

11832

SENATE

JUDICIARY

## Bill Text

**BILL ID: SB 48**

00 CS FOR SENATE BILL NO. 48 (HES)  
01 "An Act relating to recommending or refusing psychotropic drugs or certain types of  
02 evaluations or treatments for children."

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

04 \* Section 1. AS 14.30 is amended by adding new sections to read:

05 Article 2A. Psychiatric and Behavioral Evaluations and Treatments.

06 Sec. 14.30.171. Prohibited actions. Except as provided in AS 14.30.172 -

07 14.30.176, school personnel may not, unless otherwise authorized by law,

08 (1) recommend to a parent or guardian that a child take or continue to  
09 take a psychotropic drug as a condition for attending a public school;

10 (2) require that a child take or continue to take a psychotropic drug as a  
11 condition for attending a public school;

12 (3) conduct a psychiatric or behavioral health evaluation of a child;

13 (4) recommend a specific licensed physician, psychologist, or other  
14 health specialist to a parent or guardian for a child;

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01 (5) recommend that a parent or guardian seek or use for a child

02 (A) a psychotropic medication; or

03 (B) a psychiatric or psychological treatment; or

04 (6) ~~except when refusal of consent causes a child to suffer mental~~  
05 ~~injury or neglect, as defined in AS 47.17.290, make a report of suspected child abuse~~  
06 ~~or neglect to authorities, including the Department of Health and Social Services,~~  
07 ~~based solely on the fact that a parent or guardian refuses to give signed consent for~~

08 (A) the administration of a psychotropic drug to a child;

09 (B) a psychiatric, psychological, or behavioral treatment of a  
10 child; or

11 (C) a psychiatric or behavioral health evaluation of a child.

12 Sec. 14.30.172. Communication not prohibited. (a) Nothing in AS 14.30.171  
13 may be construed to prohibit school personnel from

14 (1) consulting or sharing classroom-based observations with parents or  
15 guardians regarding a student's academic and functional performance, behavior in the  
16 classroom or school, or regarding the need for evaluation for special education or  
17 related services as long as school personnel do not

18 (A) make an assertion or recommendation that violates

19 AS 14.30.171; or

20 (B) denigrate, criticize, punish, or attempt to denigrate,  
21 criticize, or punish, a parent, guardian, or child for a decision made by the  
22 parent or guardian pertaining to whether the child takes, does not take, or  
23 discontinues taking a psychotropic medication; or

24 (2) exercising their authority relating to the placement within the  
school or readmission of a child who may be or has been suspended or expelled for a

26 violation of a school disciplinary and safety program adopted under AS 14.33.110 -  
27 14.33.140.  
28 (b) Nothing in AS 14.30.171 may be construed to prevent teachers or other  
29 school personnel from complying with the requirements of AS 47.17.020.  
30 **Sec. 14.30.174. Compliance with federal education law.** (a) Notwithstanding  
31 AS 14.30.171(3) and (5), a behavioral or mental health professional working within a

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01 public school system may for the sole purpose of complying with federal education  
02 law,  
03 (1) recommend, but not require, a psychiatric or behavioral health  
04 evaluation of a child;  
05 (2) recommend, but not require, psychiatric, psychological, or  
06 behavioral treatment for a child; and  
07 (3) conduct a psychiatric or behavioral health evaluation of a child  
08 with the consent of the child's parent or guardian.  
09 (b) In this section,  
10 (1) "behavioral health professional" means a person who has a master's  
11 degree in psychology, social work, counseling, or a related field with specialization  
12 or  
13 experience in working with children experiencing behavioral, physical, and emotional  
14 disabilities, and is working within the scope of the person's training and  
15 experience;  
16 "behavioral health professional" does not include a person employed as a teacher;  
17 (2) "federal education law" means 20 U.S.C. 1400 - 1487 (Individuals  
18 with Disabilities Education Act), 20 U.S.C. 7101 - 7143 (Safe and Drug-Free Schools  
19 and Communities Act of 1994), 29 U.S.C. 794 (nondiscrimination under federal grants  
20 and programs), and 42 U.S.C. 12101 - 12213 (equal opportunity for individuals with  
21 disabilities);  
22 (3) "mental health professional" has the meaning given in  
23 AS 47.30.915.  
24 **Sec. 14.30.176. List of community resources.** Notwithstanding  
25 AS 14.30.171(4), a school district may make available to an interested parent or  
26 guardian a list of community resources, including mental health services if the list  
27 conspicuously states the following: "This list is provided as a resource to you. The  
28 school neither recommends nor requires that you use this list or any of the services  
29 provided by individuals or entities on the list. It is for you to decide what  
30 services, if  
31 any, to use and from whom you wish to obtain them."  
**Sec. 14.30.177. Violations.** (a) A violation of AS 14.30.171 - 14.30.176  
constitutes substantial noncompliance with a school law of the state for purposes of  
dismissal of a teacher under AS 14.20.170 or nonretention of a teacher under

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01 AS 14.20.175.  
02 (b) Each school board shall adopt a bylaw under AS 14.14.100 that provides  
03 that violation of AS 14.30.171 - 14.30.176 is grounds for disciplinary action against  
04 a  
05 person employed by the school district.  
06 **Sec. 14.30.179. Definition.** In AS 14.30.171 - 14.30.179, "public school"  
07 means a school operated by publicly elected or appointed school officials in which  
08 the  
09 program and activities are under the control of those officials and that is supported  
10 by  
11 public funds.  
12 **Sec. 2.** AS 47.10.019 is amended to read:

10           Sec. 47.10.019. Limitations on determinations. (a) Notwithstanding other  
11 provisions of this chapter, the court may not find a minor to be a child in need of aid  
12 under this chapter solely on the basis that the child's family is poor, lacks adequate  
13 housing, or exhibits a lifestyle that is different from the generally accepted  
14 lifestyle  
15           standard of the community where the family lives. However, this subsection  
16 [SECTION] may not be construed to prevent a court from finding that a child is in  
17 need of aid if the child has been subjected to conduct or conditions described in  
18 AS 47.10.011 - 47.10.015.  
19           \* Sec. 3. AS 47.10.019 is amended by adding a new subsection to read:  
20           (b) Notwithstanding other provisions of this chapter, a court may not find a  
21 minor to be a child in need of aid and the department may not initiate an  
22 investigation  
23 or take custody of a child, including emergency custody, solely based on an  
24 allegation  
25 or finding that the child's parent or other person having the care and custody of the  
26 child has refused to consent to  
27           (1) the administration of a psychotropic drug to the child;  
28           (2) a psychiatric, psychological, or behavioral treatment for the child;  
29           or  
30           (3) a psychiatric or behavioral health evaluation of the child.  
31           (c) If however, the court finds that  
              (1) there is medical evidence in the form of blood tests, tissue samples, or  
              other biological tests demonstrating the existence an organic abnormality in the  
              brain of the child; and

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              (2) there is substantial proof that this organic brain abnormality is  
causing serious harm to the child, and other possible contributing causes (including  
medical, psychological, environmental, and nutritional causes) have been ruled out;  
and

              (3) the psychotropic drug to be administered for this brain  
abnormality is not one that has been found by the Food and Drug Administration to  
increase suicidality, increase the risk of cardiovascular problems, or increase the  
risk of brain damage in human subjects; and

              (4) the proposed treatment has been found in a majority of studies to be  
effective in children and;

              (5) other recognized, less invasive forms of treatment have been tried  
then, the court may consider the parent's refusal of consent to the  
administration of a psychotropic drug to the child in deciding whether to find a child  
to be in need of aid and the department may initiate an investigation.

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Anchorage Daily News

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**Senators question Outside PR deal****ANWR: Without hearing or competitive bidding process, \$3 million was budgeted.**

By MATT VOLZ

The Associated Press

*(Published: March 31, 2006)*

JUNEAU -- More state lawmakers are asking how an Oregon public relations firm landed a \$3 million deal to push for the opening of the Arctic National Wildlife Refuge to oil drilling.

The appropriation to Pac/West Communications was put into the state supplemental budget on the House floor Monday without a committee hearing and without going through a competitive bidding process. Another \$750,000 was appropriated to Arctic Power, which has been the state's ANWR lobbyist since 1992.

The money isn't going to either group yet.

The Senate on Thursday voted down the House's changes to the supplemental budget. Some senators voted against other changes in the bill, such as the insertion of additional rural energy assistance money, but others cited the ANWR appropriation as the reason for their no vote.

Sen. Gretchen Guess, D-Anchorage, said she could see no proof that Pac/West has the experience necessary for a targeted national campaign to sway opinion on opening ANWR.

She questioned why a request for proposals was not issued or a list of criteria not drawn up "to get the best national firm with the best chance for opening ANWR."

Senate Majority Leader Gary Stevens, R-Kodiak, said the Republican caucus needed more information about Pac/West. Asked if he had other problems with the House's changes to the supplemental budget, he said no.

"That's the big issue we're concerned about right now," Stevens said. "I think it's good to just take the time and make sure it's the right organization to give money to."

But there may be division within the Senate Republican leadership. Senate President Ben Stevens, R-Anchorage, said he supports the appropriation and Pac/West and there is no need to issue a request for proposals for the project.

"Look, it's a strategy to try and convince votes and to help change public opinion," he said. "It's obviously a strategic maneuver at the national level, so why would we put it out to an RFP and tell the opposition what we want to do?"

Ben Stevens' father, U.S. Sen. Ted Stevens, R-Alaska, the week before had told the Legislature the annual fight in Congress had a greater sense of urgency this year. If it fails again, the ANWR lobby may lose the support of the oil companies that would drill there, he said.

That's why Pac/West was chosen, said House Speaker John Harris, R-Valdez. The public relations firm has shown it cares about Alaska issues and that it's been effective, he said.

When Sen. Stevens was here, he said we have to do this immediately," Harris said. "There are only two groups out there that I'm aware of that could do that, that have shown their presence and interest in doing that. One is Arctic Power, which we've been using for some period of time. The other is Pac/West."

Pac/West has been involved in Alaska politics, particularly ballot initiatives, in recent years. The company is working with the NorthWest Cruise Ship Association to defeat a ballot initiative this year for a \$50-per-passenger cruise ship tax. And in 2004, the company campaigned against an Alaska ballot initiative to ban bear baiting in the state.

It weren't for the immediate need, Harris said, the contract probably would have gone to bid. But sole-source contracts such as this can be and often are done if they are in the interest of the state, Harris said.

There are an estimated 10 billion barrels of oil beneath the tundra east of Prudhoe Bay. Opening ANWR to drilling is strongly supported in Alaska, with as much as 80 percent of the state's treasury dependent on oil taxes and royalties.

Pac/West plans to use the \$3 million to wage public-relations campaigns within the districts of certain congressmen who have voted against ANWR in the past. The company would first identify congressional districts to target, then structure a campaign around the idea that ANWR would ease the nation's dependence on foreign sources of energy.

In an interview with The Associated Press this week, Pac/West president Paul Phillips said his company began speaking more than a year ago with Alaska's congressional delegation and the governor's Washington, D.C., office about an ANWR campaign.

"We've been in the mix for over a year, but has it been public? No, because the timing hasn't been right," Phillips said.

The Senate voted 2-18 Thursday against the House's changes to the supplemental budget. Ben Stevens appointed a conference committee with Republican Sens. Gary Wilken of Fairbanks and Lyda Green of Wasilla, along with Democratic Sen. Lyman Hoffman of Bethel.

Once the House appoints a conference committee, the two sides will meet to work out a final supplemental ending bill.

The bill is Senate Bill 232.

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My remarks are prepared to ease transcription and take 5 minutes. *I'll mostly avoid material that caused this bill to pass out of HE 55.*

TESTIMONY FOR SB 48

I'm testifying in support of SB 48 passage. The aspect of the bill most relevant to your committee is that it just enforces occupational competence for the public good – the essence of occupational licensing. Government always gets a bad name when it isn't consistent in its regulation of businesses and professions. Occupational licensing is the government device to ensure a minimum level of competence in people practicing a craft on the public. The public understands the legitimacy of such regulation and the state bureaucracy to implement it. The conceptual flag for this is the public conviction that it's bad for people to practice medicine without a license. This bill makes a plain attempt to channel parents to people trained to give professional level service and advice. It should be obvious that teacher and school administrator training is not designed to make such people competent to practice medicine, psychology, psychiatry or spiritual counseling.

I wish to focus my testimony on why what is seemingly common sense needs specific law to enforce it. What we are facing is dramatization of the greatest collective failure humanity has – an incompetent ability to understand human behavior. This manifests in the almost universal fear of human irrationality – minimally psychological disorders like what's called "Attention Deficit", and at its extreme form: madness. People who are afraid naturally grasp at anything to settle confusions and threats caused by what they fear. So naturally, faced with inexplicable behavior of children, parents and others grasp advice from nearly any source they conceive to have repute. Thus heavy pharmaceutical marketing and advertisements pushing the apparently scientific idea that man is a chemically motivated, stimulus-response animal exerts tremendous influence. A vacuum of understanding is filled with the alluring concept that "Johnny's mental problems" are caused just by chemical imbalances that are treatable with drugs. This directly tempts one of humanity's most dangerous weaknesses -- lust for shortcuts. This lust has been preyed on since the days of snake oil salesmen and granny love potions – the progenitors of modern pharmaceutical companies.

So out of fear, inadequate understandings and lust for shortcuts, we have the source of child over-medication. The abuse of legal drugs in the over-medication of children should concern you almost more than any other form of substance abuse. Why? Because once a child or youth becomes convinced -- through adult and social encouragement -- that drugs are the simplest answer to becoming normal or happier, he's primed to explore illegal drugs using the same justification. Legality pronouncements hardly impress those already rebelling against ~~compulsively~~ *redemptively* enforced authority.

That's why I am enraged that government has been snookered into permitting – and, even worse, indirectly subsidizing -- the promotion of what is rationalizing substance abuse. And this is while sanctimoniously waging a war against it. Indeed, just two days ago The Washington Post published an article on "Experts Defining Mental Disorders Are Linked To Drug Firms". The LIO here can fax you a copy.

We're talking about the virtual basis of logical thinking – identification of causes and their effects. I don't ask you to blindly agree with me. Don't just depend on the scientifically weak psychology experts, who've replaced the tractability treatment fads of beatings, electro convulsive therapy and lobotomies with a fresh fad of psychotropic drugs. I ask you to use your own minds about what's at stake

Passing SB 48 creates a decent posterity greater than you know. Give yourself the honor of doing so.

Stuart Thompson  
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washingtonpost.com

## Experts Defining Mental Disorders Are Linked to Drug Firms

By Shankar Vedantam  
Washington Post Staff Writer  
Thursday, April 20, 2006; A07

Every psychiatric expert involved in writing the standard diagnostic criteria for disorders such as depression and schizophrenia has had financial ties to drug companies that sell medications for those illnesses, a new analysis has found.

Of the 170 experts in all who contributed to the manual that defines disorders from personality problems to drug addiction, more than half had such ties, including 100 percent of the experts who served on work groups on mood disorders and psychotic disorders. The analysis did not reveal the extent of their relationships with industry or whether those ties preceded or followed their work on the manual.

"I don't think the public is aware of how egregious the financial ties are in the field of psychiatry," said Lisa Cosgrove, a clinical psychologist at the University of Massachusetts in Boston, who is publishing her analysis today in the peer-reviewed journal *Psychotherapy and Psychosomatics*.

The analysis comes at a time of growing debate over the rising use of medication as the primary or sole treatment for many psychiatric disorders, a trend driven in part by definitions of mental disorders in the psychiatric manual.

Cosgrove said she began her research after discovering that five of six panel members studying whether certain premenstrual problems are a psychiatric disorder had ties to Eli Lilly & Co., which was seeking to market its drug Prozac to treat those symptoms. The process of defining such disorders is far from scientific, Cosgrove added: "You would be dismayed at how political the process can be."

The American Psychiatric Association, which publishes the guidelines in its bible of disorders, the Diagnostic and Statistical Manual (DSM), said it is planning to require disclosure of the financial ties of experts who write the next edition of the manual -- due around 2011. The manual carries vast influence over the practice of psychiatry in the United States and around the world.

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Darrel Regier, director of the association's division of research, said that concerns over disclosure are a relatively recent phenomenon, which may be why the last edition, published in 1994, did not note them. Regier and John Kane, an expert on schizophrenia who worked on the last edition, agreed with the need for transparency but said financial ties with industry should not undermine public confidence in the conclusions of its experts. Kane has been a consultant to drug companies including Abbott Laboratories, Eli Lilly, Janssen and Pfizer Inc.

"It shouldn't be assumed there is a true conflict of interest," said Kane, who said his panel's conclusions were driven only by science. "To me, a conflict of interest implies that someone's judgment is going to be influenced by this relationship, and that is not necessarily the case. . . ."

The DSM defines disorders in terms of constellations of symptoms. While neuroscience and genetics are revealing biological aspects to many disorders, there has been unease that psychiatry is ignoring social, psychological and cultural factors in its pursuit of biological explanations and treatments.

"As a profession, we have allowed the biopsychosocial model to become the bio-bio-bio model," Steven Sharfstein, president of the American Psychiatric Association, said in an essay last year to his colleagues. He later added, "If we are seen as mere pill pushers and employees of the pharmaceutical industry, our credibility as a profession is compromised."

He stressed that the association has strict guidelines to police the role of the pharmaceutical industry but said the profession as a whole needs to do a better job monitoring ethical conflicts.

Sharfstein added yesterday that the presence of experts with ties to companies on the manual's expert panels is understandable, given that many of the top experts in the field are involved in drug research.

"I am not surprised that the key people who participate have these kinds of relationships," he said. "They are the major researchers in the field, and are very much on the cutting edge, and will have some kind of relationship -- but there should be full disclosure."

At least one psychiatrist who worked on the current manual criticized the analysis. Nancy Andreasen of the University of Iowa, who headed the schizophrenia team, called the new analysis "very flawed" because it did not distinguish researchers who had ties to industry while serving on the panel from those who formed such ties afterward.

Two out of five researchers on her team had had substantial ties to industry, she said. Andreasen said she would have to check her tax statements to know whether she received money from companies at the time she worked on the panel, but said, "What I do know is

that I do almost nothing with drug companies. . . . My area of research is neuroimaging, not psychopharmacology."

The analysis could not determine the extent or timing of the financial ties because it relied on disclosures in journal publications and other venues that do not mention many details, said Sheldon Krinsky, a science policy specialist at Tufts University who also was an author of the new study. Whether the researchers received money before, during or after their service on the panel did not remove the ethical concern, he said.

Krinsky, the author of the book "Science in the Private Interest," added that although more transparency is welcome, the psychiatric association should staff its panels with disinterested experts.

"When someone is establishing a clinical guideline for the bible of psychiatric diagnosis, I would argue they should have no affiliation with the drug companies in those areas where the companies could benefit from those decisions," he said.

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**SB**

**54**

# SENATE COMMITTEE REPORT

DATE: 3/16/05

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered

SENATE BILL NO. 54

## SB 54 PROTECTIVE ORDERS FOR SEXUAL ASSAULT

"An Act relating to notification to victims of sexual assault; relating to protective orders; and relating to arrests for crimes involving sexual assault, violation of protective orders, or violation of conditions of release."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**  
 Same Title  
 New Title

**House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>				

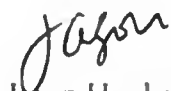
SB 54 History

The bill was drafted to create protective orders for victims of sexual assault. The provisions and remedies mirrored (and were inserted with) the current statutory provisions for **domestic violence** protective orders.

In the Senate State Affairs Committee, the bill was amended to build these new sexual assault protective orders based upon current statutory provisions for **stalking** protective orders, rather than domestic violence. The language was so changed, but the provisions remained located in the **domestic violence** statutory article.

This Committee Substitute simply moves the location of these new sexual assault protective orders into the statutory article regarding **stalking**. This was done upon the advice of the Council on Domestic Violence & Sexual Assault and the Department of Law.

If needed, I will explain the rationale for these changes. Thank you for scheduling the bill.



Jason Hooley, Staff to Senator Fred Dyson

24-LS0132\P  
Mischel  
3/24/05

**CS FOR SENATE BILL NO. 54( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATORS DYSON, Guess**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to protective orders for crimes involving sexual assault or stalking, to**  
2 **notifications to victims of sexual assault, and to mandatory arrest for crimes involving**  
3 **violation of protective orders and violation of conditions of release; and amending Rule**  
4 **65, Alaska Rules of Civil Procedure."**

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

6 **\* Section 1. AS 11.56.740(a) is amended to read:**

7 (a) A person commits the crime of violating a protective order if the person is  
8 subject to a protective order

9 (1) issued or filed under AS 18.66 and containing a provision listed in  
10 AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to commit an act with  
11 reckless disregard that the act violates or would violate a provision of the protective  
12 order; or

13 (2) issued under AS 18.65.850, 18.65.855, or 18.65.860 and knowingly  
14 commits or attempts to commit an act that violates or would violate a provision

1 listed in AS 18.65.850(c)(1) - (3) [IN VIOLATION OF THE ORDER].

2 \* Sec. 2. AS 18.65.530(a) is amended to read:

3 (a) Except as provided in (b) or (c) of this section, a peace officer, with or  
4 without a warrant, shall arrest a person if the officer has probable cause to believe the  
5 person has, either in or outside the presence of the officer, within the previous 12  
6 hours,

7 (1) committed domestic violence, except an offense under  
8 AS 11.41.100 - 11.41.130, whether the crime is a felony or a misdemeanor;

9 (2) committed the crime of violating a protective order in violation of  
10 AS 11.56.740 [AS 11.56.740(a)(1)];

11 (3) violated a condition of release imposed under AS 12.30.025,  
12 12.30.027, or 12.30.029 [AS 12.30.027].

