

Agenda

Sentencing Subgroup – November 18th, 2015

- 1. Introductions**
- 2. Review of drivers of Alaska’s sentenced population**
 - a. Increasing felony length of stay
 - i. Average felony length of stay up across nonviolent offense categories – up 13% for property offenders; up 16% for drug offenders; up 57% for alcohol offenders; and up 91% for public order offenders
 - ii. Average felony length of stay up across violent offense categories – up 17% for person offenders; and up 84% for sex offenders
 - b. High number of nonviolent misdemeanor admissions
 - i. 82% of prison admissions are misdemeanants; 60% of prison admissions are nonviolent misdemeanants
 - ii. Limited use of prison alternatives outside of probation
- 3. Preliminary impact summary**
 - a. Bed reductions needed meet legislative and gubernatorial goalposts
 - b. Preliminary impacts from community supervision and pretrial subgroups
- 4. Review of areas of policy consensus**
 - a. Misdemeanor DUI offenses
 - b. Misdemeanor B offenses
 - c. Shoplifting offenses under \$250
 - d. Felony theft offenses
 - e. Felony drug offenses
 - f. Geriatric parole
- 5. Policies addressing felony length of stay**
 - a. Research on increasing felony length of stay
 - b. Policies under discussion
 - i. Non-sex felony presumptive sentencing
 - ii. Sex offender sentencing
 - iii. Parole eligibility (new policy)
- 6. Policies addressing misdemeanor admissions**
 - a. Research on short jail stays
 - b. Policies under discussion
 - i. Driving on a suspended license (new policy)
 - ii. Nonviolent misdemeanor a offenses (new policy)
- 7. If necessary, December meeting scheduled for December 1st, 12 - 2pm**
- 8. Public comment**

*** Discussion draft – not for distribution ***

Preliminary Impact Summary

Bed impacts needed to meet legislative and gubernatorial goalposts.—

- To avert all future prison growth: **Avert 1,416 beds.**
- To avert all future prison growth and reduce the current prison population by 15 percent: **Avert 2,180 beds.**
- To avert all future prison growth and reduce the current prison population by 25 percent: **Avert 2,689 beds.**

Preliminary impacts from sentencing, pretrial, and community supervision subgroups.—

Policy	Project Bed Impacts
Sentencing	
Diverting misdemeanor DUI offenders to prison alternatives; and allowing for diversion of first-time felony DUI offenders to alternatives at Commissioner's discretion.	Estimated to avert 133 beds.
Reclassifying state misdemeanor b offenses and first- and second-time shoplifting under \$250 as non-jailable violations; restrict municipalities from incarcerating past these limits.	Estimated to avert 81 beds.
Raising the felony theft threshold to \$2000 and index to inflation moving forward.	Estimated to avert 31 beds.
Reclassifying possession of schedule I and II drugs as misdemeanors; rendering first- and second-time possession offenses non-jailable offenses; aligning penalties for heroin to other serious controlled substances and create a tiered commercial drug statute based on weight.	Estimated to avert 209 beds.
Creating a geriatric parole valve for offenders who are over 45 and have served at least 20 years.	TBD.
Pretrial	
Creating a presumption for the issuing of citations (versus arrest) –	Estimated to avert 74 beds.
Providing statutory guidance for a release decision-making framework, tying conditions of release to charge severity and risk score, and determine in statute who should never be detained pretrial/	Estimated to avert 393 beds.
Reclassify penalties for failure to appear and violation of release conditions.	Estimated to avert 22 beds.
Community Supervision	
Putting caps on the amount of prison time that can be used as a sanction for technical (non-criminal) violations.	Estimated to avert 576 beds.
Reducing pretrial length of stay for technical violations.	Estimated to avert 474 beds.
Extend earn time to offenders serving sentences on electronic monitoring.	No impact projected.
Statutorily authorize the DOC to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses and to use the matrix when responding to technical (non-criminal) violations of supervision.	No impact projected.
Reducing the statutory maximum lengths for probation terms.	No impact projected.
Eliminating the confusing practice of dual supervision, where both the court and the Parole Board have authority over offenders leaving prison at the same time.	No impact projected.
Streamlining the discretionary parole process to ensure that all offenders who are eligible for discretionary parole receive a hearing.	No impact projected.
Creating policies that prioritize higher risk offenders in need of treatment for placement at CRCS, and requiring CRCs to provide cognitive-behavioral programming.	No impact projected.
Focusing ASAP's resources on mandatory referrals (DUIs, MCAs) and expanding the services that ASAP is able to offer to that smaller pool of referrals.	No impact projected.

