Department of Law.<sup>45</sup> Court system collection practices are limited to a single "notice of delinquency" letter and if no payment is received, issuance of a bench warrant. The Department of Law issues one demand letter and if no payment is received, an execution is made on the defendant's permanent fund dividend.<sup>46</sup>

No information is readily available on the total number of cases in which a fine is imposed.<sup>47</sup> Therefore, the overall payment rate for fines cannot be calculated. Since April 1989, the court system has forwarded a total of 5,720 fine cases to the Department of Law

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<sup>44</sup> Barry Mahoney & Marlene Thornton, Means-Based Fining: Views of American Trial Court Judges, 13 Just. Sys. J. 51, 55 (1988).

<sup>45</sup> See ACS Administrative Bulletin No. 43 (eff. Jan. 8, 1991). The Anchorage Court Administration is looking into the possibility of transferring all unpaid fines (state-wide) to the Department of Law Collections Unit. The Collections Unit will assume this responsibility if necessary information can be electronically transferred between the courts, the Collections Unit, and the Department of Revenue. At present, manual transfer of paperwork between these entities and the Alaska State Troopers causes collections not to be cost-effective for any fine or bail forfeiture under \$250.

<sup>46</sup> In 1992, 1155 permanent fund dividend executions were processed from approximately 3,000 open collection accounts.

<sup>47</sup> This information could be gathered. According to Technical Operations, it would take approximately two days of a programmer's time.

for collection. Thirty-six percent of these cases have been paid in full. Another 6 percent have almost been paid in full, i.e., less than \$100 is still owing. The department has collected a total of \$1,560,885 in fine revenues. The court system collected a total of \$4,170,252 in fines, "mail-in bail," and bail forfeitures in FY92.

Prior to implementing a day fine system, current fine collection practices should be reviewed and possibly upgraded. The Staten Island day fine project demonstrated that, despite higher average fine amounts, day fines are not more difficult to collect than traditional fines.<sup>48</sup> Also, relatively simple collection techniques can significantly improve day fines collections.<sup>49</sup>

### C. Adoption of benchmarks.

Under a day fine system, the amount of the fine is determined by multiplying the defendant's average daily income by the "benchmark" for the offense. The benchmark is usually measured in "fine units" and reflects the jurisdiction's view as to the seriousness of the offense compared to other crimes. One of the first steps in implementing a day fine system is the adoption of a benchmark scale by assigning fine units to each criminal offense.

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<sup>48</sup> Winterfield & Hillsman, supra note 19, at 7.

<sup>49</sup> See text accompanying note 21 supra.

Determining how many units to assign to each offense is similar to development of sentencing guidelines. The gravity of the offense is weighed against all other offenses and a determination made as to the appropriate level of punishment. The jurisdiction must also decide whether to adopt a fixed number of fine units for each offense or a range of fine units in order to allow some variation of the benchmark based on aggravating or mitigating factors. When Staten Island initiated its day fines project, a planning group determined the court's seventy most common misdemeanors and violations. The group then ranked these offenses by severity.<sup>50</sup> Using a scale of 120 day fine units, the planning group assigned fine units for each offense, e.g., prostitution = 5 units, harassment = 15 units, petit larceny = 5 to 60 units; sexual misconduct = 90 to 120 units. Where ranges were specified, judges were given guidance on how to establish the benchmark in a particular case. For example, a judge would determine the benchmark for a defendant convicted of petit larceny according to the value of property stolen.<sup>51</sup>

In Milwaukee, planners used the existing fine system to create the benchmark scale. Planners assigned each fine unit a value of twenty dollars and then determined the range of units for each offense by dividing the minimum and maximum fine for the offense

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<sup>50</sup>The offenses ranged from breach of public decorum to victimizing offenses generally charged as felonies but disposed of as misdemeanors. The offenses are listed in Appendix A.

<sup>51</sup> McDonald, Greene, & Worzella, supra note 17, at 22.

by twenty dollars. Thus, an offense with a minimum fine of \$100 and a maximum fine of \$500 would be assigned a range of 5 to 25 fine units. Planners used the court's "deposit amount schedules" (comparable to Alaska's bail forfeiture schedules) to determine the median benchmark for each violation and infraction.<sup>52</sup> A judge could adopt a benchmark higher or lower than the median (but still within the permitted range for the offense) based on aggravating or mitigating circumstances or prior criminal history.<sup>53</sup>

The benchmark scales for Staten Island, Phoenix, and Milwaukee appear in Appendices A, B and C, respectively.

In 1991, the Alaska Sentencing Commission weighed the seriousness of 174 criminal offenses found in Title 11 and developed a ranking beginning with most serious (Murder I) to least serious (Unlawful Possession of Property valued under \$50)<sup>54</sup> Because ranking of offenses is the starting point of a day fine benchmark scale, the court system could choose to adopt this ranking for the day fines program. The court would still need to assign a fixed number or a range of fine units to each offense. Traffic offenses in Title 28, which includes DWI and DWLS offenses, and fish and game

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<sup>52</sup> A deposit amount schedule is similar to Alaska's bail forfeiture schedule in that a violator has the option of paying a "deposit" instead of appearing in court to contest the charge.

<sup>53</sup> McDonald, Greene, & Worzella, supra note 17, at 5.

<sup>54</sup> The purpose of the ranking was to determine if any offenses should be statutorily reclassified to reflect the seriousness of the crime, e.g., reclassify a misdemeanor offense to a felony.

offenses under Title 16 were not ranked. The Commission's ranking appears in Appendix E.

**D. Evaluation of a defendant's financial resources**

In addition to adopting a benchmark scale, the court system must decide how much of a defendant's income to assess. Staten Island, for example, chose to assess the defendant's daily net income, adjusted for family responsibilities and basic personal needs.<sup>55</sup> Daily net income was determined by dividing the defendant's pay check, welfare allotment or unemployment check by the number of days in the payment period. The figure was then adjusted based on the number of persons supported by the defendant's income. To reduce the harshness on low income defendants who do not have savings or access to credit, the valuation formula allowed an additional income adjustment for people living in poverty.<sup>56</sup> To assist the judge in determining the daily income assessment, planners devised a chart similar to a "tax table" showing average daily income on one axis and the number of persons supported by the defendant on the other axis. The chart appears in Appendix A.

Once the level of assessment is determined, the court system would need a procedure to obtain financial information from defendants. Courts in Alaska already collect detailed financial information

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<sup>55</sup> Milwaukee and Phoenix used or are using a similar system.