13 \* Sec. 3. AS 18.65.850(a) is amended to read:

14 (a) A person who reasonably believes that the person is a victim of stalking or  
15 sexual assault that is not a crime involving domestic violence may file a petition in  
16 the district or superior court for a [STALKING] protective order against a respondent  
17 who is alleged to have committed the stalking or sexual assault. A parent or guardian  
18 may file a petition on behalf of a minor.

19 \* Sec. 4. AS 18.65.850(b) is amended to read:

20 (b) When a petition for a protective order is filed, the court shall schedule a  
21 hearing and provide at least 10 days' notice to the respondent of the hearing and of the  
22 respondent's right to appear and be heard, either in person or through an attorney. If  
23 the court finds by a preponderance of evidence that the respondent has committed  
24 stalking or sexual assault against the petitioner, regardless of whether the respondent  
25 appears at the hearing, the court may order any relief available under (c) of this  
26 section. The provisions of a protective order issued under this section are effective for  
27 six months unless earlier dissolved by the court.

28 \* Sec. 5. AS 18.65.850(c) is amended to read:

29 (c) A protective order issued under this section may

30 (1) prohibit the respondent from threatening to commit or committing  
31 stalking or sexual assault;

1 (2) prohibit the respondent from telephoning, contacting, or otherwise  
2 communicating directly or indirectly with the petitioner or a designated household  
3 member of the petitioner specifically named by the court;

4 (3) direct the respondent to stay away from the residence, school, or  
5 place of employment of the petitioner, or any specified place frequented by the  
6 petitioner; however, the court may order the respondent to stay away from the  
7 respondent's own residence, school, or place of employment only if the respondent has  
8 been provided actual notice of the opportunity to appear and be heard on the petition;

9 (4) for a protective order for sexual assault, require the respondent  
10 to reimburse the petitioner or other person for expenses incurred as a result of  
11 the sexual assault, including medical and counseling expenses;

12 (5) order other relief the court determines to be necessary to  
13 protect the petitioner or the designated household member.

14 \* Sec. 6. AS 18.65.850 is amended by adding a new subsection to read:

15 (e) A court may not deny a petition for a protective order solely because of a  
16 lapse of time between an act of sexual assault and the filing of the petition.

17 \* Sec. 7. AS 18.65.855 is amended to read:

18 Sec. 18.65.855. Ex parte and emergency protective orders for stalking and  
19 sexual assault. (a) A person who reasonably believes that the person is a victim of  
20 stalking or sexual assault that is not a crime involving domestic violence may file a  
21 petition under AS 18.65.850 and request an ex parte protective order. If the court  
22 finds that the petition establishes probable cause that the crime of stalking or sexual  
23 assault has occurred, that it is necessary to protect the petitioner from further stalking  
24 or sexual assault, and that the petitioner has certified to the court in writing the  
25 efforts, if any, that have been made to provide notice to the respondent, the court shall  
26 ex parte and without notice to the respondent issue a protective order. An ex parte  
27 protective order under this section may grant the protection allowed by  
28 AS 18.65.850(c). An ex parte protective order expires 20 days after it is issued unless  
29 dissolved earlier by the court at the request of either the petitioner or the respondent  
30 after notice and, if requested, a hearing. If the court issues an ex parte protective  
31 order, the court shall have the order delivered to the appropriate law enforcement

1 agency for expedited service.

2 (b) A peace officer, on behalf of and with the consent of a victim of stalking  
3 or sexual assault that is not a crime involving domestic violence, may request an  
4 emergency protective order from a judicial officer. The request may be made orally or  
5 in writing based on the sworn statement of a peace officer, and in person or by  
6 telephone. If the court finds probable cause to believe that the petitioner is in  
7 immediate danger of stalking or sexual assault based on an allegation of the recent  
8 commission of stalking or sexual assault, the court ex parte shall issue an emergency  
9 protective order. An emergency protective order may grant the protection allowed by  
10 AS 18.65.850(c). An emergency protective order expires 72 hours after it is issued  
11 unless dissolved earlier by the court at the request of the petitioner. A peace officer  
12 who obtains an emergency protective order under this section shall

13 (1) place the provisions of an oral order in writing on a form provided  
14 by the court and file the written order with the issuing court by the end of the judicial  
15 day after the order is issued;

16 (2) provide a copy of the order to the petitioner; [AND]

17 (3) serve a copy of the order on the respondent; and

18 (4) enter the protective order in the central registry of protective  
19 orders as required under AS 18.65.540.

20 \* Sec. 8. AS 18.65.865(c) is amended to read:

21 (c) The Department of Public Safety shall develop and make available to law  
22 enforcement agencies in the state a notice that details the rights of victims of stalking  
23 and sexual assault and the services available to them. The form must be similar to  
24 that provided to victims of domestic violence under AS 18.65.520. A peace officer  
25 investigating a stalking or sexual assault offense shall provide the form to the victim.

26 \* Sec. 9. AS 18.65.865 is amended by adding a new subsection to read:

27 ~~of form~~ (d) In addition to other information required, a petition for a protective order  
28 must include a statement of <sup>known</sup> pending civil and criminal actions involving either the  
29 petitioner or the respondent. While a protective order is in effect or a petition for a  
30 protective order is pending, both the petitioner and respondent have a continuing duty  
31 to inform the court of pending civil and criminal actions involving either the petitioner

<sup>known</sup>

1 or the respondent.

2 \* Sec. 10. AS 18.65.870 is amended by adding a new paragraph to read:

3 (4) "sexual assault" has the meaning given in AS 18.60.990.

4 \* Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 INDIRECT COURT RULE AMENDMENT. The provisions of secs. 3 - 7 of this Act  
7 have the effect of changing Rule 65, Alaska Rules of Civil Procedure, by changing the  
8 method for obtaining, and the timing of, temporary restraining orders.

9 \* Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the title  
12 of Article 11 of AS 18.65 from "Stalking Protective Orders and Notifications to Stalking  
13 Victims" to "Stalking and Sexual Assault Protective Orders and Notifications to Stalking and  
14 Sexual Assault Victims," to change the catch line of AS 18.65.85 from "Protective orders for  
15 stalking" to "Protective order for stalking and sexual assault," and to change the catch line of  
16 AS 18.65.860 from "Modification of protective orders for stalking" to "Modification of  
17 protective orders for stalking and sexual assault."



## SENATOR FRED DYSON

### SPONSOR STATEMENT

***SB 54—“An Act relating to protective orders for crimes involving sexual assault and stalking, to notifications to victims of sexual assault, and to mandatory arrest for crimes involving violation of protective orders and violation of conditions of release; and amending Rule 65, Alaska Rules of Civil Procedure.”***

Historically, violent crime in Alaska has exceeded the national averages in nearly every category. Current statistics are no exception. According to a recent FBI report, our state has a stunning rape rate of nearly three times the national average. This annual Uniform Crime Report shows that as violent crime went down nationwide, it went up in Alaska. Forcible rapes in Alaska occurred at a rate of 92.5 per 100,000 people in 2003. The national average was 32.1. Although this latest increase is truly alarming, it may merely reflect the tendency for more victims to choose to report the crimes against them, rather than being solely due to an increase in offenses. Regardless, the problems persist in our state. The report continues to show that Alaska's violent crime rate—which includes murder, nonnegligent manslaughter, forcible rape, robbery, and aggravated assault—increased to 593 per 100,000 people, while the national average was 475.

In the past 30 years, Alaska has ranked among the five worst states nearly each year for its rate of rape. Over 10 times has our state led the nation in this dubious distinction.

Victims of domestic violence and stalking have access to protective orders. The passage of SB 54 will allow victims of sexual assault to seek this protection as well. It is well documented that forcible rapes and sexual assaults are crimes of power, leaving the victim exceedingly fearful. Many times, victims are bullied and/or too terrified to report these crimes. In light of this, SB 54 attempts to grant additional safety to these victims.

These new guidelines for protective orders are modeled after the current statutes for cases involving stalking. Protective orders, ex parte orders, and emergency orders will be available to these victims. This bill focuses on victims of sexual assault (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degrees) and sexual abuse of a minor (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degrees) that is not domestic violence.

2003 FBI Uniform Crime Report: <http://www.fbi.gov/ucr/03cius.htm>



SENATOR FRED DYSON

SECTIONAL ANALYSIS

**SB 54—***"An Act relating to protective orders for crimes involving sexual assault and stalking, to notifications to victims of sexual assault, and to mandatory arrest for crimes involving violation of protective orders and violation of conditions of release; and amending Rule 65, Alaska Rules of Civil Procedure."*

Section 1. Adds to the criminal statutes that violating a sexual assault protective order will be a class A misdemeanor, as is the current penalty for violation of a domestic violence protective order.

Section 2. Adds to the mandatory arrest provision that a peace officer shall make an arrest in cases of violating a protective order or violating conditions of release. This provision includes cases of domestic violence, sexual assault, and stalking—while the current statute mentions only domestic violence.

Section 3. Adds to the remedies available to victims of stalking a provision that allows the court to determine other relevant protections.

Section 4. Creates the availability of protective orders for victims of sexual assault, and gives the respondent the right to be heard in defense. These orders are effective for six months, and offer identical remedies as protective orders for stalking victims.

Section 5. Creates the availability of ex parte orders for victims of sexual assault. Ex parte orders are obtainable without notice to the respondent and are valid for 20 days. In addition, peace officers may acquire emergency protective orders for victims of sexual assault, valid for 72 hours.

Section 6. Provides the guidelines for modification of protective orders.

Section 7. Adds the requirement that victims of sexual assault must inform the court of pending civil and criminal actions against the respondent.

Section 8. Requires the Department of Public Safety to develop a notice to inform the rights of victims of sexual assault and the services available to them. Peace officers who investigate the sexual assault will provide the notice to the victim.

Section 9. Changes Rule 65, Alaska Rules of Civil Procedure, regarding restraining orders.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 54(STA)  
 (S) Publish Date: 3/16/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: An Act relating to notification of RDU: Legal and Advocacy Services  
victims of sexual assault... Component: Public Defender Agency  
 Sponsor: Sens. Dyson, Guess  
 Requester: Senate State Affairs Component No.: 1631

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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 EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill amends or creates statutes and rules to provide for 1) notice of certain rights to alleged victims of sexual assault; 2) mandatory arrest for all crimes of sexual assault, violations of protective orders and violations of conditions of release in sex assault cases; and 3) protective orders for alleged victims of sex assault when not a crime of domestic violence. Under current practice, most people charged with sexual assault, a violation of a protective order or a condition of release in a sex assault case, are already arrested. This bill, if enacted, is not expected to have a fiscal impact on the operations of the Agency.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)334-4416  
 Division: Public Defender Agency Date/Time: 2/15/05 7:34 AM  
 Approved by: Michael Tibbles, Deputy Commissioner Date: 2/15/2005  
 Agency: Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSSB 54(STA)  
 (S) Publish Date: 3/16/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title: Protective Orders & Victim Notification RDU: CRIMINAL  
 Component: CDCO  
 Sponsor: Senators Dyson, Guess  
 Requester: Judiciary Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The bill amends Alaska's law to add a requirement for a victims' rights notification to victims of sexual assault that is not domestic violence. It would enact a mandatory arrest provision for sexual assault, with no opportunity to contact the District Attorney for permission not to arrest in certain cases. It would amend the domestic violence protective order provisions by adding sexual assault that is not domestic violence.

Passage of this legislation and the mandatory arrest requirement will impact prosecution offices throughout the state; however, the extent and fiscal impact of the changes cannot be reliably predicted at this point in time.

Prepared by: Robert Meiners, Dep. Director  
 Division: Administrative Services  
 Approved by: Robert Meiners for Scott Nordstrand, Acting Attorney General  
 Agency: Department of Law

Phone 465-5427  
 Date/Time 2/15/05 9:28 AM  
 Date 2/15/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSSB 54(STA)  
 (S) Publish Date: 3/16/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title: "An act relating to notification to victims of RDU Institutional Facilities  
sexual assault; relating to protective orders; and relating Component Institution Director's Office  
 Sponsor: Senators Dyson, Guess  
 Requester: State Affairs, Judiciary Component No. 524

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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 EXPENDITURES</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>
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<b>CHANGE IN REVENUES ( )</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>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

Passage of this legislation should not have a significant fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Acting Director  
 Division: Administrative Services  
 Approved by: Portia Parker, Deputy Commissioner  
 Agency: Department of Corrections

Phone 465-4641  
 Date/Time 2/15/05 11:44 AM  
 Date 2/15/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSSB 54(STA)  
 (S) Publish Date: 3/16/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An Act relating to sexual assault, RDU Statewide Support  
protective orders, and arrests Component Criminal Records and ID  
 Sponsor Senator Dyson, Guess  
 Requester \_\_\_\_\_ Component No. 1190

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	7.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>7.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	7.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>7.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Section 1 adds a new section to AS 18.65.525 requiring peace officers to provide notice of rights and services to victims of sexual assault. This will require the publication of a new notice booklet, or the modification of the existing domestic violence notice booklet, for dissemination by the Department of Public Safety (DPS).

Continued on page 2.

Prepared by: Director David Schade Phone 269-0202  
 Division Statewide Services Date/Time 2/16/05 12:24 PM  
 Approved by: Commissioner William Tandeske Date 2/16/2005  
 Agency Department of Public Safety

FISCAL NOTE #4

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSSB 54(STA)

**ANALYSIS CONTINUATION**

Section 1 continued: The notice must tell victims that they have the right to ask for officer assistance including asking for an emergency protective order. However, emergency protective orders are not available to victims of sexual assault according to this bill: see section 5, which adds sexual assault to AS 18.6.110(a) for ex parte orders, but not to AS 18.66.110(b) for emergency orders. Also, the notice provision excludes certain provisions in the protective order that are authorized under the bill (see section 4). Also, the notice is required to provide the name and location of the nearest sexual assault program, which may lead to confusion depending on whether the nearest victim advocacy program (of which there are approximately two dozen) is to be considered a sexual assault program, or whether the notice refer only to the one program that specializes in sexual assault, which is in Anchorage.

Section 2 provides for mandatory arrest but fails to provide a critical exception to mandatory arrest that can be approved by the district attorney to facilitate investigations, Sexual Assault Response Team (SART) exams, Glass warrants, etc. (Absent exigent circumstances, the Alaska Constitution requires police to obtain a warrant prior to the surreptitious seizure (by recording) of a conversation. This is commonly referred to as a Glass warrant, the name taken from the case that mandates this type of warrant). It also fails to provide for immunity from civil action (as do other mandatory arrest statutes).

Section 3 adds the definition of "sexual assault" to AS 18.65.590.

Section 4 provides that victims of sexual assault may petition for protective orders under AS 18.66.100, the domestic violence protective order statute, and adds prohibitions against further sexual assault to several specific protection provisions in that statute. There is a potential for confusion in that a victim of a sexual assault by a household member could petition for either a domestic violence order or a sexual assault order (or possibly both) under this provision. This section provides that sexual assault perpetrators may be ordered to attend domestic violence rehabilitation programs, which may be a problem in that programs for perpetrators of domestic violence programs may be distinctly different than programs for perpetrators of sexual assault. Also this section appears to exclude sexual assault orders from the domestic violence registry (under AS 18.65.540) although it does not amend AS 18.65.540, which requires the entry of any order issued pursuant to AS 18.66 to be entered in the registry, which would include sexual assault orders. (This inconsistency appears to exist in section 5 as well.) In order to remain in compliance with AS 18.65.540, DPS will enter sexual assault orders into the registry. This will require modifications to the Alaska Public Safety Information Network (APSIN) to create new 'Sexual Assault protective order file and allow for sexual assault protective orders and sexual assault ex parte orders. These modifications will take approximately two weeks of a contract programmer's time at \$100 per hour.

Section 5 adds that a person who is a victim of "sexual assault" (as well as domestic violence) may obtain an ex parte protective order under AS 18.65.110 (a). It does not add "sexual assault" to the emergency protective order provision of AS 18.65.110 (b). Costs for the programming necessary to APSIN are described in section 4, above.

Section 6 amends AS 18.66.150(b) to add that petitions for protective orders must include statements about pending sexual assault criminal actions involving the petitioner or respondent. (Previously the statute said "domestic violence criminal actions").

Table 1

## Crime in the United States

by Volume and Rate, 1984-2003

Population <sup>1</sup>	Violent crime					Property crime			
	Violent crime	Murder and nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny-theft	Motor vehicle theft
Number of Offenses									
Population by year:									
1984-235,824,902	1,273,282	18,692	84,233	485,008	685,349	10,608,473	2,984,434	6,591,874	1,032,165
1985-237,923,795	1,327,767	18,976	87,671	497,874	723,246	11,102,590	3,073,348	6,926,380	1,102,862
1986-240,132,887	1,489,169	20,613	91,459	542,775	834,322	11,722,700	3,241,410	7,257,153	1,224,137
1987-242,288,918	1,483,999	20,096	91,111	517,704	855,088	12,024,709	3,236,184	7,499,851	1,288,674
1988-244,498,982	1,566,221	20,675	92,486	542,968	910,092	12,356,865	3,218,077	7,705,872	1,432,916
1989-246,819,230	1,646,037	21,500	94,504	578,326	951,707	12,605,412	3,168,170	7,872,442	1,564,800
1990-249,464,396	1,820,127	23,438	102,555	639,271	1,054,863	12,655,486	3,073,909	7,945,670	1,635,907
1991-252,153,092	1,911,767	24,703	106,593	687,732	1,092,739	12,961,116	3,157,150	8,142,228	1,661,738
1992-255,029,699	1,932,274	23,760	109,062	672,478	1,126,974	12,505,917	2,979,884	7,915,199	1,610,834
1993-257,782,608	1,926,017	24,526	106,014	659,870	1,135,607	12,218,777	2,834,808	7,820,909	1,563,060
1994-260,327,021	1,857,670	23,326	102,216	618,949	1,113,179	12,131,873	2,712,774	7,879,812	1,539,287
1995-262,803,276	1,798,792	21,606	97,470	580,509	1,099,207	12,063,935	2,593,784	7,997,710	1,472,441
1996-265,228,572	1,688,540	19,645	96,252	535,594	1,037,049	11,805,323	2,506,400	7,904,685	1,394,238
1997-267,783,607	1,636,096	18,208	96,153	498,534	1,023,201	11,558,475	2,460,526	7,743,760	1,354,189
1998-270,248,003	1,533,887	16,974	93,144	447,186	976,583	10,951,827	2,332,735	7,379,311	1,242,781
1999-272,690,913	1,426,044	15,522	89,411	409,371	911,740	10,208,334	2,100,739	6,955,520	1,152,075
2000-281,421,906	1,425,486	15,586	90,178	408,016	911,706	10,182,584	2,050,992	6,971,590	1,160,002
2001-285,317,559 <sup>2</sup>	1,439,480	16,037	90,863	423,557	909,023	10,437,189	2,116,531	7,092,267	1,228,391
2002-287,973,924 <sup>3</sup>	1,423,677	16,229	95,235	420,806	891,407	10,455,277	2,151,252	7,057,379	1,246,646
2003-290,809,777	1,381,259	16,503	93,433	413,402	857,921	10,435,523	2,153,464	7,021,588	1,260,471
Percent change, number of offenses:									
2003/2002	-3.0	+1.7	-1.9	-1.8	-3.8	-0.2	+0.1	-0.5	+1.1
2003/1999	-3.1	+6.3	+4.5	+1.0	-5.9	+2.2	+2.5	+0.9	+9.4
2003/1994	-25.6	-29.3	-8.6	-33.2	-22.9	-14.0	-20.6	-10.9	-18.1
Rate per 100,000 Inhabitants									
Year:									
1984	539.9	7.9	35.7	205.7	290.6	4,498.5	1,265.5	2,795.2	417.7
1985	558.1	8.0	36.8	209.3	304.0	4,666.4	1,291.7	2,911.2	463.5
1986	620.1	8.6	38.1	226.0	347.4	4,881.8	1,349.8	3,022.1	509.8
1987	612.5	8.3	37.6	213.7	352.9	4,963.0	1,335.7	3,095.4	531.9
1988	640.6	8.5	37.8	222.1	372.2	5,054.0	1,316.2	3,151.7	586.1
1989	666.9	8.7	38.3	234.3	385.6	5,107.1	1,283.6	3,189.6	634.0
1990	729.6	9.4	41.1	256.3	422.9	5,073.1	1,232.2	3,185.1	655.8
1991	758.2	9.8	42.3	272.7	433.4	5,140.2	1,252.1	3,229.1	659.0
1992	757.7	9.3	42.8	263.7	441.9	4,903.7	1,168.4	3,103.6	631.6
1993	747.1	9.5	41.1	256.0	440.5	4,740.0	1,099.7	3,033.9	606.3
1994	713.6	9.0	39.3	237.8	427.6	4,660.2	1,042.1	3,026.9	591.3
1995	684.5	8.2	37.1	220.9	418.3	4,590.5	987.0	3,043.2	560.3
1996	636.1	7.4	36.3	201.9	391.0	4,451.0	945.0	2,980.3	525.7
1997	611.0	6.8	35.9	186.2	382.1	4,316.3	918.8	2,891.8	505.7
1998	567.6	6.3	34.5	165.5	361.4	4,052.5	863.2	2,729.5	459.9
1999	523.0	5.7	32.8	150.1	334.3	3,743.6	770.4	2,550.7	422.5
2000	506.5	5.5	32.0	145.0	324.0	3,618.3	728.8	2,477.3	412.2
2001 <sup>2</sup>	504.5	5.6	31.8	148.5	318.6	3,658.1	741.8	2,485.7	430.5
2002 <sup>3</sup>	494.4	5.6	33.1	146.1	309.5	3,630.6	747.0	2,450.7	432.9
2003	475.0	5.7	32.1	142.2	295.0	3,588.4	740.5	2,414.5	433.4
Percent change, rate per 100,000 inhabitants:									
2003/2002	-3.9	+0.7	-2.8	-2.7	-4.7	-1.2	-0.9	-1.5	+0.1
2003/1999	-9.2	-0.3	-2.0	-5.3	-11.8	-4.1	-3.9	-5.3	+2.6
2003/1994	-33.4	-36.7	-18.2	-40.2	-31.0	-23.0	-28.9	-20.2	-26.7

<sup>1</sup> Populations are U.S. Census Bureau provisional estimates as of July 1 for each year except 1990 and 2000 which are decennial census counts.<sup>2</sup> The murder and nonnegligent homicides that occurred as a result of the events of September 11, 2001, are not included in this table.<sup>3</sup> The 2002 crime figures have been adjusted.