Review of Areas of Policy Consensus

1. Misdemeanor DUI offenses

- a. Divert first-time misdemeanor DUI offenders to surveillance under remote monitoring technologies (or supervised probation for the duration of the imprisonment sentence if remote monitoring technologies are unavailable in the offender's area);
- b. Divert second or subsequent misdemeanor DUI offenders to surveillance under remote monitoring or a community residential center; and
- c. Allow the DOC to divert first-time felony DUI offenders to surveillance under remote monitoring technologies or community residential centers depending on the offender's risk level.

2. Misdemeanor B offenses

- a. Reclassify state misdemeanor b offenses as non-jailable offenses;
- b. Restrict municipalities from incarcerating past these limits for similar municipal offenses; and
- c. Ensure that commitment of a misdemeanor b qualifies as a violation of supervision.
 - i. See appendix a for list of common misdemeanor bs (page 14).

3. Shoplifting offenses under \$250

- a. Reclassify first- and second-time shoplifting offenses under \$250 as non-jailable offenses; and
- b. Reduce the maximum sentence for a third or subsequent shoplifting under \$250 offense to 5 days suspended with a maximum 6-month probation term.

4. Question for discussion – fine amount for misdemeanor b, shoplifting offenses (see next page)

5. Felony theft offenses

- a. Raise the felony theft threshold to \$2000; and
- b. Require the Department of Revenue to set in regulation an inflation-adjusted felony theft threshold every 5 years, rounded up to the nearest \$50 increment.

6. Felony drug offenses

- a. Reclassify possession of IA and IIA controlled substances as a misdemeanor; render first-and second-time possession of IA and IIA controlled substances as non-jailable misdemeanors;
- b. Bring penalties for IA controlled substances into alignment with penalties for IIA controlled substances; and
- c. Create a tiered commercial drug statute whereby sale of less than 5g of IA and IIA is a felony c; and sale of more than 5g of IA and IIA is a felony b.

7. Implement a specialty parole option for the oldest cohort of inmates

- a. Provide for automatic parole hearings for offenders who are over age 45 and have served at least 20 years of their sentence.
- b. Ensure that when evaluating inmates under this policy, the Parole Board considers the inmate's likelihood of re-offense in light of his age, as well as criminal history, behavior in prison, participation in treatment, and plans pending release.

Question for Discussion: Financial Penalties

Current fines for lower-level offenses.—

Offense	Penalty
Misdemeanor B ⁱ	Up to 90 days and \$2,000.
Violation ⁱⁱ	Up to \$500.
Possession of marijuana – no previous convictions (committed while not under formal probation; possession was for personal use) ⁱⁱⁱ	Up to \$500.
Possession of marijuana – previous conviction (committed while not under formal probation; possession was for personal use) ^{iv}	Up to \$1,000.
<i>[Proposal from Alcoholic Beverage Control Board]</i> for third or subsequent minor consuming alcohol ^v	Flat \$500 ticket, which can be reduced with the completion of an alcohol education or treatment program within six months of the court hearing.

Research on Increasing Length of Stay

Longer prison stays do not reduce recidivism more than shorter prison stays.—

- A meta-analysis conducted by Nagin et. al (2009) **found no relationship between time served behind bars and recidivism.**
- A Pew analysis (2012) conducted by external researchers using data from three states – Florida, Maryland, and Michigan – **found that a significant proportion of offenders who were released in 2004 could have served shorter prison terms without impacting public safety.**^{vi}

Felony Presumptive Sentencing System

Review of last month's discussion.—

- Interest in bringing current presumptive ranges into line with presumptive terms in 2005.

Effects of sentencing range changes in last decade.—

From 2004 to 2014, average length of stay for:

- Class A felonies grew 67 percent;
- Class B felonies grew 19 percent; and
- Class C felonies grew 20 percent.

Felony Class	Pre-Implementation LOS			2005 Change	Post-Implementation LOS		
	2002	2003	2004		2012	2013	2014
Class A Felony	11 months	14 months	27 months		33 months	35 months	45 months
Class B Felony	7 months	8 months	11 months		13 months	12 months	13 months
Class C Felony	4 months	5 months	6 months		6 months	6 months	7 months

Felony Presumptive Sentencing System Policy Options

Option 1: Bring presumptive ranges under the ceiling of 2005 presumptive terms.