<sup>56</sup> McDonald, Greene, & Worzella, supra note 17, at 27.

from defendants who request appointed counsel.<sup>57</sup> The same basic mechanism could probably be used to collect financial information from defendants who are subject to a day fine.<sup>58</sup>

## VI. Conclusion

Alaska faces the possibility of future budget shortfalls with the decline of oil-based revenues. As such, budget constraints may force proportionate cutbacks on prison and probation resources. Therefore, alternative intermediate criminal sanctions, such as day fines, may become a necessity. Other jurisdictions find day fines are effective as a sole penalty for misdemeanants and felons who have low treatment and supervision needs. By not imposing a short-term jail sentence on these offenders, prison space is made available for more violent, predatory offenders. As the Alaska Sentencing Commission has noted, "[e]very offender diverted into

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<sup>57</sup> This information is also gathered as part of the presentence investigation. Such investigations are conducted in most felony cases but few misdemeanor cases.

<sup>58</sup> As part of its day fines project, Staten Island employed people to interview defendants about their financial resources. Planners also developed tables showing the median biweekly salary for various occupations, e.g., construction workers, food and beverage preparers, sales personnel. If a defendant refused to disclose financial information to court personnel, the judge would calculate the day fine based upon information in these tables. The general income guidelines appear in Appendix A. Judges in the Staten Island project were also authorized to adjust defendants' daily income figures to reflect illegal or "under the table" income.

a non-prison program is making a space available for a more serious offender and saving the need for new prison construction."<sup>59</sup>

If you have any questions, please contact me at extension 646.

dayfine.memo3  
/cj

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<sup>59</sup> Alaska Sentencing Commission, 1991 Annual Report to the Governor and the Alaska Legislature 34 (1991).

## APPENDIX

Appendix A: Day Fines Program for Staten Island, New York:

- Benchmark Scale
- Daily Income Reference Table
- Median Salary by Occupation Type

Appendix B: Day Fines Program for Phoenix, Arizona:

- Benchmark Scale
- Daily Income Reference Table
- Daily Income Figures for Skilled Unemployed Defendants

Appendix C: Day Fines Program for Milwaukee, Wisconsin:

- Benchmark Scale

Appendix D: Alaska Sentencing Commission: Survey Data of Felony Sentences Imposed Between 1986-91

Appendix E: Alaska Sentencing Commission: Ranking of Title 11 Criminal Offenses (July 1991)

## Appendix A:

### Day Fines Program for Staten Island, New York:

- Benchmark Scale
- Daily Income Reference Table
- Median Salary by Occupation Type

## Staten Island Day-Fine Benchmark Scales

PL Charge	Type of Offense	Number of Day-Fine Units	
		Discount-PRESUMPTIVE	Premium
115.00 AM	Criminal Facilitation 4	30 - 35	40
120.00 AM	Assault 3: Range of 20-95 DF		
	A. Substantial Injury	81 - 95	109
	Stranger-to-stranger; or, where victim is known to assailant, he/she is weaker, vulnerable		
	B. Minor Injury	59 - 70	81
	Stranger-to-stranger; or , where victim is know to assailant, he/she is weaker, vulnerable; or, altercations involving use of a weapon		
	C. Substantial Injury	38 - 45	52
	Altercations among acquaintances; brawls		
	D. Minor Injury	17 - 20	23
	Altercations among acquaintances; brawls		
110/ 120.00 BM	Attempted Assault 3: range of 15-45 DF		
	A. Substantial Injury	38 - 45	52
	Stranger-to-stranger; or, where victim is known to assailant, he/she is weaker, vulnerable		
	B. Minor Injury	30 - 35	40
	Stranger-to-stranger; or , where victim is know to assailant, he/she is weaker, vulnerable; or, altercations involving use of a weapon		
	C. Substantial Injury	17 - 20	23
	Altercations among acquaintances; brawls		
	D. Minor Injury	13 - 15	17
	Altercations among acquaintances; brawls		

PL Charge	Type of Offense	Number of Day-Fine Units
		Discount-PRESUMPTIVE.1
120.15 BM	Meanacing: Range of 30-45 DF	
	A. Threat of Serious Physical Injury Stranger-to-stranger; or, where victim is weaker, vulnerable	38 - 45 - 52
	B. Threat of Serious Phsycial Injury Altercations among acquaintences; brawls	25 - 30 - 35
120.20 AM	Reckless Endangerment	55 - 65 - 75
110/ 120.20 BM	Attempted Reckless Endangerment	17 - 20 - 23
130.20 AM	Sexual Misconduct: Range of 90-120 DF	
	A. Sexual Intercourse Without consent involving forcible compulsion	102 - 120 - 138
	B. Sexual Intercourse Where victim is incapable of consent or under the age of fourteen	76 - 90 - 104
130.38 BM	Consensual Sodomy	13 - 15 - 17
130.55 BM	Sexual Abuse 3	38 - 45 - 52
130.60 AM	Sexual Abuse 2	85 - 100 - 115
135.05 AM	Unlawful Imprisonment 2	55 - 65 - 75
140.05 vio	Trespass	13 - 15 - 17
140.10 BM	Criminal Trespass 3	17 - 20 - 23
140.15 AM	Criminal Trespass 2	42 - 50 - 58
110/ 140.15 BM	Attempted Criminal Trespass 2	25 - 30 - 35
140.35 AM	Possession of Burglary Tools	42 - 50 - 58

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

<u>PL Charge</u>	<u>Type of Offense</u>	<u>Number of Day-Fine Units</u> <u>Discount-PRESUMPTIVE-Pr</u>
120.15 BM	Meanacing: Range of 30-45 DF	
	A. Threat of Serious Physical Injury Stranger-to-stranger; or, where victim is weaker, vulnerable	38 - 45 - 52
	B. Threat of Serious Phsycial Injury Altercations among acquaintences; brawls	25 - 30 - 35
120.20 AM	Reckless Endangerment	55 - 65 - 75
110/ 120.20 BM	Attempted Reckless Endangerment	17 - 20 - 23
130.20 AM	Sexual Misconduct: Range of 90-120 DF	
	A. Sexual Intercourse Without consent involving forcible compulsion	102 - 120 - 138
	B. Sexual Intercourse Where victim is incapable of consent or under the age of fourteen	76 - 90 - 104
130.38 BM	Consensual Sodomy	13 - 15 - 17
130.55 BM	Sexual Abuse 3	38 - 45 - 52
130.60 AM	Sexual Abuse 2	85 - 100 - 115
135.05 AM	Unlawful Imprisonment 2	55 - 65 - 75
140.05 vio	Trespass	13 - 15 - 17
140.10 BM	Criminal Trespass 3	17 - 20 - 23
140.15 AM	Criminal Trespass 2	42 - 50 - 58
110/ 140.15 BM	Attempted Criminal Trespass 2	25 - 30 - 35
140.35 AM	Posession of Burglary Tools	42 - 50 - 58