NOTE: Although arson data are included in the trend and clearance tables, sufficient data are not available to estimate totals for this offense.

Table 5

**Crime in the United States  
by State, 2003**

Area	Population	Violent crime					Property crime			
		Violent crime	Murder and nonnegligent firearm deaths	Forcible rape	Robbery	Aggravated assault	Property crime	Burglary	Larceny- theft	Motor vehicle theft
<b>ALABAMA</b>										
Metropolitan Statistical Area	3,179,196									
Area actually reporting	95.2%	14,871	242	1,197	5,305	8,127	139,325	33,305	93,858	12,162
Estimated total	100.0%	15,364	247	1,240	5,441	8,436	144,477	34,489	97,441	12,547
Cities outside metropolitan areas	557,794									
Area actually reporting	92.9%	2,698	30	245	477	1,946	26,129	5,004	19,687	1,438
Estimated total	100.0%	2,881	32	263	507	2,079	27,863	5,339	20,993	1,531
Nonmetropolitan counties	763,762									
Area actually reporting	79.7%	866	16	122	72	656	7,894	2,724	4,469	701
Estimated total	100.0%	1,086	20	153	90	823	9,901	3,417	5,605	879
<b>State Total</b>	<b>4,500,752</b>	<b>19,331</b>	<b>299</b>	<b>1,456</b>	<b>6,018</b>	<b>11,338</b>	<b>182,241</b>	<b>43,245</b>	<b>124,039</b>	<b>14,957</b>
Rate per 100,000 inhabitants		429.5	6.6	36.8	134.2	251.9	4,049.1	960.8	2,756.0	332.3
<b>ALASKA</b>										
Metropolitan Statistical Area	315,592									
Area actually reporting	100.0%	2,222	21	291	389	1,521	14,707	1,798	11,488	1,421
Estimated total										
Cities outside metropolitan areas	122,843									
Area actually reporting	93.4%	689	3	122	30	534	4,421	522	3,471	428
Estimated total	100.0%	738	3	131	32	572	4,733	559	3,716	458
Nonmetropolitan counties	210,383									
Area actually reporting	100.0%	890	15	178	23	674	4,840	1,498	2,773	569
Estimated total										
<b>State Total</b>	<b>648,818</b>	<b>3,850</b>	<b>39</b>	<b>600</b>	<b>444</b>	<b>2,767</b>	<b>24,280</b>	<b>3,855</b>	<b>17,977</b>	<b>2,448</b>
Rate per 100,000 inhabitants		593.4	6.0	92.5	64.4	426.5	3,742.2	594.2	2,770.7	377.3
<b>ARIZONA</b>										
Metropolitan Statistical Area	4,958,626									
Area actually reporting	98.4%	25,894	415	1,719	7,393	16,371	288,776	52,742	181,499	54,535
Estimated total	100.0%	26,208	416	1,745	7,460	16,587	292,974	53,653	184,112	55,209
Cities outside metropolitan areas	302,704									
Area actually reporting	98.8%	1,177	13	68	123	973	14,582	2,663	10,828	1,091
Estimated total	100.0%	1,192	13	69	125	985	14,765	2,696	10,991	1,105
Nonmetropolitan counties	319,481									
Area actually reporting	100.0%	1,238	12	42	34	1,150	6,596	2,264	3,649	683
Estimated total										
<b>State Total</b>	<b>5,580,811</b>	<b>28,638</b>	<b>441</b>	<b>1,856</b>	<b>7,619</b>	<b>18,722</b>	<b>314,335</b>	<b>58,613</b>	<b>198,725</b>	<b>56,997</b>
Rate per 100,000 inhabitants		513.2	7.9	33.3	136.5	335.5	5,632.4	1,050.3	3,560.9	1,021.3
<b>ARKANSAS</b>										
Metropolitan Statistical Area	1,566,369									
Area actually reporting	92.8%	8,199	115	651	1,804	5,629	71,247	15,972	50,710	4,565
Estimated total	100.0%	8,486	117	680	1,830	5,859	74,132	16,800	52,599	4,733
Cities outside metropolitan areas	456,839									
Area actually reporting	86.1%	2,429	25	108	288	2,008	14,204	4,166	9,417	621
Estimated total	100.0%	2,822	29	125	335	2,333	16,501	4,840	10,940	721
Nonmetropolitan counties	702,506									
Area actually reporting	79.6%	894	22	78	50	744	6,431	2,598	3,390	443
Estimated total	100.0%	1,123	28	98	63	934	8,077	3,263	4,258	556
<b>State Total</b>	<b>2,725,714</b>	<b>12,431</b>	<b>174</b>	<b>903</b>	<b>2,228</b>	<b>9,126</b>	<b>98,710</b>	<b>24,903</b>	<b>67,797</b>	<b>6,010</b>
Rate per 100,000 inhabitants		456.1	6.4	33.1	81.7	334.8	3,621.4	913.6	2,487.3	220.5
<b>CALIFORNIA</b>										
Metropolitan Statistical Area	34,663,398									
Area actually reporting	100.0%	202,433	2,369	9,695	63,482	126,887	1,191,157	235,397	716,933	238,827
Estimated total										
Cities outside metropolitan areas	263,004									
Area actually reporting	100.0%	1,397	7	152	180	1,058	12,364	2,960	8,383	1,021
Estimated total										
Nonmetropolitan counties	558,031									
Area actually reporting	100.0%	1,721	31	147	108	1,435	11,565	3,917	6,170	1,478
Estimated total										
<b>State Total</b>	<b>35,484,433</b>	<b>205,551</b>	<b>2,407</b>	<b>9,994</b>	<b>63,770</b>	<b>129,380</b>	<b>1,215,086</b>	<b>242,274</b>	<b>731,486</b>	<b>241,326</b>
Rate per 100,000 inhabitants		579.3	6.8	28.2	179.7	364.6	3,424.3	682.8	2,061.4	680.1
<b>COLORADO</b>										
Metropolitan Statistical Area	3,900,941									
Area actually reporting	95.4%	13,767	160	1,638	3,562	8,407	154,403	28,339	105,124	20,940
Estimated total	100.0%	14,276	164	1,699	3,669	8,744	162,012	29,524	110,630	21,858
Cities outside metropolitan areas	295,314									
Area actually reporting	87.4%	863	9	135	52	667	11,047	1,648	8,923	476
Estimated total	100.0%	986	10	154	59	763	12,635	1,885	10,206	544
Nonmetropolitan counties	354,433									
Area actually reporting	94.5%	420	3	38	7	372	4,435	908	3,246	281
Estimated total	100.0%	444	3	40	7	394	4,693	961	3,435	297
<b>State Total</b>	<b>4,550,688</b>	<b>15,706</b>	<b>177</b>	<b>1,893</b>	<b>3,735</b>	<b>9,901</b>	<b>179,340</b>	<b>32,370</b>	<b>124,271</b>	<b>22,699</b>
Rate per 100,000 inhabitants		345.1	3.9	41.6	82.1	217.6	3,940.9	711.3	2,730.8	498.8
<b>CONNECTICUT</b>										
Metropolitan Statistical Area	2,813,777									
Area actually reporting	100.0%	9,359	101	570	4,002	4,686	81,477	13,071	58,074	10,332
Estimated total										
Cities outside metropolitan areas	157,399									
Area actually reporting	100.0%	300	0	26	66	208	3,307	640	2,445	222
Estimated total										
Nonmetropolitan counties	512,196									
Area actually reporting	100.0%	1,077	3	56	78	940	6,017	1,898	3,647	472
Estimated total										
<b>State Total</b>	<b>3,483,372</b>	<b>10,736</b>	<b>104</b>	<b>652</b>	<b>4,146</b>	<b>5,834</b>	<b>90,801</b>	<b>15,609</b>	<b>64,166</b>	<b>11,026</b>
Rate per 100,000 inhabitants		308.2	3.0	18.7	119.0	167.5	2,606.7	448.1	1,842.1	316.5
<b>DELAWARE</b>										
Metropolitan Statistical Area	651,493									
Area actually reporting	100.0%	4,430	19	278	1,272	3,861	22,802	4,662	15,478	2,662
Estimated total										
Cities outside metropolitan areas	38,608									
Area actually reporting	100.0%	340	0	24	72	244	2,051	427	1,567	57
Estimated total										
Nonmetropolitan counties	127,390									
Area actually reporting	100.0%	609	5	51	45	508	2,814	877	1,776	161
Estimated total										
<b>State Total</b>	<b>817,491</b>	<b>5,379</b>	<b>24</b>	<b>353</b>	<b>1,389</b>	<b>4,613</b>	<b>27,667</b>	<b>5,966</b>	<b>18,821</b>	<b>2,880</b>
Rate per 100,000 inhabitants		658.0	2.9	43.2	169.9	442.0	3,384.4	729.8	2,302.3	352.3

**DISTRICT OF COLUMBIA<sup>1</sup>**

Metropolitan Statistical Area	563,384									
Area actually reporting	100.0%	9,060	249	274	3,941	4,596	32,678	4,671	18,104	9,903
Cities outside metropolitan areas	None									
Nonmetropolitan counties	None									
<b>Total</b>	<b>563,384</b>	<b>9,060</b>	<b>249</b>	<b>274</b>	<b>3,941</b>	<b>4,596</b>	<b>32,678</b>	<b>4,671</b>	<b>18,104</b>	<b>9,903</b>
Rate per 100,000 inhabitants		1,608.1	44.2	48.6	699.5	813.8	5,800.3	829.1	3,213.4	1,757.8

**FLORIDA**

Metropolitan Statistical Area	13,959,074									
Area actually reporting	99.9%	118,630	872	6,335	30,844	80,579	725,538	161,346	484,816	79,376
Estimated total	100.0%	118,639	872	6,337	30,852	80,598	725,762	161,392	484,973	79,397
Cities outside metropolitan areas	196,937									
Area actually reporting	99.2%	1,746	11	81	327	1,327	11,687	2,634	8,333	720
Estimated total	100.0%	1,761	11	82	330	1,338	11,780	2,655	8,399	726
Nonmetropolitan counties	863,057									
Area actually reporting	100.0%	3,860	41	308	341	3,170	20,154	8,597	12,117	1,440
<b>State Total</b>	<b>17,919,068</b>	<b>124,280</b>	<b>924</b>	<b>6,727</b>	<b>31,523</b>	<b>85,106</b>	<b>757,696</b>	<b>170,644</b>	<b>505,489</b>	<b>81,543</b>
Rate per 100,000 inhabitants		730.2	5.4	39.5	185.2	500.1	4,452.0	1,002.7	2,970.1	479.2

**GEORGIA**

Metropolitan Statistical Area	6,964,510									
Area actually reporting	97.1%	31,989	563	1,828	12,668	16,930	302,922	61,860	199,987	39,075
Estimated total	100.0%	32,721	573	1,876	12,936	17,336	311,054	65,516	205,459	40,079
Cities outside metropolitan areas	642,357									
Area actually reporting	85.1%	3,511	44	201	746	2,520	30,512	5,917	23,222	1,373
Estimated total	100.0%	4,127	52	236	877	2,962	35,857	6,954	27,289	1,614
Nonmetropolitan counties	1,077,848									
Area actually reporting	87.4%	1,251	27	106	212	1,906	19,750	5,675	12,608	1,467
Estimated total	100.0%	2,574	31	121	242	2,180	22,590	6,491	14,421	1,678
<b>State Total</b>	<b>8,684,715</b>	<b>39,422</b>	<b>656</b>	<b>2,233</b>	<b>14,955</b>	<b>22,478</b>	<b>369,501</b>	<b>78,961</b>	<b>247,169</b>	<b>43,371</b>
Rate per 100,000 inhabitants		453.9	7.6	25.7	161.8	258.8	4,254.6	909.2	2,846.0	499.4

**HAWAII**

Metropolitan Statistical Area	905,301									
Area actually reporting	100.0%	2,606	15	266	989	1,336	48,306	7,967	32,066	8,233
Cities outside metropolitan areas	None									
Nonmetropolitan counties	352,307									
Area actually reporting	100.0%	794	7	101	179	507	17,561	3,442	12,721	1,398
<b>State Total</b>	<b>1,257,608</b>	<b>3,400</b>	<b>22</b>	<b>367</b>	<b>1,168</b>	<b>1,843</b>	<b>65,867</b>	<b>11,409</b>	<b>44,887</b>	<b>9,651</b>
Rate per 100,000 inhabitants		270.4	1.7	29.2	92.9	146.5	5,237.5	907.2	3,562.9	767.4

**IDAHO**

Metropolitan Statistical Area	864,948									
Area actually reporting	99.0%	2,354	17	402	195	1,740	28,531	5,308	21,332	1,891
Estimated total	100.0%	2,370	17	405	195	1,753	28,715	5,352	21,460	1,903
Cities outside metropolitan areas	212,78									
Area actually reporting	97.7%	491	0	52	37	402	7,067	1,419	5,279	369
Estimated total	100.0%	502	0	53	38	411	7,233	1,452	5,403	378
Nonmetropolitan counties	288,806									
Area actually reporting	98.4%	437	8	49	11	369	3,733	971	2,439	323
Estimated total	100.0%	444	8	50	11	375	3,794	987	2,479	328
<b>State Total</b>	<b>1,366,332</b>	<b>3,316</b>	<b>25</b>	<b>508</b>	<b>244</b>	<b>2,539</b>	<b>39,742</b>	<b>7,791</b>	<b>29,342</b>	<b>2,609</b>
Rate per 100,000 inhabitants		242.7	1.8	37.2	17.9	185.8	2,908.7	570.2	2,147.5	190.9

**ILLINOIS<sup>2</sup>**

<b>State Total</b>	<b>12,653,544</b>	<b>78,456</b>	<b>896</b>	<b>4,167</b>	<b>23,809</b>	<b>41,584</b>	<b>415,593</b>	<b>78,288</b>	<b>295,541</b>	<b>41,764</b>
Rate per 100,000 inhabitants		556.8	7.1	32.9	188.2	528.6	3,284.4	618.7	2,335.6	330.1

**INDIANA**

Metropolitan Statistical Area	4,790,924									
Area actually reporting	91.2%	18,489	312	1,371	5,839	10,967	165,349	32,915	114,774	17,860
Estimated total	100.0%	19,314	317	1,437	5,991	11,569	174,579	34,672	121,187	18,720
Cities outside metropolitan areas	507,223									
Area actually reporting	86.8%	978	8	104	223	643	18,672	3,211	14,493	968
Estimated total	100.0%	1,126	9	120	257	740	21,499	3,697	16,687	1,115
Nonmetropolitan counties	897,496									
Area actually reporting	59.4%	841	9	97	92	643	7,101	1,908	4,639	554
Estimated total	100.0%	1,416	15	163	155	1,083	11,956	3,212	7,811	933
<b>State Total</b>	<b>6,195,643</b>	<b>21,856</b>	<b>341</b>	<b>1,720</b>	<b>6,403</b>	<b>13,392</b>	<b>208,034</b>	<b>41,581</b>	<b>145,685</b>	<b>20,768</b>
Rate per 100,000 inhabitants		352.8	5.5	27.8	103.3	216.2	3,357.7	671.1	2,351.4	335.2

**IOWA**

Metropolitan Statistical Area	1,592,457									
Area actually reporting	98.6%	5,734	37	577	1,005	4,115	61,238	11,192	45,787	4,259
Estimated total	100.0%	5,778	37	582	1,010	4,149	61,890	11,303	46,303	4,284
Cities outside metropolitan areas	594,558									
Area actually reporting	91.0%	1,622	5	137	95	1,385	18,059	3,860	13,376	823
Estimated total	100.0%	1,783	5	151	104	1,523	19,852	4,243	14,704	905
Nonmetropolitan counties	757,047									
Area actually reporting	99.3%	456	5	29	9	413	5,398	1,986	3,003	409
Estimated total	100.0%	459	5	29	9	416	5,436	2,000	3,024	412
<b>State Total</b>	<b>2,944,062</b>	<b>8,020</b>	<b>47</b>	<b>762</b>	<b>1,123</b>	<b>6,088</b>	<b>87,178</b>	<b>17,546</b>	<b>64,031</b>	<b>5,601</b>
Rate per 100,000 inhabitants		272.4	1.6	25.9	38.1	206.8	2,961.1	596.0	2,174.9	190.2

**KANSAS**

Metropolitan Statistical Area	1,691,995									
Area actually reporting	96.7%	7,559	79	659	1,969	4,852	72,431	14,104	52,314	6,013
Estimated total	100.0%	7,737	80	677	2,007	4,973	74,483	14,468	53,837	6,178
Cities outside metropolitan areas	605,937									
Area actually reporting	95.5%	2,110	34	248	199	1,629	25,391	5,046	19,315	1,030
Estimated total	100.0%	2,210	36	260	208	1,706	26,598	5,286	20,233	1,079
Nonmetropolitan counties	425,575									
Area actually reporting	97.3%	802	7	102	30	663	7,491	2,076	4,909	506
Estimated total	100.0%	824	7	105	31	681	7,696	2,133	5,043	520
<b>State Total</b>	<b>2,723,507</b>	<b>10,771</b>	<b>123</b>	<b>1,042</b>	<b>2,246</b>	<b>7,360</b>	<b>108,777</b>	<b>21,887</b>	<b>79,113</b>	<b>7,777</b>
Rate per 100,000 inhabitants		395.5	4.5	38.3	82.5	270.2	3,994.0	803.6	2,904.8	285.6

**KENTUCKY<sup>1</sup>**

<b>State Total</b>	<b>4,117,827</b>	<b>10,777</b>	<b>188</b>	<b>1,054</b>	<b>3,196</b>	<b>6,339</b>	<b>110,418</b>	<b>27,656</b>	<b>73,396</b>	<b>9,366</b>
Rate per 100,000 inhabitants		261.7	4.6	25.6	77.6	153.9	2,681.5	671.6	1,782.4	227.5

## LOUISIANA

Metropolitan Statistical Area	3,348,338												
Area actually reporting	97.9%	22,398	495	1,514	6,254	14,135	155,065	34,164	103,087	19,814			
Estimated total	100.0%	22,799	497	1,537	6,333	14,432	158,822	34,822	105,952	18,048			
Cities outside metropolitan areas	420,432												
Area actually reporting	74.7%	2,389	26	125	367	1,871	16,728	4,234	11,772	722			
Estimated total	100.0%	3,197	35	167	491	2,504	22,389	5,067	15,756	966			
Nonmetropolitan counties	707,564												
Area actually reporting	88.5%	2,713	48	128	317	2,320	12,703	3,882	8,053	768			
Estimated total	100.0%	3,066	54	145	245	2,622	14,358	4,388	9,102	868			
<b>State Total</b>	<b>4,496,334</b>	<b>29,862</b>	<b>586</b>	<b>1,849</b>	<b>7,069</b>	<b>19,558</b>	<b>195,569</b>	<b>44,877</b>	<b>136,818</b>	<b>19,892</b>			
Rate per 100,000 inhabitants		646.3	13.0	41.1	157.2	435.0	4,349.5	998.1	2,909.3	442.2			

## MAINE

Metropolitan Statistical Area	737,912												
Area actually reporting	100.0%	874	10	224	243	397	19,985	3,763	15,229	893			
Cities outside metropolitan areas	276,145												
Area actually reporting	100.0%	397	3	99	38	257	8,323	1,547	6,441	334			
Nonmetropolitan counties	271,871												
Area actually reporting	100.0%	151	3	31	8	109	1,771	1,269	2,273	229			
<b>State Total</b>	<b>1,305,728</b>	<b>1,422</b>	<b>16</b>	<b>354</b>	<b>289</b>	<b>763</b>	<b>32,078</b>	<b>6,579</b>	<b>24,843</b>	<b>1,456</b>			
Rate per 100,000 inhabitants		108.9	1.2	27.1	22.1	58.4	2,456.7	503.9	1,841.3	111.5			

## MARYLAND

Metropolitan Statistical Area	5,223,096												
Area actually reporting	100.0%	37,461	520	1,276	13,147	22,518	201,714	37,049	128,701	35,964			
Cities outside metropolitan areas	73,338												
Area actually reporting	100.0%	632	2	40	92	498	4,063	642	3,241	180			
Nonmetropolitan counties	212,475												
Area actually reporting	100.0%	685	3	42	63	577	3,641	950	2,430	261			
<b>State Total</b>	<b>5,508,909</b>	<b>38,778</b>	<b>525</b>	<b>1,358</b>	<b>13,302</b>	<b>23,593</b>	<b>209,418</b>	<b>38,641</b>	<b>134,372</b>	<b>36,465</b>			
Rate per 100,000 inhabitants		703.9	9.5	24.7	241.5	428.3	3,801.4	701.4	2,439.2	660.8			

