

RECOMMENDATION TO THE SUPREME COURT OF ALASKA FROM THE ALASKA CRIMINAL JUSTICE COMMISSION

Recommendation 18-2017, adopted October 12, 2017:

Remove Minor Consuming Alcohol and Successful Suspended Imposition of Sentence cases from CourtView

The Criminal Justice Commission has researched various ways to provide relief from the collateral consequences of a conviction. The Commission recognizes that having a public record of a conviction for even a minor offense, or a conviction that was set aside, can have negative consequences long after the conviction or date of set-aside. In these cases, the Commission recommends that the Alaska Supreme Court issue an order that past Suspended Imposition of Sentence (SIS) cases and past Minor Consuming Alcohol (MCA) and similar cases be removed from CourtView.

This order would only affect the publicly accessible version of CourtView; the cases would remain on the internal CourtView used by the Court System. The paper files would remain accessible to the public. This recommendation is not intended to be a form of expungement or serve as a proxy for expungement.

The Commission recognizes that this order will not offer full relief from the stigma of these convictions; this order will not affect Department of Public Safety records, for example. However, many people access CourtView with little understanding of the records they view. Employers and landlords may check CourtView to vet prospective employees or tenants and assume any record of conviction denotes serious conduct. Removing SIS cases and cases involving minor defendants from the public CourtView will lessen the burden on people who have these convictions on their record.

Past convictions for MCA and other convictions involving minor defendants should be removed from CourtView.

Minor Consuming Alcohol (MCA) has been criminalized in various ways in the past. It has been both a misdemeanor and a violation for a first-time offense. Recently, only the third offense was a misdemeanor. In 2016, SB 165 reduced all MCA offenses to a violation.¹ It also directed the Court System not to publicly publish the record of any such violation. This means that going forward, records of MCA violations will not be accessible to the public on CourtView.

The Commission recommends that all past records of convictions for MCA should also be removed from the publicly accessible version of CourtView. This recommendation applies to all cases where MCA was charged as a standalone offense.

Likewise, the Commission also recommends that other offenses involving minor defendants be removed from CourtView. These offenses are: Minor Operating After Consuming,

¹ Ch. 32 SLA 2016

Minor Refusal, Minor on Unlicensed Premises, and Minor Operating After an Arrest for a Title 28 Offense.

Past successful SIS cases should be removed from CourtView.

Suspended Imposition of Sentence (SIS) is a sentencing mechanism available in certain cases. At sentencing, the court may suspend a defendant's sentence and impose probation. If the defendant successfully completes the term of probation, the court may set aside the defendant's conviction.² Setting aside a conviction after a successful term of probation therefore means that the defendant has taken the opportunity to turn things around and has not reoffended. Many defendants who received an SIS believed that if they successfully completed probation and had their conviction set aside, the conviction would "disappear." The record of this set aside conviction, however, is still available on CourtView and appears in background checks.

The Commission therefore recommends that the records of all past SIS cases in which the conviction has been set aside be removed from the publicly accessible version of CourtView. The Commission also recommends providing this relief to any defendant who has a conviction set aside in the future.

² See AS 12.55.085.