## Staten Island Day-Fine Benchmark Scales

PL Charge	Type of Offense	Number of Day-Fine Units	
		Discount-PRESUMPTIVE	Premium
115.00 AM	Criminal Facilitation 4	30 - 35	40
120.00 AM	Assault 3: Range of 20-95 DF		
	A. Substantial Injury	81 - 95	109
	Stranger-to-stranger; or, where victim is known to assailant, he/she is weaker, vulnerable		
	B. Minor Injury	59 - 70	81
	Stranger-to-stranger; or , where victim is know to assailant, he/she is weaker, vulnerable; or, altercations involving use of a weapon		
	C. Substantial Injury	38 - 45	52
	Altercations among acquaintances; brawls		
	D. Minor Injury	17 - 20	23
	Altercations among acquaintances; brawls		
110/ 120.00 BM	Attempted Assault 3: range of 15-45 DF		
	A. Substantial Injury	38 - 45	52
	Stranger-to-stranger; or, where victim is known to assailant, he/she is weaker, vulnerable		
	B. Minor Injury	30 - 35	40
	Stranger-to-stranger; or , where victim is know to assailant, he/she is weaker, vulnerable; or, altercations involving use of a weapon		
	C. Substantial Injury	17 - 20	23
	Altercations among acquaintances; brawls		
	D. Minor Injury	13 - 15	17
	Altercations among acquaintances; brawls		

PL Charge	Type of Offense	Number of Day-Fine Units	
		Discount-PRESUMPTIVE	Premium
145.00 AM	Criminal Mischief 4: Range of 15-60 DF (Damage to property scaled as for petit larceny)		
	\$1000 or more	51 - 60	- 69
	700-999	42 - 50	- 58
	500-699	34 - 40	- 46
	300-499	25 - 30	- 35
	150-299	17 - 20	- 23
	1-149	13 - 15	- 17
110/ 145.00 BM	Attempted Criminal Mischief 4: Range of 15-30 DF (Damage to property scaled as for attempted petit larceny)		
	\$1000 or more	25 - 30	- 35
	600-999	17 - 20	- 23
	1-599	13 - 15	- 17
145.14 BM	Criminal Tampering 3	17 - 20	- 23
145.15 AM	Criminal Tampering 2	42 - 50	- 58
155.25 AM	Petit Larceny: Range of 15-60 DF		
	\$1000 or more	51 - 60	- 69
	700-999	42 - 50	- 58
	500-699	34 - 40	- 46
	300-499	25 - 30	- 35
	150-299	17 - 20	- 23
	1-149	13 - 15	- 17

PL Charge	Type of Offense	Number of Day-Fine Units
		Discount-PRESUMPTIVE-Prem
110/ 155.25 BM	Attempted Petit Larceny: Range of 15-30 DF \$1000 or more 600-999 1-599	25 - 30 - 35 17 - 20 - 23 13 - 15 - 17
110/ 155.30 AM	Attempted Grand Larceny: Range of 20-65 DF A. Purse Snatch Regardless of amount of value B. Extortion Regardless of amount of value C. Value Exceeding \$1000 D. Stolen Credit Card E. Stolen Motor Vehicle: Range of 20-60 DF (Car value scaled as for petit larceny) \$1000 or more 700-999 500-699 300-499 150-299 1-149	55 - 65 - 75 55 - 65 - 75 51 - 60 - 69 51 - 60 - 69 51 - 60 - 69 42 - 50 - 58 34 - 40 - 46 25 - 30 - 35 17 - 20 - 23 13 - 15 - 17
165.05 AM	Unauthorized Use of a Vehicle 3: Range of 15-60 DF (Car value scaled as for petit larceny) \$1000 or more 700-999 500-699 300-499 150-299 1-149	51 - 60 - 69 42 - 50 - 58 34 - 40 - 46 25 - 30 - 35 17 - 20 - 23 13 - 15 - 17
165.09 AM	Auto Stripping 2	13 - 15 - 17

PI Charge	Type of Offense	Number of Day-Fine Units		
		Discount	PRESUMPTIVE	Premium
165.30 AM	Fraudulent Accosting	42	50	58
165.40 AM	Criminal Possession of Stolen Property 5: Range of 15-60 DF (Property value scaled as for petit larceny) \$1000 or more	51	60	69
	700-999	42	50	58
	500-699	34	40	46
	300-499	25	30	35
	150-299	17	20	23
	1-149	13	15	17
110/ 165.40 BM	Attempted Criminal Possession of Stolen Property 5: Range of 15-30 DP (Property value scaled as for attempted petit larceny) \$1000 or more	25	30	35
	600-999	17	20	23
	1-599	13	15	17
170.05 AM	Forgery 3	34	40	46
170.20 AM	Criminal Possession of a Forged Instrument	30	35	40
170.55 BM	Unlawful Use of Slugs	13	15	17
110/ 170.70 AM	Attempted Illegal Possession of Vehicle ID Number	30	35	40
175.05 AM	Falsifying Business Records 2	42	50	58
110/ 175.05 BM	Attempted Falsifying Business Records 2	17	20	23
176.10 AM	Insurance Fraud 5	51	60	69

FL Charge	Type of Offense	Number of Day-Fine Units
		Discount-PRESUMPTIVE-Prem
190.05 BM	Issuing a Bad Check	13 - 15 - 17
190.25 AM	Criminal Impersonation 2	42 - 50 - 58
195.05 AM	Obstructing Governmental Administration 2	21 - 25 - 29
200.30 AM	Giving Unlawful Credentials	42 - 50 - 58
205.20 AM	Promoting Prison Contraband 2	42 - 50 - 58
205.30 AM	Resisting Arrest	21 - 25 - 29
210.35 AM	Making an Apparently Sworn False Statement	51 - 60 - 69
210.45 AM	Making a Punishable False Written Statement	51 - 60 - 69
215.50 AM	Criminal Contempt 2	64 - 75 - 86
110/ 215.50 BM	Attempted Criminal Contempt 2	17 - 20 - 23
220.03 AM	Criminal Possession of a Controlled Substance 7: Range of 35-50 DF	
	A. Possession of cocaine, heroin, PCP, LSD or other "street jobs"	42 - 50 - 58
	B. Criminal possession of valium, methadone, or other pharmaceutical drugs	30 - 35 - 40
220.45 AM	Criminal Possession of a Hypodermic Instrument	13 - 15 - 17
220.50 AM	Criminal Use of Drug Paraphernalia 2	13 - 15 - 17
221.05 vio	Unlawful Possession of Marijuana	13 - 15 - 17
221.10 BM	Possession of Marijuana 5	13 - 15 - 17

