

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

Recommendation 15-2017, Approved February 23, 2017: Shock incarceration is not an appropriate condition of probation for defendants who have been granted suspended entry of judgment.

In December 2015, the Alaska Criminal Justice Commission forwarded a number of recommendations to the Alaska Legislature; among them was a recommendation to implement a new form of suspended sentence, called Suspended Entry of Judgment. A Suspended Entry of Judgment (SEJ) was intended to operate differently from the already-existing Suspended Imposition of Sentence (SIS) in that a defendant who was granted SEJ would not have a conviction entered in that case and would therefore be able to avoid some of the immediate consequences of having a conviction.

One thing the Commission did not clarify was whether brief prison stays (“shock incarceration”) could be imposed as a condition of probation with SEJs. Shock incarceration had been available as a condition of probation with SIS prior to SB 91.

The Commission now takes this opportunity to affirm that shock incarceration is not an appropriate condition of probation for defendants who have been granted an SEJ. The Commission’s research has shown that even brief periods of time in prison can increase a defendant’s risk of recidivism once released, especially for defendants who are considered to be low-risk—i.e., defendants who do not have a significant criminal history and who have not committed serious crimes. Defendants who are granted an SEJ will almost always be low-risk defendants and are therefore the most likely to be destabilized by incarceration. Therefore, the Commission recommends that the legislature clarify that shock incarceration may not be imposed as a condition of probation as part of a Suspended Entry of Judgment.

March 6, 2017