Option 2: Align presumptive ranges with 2005 presumptive terms.

(Numbers in brackets indicate the presumptive term/ranges.)

Felony Class	Presumptive Term (2005)	Alaska Current	Policy Option 1	Policy Option 2
Class A				
First	[5] – 20	[5 – 8] – 20	[2 – 5] – 20	[3 – 6] – 20
First/Enhanced ^{vii}	[7] – 20	[7 – 11] – 20	[3 – 7] – 20	[5 – 9] – 20
Second	[10] – 20	[10 – 14] – 20	[6 – 10] – 20	[8 – 12] – 20
Third	[15] – 20	15 – 20	[10 – 15] – 20	13 – 20
Class B				
First	[n/a] – 10	[1 – 3] – 10, SIS available	[0 – 2] – 10, SIC available	[0 – 2] – 10, SIC available
First/Enhanced ^{viii}	[n/a] – 10	[2 – 4] – 10	[0 – 3] – 10	[1 – 3] – 10
Second	[4] – 10	[4 – 7] – 10	[1 – 4] – 10	[2 – 5] – 10
Third	[6] – 10	6 – 10	[2 – 6] – 10	4 – 10
Class C				
First	[n/a] – 5	[0 – 2] – 5	Presumptive Probation	Presumptive Probation
Second	[2] – 5	[2 – 4] – 5	Presumptive Probation	[1 – 3] – 5
Third	[3] – 5	3 – 5	[1 – 3] – 5	2 – 5
Estimated bed impact:			267 beds	130 beds

Felony Sex Offenses

Review of last month's discussion.—

- Interest in further discussing both front-end and back-end reforms to Alaska's sex offender sentencing system.

What we know about Alaska's sex offender population.—

- **In July 2014, there were 581 people in prison on sex offenses; all but 10 of them were in for felony offenses.**
- **Length of stay in the last 10 years has grown by 86%, contributing to a 38% growth of the sex offender population in prison.** In the last 10 years –
 - Length of stay for unclassified sex offenses has grown by 123%.
 - Length of stay for class a sex offenses has grown by 42%.
 - Length of stay for class b sex offenses has grown by 124%.
 - Length of stay for class c sex offenses has grown by 45%.

What the research says about sex offender populations.—

Low risk of recidivism compared to other offender types. Studies have consistently shown that sex offenders recidivate at much lower levels than other types of offenders.^{ix} An Alaska Judicial Council study of recidivism in Alaska in 2008 and 2009 found that sex offenders had substantially lower rates of rearrest within one year than other offense groups (see chart below). The same study found that sex offenders were reconvicted for a new sex offense within two years at a rate of 2%.^x

Rearrest rates within one year, according to type of underlying offense

Violent offenses	36%
Other	36%
Property offenses	34%
Drug offenses	24%
Alcohol offenses	21%
Sex offenses	18%

Treatment interventions have been shown to be successful. A cost-benefit analysis conducted by the Washington State Institute for Public Policy (WSIPP) compiling all credible evaluations of sex offender treatment found that in-prison treatment had a cost-benefit ratio of \$1.87 (i.e. for every dollar spent on treatment, there was a \$1.87 returned in benefits to the state and state residents), while community-based treatment had greater returns – \$6.36 in benefits.^{xi} (Note that the WSIPP analyses include outcomes outside of recidivism, including victimization rates).

Felony Sex Offenses Continued

Felony Sex Offense Policy Options

Option 1: Return sex offense sentences to 2005 levels.