PL Charge	Type of Offense	Number of Day-Fine Units		
		Discount	PRESUMPTIVE	Premium
221.15 AM	Possession of Marijuana 4	30	35	40
221.40 AM	Sale of Marijuana 4	42	50	58
110/ 221.40 BM	Attempted Sale of Marijuana 4	21	25	29
225.05 AM	Promoting Gambling 2	42	50	58
225.15 AM	Possession of Gambling Records 2	42	50	58
230.00 BM	Prostitution	13	15	17
240.20 vio	Disorderly Conduct	13	15	17
240.25 vio	Harrassment	13	15	17
240.30 AM	Aggravated Harrassment 2	42	50	58
240.35 vio	Loitering	13	15	17
240.36 BM	Loitering 1	13	15	17
240.37A AM	Loitering for Prostitution	21	25	29
240.37 B BM	Loitering for Prostitution	13	15	17
240.37V vio	Loitering for Prostitution	13	15	17
240.45 BM	Criminal Nuisance	13	15	17
240.50 BM	Falsely Reporting an Incident 3	17	20	23

PL Charge	Type of Offense	Number of Day-Fine Units	
		Discount-PRESUMPTIVE	Premium
240.55 AM	Falsely Reporting an Incident 2	30 - 35	- 40
245.00 BM	Public Lewdness	25 - 30	- 35
110/ 250.05 AM	Attempted Eavesdropping	30 - 35	- 40
260.10 AM	Endangering the Welfare of a Child: Range of 20-90 DF		
	A. Serious physical injury with indication of neglect by parent or guardian	76 - 90	- 104
	B. Neglect of a child involving substantial risk of serious physical injury	42 - 50	- 58
	C. Neglect of a child	17 - 20	- 23
260.20 BM	Unlawfully Dealing with a Child	13 - 15	- 17
265.01 AM	Criminal Possession of a Weapon 4: Range of 35-60 DF		
	A. Criminal Possession of a Firearm	51 - 60	- 69
	B. Criminal Possession of Any Other Dangerous or Deadly Weapon	30 - 35	- 40
110/ 265.01 BM	Attempted Criminal Possession of a Weapon 4: Range of 15-25 DF		
	A. Criminal Possession of a Firearm	21 - 25	- 29
	B. Criminal Possession of Any Other Dangerous or Deadly Weapon	13 - 15	- 17
270.00 BM or vio	Unlawfully Dealing with Fireworks Range of 15-35 DF		
	A. Offering fireworks for sale; a B misdemeanor	30 - 35	- 40
	B. Possession of fireworks for use; a violation	13 - 15	- 17
270.05 BM	Unlawfully Possessing Noxious Material	13 - 15	- 17

**Dollar-Value of One Day-Fine Unit**  
**By Net Daily Income and Number of Dependents**

Net Daily Income (\$)	Number of Dependents (Including Self)							
	1	2	3	4	5	6	7	8
3	\$1.28	\$1.05	\$0.83	\$0.68	\$0.53	\$0.45	\$0.37	\$0.30
4	1.70	1.40	1.10	0.90	0.70	0.60	0.50	0.40
5	2.13	1.75	1.38	1.13	0.88	0.75	0.62	0.50
6	2.55	2.10	1.65	1.35	1.05	0.90	0.75	0.60
7	2.98	2.45	1.93	1.58	1.23	1.05	0.87	0.70
8	3.40	2.80	2.20	1.80	1.40	1.20	1.00	0.80
9	3.83	3.15	2.48	2.03	1.58	1.35	1.12	0.90
10	4.25	3.50	2.75	2.25	1.75	1.50	1.25	1.00
11	4.68	3.85	3.03	2.47	1.93	1.65	1.37	1.10
12	5.10	4.20	3.30	2.70	2.10	1.80	1.50	1.20
13	5.53	4.55	3.58	2.93	2.28	1.95	1.62	1.30
14	7.85	4.90	3.85	3.15	2.45	2.10	1.75	1.40
15	8.42	5.25	4.13	3.38	2.63	2.25	1.87	1.50
16	8.98	5.60	4.40	3.60	2.80	2.40	2.00	1.60
17	9.54	5.95 <sup>55</sup>	4.68	3.83	2.98	2.55	2.12	1.70
18	10.10	6.30 <sup>35</sup>	4.95	4.05	3.15	2.70	2.25	1.80
19	10.66	8.78 <sup>40</sup>	5.23	4.28	3.33	2.85	2.37	1.90
20	11.22	9.24	5.50	4.50	3.50	3.00	2.50	2.00
21	11.78	9.70	5.78	4.73	3.68	3.15	2.62	2.10
22	12.34	10.16	6.05	4.95	3.85	3.30	2.75	2.20
23	12.90	10.63	6.33	5.18	4.03	3.45	2.87	2.30
24	13.46	11.09	8.71	5.40	4.20	3.60	3.00	2.40
25	14.03	11.55	9.08	5.63	4.38	3.75	3.12	2.50
26	14.59	12.01	9.44	5.85	4.55	3.90	3.25	2.60
27	15.15	12.47	9.80	6.08	4.73	4.05	3.37	2.70
28	15.71	12.94	10.16	8.32	4.90	4.20	3.50	2.80
29	16.27	13.40	10.53	8.61	5.07	4.35	3.62	2.90
30	16.83	13.86	10.89	8.91	5.25	4.50	3.75	3.00
31	17.39	14.32	11.25	9.21	5.43	4.65	3.87	3.10
32	17.95	14.78	11.62	9.50	5.60	4.80	4.00	3.20
33	18.51	15.25	11.98	9.80	7.62	4.95	4.12	3.30
34	19.07	15.71	12.34	10.10	7.85	5.10	4.25	3.40
35	19.64	16.17	12.71	10.40	8.09	5.25	4.37	3.50
36	20.20	16.63	13.07	10.69	8.32	5.40	4.50	3.60
37	20.76	17.09	13.43	10.99	8.55	5.55	4.62	3.70
38	21.32	17.56	13.79	11.29	8.76	7.52	4.75	3.80
39	21.88	18.02	14.16	11.58	9.01	7.72	4.87	3.90
40	22.44	18.48	14.52	11.88	9.24	7.92	5.00	4.00