## MASSACHUSETTS

Metropolitan Statistical Area	6,400,207												
Area actually reporting	97.0%	29,564	142	1,760	7,887	19,775	159,700	33,851	100,813	25,036			
Estimated total	100.0%	30,122	142	1,795	7,982	20,203	163,170	34,621	103,067	25,482			
Cities outside metropolitan areas	32,237												
Area actually reporting	87.1%	56	0	3	3	50	739	88	630	21			
Estimated total	100.0%	74	0	3	3	68	848	101	723	24			
Nonmetropolitan counties	978												
Area actually reporting	100.0%	0	0	0	0	0	0	0	0	0			
<b>State Total</b>	<b>6,433,422</b>	<b>30,196</b>	<b>142</b>	<b>1,798</b>	<b>7,985</b>	<b>20,271</b>	<b>164,018</b>	<b>34,722</b>	<b>103,790</b>	<b>25,506</b>			
Rate per 100,000 inhabitants		469.4	2.2	27.9	124.1	315.1	2,549.5	539.7	1,613.3	396.5			

## MICHIGAN

Metropolitan Statistical Area	8,213,764												
Area actually reporting	99.4%	47,359	591	4,254	11,074	31,440	286,422	57,943	177,145	51,334			
Estimated total	100.0%	47,498	591	4,271	11,104	31,532	288,034	58,213	178,297	51,524			
Cities outside metropolitan areas	643,814												
Area actually reporting	91.9%	1,414	4	339	82	989	18,855	2,706	15,409	740			
Estimated total	100.0%	1,511	4	363	88	1,056	20,251	2,905	16,549	797			
Nonmetropolitan counties	1,222,407												
Area actually reporting	97.5%	2,452	21	797	63	1,571	21,528	6,966	13,182	1,380			
Estimated total	100.0%	2,515	22	817	65	1,611	22,071	7,142	13,514	1,415			
<b>State Total</b>	<b>10,079,985</b>	<b>51,524</b>	<b>617</b>	<b>5,451</b>	<b>11,257</b>	<b>34,199</b>	<b>330,356</b>	<b>68,260</b>	<b>208,360</b>	<b>53,736</b>			
Rate per 100,000 inhabitants		511.2	6.1	54.1	111.7	339.3	3,277.3	677.2	2,067.1	533.1			

## MINNESOTA

Metropolitan Statistical Area	3,654,803												
Area actually reporting	94.3%	11,001	102	1,487	3,690	5,722	117,187	19,488	86,591	11,108			
Estimated total	100.0%	11,315	102	1,545	3,757	5,908	123,606	20,347	91,724	11,535			
Cities outside metropolitan areas	548,339												
Area actually reporting	99.5%	1,080	9	276	102	693	19,661	2,797	15,861	1,003			
Estimated total	100.0%	1,086	9	277	103	697	19,760	2,811	15,941	1,008			
Nonmetropolitan counties	856,233												
Area actually reporting	100.0%	887	14	261	44	568	14,325	4,538	8,571	1,216			
<b>State Total</b>	<b>5,059,375</b>	<b>13,288</b>	<b>128</b>	<b>2,083</b>	<b>3,904</b>	<b>7,173</b>	<b>157,691</b>	<b>27,696</b>	<b>116,236</b>	<b>13,759</b>			
Rate per 100,000 inhabitants		262.6	2.5	41.2	77.2	141.8	3,116.8	547.4	2,297.4	272.0			

## MISSISSIPPI

Metropolitan Statistical Area	1,228,282												
Area actually reporting	81.6%	3,999	93	497	1,820	1,589	50,539	13,344	31,500	5,695			
Estimated total	100.0%	4,505	105	555	1,952	1,893	57,394	15,164	35,868	6,362			
Cities outside metropolitan areas	604,143												
Area actually reporting	78.8%	2,131	56	258	657	1,160	27,283	6,348	19,745	1,190			
Estimated total	100.0%	2,706	71	328	834	1,473	34,644	8,061	25,072	1,511			
Nonmetropolitan counties	1,048,856												
Area actually reporting	41.3%	895	38	80	96	681	6,256	2,730	3,082	444			
Estimated total	100.0%	2,169	92	194	233	1,650	15,157	6,614	7,467	1,076			
<b>State Total</b>	<b>2,881,281</b>	<b>9,380</b>	<b>268</b>	<b>1,077</b>	<b>3,019</b>	<b>5,016</b>	<b>107,195</b>	<b>29,839</b>	<b>68,407</b>	<b>8,949</b>			
Rate per 100,000 inhabitants		325.5	9.3	37.4	104.8	174.1	3,720.4	1,035.6	2,374.2	310.6			

## MISSOURI

Metropolitan Statistical Area	4,161,628												
Area actually reporting	99.9%	22,469	240	1,091	5,898	15,240	190,529	31,803	132,006	26,720			
Estimated total	100.0%	22,478	240	1,092	5,900	15,246	190,642	31,820	132,091	26,731			
Cities outside metropolitan areas	667,620												
Area actually reporting	100.0%	2,450	25	186	229	2,010	25,748	4,557	20,198	993			
Nonmetropolitan counties	875,236												
Area actually reporting	100.0%	2,040	23	116	74	1,827	12,614	4,531	7,148	935			
<b>State Total</b>	<b>5,704,484</b>	<b>26,968</b>	<b>288</b>	<b>1,394</b>	<b>6,203</b>	<b>19,083</b>	<b>229,004</b>	<b>40,908</b>	<b>159,437</b>	<b>28,659</b>			
Rate per 100,000 inhabitants		472.8	5.0	24.4	108.7	334.5	4,014.5	717.1	2,794.9	502.4			

<b>MONTANA</b>										
Metropolitan Statistical Area	321,851									
Area actually reporting	82.9%	957	17	99	230	666	13,144	1,606	10,666	872
Estimated total	100.0%	1,053	13	83	224	733	13,939	1,698	11,309	932
Cities outside metropolitan areas	180,244									
Area actually reporting	70.2%	650	4	56	31	539	5,458	554	4,607	297
Estimated total	100.0%	927	6	80	44	797	7,777	789	6,565	423
Nonmetropolitan counties	415,726									
Area actually reporting	70.0%	974	8	72	21	873	4,700	865	3,449	386
Estimated total	100.0%	1,391	11	103	30	1,247	6,712	1,235	4,926	551
<b>State Total</b>	<b>917,621</b>	<b>3,391</b>	<b>30</b>	<b>246</b>	<b>298</b>	<b>2,777</b>	<b>28,428</b>	<b>3,722</b>	<b>22,800</b>	<b>1,906</b>
Rate per 100,000 inhabitants	365.2		3.3	26.8	32.5	302.6	3,098.0	405.6	2,484.7	207.7
<b>NEBRASKA</b>										
Metropolitan Statistical Area	872,426									
Area actually reporting	98.1%	4,071	43	323	1,081	2,624	45,104	6,669	33,198	5,237
Estimated total	100.0%	4,091	43	325	1,083	2,640	45,395	6,730	33,403	5,262
Cities outside metropolitan areas	395,801									
Area actually reporting	89.3%	588	7	106	60	415	13,075	1,849	10,693	533
Estimated total	100.0%	659	8	119	67	465	14,640	2,070	11,973	597
Nonmetropolitan counties	371,064									
Area actually reporting	91.6%	253	5	47	11	190	4,136	1,165	2,728	243
Estimated total	100.0%	276	5	51	12	208	4,517	1,272	2,980	265
<b>State Total</b>	<b>1,739,291</b>	<b>9,026</b>	<b>56</b>	<b>495</b>	<b>1,162</b>	<b>3,313</b>	<b>64,552</b>	<b>10,872</b>	<b>48,356</b>	<b>6,124</b>
Rate per 100,000 inhabitants	289.0		3.2	28.5	66.8	190.5	3,711.4	579.1	2,780.2	352.1
<b>NEVADA</b>										
Metropolitan Statistical Area	2,002,686									
Area actually reporting	100.0%	13,117	193	813	5,094	7,017	90,426	20,215	49,780	20,431
Cities outside metropolitan areas	43,757									
Area actually reporting	100.0%	116	1	10	25	80	1,597	348	1,157	92
Nonmetropolitan counties	194,711									
Area actually reporting	100.0%	532	3	51	43	435	4,086	1,414	2,357	315
<b>State Total</b>	<b>2,241,154</b>	<b>13,765</b>	<b>197</b>	<b>874</b>	<b>5,162</b>	<b>7,532</b>	<b>96,109</b>	<b>21,977</b>	<b>53,294</b>	<b>20,838</b>
Rate per 100,000 inhabitants	614.2		8.8	39.0	230.3	336.1	4,288.4	980.6	2,378.0	929.8
<b>NEW HAMPSHIRE</b>										
Metropolitan Statistical Area	804,274									
Area actually reporting	85.3%	1,262	12	236	387	627	14,907	2,459	11,153	1,295
Estimated total	100.0%	1,393	13	271	411	698	16,871	2,734	12,704	1,433
Cities outside metropolitan areas	426,204									
Area actually reporting	66.1%	315	3	90	43	179	6,109	1,121	4,687	301
Estimated total	100.0%	477	5	136	65	271	9,242	1,696	7,091	455
Nonmetropolitan counties	57,209									
Area actually reporting	81.9%	38	0	16	2	20	275	100	151	24
Estimated total	100.0%	46	0	20	2	24	335	122	184	29
<b>State Total</b>	<b>1,287,687</b>	<b>1,916</b>	<b>18</b>	<b>427</b>	<b>478</b>	<b>993</b>	<b>26,448</b>	<b>4,552</b>	<b>19,979</b>	<b>1,917</b>
Rate per 100,000 inhabitants	148.8		1.4	35.2	37.1	77.1	2,053.9	353.5	1,551.5	148.9
<b>NEW JERSEY</b>										
Metropolitan Statistical Area	8,638,396									
Area actually reporting	100.0%	31,599	407	1,325	13,366	16,501	219,799	43,453	141,778	34,568
Cities outside metropolitan areas	None									
Nonmetropolitan counties	None									
<b>State Total</b>	<b>8,638,396</b>	<b>31,599</b>	<b>407</b>	<b>1,325</b>	<b>13,366</b>	<b>16,501</b>	<b>219,799</b>	<b>43,453</b>	<b>141,778</b>	<b>34,568</b>
Rate per 100,000 inhabitants	365.8		4.7	15.3	154.7	191.0	2,544.4	503.0	1,641.3	400.2
<b>NEW MEXICO</b>										
Metropolitan Statistical Area	1,200,062									
Area actually reporting	88.0%	7,758	75	614	1,493	5,576	49,668	11,777	32,206	5,685
Estimated total	100.0%	8,454	79	672	1,565	6,138	52,717	12,715	33,993	6,009
Cities outside metropolitan areas	397,362									
Area actually reporting	91.3%	3,105	21	163	315	2,606	18,983	4,465	13,593	925
Estimated total	100.0%	3,402	23	179	345	2,855	20,794	4,891	14,890	1,013
Nonmetropolitan counties	277,190									
Area actually reporting	70.5%	433	7	61	28	337	2,673	1,137	1,371	165
Estimated total	100.0%	614	10	86	40	478	3,790	1,612	1,944	234
<b>State Total</b>	<b>1,874,614</b>	<b>12,470</b>	<b>112</b>	<b>937</b>	<b>1,958</b>	<b>9,471</b>	<b>77,301</b>	<b>19,218</b>	<b>50,827</b>	<b>7,256</b>
Rate per 100,000 inhabitants	665.2		6.0	50.0	104.0	505.2	4,123.6	1,025.2	2,711.3	387.1
<b>NEW YORK</b>										
Metropolitan Statistical Area	17,630,414									
Area actually reporting	99.3%	85,641	909	3,244	35,348	46,140	397,171	67,795	285,262	44,114
Estimated total	100.0%	85,872	909	3,255	35,427	46,281	399,777	68,176	287,311	44,290
Cities outside metropolitan areas	582,644									
Area actually reporting	90.0%	1,328	6	184	208	930	15,573	2,564	12,627	382
Estimated total	100.0%	1,475	7	204	231	1,033	17,297	2,848	14,025	424
Nonmetropolitan counties	777,057									
Area actually reporting	93.0%	1,783	17	292	93	1,381	13,362	4,154	8,740	468
Estimated total	100.0%	1,918	18	314	100	1,486	14,374	4,469	9,402	503
<b>State Total</b>	<b>19,190,115</b>	<b>89,265</b>	<b>934</b>	<b>3,773</b>	<b>35,758</b>	<b>48,800</b>	<b>431,448</b>	<b>75,493</b>	<b>310,738</b>	<b>45,217</b>
Rate per 100,000 inhabitants	465.2		4.9	19.7	186.3	254.3	2,248.3	393.4	1,619.3	235.6
<b>NORTH CAROLINA</b>										
Metropolitan Statistical Area	5,765,063									
Area actually reporting	98.0%	28,614	320	1,503	9,879	16,912	259,950	68,549	170,223	21,178
Estimated total	100.0%	28,934	323	1,524	9,958	17,129	263,927	69,699	172,827	21,401
Cities outside metropolitan areas	815,560									
Area actually reporting	92.5%	4,885	66	279	1,485	3,055	49,166	12,119	34,784	2,263
Estimated total	100.0%	5,271	71	302	1,602	3,296	53,080	13,082	37,560	2,438
Nonmetropolitan counties	1,826,625									
Area actually reporting	97.5%	3,939	112	305	652	2,870	41,574	17,453	21,145	2,976
Estimated total	100.0%	4,041	115	313	669	2,944	42,653	17,906	21,694	3,053
<b>State Total</b>	<b>8,407,248</b>	<b>38,246</b>	<b>509</b>	<b>2,139</b>	<b>12,229</b>	<b>23,369</b>	<b>359,660</b>	<b>100,687</b>	<b>232,081</b>	<b>26,892</b>
Rate per 100,000 inhabitants	454.9		6.1	25.4	145.5	278.0	4,278.0	1,197.6	2,760.5	319.9

**NORTH DAKOTA**

Metropolitan Statistical Area	284,263									
Area actually reporting	99.5%	253	3	73	28	149	7,382	1,039	5,825	518
Estimated total	100.0%	254	3	73	28	150	7,432	1,047	5,864	521
Cities outside metropolitan areas	141,773									
Area actually reporting	84.0%	140	6	51	16	67	3,527	424	2,804	299
Estimated total	100.0%	167	7	61	19	80	4,201	509	3,340	356
Nonmetropolitan counties	205,841									
Area actually reporting	81.6%	59	2	14	3	40	1,348	317	867	164
Estimated total	100.0%	72	2	17	4	49	1,853	399	1,063	201
State Total	633,837	493	12	151	51	279	13,246	1,841	10,267	1,078
Rate per 100,000 inhabitants		77.8	1.9	23.8	8.0	44.0	2,096.1	306.2	1,619.8	170.1

**OHIO**

Metropolitan Statistical Area	9,211,400									
Area actually reporting	90.2%	33,940	443	3,829	15,781	13,887	335,607	77,844	221,267	36,496
Estimated total	100.0%	37,357	454	4,051	16,274	14,578	360,292	82,493	239,706	38,091
Cities outside metropolitan areas	834,409									
Area actually reporting	69.4%	1,261	24	241	354	642	26,246	4,677	20,544	1,025
Estimated total	100.0%	1,810	34	346	508	922	37,688	6,716	29,500	1,477
Nonmetropolitan counties	1,387,989									
Area actually reporting	70.9%	664	24	135	76	429	12,999	4,055	7,928	1,016
Estimated total	100.0%	936	34	190	107	605	18,337	5,720	11,184	1,433
State Total	11,435,798	38,183	522	4,587	16,889	14,105	416,317	94,931	280,390	40,996
Rate per 100,000 inhabitants		333.2	4.6	40.1	147.7	140.8	3,640.5	830.1	2,451.9	58.5

**OKLAHOMA**

Metropolitan Statistical Area	2,212,103									
Area actually reporting	100.0%	13,093	154	995	2,808	9,136	113,012	24,172	78,534	10,356
Cities outside metropolitan areas	696,232									
Area actually reporting	100.0%	3,222	29	364	373	2,456	29,735	7,394	20,615	1,726
Nonmetropolitan counties	603,197									
Area actually reporting	100.0%	1,443	23	142	43	1,235	8,461	3,330	4,255	876
State Total	3,511,532	17,758	204	1,501	3,224	12,827	151,208	34,846	103,404	12,958
Rate per 100,000 inhabitants		505.7	5.9	42.7	91.8	365.3	4,306.0	992.3	2,944.7	369.0

**OREGON**

Metropolitan Statistical Area	2,740,172									
Area actually reporting	99.0%	9,033	54	981	2,575	5,423	139,022	22,234	100,182	16,606
Estimated total	100.0%	9,075	54	987	2,584	5,450	139,928	22,406	100,810	16,712
Cities outside metropolitan areas	371,581									
Area actually reporting	98.2%	956	5	134	212	605	20,455	3,489	15,542	1,424
Estimated total	100.0%	973	5	136	216	616	20,835	3,554	15,831	1,459
Nonmetropolitan counties	447,843									
Area actually reporting	90.4%	427	8	86	46	287	8,559	2,410	5,401	748
Estimated total	100.0%	472	9	95	51	317	9,467	2,666	5,974	827
State Total	3,559,596	10,520	68	1,218	2,851	6,383	170,230	28,624	122,615	18,989
Rate per 100,000 inhabitants		295.5	1.9	34.2	80.1	179.3	4,782.3	804.2	3,444.6	533.5

**PENNSYLVANIA**

Metropolitan Statistical Area	10,391,620									
Area actually reporting	91.3%	43,421	606	2,844	16,917	23,050	745,380	43,022	172,494	29,864
Estimated total	100.0%	45,463	622	2,996	17,441	24,404	764,583	45,786	187,517	31,280
Cities outside metropolitan areas	867,466									
Area actually reporting	73.9%	1,763	9	173	274	1,307	15,180	2,352	12,068	760
Estimated total	100.0%	2,386	12	234	371	1,769	20,543	3,183	16,331	1,029
Nonmetropolitan counties	1,106,369									
Area actually reporting	100.0%	1,367	17	326	168	856	15,515	4,950	9,432	1,133
State Total	12,365,455	49,216	651	3,556	17,960	27,029	300,641	53,919	213,280	33,442
Rate per 100,000 inhabitants		398.0	5.3	28.8	145.4	218.6	2,431.3	436.0	1,724.8	270.4

**PUERTO RICO**

Metropolitan Statistical Area	3,683,868									
Area actually reporting	100.0%	11,614	756	200	7,636	3,022	68,252	19,969	36,220	12,063
Cities outside metropolitan areas	194,664									
Area actually reporting	100.0%	271	23	4	101	143	1,643	888	607	148
Total	3,878,532	11,885	779	204	7,737	3,165	69,895	20,857	36,827	12,211
Rate per 100,000 inhabitants		306.4	20.1	5.3	199.5	81.6	1,802.1	537.8	949.5	314.8

**RHODE ISLAND**

Metropolitan Statistical Area	1,076,164									
Area actually reporting	100.0%	3,050	23	491	828	1,708	32,184	5,521	22,285	4,378
Cities outside metropolitan areas	None									
Nonmetropolitan counties	None									
Area actually reporting	100.0%	24	2	14	2	6	47	3	35	9
State Total	1,076,164	3,074	25	505	830	1,714	32,231	5,524	22,320	4,387
Rate per 100,000 inhabitants		285.6	2.3	46.9	77.1	159.3	2,995.0	513.3	2,074.0	407.7

**SOUTH CAROLINA**

Metropolitan Statistical Area	3,112,033									
Area actually reporting	99.9%	24,873	223	1,445	4,581	18,624	143,710	32,333	98,452	12,925
Estimated total	100.0%	24,880	223	1,445	4,582	18,630	143,772	32,343	98,500	12,929
Cities outside metropolitan areas	265,266									
Area actually reporting	99.5%	3,275	27	114	518	2,616	16,812	3,547	12,461	804
Estimated total	100.0%	3,292	27	115	521	2,629	16,896	3,565	12,523	808
Nonmetropolitan counties	769,853									
Area actually reporting	100.0%	4,736	50	283	567	3,836	25,003	7,674	15,304	2,025
State Total	4,147,152	32,908	300	1,843	5,670	25,095	185,671	43,582	126,327	15,762
Rate per 100,000 inhabitants		793.5	7.2	44.4	136.7	605.1	4,477.1	1,050.9	3,046.1	380.1

**SOUTH DAKOTA**

Metropolitan Statistical Area	324,249									
Area actually reporting	97.1%	846	6	240	81	519	8,996	1,562	6,910	524
Estimated total	100.0%	864	6	247	81	530	9,185	1,593	7,057	535
Cities outside metropolitan areas	201,164									
Area actually reporting	91.1%	267	1	64	10	192	4,343	759	3,372	212
Estimated total	100.0%	293	1	70	11	211	4,770	834	3,703	233
Nonmetropolitan counties	238,896									
Area actually reporting	83.8%	140	2	31	10	97	1,127	374	664	89
Estimated total	100.0%	168	3	37	12	116	1,344	446	792	106
State Total	764,309	1,325	10	354	104	857	15,299	2,873	11,552	874
Rate per 100,000 inhabitants		173.4	1.3	46.3	13.6	112.1	2,001.7	375.9	1,511.4	114.4