Net Daily Income (\$)	Number of Dependents (Including Self)							
	1	2	3	4	5	6	7	8
41	\$23.00	\$18.94	\$14.88	\$12.18	\$9.47	\$8.12	\$5.12	\$4.10
42	23.56	19.40	15.25	12.47	9.70	8.32	5.25	4.20
43	24.12	19.87	15.61	12.77	9.93	8.51	7.09	4.30
44	24.68	20.33	15.97	13.07	10.16	8.71	7.26	4.40
45	25.25	20.79	16.34	13.37	10.40	8.91	7.42	4.50
46	25.81	21.25	16.70	13.66	10.63	9.11	7.59	4.60
47	26.37	21.71	17.06	13.96	10.86	9.31	7.75	4.70
48	26.93	22.18	17.42	14.26	11.09	9.50	7.92	6.34
49	27.49	22.64	17.79	14.55	11.32	9.70	8.08	6.47
50	28.05	23.10	18.15	14.85	11.55	9.90	8.25	6.60
51	28.61	23.56	18.51	15.15	11.78	10.10	8.41	6.73
52	29.17	24.02	18.88	15.44	12.01	10.30	8.58	6.86
53	29.73	24.49	19.24	15.74	12.24	10.49	8.74	7.00
54	30.29	24.95	19.60	16.04	12.47	10.69	8.91	7.13
55	30.86	25.41	19.97	16.34	12.71	10.89	9.07	7.26
56	31.42	25.87	20.33	16.63	12.94	11.09	9.24	7.39
57	31.98	26.33	20.69	16.93	13.17	11.29	9.40	7.52
58	32.54	26.80	21.05	17.23	13.40	11.48	9.57	7.66
59	33.10	27.26	21.42	17.52	13.63	11.68	9.73	7.79
60	33.66	27.72	21.78	17.82	13.86	11.88	9.90	7.92
61	34.22	28.18	22.14	18.12	14.09	12.08	10.06	8.05
62	34.78	28.64	22.51	18.41	14.32	12.28	10.23	8.18
63	35.34	29.11	22.87	18.71	14.55	12.47	10.39	8.32
64	35.90	29.57	23.23	19.01	14.78	12.67	10.56	8.45
65	36.47	30.03	23.60	19.31	15.02	12.87	10.72	8.58
66	37.03	30.49	23.96	19.60	15.25	13.07	10.89	8.71
67	37.59	30.95	24.32	19.90	15.48	13.27	11.05	8.84
68	38.15	31.42	24.68	20.20	15.71	13.46	11.22	8.98
69	38.71	31.88	25.05	20.49	15.94	13.66	11.38	9.11
70	39.27	32.34	25.41	20.79	16.17	13.86	11.55	9.24
71	39.83	32.80	25.77	21.09	16.40	14.06	11.71	9.37
72	40.39	33.26	26.14	21.38	16.63	14.26	11.88	9.50
73	40.95	33.73	26.50	21.68	16.86	14.45	12.04	9.64
74	41.51	34.19	26.86	21.98	17.09	14.65	12.21	9.77
75	42.08	34.65	27.23	22.28	17.33	14.85	12.37	9.90
76	42.64	35.11	27.59	22.57	17.56	15.05	12.54	10.03
77	43.20	35.57	27.95	22.87	17.79	15.25	12.70	10.16
78	43.76	36.04	28.31	23.17	18.02	15.44	12.87	10.30
79	44.32	36.50	28.68	23.46	18.25	15.64	13.03	10.43
80	44.88	36.96	29.04	23.76	18.48	15.84	13.20	10.56

Net Daily Income (\$)	<u>Number of Dependents (Including Self)</u>							
	1	2	3	4	5	6	7	8
\$81	\$45.44	\$37.42	\$29.40	\$24.06	\$18.71	\$16.04	\$13.36	\$10.69
82	46.00	37.88	29.77	24.35	18.94	16.24	13.53	10.82
83	46.56	38.35	30.13	24.65	19.17	16.43	13.69	10.96
84	47.12	38.81	30.49	24.95	19.40	16.63	13.86	11.09
85	47.69	39.27	30.86	25.25	19.64	16.83	14.02	11.22
86	48.25	39.73	31.22	25.54	19.87	17.03	14.19	11.35
87	48.81	40.19	31.58	25.84	20.10	17.23	14.35	11.48
88	49.37	40.66	31.94	26.14	20.33	17.42	14.52	11.62
89	49.93	41.12	32.31	26.43	20.56	17.62	14.68	11.75
90	50.49	41.58	32.67	26.73	20.79	17.82	14.85	11.88
91	51.05	42.04	33.03	27.03	21.02	18.02	15.01	12.01
92	51.61	42.50	33.40	27.32	21.25	18.22	15.18	12.14
93	52.17	42.97	33.76	27.62	21.48	18.41	15.34	12.28
94	52.73	43.43	34.12	27.92	21.71	18.61	15.51	12.41
95	53.30	43.89	34.49	28.22	21.95	18.81	15.67	12.54
96	53.86	44.35	34.85	28.51	22.18	19.01	15.84	12.67
97	54.42	44.81	35.21	28.81	22.41	19.21	16.00	12.80
98	54.98	45.28	35.57	29.11	22.64	19.40	16.17	12.94
99	55.54	45.74	35.94	29.40	22.87	19.60	16.33	13.07
100	56.10	46.20	36.30	29.70	23.10	19.80	16.50	13.20

**Table 3**

**Median Salary (Bi-Weekly Gross)**  
**By Occupation Type**

<b>Marketing and Sales Occupations</b>	
Cashiers	\$ 360
Counter and Rental Clerks	380
Insurance Agents and Brokers	
Beginning	700
5-9 Years Exp.	1800
10+ Years Experience	2685
Manufacturer's Sales Workers	980
Real Estate Agents and Brokers	
Agents	730
Brokers	1340
Retail Sales Workers	430
Securities and Financial Services	
Sales Representatives	
Beginning	1420
Experienced	3490
Services Sales Representatives	805
Travel Agents and Managers	
Travel Agents	615
Managers	1150
Wholesale Trade Sales Workers	980
 <b>Administrative Support Occupations, Including Clerical</b>	
Bank Tellers	460
Bookkeepers and Accounting Clerks	570
Clerical Supervisors and Managers	845
Computer and Peripheral Equipment Operator	630
Data Entry Keyers	550
File Clerks	475
General Office Clerk	565
Insurance Claims and Policy Processing	
Inside Adjusters	735
Outside Adjusters	825
Records Clerks	600
Claims Clerks	550

Source: Occupational Outlook Handbook, 1988-89 Edition,  
U.S. Department of Labor, Bureau of Labor Statistics, April 1988

Postal Clerks and Mail Carriers	
Beginning	\$770
Maximum	1040
Receptionists and Information Clerks	485
Reservation and Transportation Ticket Agents and Travel Clerks	840
Secretaries	765
Statistical Clerks	680
Stenographers	
Beginning, private	705
Experienced, private	830
Federal Government	570
Stock Clerks	600
Teacher Aides	510
Telephone Operator	630
Traffic, Shipping, Receiving Clerks	590
Typists and Word Processors	
Beginning Typist	485
Experienced Typist	650
Word Processor	615
Government Typist	475

#### Service Occupations

Correction Occupations	
Local	700
State	670
Federal	780
Firefighting Occupations	800
Guards	425
Police, Detectives, Special Agents	
Police Patrol Officers	830
Police and Detective Sgts.	1025
Police and Detective Lts.	1165

#### Food and Beverage Preparation and Service

Chefs, Cooks, and Other Kitchen Work	
Chefs	670
Cooks	420
Assistant Cooks	380
Short-Order Cooks	360
Bread/Pastry Bakers	405
Salad Preparation	340
Fast-Food Preparation	310
Food and Beverage Service Workers (Including Tips)	
Waiters/Waitresses	345
Bartenders	430

General Maintenance Mechanics	\$760
Heating, Air-Conditioning, Refrigeration Mechanics	780
Home Appliance and Power Tool Repairers	600-920
Industrial Machinery Repairers	830
Line Installers and Cable Splicers	1055
Millwrights	1005
Mobile Heavy Equipment Mechanics	880
Motorcycle, Boat, and Small-Engine Mechanics	600
Musical Instrument Repairers and Tuners	
Beginning	305-385
Experienced	765-1535
Office Machine and Cash Register Services	750
Telephone Installers and Repairers	1220
Vending Machine Servicers and Repairers	240-1120

#### Construction Trades and Extractive Occupation

Bricklayers and Stonemasons	820
Carpenters	695
Carpet Installers	660
Concrete Masons and Terrazzo Workers	690
Drywall Workers and Lathers	750
Electricians	945
Glaziers	720
Insulation Workers	740
Painters and Paperhangers	600
Plasterers	750
Plumbers and Pipefitters	940
Roofers	610
Roustabouts	390
Sheet Metal Workers	1400
Structural and Reinforcing Metal Workers	930
Tilesetters	850

#### Production Occupations

Apparel Workers	
Sewing Machine Operators	360
Pressing Machine Operators	400
Bindery Workers	
Beginning	710
Experienced	975

Blue-Collar Worker Supervisors	\$970
Boilermakers	380-1240
Butchers and Meatcutters	750-1195
Compositors and Typesetters	690
Dental Laboratory Technicians	720
Electric Power Generating Plant Operators, Power Distributors and Dispatchers	1120
Inspectors, Testers, Graders	680
Jewelers	
Retail	770
Manufacturing	700-1000
Lithographers and Photoengraving Workers	
Photoengravers	1205
Lithographers	1180
Machinists	840
Metalworking and Plasticworking Machine Operators	
Motor Vehicles and Equipment	1080
Aircraft and Parts	1030
Primary Metal Industries	955
Machinery Manufacturing, Except Electrical	845
Fabricated Metal Products	790
Electrical and Electronic Machinery and Equipment	775
Misc. Plastics Products	650
Numerical-Control Machine-Tool Operators	800
Ophthalmic Laboratory Technicians	385-575
Painting and Coating Machine Operators	620
Photographic Process Workers	500
Precision Assemblers	600
Printing Press Operators	1330
Shoe and Leather Workers and Repairers	600
Stationary Engineers	1230
Textile Machinery Operators	650
Tool-and-Die Makers	1020
Upholsterers	480-1040
Water and Wastewater Treatment Plant Operators	
Operator	775
Supervisor	860

Welders, Cutters, and Welding Machine Operators	
Welding Machine Operators	\$720
Welders and Cutters	1120
Woodworking Occupations	540
<b>Transportation and Material Moving Occupation</b>	
Busdrivers	650
Material Moving Equipment Operators	750
Truckdrivers	
Tractor-Trailers	955
Medium Trucks	885
Heavy Straight Trucks	815
Light Trucks	610
<b>Construction Trades Helpers</b>	550

## **Appendix B:**

### **Day Fines Program for Phoenix, Arizona**

- **Benchmark Scale**
- **Daily Income Reference Table**
- **Daily Income Figures for Skilled Unemployed Defendants**

# Financial Assessment Units by Offense

## Table 2

<u>Code/Class</u>	<u>Charge</u>	<u>Units</u>
13-1703 6F	Arson, Att.	50
13-1703 5F	Arson	85
13-1704 4F	Arson, Solic.	335
13-1703 4F	Arson	170
13-1704 3F	Arson, Att.	340
13-1704 2F	Arson	N/A
13-1203 3M	Assault	15
13-1203 2M	Assault	25
13-1204 1M	Assault, Aggravated, Att.	35
13-1203 1M	Assault	35
13-1204 6F	Assault, Aggravated	70
13-1204 4F	Assault, Aggravated, Att.	190
13-1204 3F	Assault, Aggravated	270
13-1204 2F	Assault, Aggravated	360
13-3305 1M	Betting and Wagering, Att.	20
13-3305 6F	Betting and Wagering	30
13-1506 2M	Burglary, 3rd deg., Att. Facil.	25
13-1506 1M	Burglary, 3rd deg., Facil.	50
13-1507 1M	Burglary, 2nd deg., Att. Facil.	35
13-1507 6F	Burglary, 2nd deg., Facil.	50
13-1506 6F	Burglary, 3rd deg., Solic.	65
13-1506 5F	Burglary, 3rd deg., Att.	120
13-1507 5F	Burglary, 2nd deg., Solic.	160
13-1507 4F	Burglary, 2nd deg., Att.	235
13-1506 4F	Burglary, 3rd deg.	160
13-1507 3F	Burglary, 2nd deg.	340
13-1508 3F	Burglary, 1st deg.	340
13-1508 2F	Burglary, 1st deg.	N/A
13-1505 1M	Burglary Tools, Poss., Att.	15
13-1505 6F	Burglary Tools, Poss.	65
13-3623 1M	Child Abuse, Att.	35
13-3623 6F	Child Abuse	70
13-3623 5F	Child Abuse	125
13-3623 4F	Child Abuse	190
13-3623 3F	Child Abuse	270
13-3623 2F	Child Abuse	N/A
13-1410 3F	Child Molestation, Att.	260
13-1410 2F	Child Molestation	N/A
13-3212 3F	Child Prostitution, Att.	350
13-2316 1M	Computer Fraud, 2nd deg., Att.	20
13-2316 6F	Computer Fraud, 2nd deg.	80
13-2316 3F	Computer Fraud, 1st deg.	200