**TENNESSEE**

Metropolitan Statistical Area	4,237,335									
Area actually reporting	100.0%	33,347	337	1,770	8,796	22,444	205,209	48,498	134,118	22,993
Estimated total		578,487								
Cities outside metropolitan areas										
Area actually reporting	100.0%	3,576	29	172	461	2,914	29,700	6,395	21,328	1,777
Estimated total		1,023,926								
Nonmetropolitan counties										
Area actually reporting	100.0%	3,254	29	143	115	2,967	20,924	8,114	10,770	2,040
Estimated total		5,841,748	40,177	395	2,885	9,373	28,325	255,833	63,207	166,216
State Total										
Rate per 100,000 inhabitants		687.8	6.8	33.7	160.4	484.9	4,379.4	1,082.0	2,845.3	452.1

**TEXAS**

Metropolitan Statistical Area	19,139,661									
Area actually reporting	99.9%	112,887	1,287	7,172	36,079	68,349	933,537	196,088	643,619	93,630
Estimated total	100.0%	112,910	1,287	7,174	36,085	68,364	933,649	196,149	643,847	93,633
Cities outside metropolitan areas	1,373,327									
Area actually reporting	99.3%	5,889	62	554	769	4,504	55,776	12,848	40,288	2,620
Estimated total	100.0%	5,918	62	556	770	4,530	56,063	12,937	40,497	2,629
Nonmetropolitan counties	1,605,321									
Area actually reporting	100.0%	3,373	69	282	163	2,859	26,710	10,699	14,089	1,922
Estimated total		22,118,589	1,418	8,012	37,018	75,783	1,016,422	219,788	698,433	98,394
State Total										
Rate per 100,000 inhabitants		552.5	6.4	36.2	167.4	342.5	4,595.3	993.7	3,157.7	444.0

**UTAH**

Metropolitan Statistical Area	2,078,616									
Area actually reporting	98.1%	5,317	52	783	1,212	3,268	90,781	15,082	68,451	7,248
Estimated total	100.0%	5,401	53	802	1,223	3,323	92,168	15,525	69,488	7,355
Cities outside metropolitan areas	128,198									
Area actually reporting	91.9%	226	3	50	10	157	4,173	719	3,237	217
Estimated total	100.0%	245	3	54	17	171	4,539	782	3,521	236
Nonmetropolitan counties	144,633									
Area actually reporting	94.3%	188	2	34	14	138	2,504	624	1,717	163
Estimated total	100.0%	199	2	36	15	146	2,655	662	1,820	173
State Total	2,351,467	5,845	58	892	1,255	3,640	99,362	16,769	74,829	7,764
Rate per 100,000 inhabitants		248.6	2.5	37.9	53.4	154.8	4,225.5	713.1	3,182.2	330.2

**VERMONT**

Metropolitan Statistical Area	203,769									
Area actually reporting	96.4%	344	4	55	34	251	5,334	1,153	3,944	237
Estimated total	100.0%	352	4	55	35	258	5,521	1,189	4,089	243
Cities outside metropolitan areas	197,181									
Area actually reporting	100.0%	225	1	46	19	159	5,215	793	4,227	196
Estimated total		218,157								
Nonmetropolitan counties										
Area actually reporting	100.0%	105	9	20	6	70	2,885	977	1,701	207
Estimated total		619,107	682	14	121	60	487	13,621	2,958	10,017
State Total										
Rate per 100,000 inhabitants		110.2	2.3	19.5	9.7	78.7	2,200.1	477.8	1,618.0	104.3

**VIRGINIA**

Metropolitan Statistical Area	6,295,851									
Area actually reporting	99.2%	18,115	373	1,498	6,306	9,938	177,667	24,735	136,521	16,411
Estimated total	100.0%	18,324	375	1,516	6,363	10,070	179,518	24,986	137,964	16,568
Cities outside metropolitan areas	265,881									
Area actually reporting	96.6%	754	5	79	149	521	8,099	979	6,684	436
Estimated total	100.0%	780	5	82	154	539	8,383	1,013	6,919	451
Nonmetropolitan counties	824,598									
Area actually reporting	97.6%	1,240	32	171	151	886	11,543	2,849	7,821	873
Estimated total	100.0%	1,271	33	175	155	908	11,830	2,920	8,015	895
State Total	7,386,330	20,375	413	1,773	6,672	11,517	199,731	28,919	152,898	17,914
Rate per 100,000 inhabitants		275.8	5.6	24.0	90.3	155.9	2,704.1	391.5	2,070.0	242.5

**WASHINGTON**

Metropolitan Statistical Area	5,366,728									
Area actually reporting	99.9%	19,625	167	2,461	5,518	11,479	261,672	51,146	171,859	38,667
Estimated total	100.0%	19,643	167	2,464	5,523	11,489	261,989	51,198	172,079	38,712
Cities outside metropolitan areas	323,537									
Area actually reporting	95.7%	841	3	215	130	493	17,777	3,231	13,575	971
Estimated total	100.0%	879	3	225	136	515	18,570	3,375	14,181	1,014
Nonmetropolitan counties	441,180									
Area actually reporting	88.2%	664	12	154	52	446	9,683	3,257	5,639	787
Estimated total	100.0%	754	14	175	59	506	10,985	3,695	6,397	893
State Total	6,131,445	21,276	184	2,864	5,718	12,510	291,544	58,268	192,657	40,619
Rate per 100,000 inhabitants		347.0	3.0	46.7	93.3	204.0	4,754.9	950.3	3,142.1	662.5

**WEST VIRGINIA**

Metropolitan Statistical Area	989,502									
Area actually reporting	91.7%	2,866	29	182	563	2,092	26,729	6,141	18,295	2,293
Estimated total	100.0%	3,041	30	187	586	2,238	28,672	6,488	19,768	2,416
Cities outside metropolitan areas	226,821									
Area actually reporting	82.3%	473	3	32	58	380	4,198	830	3,167	201
Estimated total	100.0%	575	4	39	70	462	5,100	1,008	3,848	244
Nonmetropolitan counties	594,031									
Area actually reporting	86.1%	900	25	60	64	751	7,702	2,310	4,648	744
Estimated total	100.0%	1,045	29	70	74	872	8,942	2,682	5,396	864
State Total	1,810,354	4,661	63	296	730	3,572	42,714	10,178	29,012	3,524
Rate per 100,000 inhabitants		257.5	3.5	16.4	40.3	197.3	2,359.4	562.2	1,602.6	194.7

**WISCONSIN**

Metropolitan Statistical Area	3,955,013									
Area actually reporting	97.2%	10,340	159	937	4,248	4,996	124,460	19,927	93,776	10,757
Estimated total	100.0%	10,432	160	952	4,266	5,054	126,387	20,270	95,261	10,856
Cities outside metropolitan areas	610,884									
Area actually reporting	99.0%	980	4	144	86	746	19,669	2,523	16,437	709
Estimated total	100.0%	989	4	145	87	753	19,862	2,548	16,598	716
Nonmetropolitan counties	906,402									
Area actually reporting	100.0%	674	17	101	33	523	11,498	3,744	7,006	748
Estimated total		5,472,299	12,095	181	1,198	4,386	6,330	157,747	26,562	118,865
State Total										
Rate per 100,000 inhabitants		221.0	3.3	21.9	80.1	115.7	2,882.6	485.4	2,172.1	225.1

WYOMING

Metropolitan Statistical Area	150,994									
Area actually reporting	100.0%	338	6	51	46	235	6,529	1,052	5,106	371
Cities outside metropolitan areas	208,513									
Area actually reporting	97.5%	612	4	59	29	520	7,666	1,039	6,319	308
Estimated total	100.0%	627	4	60	30	533	7,859	1,065	6,478	316
Nonmetropolitan counties	141,735									
Area actually reporting	95.8%	335	4	24	8	299	2,164	473	1,585	106
Estimated total	100.0%	349	4	25	8	312	2,260	494	1,655	111
State Total	581,242	1,314	14	136	84	1,080	16,648	2,611	13,259	798
Rate per 100,000 inhabitants		262.1	2.8	27.1	16.8	215.5	3,321.3	520.9	2,641.2	159.2

<sup>1</sup> Includes offenses reported by the Zoological Police and the Metro Transit Police.

<sup>2</sup> Limited data for 2001 were available for Illinois and Kentucky. See Offense Estimation, Appendix I, for details.

NOTE: Although arrest data are included on the trend and clearance tables, sufficient data are not available to estimate totals for this offense.

**SB**

**56**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 1/14/05

FURTHER: Finance

Date of 5-Day Notice: 1/13/2005  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: 1/20/05

Judiciary Committee considered SENATE BILL NO. 56

**SB 56 CRIMINAL LAW/PROCEDURE/SENTENCING**

"An Act relating to criminal law and procedure, criminal sentences, and probation and parole; and providing for an effective date."

and recommends:

- be replaced with CS SP- 56 (JUD)
- adopt previous CS (    )
- attached amendment(s)
- adopt Letter of Intent by JUD Committee
- further referral to      Committee

<b>Senate Bill:</b>	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # <u>    </u>

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
LAW	1/20/05			X	1
DOCL	1/18/05			X	2
DOCL	1/13/05			X	3
DPS	1/19/05			X	4
SUD	1/20/05			X	5

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			X	
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>				
<i>[Signature]</i>				
CHAIR: <i>[Signature]</i>	X			

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# Alaska State Legislature

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SENATE DISTRICT F

## SPONSOR STATEMENT – SENATE BILL 56

"An Act relating to criminal law and procedure, criminal sentences, and probation and parole; and providing for an effective date."

Senate Bill 56 modifies the laws governing the presumptive sentencing of felony offenders in Alaska, as a result of *Blakely v. State of Washington*, a United States Supreme Court decision issued in June 2004. The court struck down Washington's sentencing laws by finding that under the Sixth Amendment a defendant has the right to have a jury, not a judge, determine whether aggravating circumstances exist to justify increasing a defendant's sentence above the statutorily prescribed term. The requirements of *Blakely* directly affect Alaska's sentencing laws. Senate Bill 56 addresses the provisions that apply to Alaska's sentencing structure and will eliminate the great confusion created in Alaska's courts as a result of *Blakely*.

Alaska's current felony sentencing statutes set out presumptive terms establishing a specific fixed term of imprisonment that in essence acts as both the minimum and maximum sentences that can be imposed, unless the court finds specific statutory mitigating or aggravating factors. The current presumptive terms were developed in the late 1970s to limit the discretion of judges because of a perceived need to achieve greater uniformity in sentencing. For the most part, the current terms adequately reflect the seriousness of offenses to the extent that they establish a presumptive lower limit on sentences, but it is no longer appropriate to continue to use the same presumptive term to also set the upper limit. The current presumptive term does not take into account the many different crimes within each class of offenses that come before the court. Therefore, this legislation provides judges in felony cases with the ability to weigh all relevant factors as they consider a range of sentences to impose. It also gives judges more authority to impose appropriate periods of probation.

Senate Bill 56 gives judges broader sentencing discretion in felony cases, by allowing them to consider all relevant circumstances in setting a sentence within the ranges established in the legislation. It gives judges broader authority to impose a period of probation supervision, which in some cases they are not able to do under current Alaska law, thus providing better

protection for the public and better assistance to the offender in reintegrating into the community.

For a judge to impose a sentence above the presumptive range, the state must comply with *Blakely v. Washington* and prove to a jury beyond a reasonable doubt the existence of certain statutory aggravating factors. Senate Bill 56 leaves it to the courts to develop procedures for presenting aggravating factors to the trial jury. In addition, because the rule in *Blakely* applies only at trial, the bill makes it clear that it is not necessary for the state to present aggravating factors to the grand jury.

Under this bill, a sentence cannot be reversed as excessive if it is imposed within a presumptive range or is required under consecutive sentencing legislation enacted last year. Over the last two decades the appellate courts in Alaska have developed a large body of case law that has resulted in *court-specified* "benchmark" sentences that often unnecessarily limit the discretion of sentencing judges. This bill replaces some of those court-imposed "benchmarks" in favor of legislatively enacted sentence ranges.

Senate Bill 56 also limits the ability of judges to impose "periodic" sentences, in which the judge allows the offender to periodically leave prison and then return to prison. This type of sentence significantly restricts the ability of prison officials to manage the prison population and to transfer prisoners so as to make the best and most efficient use of prison resources. To order "periodic" sentences is in essence allowing offenders to go on unsupervised furloughs. This is best left to prison officials, who can adopt equitable policies that take into account the specific security risks posed by each prisoner and the likely benefits of the furlough.

Senate Bill 56 also addresses the authority of probation/parole officers and police officers in connection with offenders released on probation or parole. Because it is nearly impossible for judges to anticipate every condition of probation that will be necessary during an offender's time under community supervision, this bill statutorily codifies the existing practice of judges delegating limited authority to probation officers.

Finally, Senate Bill 56 takes a practical approach to the supervision of persons on probation and parole, by giving police officers the explicit authority to detain or arrest offenders for certain types of violations of conditions imposed by the courts or the parole board. Under this bill, when a certified police officer has reasonable suspicion that a probationer or parolee is violating conditions, they can temporarily detain the person to investigate, and can arrest if there is probable cause that conditions were violated.



# Alaska State Legislature

Senate Majority Web: <http://www.akrepublicans.org>

Sponsor: Senator Gene Therriault, Senator Ralph Seekins  
Current Version: SB 56  
Contact: Heather Brakes, 465-4522

## Fact Sheet for: Senate Bill 56

Short Title: CRIMINAL LAW/PROCEDURE/SENTENCING

### Summary:

- Amends current presumptive sentencing, from a set term to a range of terms, to bring Alaska laws into conformity with requirements imposed by the federal constitution as a result of the *Blakely v. Washington* decision.
- Allows a probation officer to impose additional terms of release or supervision for offenders without further court proceeding.
- Allows for an additional aggravator when a defendant has prior criminal history of five or more class A misdemeanor convictions.
- Limits the ability of judges to order "periodic" sentences in which the offender periodically leaves prison and then returns to prison.
- Stipulates the authority of police officers to detain or arrest probationers and parolees for certain types of violations of conditions imposed by the courts or the parole board.

### Benefits:

#### Sentencing:

- Improves by giving judges more discretion.
- Simplifies.
- Removes current confusions in the aftermath of the *Blakely* decision.

#### Criminal Law and Procedure:

- Improves the supervision of offenders by clarifying that probation officers have the authority to impose additional terms.
- Allows Correctional Facilities to better manage the prison population and better supervise offenders by limiting the abuse of periodic sentencing.
- Improves public safety by clarifying that police officers have the authority to arrest violators of parole or probation.

### Background:

The Supreme Court ruled in June 2004 that, under the Sixth Amendment, a defendant has the right to have a jury—rather than the sentencing judge—determine whether aggravating circumstances exist to justify increasing a defendant's sentence above the statutorily-prescribed term. The *Blakely* decision has created confusion in the Alaska courts, and has affected Alaska differently than most other states. Alaska's presumptive sentencing system limits judicial discretion to a single, definite term. Therefore, to impose an appropriate sentence, or even to impose probation supervision, a judge must find specific aggravating factors. Most other states with similar systems provide the judge with a sentencing range that provides some measure of judicial discretion, and allows a judge to order probation supervision without making specific findings.

	First Felony	First Felony (special crimes)	Second Felony	Sex Felony with a prior sex felony	Third+ Felony	Sex Felony with two prior sex felonies	Max
<b>Unclassified Sex Offense</b>	(8) to 12	weapon or serious injury (10) <b>12 to 16</b>	(15) to 20	(20) to 30	(25) to 35	(30) to 40	(40)
<b>A Felony Sex Offense</b>	(5) to 8	weapon or serious injury (10) to 14	(10) <b>12 to 16</b>	(15) to 20	(15) to 25	(20) to 30	(30)
<b>A Felony</b>	(5) to 8	weapon, serious injury, or police victim (7) to 11	(10) to 14	n/a	(15) to 20	n/a	(20)
<b>B Felony Sex Offense</b>	(0, but 1 to 3 by court-made law) <b>2 to 4</b>	n/a	(5) to 8	(10) to 14	(10) to 14	(15) to 20	(20)
<b>B Felony</b>	(0, but 1 to 3 by court-made law) <b>1 to 3</b>	crim neg hom of child: (0, but 1 to 3 by court-made law) <b>2 to 4</b>	(4) to 7	n/a	(6) to 10	n/a	(10)
<b>C Felony Sex Offense</b>	(0) <b>1 to 2</b>	n/a	(2) to 5	(3) to 6	(3) to 6	(6) to 10	(10)
<b>C Felony</b>	(0) to 2	wanton waste or same-day by guide (1) to 2	(2) to 4	n/a	(3) to 5	n/a	(5)
Numbers in parentheses are the current "presumptive" terms and maximums							
Numbers in <b>bold</b> show the presumptive ranges in the bill							

## SECTIONAL ANALYSIS - SENATE BILL 56

*"An Act relating to criminal law and procedure, criminal sentences, and probation and parole; and providing for an effective date."*

**Section 1** makes it clear that an indictment is valid as long as it complies with all rules of court, even if it does not allege aggravating factors that may later have to be proven to a jury to justify a higher sentence. At the grand jury stage, the state may not be aware of all aggravating factors, and therefore it is unreasonable to expect the indictment to list them. The *Blakely* decision did not require indictments to list aggravating factors, and due process is satisfied as long as the defendant has adequate notice of the factors in advance of trial, which is set out in Section 21 of the bill.

**Section 2** limits the ability of judges to order "periodic" sentences, in which the offender periodically leaves prison and then returns to prison. This type of sentence significantly restricts the ability of prison officials to manage the prison population and to transfer prisoners so as to make the best and most efficient use of prison resources. Most judges are appropriately deferential to the difficulties faced by Alaska prison officials, but some judges use their ability to order "periodic" sentences to allow offenders to go on what amounts to judicially-ordered and unsupervised furloughs from prison. There is a proper place for prison furloughs, but that is best left to prison officials, who can adopt equitable policies that take into account the specific security risks posed by each prisoner and the likely benefits of the furlough. The original intent of "periodic" sentences was to allow defendants to, for example, maintain their employment during the week, and serve a sentence on weekends, or to be released for fishing season and returned to prison when the season is over. The bill thus explicitly limits periodic sentences for employment purposes when necessary to pay a fine or restitution. This bill does not interfere with the court's authority under AS 12.55.025(c) to postpone the beginning date for service of a sentence, which allows defendants to complete school or get their affairs in order before they enter prison.

**Section 3** is a technical amendment to remove a reference to a statute repealed by the bill.

**Sections 4 - 5** amend statutes that contain the phrases "presumptive term" or "presumptive sentence" and substitute or add the new concept of "presumptive range" that is adopted in this bill.

**Section 6** codifies current practice by giving judges the explicit authority to delegate a greater level of authority to probation officers in connection with offenders released on probation or parole. Under current statutes, the Alaska court of appeals has indicated that it is not clear if judges can allow probation officers to set additional conditions of probation without further proceedings in court, and this bill gives judges that authority.

**Section 7** makes it clear that the higher courts in Alaska cannot reverse a sentence as excessive if a judge imposes a sentence within a statutory range specified in this bill, or imposes a consecutive sentence required by law.

**Sections 8 - 12** change the existing presumptive terms into presumptive ranges, and create ranges where no presumptive term previously existed. The best way to understand these sections is to refer to the chart attached to this sectional analysis. The numbers in parentheses show the existing presumptive term, and the numbers in bold show the range adopted by the bill. In general, the lower the presumptive term in existing law, the narrower the range adopted by this bill. Thus, with only minor exceptions, if the existing presumptive term is zero, one or two years, the bill adopts a range of two years. With presumptive terms of three, four or five years, the bill adopts a range of three years. With presumptive terms of six, seven, eight or ten years, the bill adopts a range of four years. Higher presumptive terms result in ranges of five or ten years.

**Section 13** requires that, in the absence of aggravating or mitigating factors, the total term of imprisonment must fall within the range and the active term of imprisonment (the time actually served in prison) must also fall within the range. Thus, if the range is five to eight years, the judge could impose a sentence of eight years with three years suspended, thus the total sentence (eight years) is within the range, and the active term (eight minus three suspended = five years) is also within the range. However, the judge could not impose a sentence of ten years with three suspended because the total sentence is above the range, nor could the judge impose eight years with four suspended because the active term is below the range.

**Section 14** defines the phrase "presumptive term" for purposes of the consecutive sentencing statute, as the middle of the presumptive range. This phrase is used in the consecutive sentencing statute to mandate certain amounts of consecutive sentences for convictions relating to multiple victims or multiple offenses.

**Section 15** is a conforming technical amendment.

**Section 16** specifies that aggravating or mitigating factors allow judges to impose a sentence outside of the presumptive ranges, and specifies the allowable amount of that adjustment.

**Sections 17-19** contain conforming amendments to account for the change in terminology from presumptive "term" to presumptive "range."

**Section 18** also adds one aggravating factor that allows judges to impose an aggravated sentence if the offender has a long misdemeanor record, specified as five or more convictions for class A misdemeanor crimes. By requiring convictions for class A misdemeanors, the aggravating factor would not be triggered by convictions for many petty offenses such as disorderly conduct

and harassment, which are class B misdemeanors, not by violations such as minor consuming and traffic offenses.

**Section 20** specifies that, as in current law, aggravating and mitigating factors that are part of the elements of the offense cannot also be used to justify a sentence outside of the applicable range.

**Section 21** conforms Alaska law to the Supreme Court's *Blakely* decision. There are a small number of aggravating factors that are not required under *Blakely* to be proven to a jury beyond a reasonable doubt, and those are specified in proposed AS 12.55.155(f)(1). Those factors must, however, be found by a judge by clear and convincing evidence, as under current law. Proposed AS 12.55.155(f)(2) requires, for all other aggravating factors, that in order to justify a sentence above the presumptive range, a jury must find the existence of that factor beyond a reasonable doubt. This provision also specifies when the state must provide the defendant with notice that it intends to establish one of these aggravating factors.

**Sections 22 - 25** relate to the "safety net" that allows a three-judge panel to approve sentences outside of the ranges. These sections make no change in existing law, but contain conforming amendments to account for the change in terminology from presumptive "term" to presumptive "range."

**Sections 26, 30 and 31** give police officers the explicit authority to detain or arrest these probationers and parolees for certain types of violations of conditions imposed by the courts or the parole board. Under this bill, when a certified police officer has reasonable suspicion that a probationer or parolee is violating certain specified conditions, they can temporarily detain the person to investigate, and can arrest if there is probable cause that conditions were violated.

**Section 27** is a conforming amendment to account for the change in terminology from presumptive "term" to presumptive "range."

**Section 28** amends the parole eligibility statute to take into account the change in terminology from presumptive "term" to presumptive "range," and to re-organize the eligibility criteria to make the provisions more understandable and to statutorily adopt certain provisions that exist in parole board administrative regulations.

**Section 29** makes it clear that if the parole board has already considered a prisoner for discretionary parole release, and has denied release, the board has the authority to also deny a prisoner further consideration for parole. The state's position is that the parole board already has this authority inherent in its discretion to consider prisoners for parole release. However, because the authority is not explicit, the question is often litigated by *pro se* prisoners.

24-LS0308\I  
Luckhaupt  
1/19/05

**CS FOR SENATE BILL NO. 56( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): SENATORS THERRIAULT, Seekins**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to criminal law and procedure, criminal sentences, and probation and**  
2 **parole; and providing for an effective date."**

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

4 **\* Section 1.** AS 12.40.100 is amended by adding a new subsection to read:

5 (c) An indictment that complies with this section and with applicable rules  
6 adopted by the supreme court, is valid and need not specify aggravating factors set out  
7 in AS 12.55.155.

8 **\* Sec. 2.** AS 12.55.015(a) is amended to read:

9 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing  
10 sentence on a defendant convicted of an offense, may singly or in combination

11 (1) impose a

12 (A) fine when authorized by law and as provided in  
13 AS 12.55.035; or

14 (B) day fine when authorized by law and as provided in

1 AS 12.55.036 if the court does not impose a term of periodic or continuous  
2 imprisonment or place the defendant on probation;

3 (2) order the defendant to be placed on probation under conditions  
4 specified by the court that may include provision for active supervision;

5 (3) impose a definite term of periodic imprisonment, but only if an  
6 employment obligation of the defendant preexisted sentencing and the defendant  
7 receives a composite sentence of less than two years to serve;

8 (4) impose a definite term of continuous imprisonment;

9 (5) order the defendant to make restitution under AS 12.55.045;

10 (6) order the defendant to carry out a continuous or periodic program  
11 of community work under AS 12.55.055;

12 (7) suspend execution of all or a portion of the sentence imposed under  
13 AS 12.55.080;

14 (8) suspend imposition of sentence under AS 12.55.085;

15 (9) order the forfeiture to the commissioner of public safety or a  
16 municipal law enforcement agency of a deadly weapon that was in the actual  
17 possession of or used by the defendant during the commission of an offense described  
18 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

19 (10) order the defendant, while incarcerated, to participate in or  
20 comply with the treatment plan of a rehabilitation program that is related to the  
21 defendant's offense or to the defendant's rehabilitation if the program is made available  
22 to the defendant by the Department of Corrections;

23 (11) order the forfeiture to the state of a motor vehicle, weapon,  
24 electronic communication device, or money or other valuables, used in or obtained  
25 through an offense that was committed for the benefit of, at the direction of, or in  
26 association with a criminal street gang;

27 (12) order the defendant to have no contact, either directly or  
28 indirectly, with a victim or witness of the offense until the defendant is  
29 unconditionally discharged.

30 \* Sec. 3. AS 12.55.025(i) is amended to read:

31 (i) Except as provided by AS 12.55.125(a)(3), [12.55.125(k),] 12.55.145(d),

1 12.55.155(f), and 12.55.165, the preponderance of the evidence standard of proof  
2 applies to sentencing proceedings.

3 \* Sec. 4. AS 12.55.055(d) is amended to read:

4 (d) The court may offer a defendant convicted of an offense the option of  
5 performing community work in lieu of a sentence of imprisonment. Substitution of  
6 community work shall be at a rate of eight hours for each day of imprisonment. A  
7 court may not offer substitution of community work for any mandatory minimum  
8 period of imprisonment or for any period within the [OF A] presumptive range  
9 [TERM] of imprisonment for the offense.

10 \* Sec. 5. AS 12.55.088(c) is amended to read:

11 (c) A [NO] sentence may not be reduced or modified so as to result in a term  
12 of imprisonment that [WHICH] is less than the minimum [OR PRESUMPTIVE]  
13 sentence or lower than the presumptive range required by law for the original  
14 sentence.

15 \* Sec. 6. AS 12.55.100(a) is amended to read:

16 (a) While on probation and among the conditions of probation, the defendant  
17 may be required

18 (1) to pay a fine in one or several sums;

19 (2) to make restitution or reparation to aggrieved parties for actual  
20 damages or loss caused by the crime for which conviction was had, including  
21 compensation to a victim that is a nonprofit organization for the value of labor or  
22 goods provided by volunteers if the labor or goods were necessary to alleviate or  
23 mitigate the effects of the defendant's crime;

24 (3) to provide for the support of any persons for whose support the  
25 defendant is legally responsible;

26 (4) to perform community work in accordance with AS 12.55.055;

27 (5) to participate in or comply with the treatment plan of an inpatient  
28 or outpatient rehabilitation program specified by either the court or the defendant's  
29 probation officer that is related to the defendant's offense or to the defendant's  
30 rehabilitation; [AND]

31 (6) to satisfy the screening, evaluation, referral, and program

1 requirements of an agency authorized by the court to make referrals for rehabilitative  
2 treatment or to provide rehabilitative treatment; and

3 (7) if ordered by the court, to abide by additional conditions of  
4 probation imposed by the defendant's probation officer; an additional condition  
5 imposed by the probation officer must be provided orally and in writing to the  
6 defendant; the additional condition is binding upon delivery until modified by the  
7 court; this paragraph does not require written notice of conditions relating to the  
8 day-to-day management of probationers, in which probation officers direct the  
9 activities of probationers to implement existing court-imposed conditions.

10 \* Sec. 7. AS 12.55.120 is amended by adding a new subsection to read:

11 (e) A sentence reviewed by the appellate court under this section and  
12 AS 22.07.020, or by the superior court under AS 22.10.020, or a sentence reviewed by  
13 petition accepted under court rules, may not be reversed as excessive, and the  
14 sentencing court is not required to make specific findings, if the sentence is within an  
15 applicable presumptive range set out in AS 12.55.125, or is a consecutive or partially  
16 consecutive sentence imposed in accordance with the minimum sentences set out in  
17 AS 12.55.127.

18 \* Sec. 8. AS 12.55.125(c) is amended to read:

19 (c) Except as provided in (i) of this section, a defendant convicted of a class A  
20 felony may be sentenced to a definite term of imprisonment of not more than 20 years,  
21 and shall be sentenced to a definite term within the following presumptive ranges  
22 [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

23 (1) if the offense is a first felony conviction and does not involve  
24 circumstances described in (2) of this subsection, five to eight [FIVE] years;

25 (2) if the offense is a first felony conviction

26 [(A) OTHER THAN FOR MANSLAUGHTER] and the  
27 defendant possessed a firearm, used a dangerous instrument, or caused serious  
28 physical injury or death during the commission of the offense, or knowingly  
29 directed the conduct constituting the offense at a uniformed or otherwise  
30 clearly identified peace officer, fire fighter, correctional employee, emergency  
31 medical technician, paramedic, ambulance attendant, or other emergency

1 responder who was engaged in the performance of official duties at the time of  
2 the offense, seven to 11 [SEVEN] years;

3 [(B) FOR MANSLAUGHTER AND THE CONDUCT  
4 RESULTING IN THE CONVICTION WAS KNOWINGLY DIRECTED  
5 TOWARDS A CHILD UNDER THE AGE OF 16, SEVEN YEARS;

6 (C) FOR MANSLAUGHTER AND THE CONDUCT  
7 RESULTING IN THE CONVICTION INVOLVED DRIVING WHILE  
8 UNDER THE INFLUENCE OF AN ALCOHOLIC BEVERAGE,  
9 INHALANT, OR CONTROLLED SUBSTANCE, SEVEN YEARS;]

10 (3) if the offense is a second felony conviction, 10 to 14 [10] years;

11 (4) if the offense is a third felony conviction and the defendant is not  
12 subject to sentencing under (l) of this section, 15 to 20 [15] years.

13 \* Sec. 9. AS 12.55.125(d) is amended to read:

14 (d) Except as provided in (i) of this section, a defendant convicted of a class B  
15 felony may be sentenced to a definite term of imprisonment of not more than 10 years,  
16 and shall be sentenced to a definite term within the following presumptive ranges  
17 [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

18 (1) if the offense is a first felony conviction and does not involve  
19 circumstances described in (2) of this subsection, one to three years;

20 (2) if the offense is a first felony conviction, the defendant violated  
21 AS 11.41.130, and the victim was a child under 16 years of age, two to four years;

22 (3) if the offense is a second felony conviction, four to seven [FOUR]  
23 years;

24 (4) [(2)] if the offense is a third felony conviction, six to 10 [SIX]  
25 years.

26 \* Sec. 10. AS 12.55.125(e) is amended to read:

27 (e) Except as provided in (i) of this section, a defendant convicted of a class C  
28 felony may be sentenced to a definite term of imprisonment of not more than five  
29 years, and shall be sentenced to a definite term within the following presumptive  
30 ranges [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

31 (1) if the offense is a first felony conviction and does not involve

circumstances described in (4) of this subsection, zero to two years;

(2) if the offense is a second felony conviction, two to four [TWO] years;

(3) [(2)] if the offense is a third felony conviction, three to five [THREE] years;

(4) [(3)] if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years [ONE YEAR].

\* Sec. 11. AS 12.55.125(g) is amended to read:

(g) If a defendant is sentenced under (c), (d), (e) [(d)(1), (d)(2), (e)(1), (e)(2), (e)(3)], or (i) of this section, except to the extent permitted under AS 12.55.155 - 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

\* Sec. 12. AS 12.55.125(i) is amended to read:

(i) A defendant convicted of

(1) sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 10 years and shall be sentenced to a definite term within the following presumptive ranges [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, eight to 12 [EIGHT] years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 12 to 16 [10] years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 15 to 20 [15] years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 20 to 30 [20] years;

(E) if the offense is a third felony conviction and the defendant

1 is not subject to sentencing under (F) of this paragraph or (I) of this section, 25  
2 to 35 [25] years;

3 (F) if the offense is a third felony conviction, the defendant is  
4 not subject to sentencing under (I) of this section, and the defendant has two  
5 prior convictions for sexual felonies, 30 to 40 [30] years;

6 (2) attempt, conspiracy, or solicitation to commit sexual assault in the  
7 first degree or sexual abuse of a minor in the first degree may be sentenced to a  
8 definite term of imprisonment of not more than 30 years and shall be sentenced to a  
9 definite term within the following presumptive ranges [TERMS], subject to  
10 adjustment as provided in AS 12.55.155 - 12.55.175:

11 (A) if the offense is a first felony conviction and does not  
12 involve circumstances described in (B) of this paragraph, five to eight [FIVE]  
13 years;

14 (B) if the offense is a first felony conviction, and the defendant  
15 possessed a firearm, used a dangerous instrument, or caused serious physical  
16 injury during the commission of the offense, 10 to 14 [10] years;

17 (C) if the offense is a second felony conviction and does not  
18 involve circumstances described in (D) of this paragraph, 12 to 16 [10] years;

19 (D) if the offense is a second felony conviction and the  
20 defendant has a prior conviction for a sexual felony, 15 to 20 [15] years;

21 (E) if the offense is a third felony conviction, does not involve  
22 circumstances described in (F) of this paragraph, and the defendant is not  
23 subject to sentencing under (I) of this section, 15 to 25 [15] years;

24 (F) if the offense is a third felony conviction, the defendant is  
25 not subject to sentencing under (I) of this section, and the defendant has two  
26 prior convictions for sexual felonies, 20 to 30 [20] years;

27 (3) sexual assault in the second degree, sexual abuse of a minor in the  
28 second degree, unlawful exploitation of a minor, or distribution of child pornography  
29 may be sentenced to a definite term of imprisonment of not more than 20 years and  
30 shall be sentenced to a definite term within the following presumptive ranges  
31 [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

1 (A) if the offense is a first felony conviction, two to four  
2 years;

3 (B) if the offense is a second felony conviction and does not  
4 involve circumstances described in (C) [(B)] of this paragraph, five to eight  
5 [FIVE] years;

6 (C) [(B)] if the offense is a second felony conviction and the  
7 defendant has a prior conviction for a sexual felony, 10 to 14 [10] years;

8 (D) [(C)] if the offense is a third felony conviction, does not  
9 involve circumstances described in (E) [(D)] of this paragraph, 10 to 14 [10]  
10 years;

11 (E) [(D)] if the offense is a third felony conviction, and the  
12 defendant has two prior convictions for sexual felonies, 15 to 20 [15] years;

13 (4) sexual assault in the third degree, incest, indecent exposure in the  
14 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to  
15 commit sexual assault in the second degree, sexual abuse of a minor in the second  
16 degree, unlawful exploitation of a minor, or distribution of child pornography, may be  
17 sentenced to a definite term of imprisonment of not more than 10 years and shall be  
18 sentenced to a definite term within the following presumptive ranges [TERMS],  
19 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

20 (A) if the offense is a first felony conviction, one to two  
21 years;

22 (B) if the offense is a second felony conviction and does not  
23 involve circumstances described in (C) [(B)] of this paragraph, two to five  
24 [TWO] years;

25 (C) [(B)] if the offense is a second felony conviction and the  
26 defendant has a prior conviction for a sexual felony, three to six [THREE]  
27 years;

28 (D) [(C)] if the offense is a third felony conviction and does not  
29 involve circumstances described in (E) [(D)] of this paragraph, three to six  
30 [THREE] years;

31 (E) [(D)] if the offense is a third felony conviction and the

1 defendant has two prior convictions for sexual felonies, six to 10 [SIX] years.

2 \* Sec. 13. AS 12.55.125 is amended by adding a new subsection to read:

3 (n) In imposing a sentence within a presumptive range under (c), (d), (e), or (i)  
4 of this section, the total term, made up of the active term of imprisonment plus any  
5 suspended term of imprisonment, must fall within the presumptive range, and the  
6 active term of imprisonment may not fall below the lower end of the presumptive  
7 range.

8 \* Sec. 14. AS 12.55.127(d) is amended by adding a new paragraph to read:

9 (4) "presumptive term" means the middle of the applicable  
10 presumptive range set out in AS 12.55.125.

11 \* Sec. 15. AS 12.55.145(a) is amended to read:

12 (a) For purposes of considering prior convictions in imposing sentence under

13 (1) AS 12.55.125(c), (d), or (e) [(d)(1), (d)(2), (e)(1), OR (e)(?)],

14 (A) a prior conviction may not be considered if a period of 10  
15 or more years has elapsed between the date of the defendant's unconditional  
16 discharge on the immediately preceding offense and commission of the present  
17 offense unless the prior conviction was for an unclassified or class A felony;

18 (B) a conviction in this or another jurisdiction of an offense  
19 having elements similar to those of a felony defined as such under Alaska law  
20 at the time the offense was committed is considered a prior felony conviction;

21 (C) two or more convictions arising out of a single, continuous  
22 criminal episode during which there was no substantial change in the nature of  
23 the criminal objective are considered a single conviction unless the defendant  
24 was sentenced to consecutive sentences for the crimes; offenses committed  
25 while attempting to escape or avoid detection or apprehension after the  
26 commission of another offense are not part of the same criminal episode or  
27 objective;

28 (2) AS 12.55.125(f),

29 (A) a conviction in this or another jurisdiction of an offense  
30 having elements similar to those of a most serious felony is considered a prior  
31 most serious felony conviction;

1 (B) commission of and conviction for offenses relied on as  
2 prior most serious felony offenses must occur in the following order:  
3 conviction for the first offense must occur before commission of the second  
4 offense, and conviction for the second offense must occur before commission  
5 of the offense for which the defendant is being sentenced;

6 (3) AS 12.55.135(g),

7 (A) a prior conviction may not be considered if a period of five  
8 or more years has elapsed between the date of the defendant's unconditional  
9 discharge on the immediately preceding offense and commission of the present  
10 offense unless the prior conviction was for an unclassified or class A felony;

11 (B) a conviction in this or another jurisdiction of an offense  
12 having elements similar to those of a crime against a person or a crime  
13 involving domestic violence is considered a prior conviction;

14 (C) two or more convictions arising out of a single, continuous  
15 criminal episode during which there was no substantial change in the nature of  
16 the criminal objective are considered a single conviction unless the defendant  
17 was sentenced to consecutive sentences for the crimes; offenses committed  
18 while attempting to escape or avoid detection or apprehension after the  
19 commission of another offense are not part of the same criminal episode or  
20 objective;

21 (4) AS 12.55.125(i),

22 (A) a conviction in this or another jurisdiction of an offense  
23 having elements similar to those of a sexual felony is a prior conviction for a  
24 sexual felony;

25 (B) a felony conviction in another jurisdiction making it a  
26 crime to commit any lewd and lascivious act upon a child under the age of 16  
27 years, with the intent of arousing, appealing to, or gratifying the sexual desires  
28 of the defendant or the victim is a prior conviction for a sexual felony;

29 (C) two or more convictions arising out of a single, continuous  
30 criminal episode during which there was no substantial change in the nature of  
31 the criminal objective are considered a single conviction unless the defendant

1 was sentenced to consecutive sentences for the crimes; offenses committed  
2 while attempting to escape or avoid detection or apprehension after the  
3 commission of another offense are not part of the same criminal episode or  
4 objective.

5 \* Sec. 16. AS 12.55.155(a) is amended to read:

6 (a) Except as provided in (e) of this section, if [IF] a defendant is convicted  
7 of an offense and is subject to sentencing under AS 12.55.125(c), (d), (e), or (i)  
8 [AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), OR (i)] and

9 (1) the low end of the presumptive range [TERM] is four years or  
10 less, the court may impose any sentence below the presumptive range [DECREASE  
11 THE PRESUMPTIVE TERM BY AN AMOUNT AS GREAT AS THE  
12 PRESUMPTIVE TERM] for factors in mitigation or may increase the active term of  
13 imprisonment [PRESUMPTIVE TERM] up to the maximum term of imprisonment  
14 for factors in aggravation;

15 (2) the low end of the presumptive range [TERM OF  
16 IMPRISONMENT] is more than four years, the court may impose a sentence below  
17 the presumptive range as long as the active term of imprisonment is not less than  
18 50 percent of the low end of the presumptive range [DECREASE THE  
19 PRESUMPTIVE TERM BY AN AMOUNT AS GREAT AS 50 PERCENT OF THE  
20 PRESUMPTIVE TERM] for factors in mitigation or may increase the active term of  
21 imprisonment [PRESUMPTIVE TERM] up to the maximum term of imprisonment  
22 for factors in aggravation.

23 \* Sec. 17. AS 12.55.155(b) is amended to read:

24 (b) Sentences [SENTENCE INCREMENTS AND DECREMENTS] under  
25 this section that are outside of the presumptive ranges set out in AS 12.55.125  
26 shall be based on the totality of the aggravating and mitigating factors set out in (c)  
27 and (d) of this section.