<u>Code/Class</u>	<u>Charge</u>	<u>Units</u>
13-3453 1M	Cont. Sub., Man.Dis.Pos.Dis.lmitat., Att.	20
13-3453 6F	Cont. Sub., Man.Dis.Pos.Dis.lmitation.	40
13-3613 1M	Contributing to Deliq./Depend. of Child	30
13-1602 2M	Criminal Damage	15
13-1604 1M	Criminal Damage, Aggravated	20
13-1602 1M	Criminal Damage, Att.	20
13-1604 6F	Criminal Damage, Aggravated	60
13-1602 6F	Criminal Damage	45
13-1602 5F	Criminal Damage	100
13-2006 1M	Criminal Impersonation	20
13-2003 1M	Criminal Poss. Forgery Device, Att.	30
13-2003 6F	Criminal Poss. Forgery Device	45
13-2004 6F	Criminal Simulation	30
13-1502 3M	Criminal Trespass, 3rd deg.	10
13-1503 2M	Criminal Trespass, 2nd deg.	15
13-1504 1M	Criminal Trespass, 1st deg.	20
13-1504 6F	Criminal Trespass, 1st deg.	60
13-1302 1M	Custodial Interference	25
13-1302 6F	Custodial Interference	50
13-3407 1M	Dangerous Drug, Poss.	20
13-3407 6F	Dangerous Drug, Poss, Solic.	45
13-3407 5F	Dangerous Drug, Poss., Att.	105
13-3407 4F	Dangerous Drug, Poss.	150
13-3407 3F	Dangerous Drug, Trans./Sell, Att.	220
13-3407 2F	Dangerous Drug, Trans./Sell	320
36-0861 5F	Disinterment of a Human Body	75
13-2904 1M	Disorderly Conduct	20
28-0473 1M	Driving with a Suspended License	20
13-3415 2M	Drug Paraphernalia, Pos.Man.Del., Solic.	15
13-3415 1M	Drug Paraphernalia, Pos.Man.Del., Att.	20
13-3415 6F	Drug Paraphernalia, Pos.Man.Del.	40
28-0692 1M	DUI with One Prior	85
28-0692 6F	DUI with Two Priors, Att.	65
28-0692 5F	DUI with License Suspended	115
13-1201 1M	Endangerment	35
13-1201 6F	Endangerment	70
13-2503 1M	Escape, 2nd deg., Facil.	40
13-2502 1M	Escape, 3rd deg., Att.	40
13-2503 6F	Escape, 2nd deg., Att.	95
13-2502 6F	Escape, 3rd deg.	75
13-2503 5F	Escape, 2nd deg.	195

<u>Code/Class</u>	<u>Charge</u>	<u>Units</u>
13-2507 1M	Failure to Appear, 1st degree, Att.	30
13-3620 1M	Failure to Report Child Abuse	30
13-3002 1M	False or Forged Messages, Att.	20
13-3002 6F	False or Forged Messages	30
13-2907 1M	False Reporting	20
13-2107 1M	False Statement Fin. Cond. or ID, Att.	20
13-2107 6F	False Statement Fin. Cond. or ID	30
23-0785 6F	False Statement	30
13-2703 6F	False Swearing	55
13-2002 1M	Forgery, Facil.	30
13-2002 6F	Forgery, Solic.	45
13-2002 5F	Forgery, Att.	100
13-2002 4F	Forgery	140
13-2104 6F	Forgery of Credit Card	30
44-1220 1M	Fraudulent Insurance Claim, Att.	30
44-1220 6F	Fraudulent Insurance Claim	55
13-2310 1M	Fraudulent Schemes & Arti., Att. Facil.	20
13-2310 6F	Fraudulent Schemes & Arti., Facil.	60
13-2310 4F	Fraudulent Schemes & Arti., Solic.	80
13-2310 3F	Fraudulent Schemes & Arti., Att.	140
13-2310 2F	Fraudulent Schemes & Arti.	295
13-2311 1M	Fraudulent Schemes & Prac., Facil.	20
13-2311 6F	Fraudulent Schemes & Prac., Att.	30
13-2311 5F	Fraudulent Schemes & Prac.	60
13-2105 1M	Fraudulent Use of Credit Card	20
13-2105 6F	Fraudulent Use of Credit Card	30
13-2512 1M	Hindering Prosecution, 1st deg., Facil.	20
13-2512 6F	Hindering Prosecution, 1st deg., Att.	30
13-2512 5F	Hindering Prosecution, 1st deg.	75
13-2312 6F	Illegal Control of an Enter., Facil.	60
13-2312 4F	Illegal Control of an Enter., Att.	140
13-2312 3F	Illegal Control of an Enterprise	200
49-0923 6F	Illegal Disposal of Hazardous Waste	115
13-3608 4F	Incest	260
13-1402 1M	Indecent Exposure	20
13-1402 6F	Indecent Exposure	70
13-2802 1M	Influencing a Witness	30
13-2810 1M	Interfering with Judicial Proceedings	55
13-1807 1M	Issuing a Bad Check	20
13-3208 1M	Keeping/House of Prost., Employee	20
13-3208 6F	Keeping/House of Prost., Operating, Att.	55
13-3208 5F	Keeping/House of Prost., Operating	95

<u>Code/Class</u>	<u>Charge</u>	<u>Units</u>
13-1304 5F	Kidnapping, Att.	130
13-1304 4F	Kidnapping	180
13-1304 3F	Kidnapping	260
13-1304 2F	Kidnapping	N/A
28-0661 1M	Leaving the Scene of an Inj. Acc., Att.	30
28-0661 6F	Leaving the Scene of an Inj. Acc.	55
28-0663 6F	Leaving the Scene of an Inj. Acc.	55
13-2905 3M	Loitering	10
13-2905 1M	Loitering, Att.	20
13-2905 6F	Loitering	30
13-1103 3F	Manslaughter	N/A
13-3405 1M	Marijuana, Poss., Att.	20
13-3405 6F	Marijuana, Poss.	45
13-3405 5F	Marijuana, Poss.	60
13-3405 4F	Marijuana, Poss. for Sale	105
13-3405 3F	Marijuana, Poss. for Sale	150
13-3405 2F	Marijuana, Trans./Sell	220
13-3102 2M	Misconduct Involving Weapons, Att.	20
13-3102 1M	Misconduct Involving Weapons	45
13-3102 6F	Misconduct Involving Weapons	80
13-3102 5F	Misconduct Involving Weapons, Att.	105
13-3102 4F	Misconduct Involving Weapons	145
13-2317 6F	Money Laundering, 2nd deg., Facil.	60
13-2317 3F	Money Laundering, 2nd deg.	200
13-1105 5F	Murder, 1st deg., Facil.	270
13-1105 3F	Murder, 1st deg., Solic.	N/A
13-1104 2F	Murder, 2nd degree, Att.	N/A
13-1105 2F	Murder, 1st degree, Att.	N/A
13-1104 1F	Murder, 2nd degree	N/A
13-1105 1F	Murder, 1st degree	N/A
13-3408 1M	Narcotic Drug, Poss., Facil.	20
13-3408 6F	Narcotic Drug, Poss., Solic.	45
13-3408 5F	Narcotic Drug, Poss., Att.	105
13-3408 4F	Narcotic Drug, Poss.	150
13-3408 3F	Narcotic Drug, Trans./Sell, Att.	220
13-3408 2F	Narcotic Drug, Trans./Sell	320
13-1102 4F	Negligent Homicide	190
13-3506 4F	Obscene/Harmful Items, Furn.to Minors	135
13-3502 1M	Obscene Items, Prod.Publ.Sale...,Facil.	20
13-3502 6F	Obscene Items, Prod.Publ.Sale..., Att.	30
13-2409 5F	Obstructing Criminal Investigations	95
13-3209 5F	Pandering	55