28 \* Sec. 18. AS 12.55.155(c) is amended to read:

29 (c) The following factors shall be considered by the sentencing court if  
30 proven in accordance with this section, and may allow imposition of a sentence  
31 above the presumptive range [AND MAY AGGRAVATE THE PRESUMPTIVE

1 TERMS] set out in AS 12.55.125:

2 (1) a person, other than an accomplice, sustained physical injury as a  
3 direct result of the defendant's conduct;

4 (2) the defendant's conduct during the commission of the offense  
5 manifested deliberate cruelty to another person;

6 (3) the defendant was the leader of a group of three or more persons  
7 who participated in the offense;

8 (4) the defendant employed a dangerous instrument in furtherance of  
9 the offense;

10 (5) the defendant knew or reasonably should have known that the  
11 victim of the offense was particularly vulnerable or incapable of resistance due to  
12 advanced age, disability, ill health, or extreme youth or was for any other reason  
13 substantially incapable of exercising normal physical or mental powers of resistance;

14 (6) the defendant's conduct created a risk of imminent physical injury  
15 to three or more persons, other than accomplices;

16 (7) a prior felony conviction considered for the purpose of invoking a  
17 [THE] presumptive range under [TERMS OF] this chapter was of a more serious  
18 class of offense than the present offense;

19 (8) the defendant's prior criminal history includes conduct involving  
20 aggravated or repeated instances of assaultive behavior;

21 (9) the defendant knew that the offense involved more than one victim;

22 (10) the conduct constituting the offense was among the most serious  
23 conduct included in the definition of the offense;

24 (11) the defendant committed the offense under [PURSUANT TO] an  
25 agreement that the defendant either pay or be paid for the commission of the offense,  
26 and the pecuniary incentive was beyond that inherent in the offense itself;

27 (12) the defendant was on release under AS 12.30.020 or 12.30.040 for  
28 another felony charge or conviction or for a misdemeanor charge or conviction having  
29 assault as a necessary element;

30 (13) the defendant knowingly directed the conduct constituting the  
31 offense at an active officer of the court or at an active or former judicial officer,

1 prosecuting attorney, law enforcement officer, correctional employee, fire fighter,  
2 emergency medical technician, paramedic, ambulance attendant, or other emergency  
3 responder during or because of the exercise of official duties;

4 (14) the defendant was a member of an organized group of five or  
5 more persons, and the offense was committed to further the criminal objectives of the  
6 group;

7 (15) the defendant has three or more prior felony convictions;

8 (16) the defendant's criminal conduct was designed to obtain  
9 substantial pecuniary gain and the risk of prosecution and punishment for the conduct  
10 is slight;

11 (17) the offense was one of a continuing series of criminal offenses  
12 committed in furtherance of illegal business activities from which the defendant  
13 derives a major portion of the defendant's income;

14 (18) the offense was a felony

15 (A) specified in AS 11.41 and was committed against a spouse,  
16 a former spouse, or a member of the social unit made up of [COMPRISED  
17 OF] those living together in the same dwelling as the defendant;

18 (B) specified in AS 11.41.410 - 11.41.458 and the defendant  
19 has engaged in the same or other conduct prohibited by a provision of  
20 AS 11.41.410 - 11.41.460 involving the same or another victim; or

21 (C) specified in AS 11.41 that is a crime involving domestic  
22 violence and was committed in the physical presence or hearing of a child  
23 under 16 years of age who was, at the time of the offense, living within the  
24 residence of the victim, the residence of the perpetrator, or the residence where  
25 the crime involving domestic violence occurred;

26 (19) the defendant's prior criminal history includes an adjudication as a  
27 delinquent for conduct that would have been a felony if committed by an adult;

28 (20) the defendant was on furlough under AS 33.30 or on parole or  
29 probation for another felony charge or conviction that would be considered a prior  
30 felony conviction under AS 12.55.145(a)(1)(B);

31 (21) the defendant has a criminal history of repeated instances of

1 conduct violative of criminal laws, whether punishable as felonies or misdemeanors,  
2 similar in nature to the offense for which the defendant is being sentenced under this  
3 section;

4 (22) the defendant knowingly directed the conduct constituting the  
5 offense at a victim because of that person's race, sex, color, creed, physical or mental  
6 disability, ancestry, or national origin;

7 (23) the defendant is convicted of an offense specified in AS 11.71 and

8 (A) the offense involved the delivery of a controlled substance  
9 under circumstances manifesting an intent to distribute the substance as part of  
10 a commercial enterprise; or

11 (B) at the time of the conduct resulting in the conviction, the  
12 defendant was caring for or assisting in the care of a child under 10 years of  
13 age;

14 (24) the defendant is convicted of an offense specified in AS 11.71 and  
15 the offense involved the transportation of controlled substances into the state;

16 (25) the defendant is convicted of an offense specified in AS 11.71 and  
17 the offense involved large quantities of a controlled substance;

18 (26) the defendant is convicted of an offense specified in AS 11.71 and  
19 the offense involved the distribution of a controlled substance that had been  
20 adulterated with a toxic substance;

21 (27) the defendant, being 18 years of age or older,

22 (A) is legally accountable under AS 11.16.110(2) for the  
23 conduct of a person who, at the time the offense was committed, was under 18  
24 years of age and at least three years younger than the defendant; or

25 (B) is aided or abetted in planning or committing the offense by  
26 a person who, at the time the offense was committed, was under 18 years of  
27 age and at least three years younger than the defendant;

28 (28) the victim of the offense is a person who provided testimony or  
29 evidence related to a prior offense committed by the defendant;

30 (29) the defendant committed the offense for the benefit of, at the  
31 direction of, or in association with a criminal street gang;

1 (30) the defendant is convicted of an offense specified in AS 11.41.410  
2 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to  
3 the victim in furtherance of the offense with the intent to make the victim  
4 incapacitated; in this paragraph, "incapacitated" has the meaning given in  
5 AS 11.41.470;

6 (31) the defendant's prior criminal history includes convictions for  
7 five or more crimes in this or another jurisdiction that are class A misdemeanors  
8 under the law of this state, or having elements similar to a class A misdemeanor;  
9 two or more convictions arising out of a single continuous episode are considered  
10 a single conviction; however, an offense is not a part of a continuous episode if  
11 committed while attempting to escape or resist arrest or if it is an assault upon a  
12 uniformed or otherwise clearly identified peace officer; notice and denial of  
13 convictions are governed by AS 12.55.145(b), (c), and (d).

14 \* Sec. 19. AS 12.55.155(d) is amended to read:

15 (d) The following factors shall be considered by the sentencing court if  
16 proven in accordance with this section, and may allow imposition of a sentence  
17 below the presumptive range [AND MAY MITIGATE THE PRESUMPTIVE  
18 TERMS] set out in AS 12.55.125:

19 (1) the offense was principally accomplished by another person, and  
20 the defendant manifested extreme caution or sincere concern for the safety or well-  
21 being of the victim;

22 (2) the defendant, although an accomplice, played only a minor role in  
23 the commission of the offense;

24 (3) the defendant committed the offense under some degree of duress,  
25 coercion, threat, or compulsion insufficient to constitute a complete defense, but that  
26 [WHICH] significantly affected the defendant's conduct;

27 (4) the conduct of a youthful defendant was substantially influenced by  
28 another person more mature than the defendant;

29 (5) the conduct of an aged defendant was substantially a product of  
30 physical or mental infirmities resulting from the defendant's age;

31 (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the

1 defendant acted with serious provocation from the victim;

2 (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,  
3 the victim provoked the crime to a significant degree;

4 (8) [REPEALED

5 (9)] the conduct constituting the offense was among the least serious  
6 conduct included in the definition of the offense;

7 (9) [(10)] before the defendant knew that the criminal conduct had  
8 been discovered, the defendant fully compensated or made a good faith effort to fully  
9 compensate the victim of the defendant's criminal conduct for any damage or injury  
10 sustained;

11 (10) [(11)] the defendant was motivated to commit the offense solely  
12 by an overwhelming compulsion to provide for emergency necessities for the  
13 defendant's immediate family;

14 (11) [(12)] the defendant assisted authorities to detect, apprehend, or  
15 prosecute other persons who committed an offense;

16 (12) [(13)] the facts surrounding the commission of the offense and  
17 any previous offenses by the defendant establish that the harm caused by the  
18 defendant's conduct is consistently minor and inconsistent with the imposition of a  
19 substantial period of imprisonment;

20 (13) [(14)] the defendant is convicted of an offense specified in  
21 AS 11.71 and the offense involved small quantities of a controlled substance;

22 (14) [(15)] the defendant is convicted of an offense specified in  
23 AS 11.71 and the offense involved the distribution of a controlled substance, other  
24 than a schedule IA controlled substance, to a personal acquaintance who is 19 years of  
25 age or older for no profit;

26 (15) [(16)] the defendant is convicted of an offense specified in  
27 AS 11.71 and the offense involved the possession of a small amount of a controlled  
28 substance for personal use in the defendant's home;

29 (16) [(17)] in a conviction for assault or attempted assault or for  
30 homicide or attempted homicide, the defendant acted in response to domestic violence  
31 perpetrated by the victim against the defendant and the domestic violence consisted of

1 aggravated or repeated instances of assaultive behavior.

2 \* Sec. 20. AS 12.55.155(e) is amended to read:

3 (e) If a factor in aggravation is a necessary element of the present offense, or  
4 requires the imposition of a sentence within the presumptive range [TERM] under  
5 AS 12.55.125(c)(2), that factor may not be used to impose a sentence above the high  
6 end of [AGGRAVATE] the presumptive range [TERM]. If a factor in mitigation is  
7 raised at trial as a defense reducing the offense charged to a lesser included offense,  
8 that factor may not be used to impose a sentence below the low end of [MITIGATE]  
9 the presumptive range [TERM].

10 \* Sec. 21. AS 12.55.155(f) is amended to read:

11 (f) If the state seeks to establish a factor in aggravation at sentencing

12 (1) under (c)(7), (8), (12), (15), (19), (20), (21), or (31) of this  
13 section, or if the defendant seeks to establish a factor in mitigation at sentencing,  
14 written notice must be served on the opposing party and filed with the court not later  
15 than 10 days before the date set for imposition of sentence; the factors [. FACTORS]  
16 in aggravation listed in this paragraph, and factors in mitigation must be established  
17 by clear and convincing evidence before the court sitting without a jury; all [. ALL]  
18 findings must be set out with specificity;

19 (2) other than one listed in (1) of this subsection, the factor shall be  
20 presented to a trial jury under procedures set by the court, unless the defendant  
21 waives trial by jury, stipulates to the existence of the factor, or consents to have  
22 the factor proven under procedures set out in (1) of this subsection; a factor in  
23 aggravation presented to a jury is established if proved beyond a reasonable  
24 doubt; written notice of the intent to establish a factor in aggravation must be  
25 served on the defendant and filed with the court

26 (A) 10 days before trial, or at another time specified by the  
27 court;

28 (B) within 48 hours, or at a time specified by the court, if  
29 the court instructs the jury about the option to return a verdict for a lesser  
30 included offense; or

31 (C) five days before entering a plea that results in a finding

of guilt, or at another time specified by the court.

\* Sec. 22. AS 12.55.165(a) is amended to read:

(a) If the defendant is subject to sentencing under AS 12.55.125(c), (d), (e), or (i) [AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), OR (i)] and the court finds by clear and convincing evidence that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155 or from imposition of a sentence within the presumptive range [TERM], whether or not adjusted for aggravating or mitigating factors, the court shall enter findings and conclusions and cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175.

\* Sec. 23. AS 12.55.175(b) is amended to read:

(b) Upon receipt of a record of proceedings under AS 12.55.165, the three-judge panel shall consider all pertinent files, records, and transcripts, including the findings and conclusions of the judge who originally heard the matter. The panel may hear oral testimony to supplement the record before it. If the panel supplements the record, the panel shall permit the victim to testify before the panel. If the panel finds that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155 or from imposition of a sentence within the presumptive range [TERM], whether or not adjusted for aggravating or mitigating factors, it shall sentence the defendant in accordance with this section. If the panel does not find that manifest injustice would result, it shall remand the case to the sentencing court, with a written statement of its findings and conclusions, for sentencing under AS 12.55.125.

\* Sec. 24. AS 12.55.175(e) is amended to read:

(e) If the three-judge panel determines under (b) of this section that manifest injustice would result from imposition of a sentence within the presumptive range [TERM] and the panel also finds that the defendant has an exceptional potential for rehabilitation and that a sentence of less than the presumptive range [TERM] should be imposed because of the defendant's exceptional potential for rehabilitation, the panel

(1) shall sentence the defendant within [TO] the presumptive range

1 [TERM] required under AS 12.55.125 or as permitted under AS 12.55.155:

2 (2) shall order the defendant under AS 12.55.015 to engage in  
3 appropriate programs of rehabilitation; and

4 (3) may provide that the defendant is eligible for discretionary parole  
5 under AS 33.16.090 during the second half of the sentence imposed under this  
6 subsection if the defendant successfully completes all rehabilitation programs ordered  
7 under (2) of this subsection.

8 \* Sec. 25. AS 12.55.185 is amended by adding a new paragraph to read:

9 (18) "active term of imprisonment" has the meaning given in  
10 AS 12.55.127.

11 \* Sec. 26. AS 33.05.070 is amended by adding new subsections to read:

12 (c) At any time within the probation period, a police officer certified by the  
13 Alaska Police Standards Council may detain a probationer if the police officer has  
14 reasonable suspicion that the probationer has recently violated or may imminently  
15 violate a probation condition relating to one of the topics set out in (d) of this section.  
16 The police officer may also arrest the probationer without a warrant if the police  
17 officer has probable cause to believe that the probationer has violated a probation  
18 condition relating to one of the topics set out in (d) of this section.

19 (d) The conditions that permit a police officer to detain or arrest a probationer  
20 or parolee without a warrant under AS 33.16.240 and (c) of this section are those  
21 conditions imposed by the court, or the parole board, relating to

22 (1) geographic limitations on the probationer's movements;

23 (2) possessing or consuming controlled substances under state or  
24 federal law;

25 (3) possessing firearms;

26 (4) possessing or consuming alcoholic beverages, or being in a place  
27 where they are sold or served;

28 (5) operating or driving a motor vehicle; or

29 (6) other conduct that creates an imminent public danger or threatens  
30 serious harm to persons or property.

31 \* Sec. 27. AS 33.16.085(a) is amended to read:

1 (a) Notwithstanding a presumptive, mandatory, or mandatory minimum term  
2 or sentence a prisoner may be serving or any restriction on parole eligibility under  
3 AS 12.55, a prisoner who is serving a term of at least 181 days, may, upon application  
4 by the prisoner or the commissioner, be released by the board on special medical  
5 parole if the board determines that

6 (1) the prisoner has not been convicted of an offense under  
7 AS 11.41.410 - 11.41.425 or 11.41.434 - 11.41.438 and the prisoner is severely  
8 medically or cognitively disabled as certified in writing by a physician licensed under  
9 AS 08.64

10 (2) a reasonable probability exists that

11 (A) the prisoner will live and remain at liberty without  
12 violating any laws or conditions imposed by the board;

13 (B) because of the prisoner's severe medical or cognitive  
14 disability, the prisoner will not pose a threat of harm to the public if released  
15 on parole; and

16 (C) release of the prisoner on parole would not diminish the  
17 seriousness of the crime;

18 (3) the prisoner

19 (A) was not suffering from the severe medical or cognitive  
20 disability at the time the prisoner committed the offense or parole or probation  
21 violation for which the prisoner is presently incarcerated; or

22 (B) was suffering from the severe medical or cognitive  
23 disability at the time the prisoner committed the offense or parole or probation  
24 violation for which the prisoner is presently incarcerated and the medical or  
25 cognitive disability has progressed so that the likelihood of the prisoner's  
26 committing the same or a similar offense is low;

27 (4) the care and supervision that the prisoner requires can be provided  
28 in a more medically appropriate or cost-effective manner than by the department;

29 (5) the prisoner is incapacitated to an extent that incarceration does not  
30 impose significant additional restrictions on the prisoner;

31 (6) the prisoner is likely to remain subject to the severe medical or

1 cognitive disability throughout the entire period of parole or to die and there is no  
2 reasonable expectation that the prisoner's medical or cognitive disability will improve  
3 noticeably; and

4 (7) an appropriate discharge plan has been formulated that addresses  
5 basic life domains of the prisoner, including care coordination, housing, eligibility for  
6 public benefits, and health care, including necessary medication.

7 \* Sec. 28. AS 33.16.090 is repealed and reenacted to read:

8 **Sec. 33.16.090. Eligibility for discretionary parole and minimum terms to**  
9 **be served.** (a) A prisoner sentenced to an active term of imprisonment of at least 181  
10 days may, in the discretion of the board, be released on discretionary parole if the  
11 prisoner has served the amount of time specified under (b) of this section, except that

12 (1) a prisoner sentenced to one or more mandatory 99-year terms under  
13 AS 12.55.125(a) or one or more definite terms under AS 12.55.125(l) is not eligible  
14 for consideration for discretionary parole;

15 (2) a prisoner is not eligible for consideration of discretionary parole if  
16 made ineligible by order of a court under AS 12.55.115;

17 (3) a prisoner imprisoned under AS 12.55.086 is not eligible for  
18 discretionary parole unless the actual term of imprisonment is more than one year.

19 (b) A prisoner eligible under (a) of this section who is sentenced

20 (1) to a single sentence under AS 12.55.125(a) or (b) may not be  
21 released on discretionary parole until the prisoner has served the mandatory minimum  
22 term under AS 12.55.125(a) or (b), one-third of the active term of imprisonment  
23 imposed, or any term set under AS 12.55.115, whichever is greatest;

24 (2) to a single sentence within or below a presumptive range set out in  
25 AS 12.55.125(c), (d)(2) - (4), (e)(3) and (4), or (i), and has not been allowed by the  
26 three-judge panel under AS 12.55.175 to be considered for discretionary parole  
27 release, may not be released on discretionary parole until the prisoner has served the  
28 term imposed, less good time earned under AS 33.20.010;

29 (3) to a single sentence under AS 12.55.125(c), (d)(2) - (4), (e)(3) and  
30 (4), or (i), and has been allowed by the three-judge panel under AS 12.55.175 to be  
31 considered for discretionary parole release during the second half of the sentence, may

1 not be released on discretionary parole until

2 (A) the prisoner has served that portion of the active term of  
3 imprisonment required by the three-judge panel; and

4 (B) in addition to the factors set out in AS 33.16.100(a), the  
5 board determines that

6 (i) the defendant has successfully completed all  
7 rehabilitation programs ordered by the three-judge panel that were  
8 made available to the prisoner; and

9 (ii) the prisoner would not constitute a danger to the  
10 public if released on parole;

11 (4) to a single enhanced sentence under AS 12.55.155(a) that is above  
12 the applicable presumptive range, may not be released on discretionary parole until the  
13 prisoner has served the greater of the following:

14 (A) an amount of time, less good time earned under  
15 AS 33.20.010, equal to the upper end of the presumptive range plus one-fourth  
16 of the amount of time above the presumptive range; or

17 (B) any term set under AS 12.55.115;

18 (5) to a single sentence under any other provision of law, may not be  
19 released on discretionary parole until the prisoner has served at least one-fourth of the  
20 active term of imprisonment, any mandatory minimum sentence imposed under any  
21 provision of law, or any term set under AS 12.55.115, whichever is greatest;

22 (6) to concurrent sentences, may not be released on discretionary  
23 parole until the prisoner has served the greatest of

24 (A) any mandatory minimum sentence or sentences imposed  
25 under any provision of law;

26 (B) any term set under AS 12.55.115; or

27 (C) the amount of time that is required to be served under (1) -  
28 (5) of this subsection for the sentence imposed for the primary crime, had that  
29 been the only sentence imposed;

30 (7) to consecutive or partially consecutive sentences, may not be  
31 released on discretionary parole until the prisoner has served the greatest of

1 (A) the composite total of any mandatory minimum sentence or  
2 sentences imposed under any provision of law, including AS 12.55.127;

3 (B) any term set under AS 12.55.115; or

4 (C) the amount of time that is required to be served under (1) -  
5 (5) of this subsection for the sentence imposed for the primary crime, had that  
6 been the only sentence imposed, plus one-quarter of the composite total of the  
7 active term of imprisonment imposed as consecutive or partially consecutive  
8 sentences imposed for all crimes other than the primary crime.

9 (c) As used in this section,

10 (1) "active term of imprisonment" has the meaning given in  
11 AS 12.55.185;

12 (2) "primary crime" has the meaning given in AS 12.55.127.

13 \* Sec. 29. AS 33.16.100 is amended by adding a new subsection to read:

14 (e) If the parole board considers an application for discretionary parole, and  
15 denies parole because the prisoner does not meet the standards in (a) of this section,  
16 the board may make a prisoner ineligible for further consideration of discretionary  
17 parole, or may require that additional time be served before the prisoner is again  
18 eligible for consideration for discretionary parole.

19 \* Sec. 30. AS 33.16.240(c) is amended to read:

20 (c) In addition to the powers granted to a police officer under (g) of this  
21 section, a [A] parole officer may, without a warrant, arrest a parolee for a violation of  
22 parole only if there is danger to the public, if there is a likelihood that the parolee will  
23 flee, or if the parolee committed a crime in the presence of the parole officer.

24 \* Sec. 31. AS 33.16.240 is amended by adding a new subsection to read:

25 (g) At any time within the period of parole supervision, a police officer  
26 certified by the Alaska Police Standards Council may detain a parolee if the officer  
27 has reasonable suspicion that the person has recently violated or may imminently  
28 violate a parole condition relating to one of the topics set out in AS 33.05.070(d). The  
29 officer may also arrest the parolee without a warrant if the officer has probable cause  
30 to believe that the person has violated a parole condition relating to one of the topics  
31 set out in AS 33.05.070(d).

1 \* Sec. 32. AS 12.55.125(k); AS 33.16.100(c), and 33.16.100(d) are repealed.

2 \* Sec. 33. The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 APPLICABILITY. Sections 1, 4, 6, 26, and 29 - 31 of this Act apply to offenses  
5 committed before, on, or after the effective date of this Act. Sections 2, 3, 5, 7 - 25, and 27 -  
6 28 of this Act apply to offenses committed on or after the effective date of this Act.  
7 References to prior offenses or convictions in secs. 8 - 21 of this Act include offenses  
8 committed before, on, or after the effective date of this Act.

9 \* Sec. 34. This Act takes effect July 1, 2005.

*Amend #4*

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 56(JUD)  
 (S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title: "An Act relating to the content of indictments, sentencing, probation, and parole..." RDU: CRIMINAL  
 Sponsor: Senator Therriault Component: CDCO  
 Requester: Senate Judiciary Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill modifies the laws governing the presumptive sentencing of felony offenders in Alaska, in response to *Blakely v. Washington*, a decision by the U.S. Supreme Court announced in June 2004. By careful amendment of Alaska's sentencing laws this legislation seeks to avoid the worst consequences of *Blakely*, which could prevent judges from considering all relevant factors in sentencing and causing undue complications in the criminal justice process. The Department of Law does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Kathryn A. Daughhete, Director Phone 465-5427  
 Division: Administrative Services Date/Time 1/14/05 11:13 AM  
 Approved by: Kathryn Daughhete for Gregg D. Jenkes, Attorney General Date 1/14/2005  
 Agency: Department of Law

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
Bill Version: CSSB 56(JUD)  
(S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
Title An Act relating to criminal law and RDU Institutional Facilities  
procedure, criminal sentences, and probation and parole Component Institution Director's Office  
Sponsor Senators Therriault, Seekins  
Requester Senate Judiciary Component No. 1381

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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 EXPENDITURES</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>
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<b>CHANGE IN REVENUES ( )</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>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

SB56 modifies state law governing the presumptive sentencing of felony offenders in Alaska, in response to the United States Supreme Court decision, *Blakely v. Washington*. The legislation proposes to amend Alaska's sentencing laws to avoid the worst consequences of *Blakely*, which could make it difficult for judges to consider all relevant factors in sentencing, causing complications throughout the criminal justice process. The modified presumptive sentencing structure proposed in SB56 primarily will impact the process and not the end result of felony sentences; therefore the legislation will have a negligible, if any, effect on the length of sentences imposed. The Department of Corrections does not anticipate a fiscal impact to the Division of Institutions from the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director  
Division: Administrative Services  
Approved by: Portia Parker, Deputy Commissioner  
Agency: Department of Corrections

Phone: 465-4641  
Date/Time: 1/18/05 8:26 AM  
Date: 1/18/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSSB 56(JUD)  
 (S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title An Act relating to criminal law... RDU Probation and Parole  
procedure, criminal sentences, and probation and parole Component Probation and Parole Directors Ofc  
 Sponsor Senators Therriault, Seekins  
 Requester Senate Judiciary Component No. 2684

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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 EXPENDITURES</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>
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<b>CHANGE IN REVENUES ( )</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>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

SB56 modifies state law governing the presumptive sentencing of felony offenders in Alaska, in response to the United States Supreme Court decision, *Blakely v. Washington*. The legislation proposes to amend Alaska's sentencing laws to avoid the worst consequences of *Blakely*, which could make it difficult for judges to consider all relevant factors in sentencing, causing complications throughout the criminal justice process. The modified presumptive sentencing structure proposed in SB56 primarily will impact the process and not the end result of felony sentences; therefore the legislation will have a negligible, if any, effect on the length of sentences imposed. The department also is unable to predict with any accuracy the future actions judges may or may not take regarding probation supervision, thus it is unknown whether the changes proposed in the legislation will have any impact on probation services.

Prepared by: Sharleen Griffin, Acting Director Phone 465-4641  
 Division Administrative Services Date/Time 1/18/05 12:57 PM  
 Approved by: Portia Parker, Deputy Commissioner Date 1/18/2005  
 Agency Department of Corrections

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSSB 56(JUD)  
 (S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An Act relating to content of indictments, RDU Alaska State Troopers  
sentencing, probation and parole Component AST Detachments  
 Sponsor Senators Therriault  
 Requester Senate Finance Component No. 2325

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Main						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Passage of this bill will have no fiscal impact on the Department of Public Safety. The expected increase in the number of arrests for this violation can be handled by available staff. Provisions of this bill will help enforce and insure that probationer's and parolee's are complying with their conditions. It also outlines a reasonable standard for arrest of probation/parole violations.

Prepared by: Lieutenant Todd Sharp Phone 907-269-4532  
 Division Alaska State Troopers Date/Time 1/21/05 9:06 AM  
 Approved by: Commissioner William Tandeske Date 1/21/2005  
 Agency Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: CSSB 56(JUD)  
 (S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to criminal law and procedure, RDU Legal and Advocacy Services  
sentencing, probation and parole Component Public Defender Agency  
 Sponsor Senators Therriault, Seekins  
 Requester SJUD Component No. 1631

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill modifies the laws governing the presumptive sentencing of felony offenders in Alaska, in response to *Blakely v. Washington*, a decision by the U.S. Supreme Court announced in June 2004. By careful amendment of Alaska's sentencing laws this legislation seeks to avoid the worst consequences of *Blakely*, which could prevent judges from considering all relevant factors in sentencing and causing undue complications in the criminal justice process. The Committee does not anticipated a fiscal impact from passage of this legislation.

Prepared by: Senate Judiciary Committee  
 Division: \_\_\_\_\_  
 Approved by: Senate Judiciary Committee  
 Agency: \_\_\_\_\_

Phone: \_\_\_\_\_  
 Date/Time: 1/20/05 5:58 PM  
 Date: 1/20/2005

It is the intent of the legislature in passing this bill to preserve the basic structure of Alaska's presumptive sentencing system, which is designed to avoid disparate sentences. With this bill the legislature sets out a sentencing framework, subject to judicial adjustment for statutory aggravating or mitigating factors that are determined in a manner that is constitutional under the decision of the U.S. Supreme Court in *Blakely v. Washington*. The single, definite presumptive terms set out in current law can unduly constrain the sentencing process, particularly under the mandates of *Blakely v. Washington*. Although the presumptive terms are being replaced by presumptive ranges, it is not the intent of this bill in doing so to bring about an overall increase in the amount of active imprisonment for felony sentences. Rather, the bill is intended to give judges the authority to impose an appropriate sentence, with an appropriate amount of probation supervision, by taking into account the considerations set out in AS 12.55.005 and 12.55.015.

**SENATE BILL NO. 56**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY SENATORS THERRIAULT, Seekins**

**Introduced: 1/14/05  
Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to criminal law and procedure, criminal sentences, and probation and**  
2 **parole; and providing for an effective date."**

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

4 **\* Section 1.** AS 12.40.100 is amended by adding a new subsection to read:

5 (c) An indictment that complies with this section and with applicable rules  
6 adopted by the supreme court, is valid and need not specify aggravating factors set out  
7 in AS 12.55.155.

8 **\* Sec. 2.** AS 12.55.015(a) is amended to read:

9 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing  
10 sentence on a defendant convicted of an offense, may singly or in combination

11 (1) impose a

12 (A) fine when authorized by law and as provided in  
13 AS 12.55.035; or

14 (B) day fine when authorized by law and as provided in

1 AS 12.55.036 if the court does not impose a term of periodic or continuous  
2 imprisonment or place the defendant on probation;

3 (2) order the defendant to be placed on probation under conditions  
4 specified by the court that may include provision for active supervision;

5 (3) impose a definite term of periodic imprisonment, but only if an  
6 employment obligation of the defendant preexisted sentencing and continuous  
7 incarceration would cause extreme hardship to the defendant's ability to pay  
8 fines or restitution: Amended  
# 1

9 (4) impose a definite term of continuous imprisonment;

10 (5) order the defendant to make restitution under AS 12.55.045;

11 (6) order the defendant to carry out a continuous or periodic program  
12 of community work under AS 12.55.055;

13 (7) suspend execution of all or a portion of the sentence imposed under  
14 AS 12.55.080;

15 (8) suspend imposition of sentence under AS 12.55.085;

16 (9) order the forfeiture to the commissioner of public safety or a  
17 municipal law enforcement agency of a deadly weapon that was in the actual  
18 possession of or used by the defendant during the commission of an offense described  
19 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

20 (10) order the defendant, while incarcerated, to participate in or  
21 comply with the treatment plan of a rehabilitation program that is related to the  
22 defendant's offense or to the defendant's rehabilitation if the program is made available  
23 to the defendant by the Department of Corrections;

24 (11) order the forfeiture to the state of a motor vehicle, weapon,  
25 electronic communication device, or money or other valuables, used in or obtained  
26 through an offense that was committed for the benefit of, at the direction of, or in  
27 association with a criminal street gang;

28 (12) order the defendant to have no contact, either directly or  
29 indirectly, with a victim or witness of the offense until the defendant is  
30 unconditionally discharged.

31 \* Sec. 3. AS 12.55.025(i) is amended to read:

1 (i) Except as provided by AS 12.55.125(a)(3), [12.55.125(k),] 12.55.145(d),  
 2 12.55.155(f), and 12.55.165, the preponderance of the evidence standard of proof  
 3 applies to sentencing proceedings.

4 \* Sec. 4. AS 12.55.055(d) is amended to read:

5 (d) The court may offer a defendant convicted of an offense the option of  
 6 performing community work in lieu of a sentence of imprisonment. Substitution of  
 7 community work shall be at a rate of eight hours for each day of imprisonment. A  
 8 court may not offer substitution of community work for any mandatory minimum  
 9 period of imprisonment or for any period within the [OF A] presumptive range  
 10 [TERM] of imprisonment for the offense.

11 \* Sec. 5. AS 12.55.088(c) is amended to read:

12 (c) A [NO] sentence may not be reduced or modified so as to result in a term  
 13 of imprisonment that [WHICH] is less than the minimum [OR PRESUMPTIVE]  
 14 sentence or within the presumptive range required by law for the original sentence.

15 \* Sec. 6. AS 12.55.100(a) is amended to read:

16 (a) While on probation and among the conditions of probation, the defendant  
 17 may be required

18 (1) to pay a fine in one or several sums;

19 (2) to make restitution or reparation to aggrieved parties for actual  
 20 damages or loss caused by the crime for which conviction was had, including  
 21 compensation to a victim that is a nonprofit organization for the value of labor or  
 22 goods provided by volunteers if the labor or goods were necessary to alleviate or  
 23 mitigate the effects of the defendant's crime;

24 (3) to provide for the support of any persons for whose support the  
 25 defendant is legally responsible;

26 (4) to perform community work in accordance with AS 12.55.055;

27 (5) to participate in or comply with the treatment plan of an inpatient  
 28 or outpatient rehabilitation program specified by either the court or the defendant's  
 29 probation officer that is related to the defendant's offense or to the defendant's  
 30 rehabilitation; [AND]

31 (6) to satisfy the screening, evaluation, referral, and program

1 requirements of an agency authorized by the court to make referrals for rehabilitation  
2 treatment or to provide rehabilitative treatment; and

3 (7) if ordered by the court, to abide by additional conditions of  
4 probation imposed by the defendant's probation officer; an additional condition  
5 imposed by the probation officer must be provided in writing to the defendant;  
6 the additional condition is binding upon delivery until modified by the court; this  
7 paragraph does not require written notice of conditions relating to the day-to-day  
8 management of probationers, in which probation officers direct the activities of  
9 probationers to implement existing court-imposed conditions.

*only and*  
*Am J#*  
*2*

10 \* Sec. 7. AS 12.55.120 is amended by adding a new subsection to read:

11 (e) A sentence reviewed by the appellate court under this section and  
12 AS 22.07.020, or by the superior court under AS 22.10.020, or a sentence reviewed by  
13 petition accepted under court rules, may not be reversed as excessive, and the  
14 sentencing court is not required to make specific findings, if the sentence is within an  
15 applicable presumptive range set out in AS 12.55.125, or is a consecutive or partially  
16 consecutive sentence imposed in accordance with the minimum sentences set out in  
17 AS 12.55.127.

} ?

18 \* Sec. 8. AS 12.55.125(c) is amended to read:

19 (c) Except as provided in (i) of this section, a defendant convicted of a class A  
20 felony may be sentenced to a definite term of imprisonment of not more than 20 years,  
21 and shall be sentenced to a definite term within the following presumptive ranges  
22 [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

23 (1) if the offense is a first felony conviction and does not involve  
24 circumstances described in (2) of this subsection, five to eight [FIVE] years;

25 (2) if the offense is a first felony conviction

26 [(A) OTHER THAN FOR MANSLAUGHTER] and the  
27 defendant possessed a firearm, used a dangerous instrument, or caused serious  
28 physical injury or death during the commission of the offense, or knowingly  
29 directed the conduct constituting the offense at a uniformed or otherwise  
30 clearly identified peace officer, fire fighter, correctional employee, emergency  
31 medical technician, paramedic, ambulance attendant, or other emergency

1 responder who was engaged in the performance of official duties at the time of  
2 the offense, seven to eleven [SEVEN] years;

3 [(B) FOR MANSLAUGHTER AND THE CONDUCT  
4 RESULTING IN THE CONVICTION WAS KNOWINGLY DIRECTED  
5 TOWARDS A CHILD UNDER THE AGE OF 16, SEVEN YEARS;

6 (C) FOR MANSLAUGHTER AND THE CONDUCT  
7 RESULTING IN THE CONVICTION INVOLVED DRIVING WHILE  
8 UNDER THE INFLUENCE OF AN ALCOHOLIC BEVERAGE,  
9 INHALANT, OR CONTROLLED SUBSTANCE, SEVEN YEARS;]

10 (3) if the offense is a second felony conviction, 10 to 14 [10] years;

11 (4) if the offense is a third felony conviction and the defendant is not  
12 subject to sentencing under (f) of this section, 15 to 20 [15] years.

13 \* Sec. 9. AS 12.55.125(d) is amended to read:

14 (d) Except as provided in (i) of this section, a defendant convicted of a class B  
15 felony may be sentenced to a definite term of imprisonment of not more than 10 years,  
16 and shall be sentenced to a definite term within the following presumptive ranges  
17 [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

18 (1) if the offense is a first felony conviction and does not involve  
19 circumstances described in (2) of this subsection, one to three years;

20 (2) if the offense is a first felony conviction, the defendant violated  
21 AS 11.41.130, and the victim was a child under 16 years of age, two to four years;

22 (3) if the offense is a second felony conviction, four to seven [FOUR]  
23 years;

24 (4) [(2)] if the offense is a third felony conviction, six to ten [SIX]  
25 years.

26 \* Sec. 10. AS 12.55.125(e) is amended to read:

27 (e) Except as provided in (i) of this section, a defendant convicted of a class C  
28 felony may be sentenced to a definite term of imprisonment of not more than five  
29 years, and shall be sentenced to a definite term within the following presumptive  
30 ranges [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

31 (1) if the offense is a first felony conviction and does not involve

1 circumstances described in (4) of this subsection, zero to two years;

2 (2) if the offense is a second felony conviction, two to four [TWO]  
3 years;

4 (3) [(2)] if the offense is a third felony conviction, three to five  
5 [THREE] years;

6 (4) [(3)] if the offense is a first felony conviction, and the defendant  
7 violated AS 08.54.720(a)(15), one to two years [ONE YEAR].

8 \* Sec. 11. AS 12.55.125(g) is amended to read:

9 (g) If a defendant is sentenced under (c), (d), (e) [(d)(1), (d)(2), (e)(1), (e)(2),  
10 (e)(3)], or (i) of this section, except to the extent permitted under AS 12.55.155 -  
11 12.55.175,

12 (1) imprisonment may not be suspended under AS 12.55.080;

13 (2) imposition of sentence may not be suspended under AS 12.55.085;

14 (3) terms of imprisonment may not be otherwise reduced.

15 \* Sec. 12. AS 12.55.125(i) is amended to read:

16 (i) A defendant convicted of

17 (1) sexual assault in the first degree or sexual abuse of a minor in the  
18 first degree may be sentenced to a definite term of imprisonment of not more than 40  
19 years and shall be sentenced to a definite term within the following presumptive  
20 ranges [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

21 (A) if the offense is a first felony conviction and does not  
22 involve circumstances described in (B) of this paragraph, eight to twelve  
23 [EIGHT] years;

24 (B) if the offense is a first felony conviction and the defendant  
25 possessed a firearm, used a dangerous instrument, or caused serious physical  
26 injury during the commission of the offense, 12 to 16 [10] years;

27 (C) if the offense is a second felony conviction and does not  
28 involve circumstances described in (D) of this paragraph, 15 to 20 [15] years;

29 (D) if the offense is a second felony conviction and the  
30 defendant has a prior conviction for a sexual felony, 20 to 30 [20] years;

31 (E) if the offense is a third felony conviction and the defendant

1 is not subject to sentencing under (F) of this paragraph or (I) of this section, 25  
2 to 35 [25] years;

3 (F) if the offense is a third felony conviction, the defendant is  
4 not subject to sentencing under (I) of this section, and the defendant has two  
5 prior convictions for sexual felonies, 30 to 40 [30] years;

6 (2) attempt, conspiracy, or solicitation to commit sexual assault in the  
7 first degree or sexual abuse of a minor in the first degree may be sentenced to a  
8 definite term of imprisonment of not more than 30 years and shall be sentenced to a  
9 definite term within the following presumptive ranges [TERMS], subject to  
10 adjustment as provided in AS 12.55.155 - 12.55.175:

11 (A) if the offense is a first felony conviction and does not  
12 involve circumstances described in (B) of this paragraph, five to eight [FIVE]  
13 years;

14 (B) if the offense is a first felony conviction, and the defendant  
15 possessed a firearm, used a dangerous instrument, or caused serious physical  
16 injury during the commission of the offense, 10 to 14 [10] years;

17 (C) if the offense is a second felony conviction and does not  
18 involve circumstances described in (D) of this paragraph, 12 to 16 [10] years;

19 (D) if the offense is a second felony conviction and the  
20 defendant has a prior conviction for a sexual felony, 15 to 20 [15] years;

21 (E) if the offense is a third felony conviction, does not involve  
22 circumstances described in (F) of this paragraph, and the defendant is not  
23 subject to sentencing under (I) of this section, 15 to 25 [15] years;

24 (F) if the offense is a third felony conviction, the defendant is  
25 not subject to sentencing under (I) of this section, and the defendant has two  
26 prior convictions for sexual felonies, 20 to 30 [20] years;

27 (3) sexual assault in the second degree, sexual abuse of a minor in the  
28 second degree, unlawful exploitation of a minor, or distribution of child pornography  
29 may be sentenced to a definite term of imprisonment of not more than 20 years and  
30 shall be sentenced to a definite term within the following presumptive ranges  
31 [TERMS], subject to adjustment as provided in AS 12.55.155 - 12.55.175:

1 (A) if the offense is a first felony conviction, two to four  
 2 years;

3 (B) if the offense is a second felony conviction and does not  
 4 involve circumstances described in (C) [(B)] of this paragraph, five to eight  
 5 [FIVE] years;

6 (C) [(B)] if the offense is a second felony conviction and the  
 7 defendant has a prior conviction for a sexual felony, 10 to 14 [10] years;

8 (D) [(C)] if the offense is a third felony conviction, does not  
 9 involve circumstances described in (E) [(D)] of this paragraph, 10 to 14 [10]  
 10 years;

11 (E) [(D)] if the offense is a third felony conviction, and the  
 12 defendant has two prior convictions for sexual felonies, 15 to 20 [15] years;

13 (4) sexual assault in the third degree, incest, indecent exposure in the  
 14 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to  
 15 commit sexual assault in the second degree, sexual abuse of a minor in the second  
 16 degree, unlawful exploitation of a minor, or distribution of child pornography, may be  
 17 sentenced to a definite term of imprisonment of not more than 10 years and shall be  
 18 sentenced to a definite term within the following presumptive ranges [TERMS],  
 19 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

20 (A) if the offense is a first felony conviction, one to two  
 21 years;

22 (B) if the offense is a second felony conviction and does not  
 23 involve circumstances described in (C) [(B)] of this paragraph, two to five  
 24 [TWO] years;

25 (C) [(B)] if the offense is a second felony conviction and the  
 26 defendant has a prior conviction for a sexual felony, three to six [THREE]  
 27 years;

28 (D) [(C)] if the offense is a third felony conviction and does not  
 29 involve circumstances described in (E) [(D)] of this paragraph, three to six  
 30 [THREE] years;

31 (E) [(D)] if the offense is a third felony conviction and the

1 defendant has two prior convictions for sexual felonies, six to ten [SIX] years.

2 \* Sec. 13. AS 12.55.125 is amended by adding a new subsection to read:

3 (n) In imposing a sentence within a presumptive range under (c), (d), (e), or (i)  
4 of this section, the total term, made up of the active term of imprisonment plus any  
5 suspended term of imprisonment, must fall within the presumptive range, and the  
6 active term of imprisonment may not fall below the lower end of the presumptive  
7 range.

8 \* Sec. 14. AS 12.55.127(d) is amended by adding a new paragraph to read:

9 (4) "presumptive term" means the middle of the applicable  
10 presumptive range set out in AS 12.55.125.

11 \* Sec. 15. AS 12.55.145(a) is amended to read:

12 (a) For purposes of considering prior convictions in imposing sentence under

13 (1) AS 12.55.125(c), (d), or (e) [(d)(1), (d)(2), (e)(1), OR (e)(2)],

14 (A) a prior conviction may not be considered if a period of 10  
15 or more years has elapsed between the date of the defendant's unconditional  
16 discharge on the immediately preceding offense and commission of the present  
17 offense unless the prior conviction was for an unclassified or class A felony;

18 (B) a conviction in this or another jurisdiction of an offense  
19 having elements similar to those of a felony defined as such under Alaska law  
20 at the time the offense was committed is considered a prior felony conviction;

21 (C) two or more convictions arising out of a single, continuous  
22 criminal episode during which there was no substantial change in the nature of  
23 the criminal objective are considered a single conviction unless the defendant  
24 was sentenced to consecutive sentences for the crimes; offenses committed  
25 while attempting to escape or avoid detection or apprehension after the  
26 commission of another offense are not part of the same criminal episode or  
27 objective;

28 (2) AS 12.55.125(f),

29 (A) a conviction in this or another jurisdiction of an offense  
30 having elements similar to those of a most serious felony is considered a prior  
31 most serious felony conviction;