<u>Code/Class</u>	<u>Charge</u>	<u>Units</u>
13-2702 4F	Perjury	135
13-3554 1M	Portraying Adult as Minor	20
13-3406 1M	Prescription Drug, Poss.	20
13-3406 6F	Prescription Drug, Poss. for Sale	30
13-3303 1M	Promoting Gambling, Facil	20
13-3303 6F	Promoting Gambling, Att.	30
13-3303 5F	Promoting Gambling	55
13-2505 1M	Promoting Prison Contraband, Facil.	20
13-2505 6F	Promoting Prison Contraband, Att.	80
13-2505 5F	Promoting Prison Contraband	105
13-2505 4F	Promoting Prison Contraband, Att.	220
13-2505 3F	Promoting Prison Contraband	320
13-3214 1M	Prostitution	20
13-3507 1M	Public Display of Expl. Sex. Mat., Att.	20
13-1403 5F	Public Sexual Indecency to a Minor	260
13-2103 6F	Receipt by Fraud. Use of Credit Card	30
13-3204 6F	Receiving Earnings of a Prostitute, Att.	55
13-3204 5F	Receiving Earnings of Prostitute	95
13-1702 1M	Reckless Burning	35
13-2508 1M	Resisting Arrest, Att.	30
13-2508 6F	Resisting Arrest	75
13-1902 6F	Robbery, Solic.	85
13-1902 5F	Robbery, Att.	120
13-1902 4F	Robbery	235
13-1903 6F	Robbery, Agg., Facil.	85
13-1903 4F	Robbery, Aggravated, Att.	235
13-1903 3F	Robbery, Aggravated	340
13-1904 6F	Robbery, Armed, Facil.	115
13-1904 4F	Robbery, Armed, Solic.	235
13-1904 3F	Robbery, Armed, Att.	340
13-1904 2F	Robbery, Armed	N/A
13-2408 1M	Securing the Proceeds of a Felony, Att.	45
13-2408 6F	Securing the Proceeds of a Felony	55
13-1404 1M	Sexual Abuse, Facil.	35
13-1404 6F	Sexual Abuse, Att.	70
13-1404 5F	Sexual Abuse	130
13-1404 4F	Sexual Abuse, Att.	260
13-1404 3F	Sexual Abuse	350
13-1406 6F	Sexual Assault of a Spouse	180
13-1406 3F	Sexual Assault, Att.	350
13-1406 2F	Sexual Assault	N/A

<u>Code/Class</u>	<u>Charge</u>	<u>Units</u>
13-1405 1M	Sexual Conduct, Minor 15 or >, Att.	50
13-1405 6F	Sexual Conduct, Minor 15 or >	180
13-1405 5F	Sexual Conduct, Minor <15, Solic., Att.	130
13-1405 4F	Sexual Conduct, Minor <15, Solic.	180
13-1405 3F	Sexual Conduct, Minor <15, Att.	260
13-1405 2F	Sexual Conduct, Minor <15	N/A
13-3553 3F	Sexual Exploitation of a Minor, Att.	350
13-3553 2F	Sexual Exploitation of a Minor	350
13-1403 6F	Sexual Indecency to a Minor, Att.	90
13-1805 1M	Shoplifting	20
13-1805 6F	Shoplifting	60
13-2809 1M	Tampering with Physical Evidence, Att.	40
13-2809 6F	Tampering with Physical Evidence	75
13-2407 1M	Tampering with a Public Record, Att.	40
13-2804 6F	Tampering with a Witness	135
13-1802 1M	Theft	20
13-1802 6F	Theft	45
13-1802 5F	Theft	80
13-1802 4F	Theft	100
13-1802 3F	Theft	145
13-2102 1M	Theft of Credit Card, Solic.	20
13-2102 6F	Theft of Credit Card, Att.	45
13-2102 5F	Theft of Credit Card or Fraud. Obtain.	80
13-1804 1M	Theft by Extortion, Facil.	50
13-1804 4F	Theft by Extortion	160
13-1202 1M	Threatening or Intimidating Assault	25
13-2307 1M	Traffic. Stln. Prop., 2nd deg, Att.Facil.	20
13-2307 6F	Traffic. Stln. Prop., 2nd deg., Facil.	45
13-2307 5F	Traffic. Stln. Prop., 2nd deg., Solic.	80
13-2307 4F	Traffic. Stln. Prop., 2nd deg., Att.	100
13-2307 3F	Traffic. Stln. Prop., 2nd deg.	140
13-2307 2F	Traffic. Stln. Prop., 1st deg.	295
13-1806 1M	Unlawful Failure to Return Rented Prop.	20
13-1806 6F	Unlawful Failure to Return Rented Prop.	60
28-0622 6F	Unlawful Flight from Law Officer, Att.	85
28-0622 5F	Unlawful Flight from Law Officer	135
13-1303 1M	Unlawful Imprisonment	35
13-1303 6F	Unlawful Imprisonment	70
13-3701 1M	Unlawful Use of Food Stamps	20
13-3701 6F	Unlawful Use of Food Stamps	30
13-1803 1M	Unlawful Use of Means of Transp., Att.	20
13-1803 6F	Unlawful Use of Means of Transp.	60

<u>Code/Class</u>	<u>Charge</u>	<u>Units</u>
13-2704 6F	Unsworn Falsification	40
13-2916 1M	Use/Telephone to Terrify/Threaten/Harass	30
13-3403 1M	Vapor/Toxic Substance, Pos./Sale	30
13-3403 6F	Vapor/Toxic Substance, Pos./Sale., Att.	80
13-3403 5F	Vapor/Toxic Substance, Pos./Sale	145

May 21, 1991