Offense	Alaska Current	Option 1
Sex – Unclassified: Sexual assault 1, sex abuse minor 1		
No prior felony	[20 – 30] – 99 years	[8 – 12] – 99 years
1 prior felony	[30 – 40] – 99 years	[15 – 40] – 99 years
2 prior felonies	[40 – 60] – 99 years	[25 – 60] – 99 years
Sex – Class A: Attempt, conspiracy, or solicitation of sexual assault 1, sex abuse of a minor 1 ^{xii}		
No prior felony	[15 – 30] – 99 years	[5 – 30] – 60 years
1 prior felony	[25 – 35] – 99 years	[12 – 35] – 60 years
2 prior felonies	[35 – 50] – 99 years	[15 – 50] – 60 years
Sex – Class B: Sexual assault 2, sexual assault of a minor 2, exploit minor, distribution of child pornography		
No prior felony	[5 – 15] – 99 years	[2 – 15] – 40 years
1 prior felony	[10 – 25] – 99 years	[5 – 25] – 40 years
2 prior felonies	[20 – 35] – 99 years	[10 – 25] – 40 years
Sex – Class C: Sexual assault 3, incest, indecent exposure 1, possess child porn; attempt to commit sexual assault 2, sexual assault of a minor 2, exploit minor, or distribution of child pornography		
No prior felony	[2 – 12] – 99 years	[1 – 12] – 20 years
1 prior felony	[8 – 15] – 99 years	[2 – 15] – 20 years
2 prior felonies	[15 – 25] – 99 years	[3 – 25] – 20 years
Estimated bed impact:		30 beds

Option 2: Implement an earned time program for sex offenders, whereby offenders can earn up to 1/3 off their sentence if they complete treatment requirements set forth by the courts and/or the Department of Corrections.

- Enable felony sex offenders who are currently ineligible for mandatory parole (Class C and B sex offenders with prior offenses, as well as Class A and Unclassified sex offenders) to earn up to a third off their sentence for complying with their treatment requirements (including but not limited to sex offender treatment) mandated by the courts and/or the Department of Corrections.
- For sex offenders who are currently eligible for mandatory parole (first-time Class C and B sex offenders), replace the current mandatory parole system with the treatment-contingent earn time program.
- Estimated bed impact: TBD

Option 3: Option 2 *and* introduce discretionary parole eligibility for certain classes of sex offenders.

- Implement an earned time program for sex offenders (see option 2) *and* provide for discretionary parole eligibility for all Class C, B, and first-time A and unclassified sex offenders.
- Estimated bed impact: TBD

Discretionary Parole Eligibility (non-sex felonies)

What we know about Alaska's parole eligible population.—

- A study of felony filings in 2012 and 2013 conducted by the Alaska Judicial Council **found that of 78% of sentenced felony offenders were first- or second-time C felons or first-time B felons, meaning they would be eligible for discretionary parole upon serving ¼ of their sentence.**
- **Of the 178 individuals seen by the Parole board in 2014, approximately 56% received discretionary parole.**

Overview of Alaska's current parole eligibility.—

(Eligibility marked by purple shading.)

Offense	No prior felony	One prior felony	Two prior felonies	Earliest eligibility date
Murder I	20 – 99	20 – 99	20 – 99	Mandatory minimum or 1/3 (whichever is longer)
Murder II	10 – 99	10 – 99	10 – 99	
Att. Murder I, Kidnapping and MICS I	5 – 99	5 – 99	5 – 99	
A Felony	[5 – 8] – 20	[10 – 14] – 20	15 – 20	Must serve ¼
B Felony*	[1 – 3] – 10	[4 – 7] – 10	6 – 10	
C Felony	[0 – 2] – 5	[2 – 4] – 5	3 – 5	Must serve ¼

Policy Recommendation from the Community Supervision Subgroup: Automatic parole hearings for all inmates eligible for discretionary parole.

- All inmates are required to receive a hearing before the Parole board at least 90 days before their initial parole eligibility date.
 - DOC/Parole Board is responsible for putting together packet for inmate.
- Any inmate not released at the time of the inmate's initial parole date has a discretionary parole hearing at least every two year subsequently.

Discretionary Parole Eligibility Continued

Parole Eligibility Policy Options

Option 1: Expand parole eligibility to all Felony C and Felony B offenders, regardless of criminal history, and first-time Felony A offenders.— (option in light blue)

- Expand parole eligibility to third and subsequent Felony C offenders; second and subsequent Felony B offenders; and first-time Felony A offenders who have served at least $\frac{1}{4}$ of their sentence.
- Estimated bed impact: TBD

Option 2: Option 1 *and* expand parole eligibility to first-time Unclassified Felony offenders.— (option in light blue) *and* (option in dark blue)

- Expand parole eligibility to third and subsequent Felony C offenders; second and subsequent Felony B offenders; and first-time Felony A offenders who have served at least $\frac{1}{4}$ of their sentence.
- Additionally, expand parole eligibility to first-time Unclassified Felony offenders who have served the mandatory minimum or $\frac{1}{3}$ of their sentence, whichever is longer.
- Estimated bed impact: TBD

Offense	No prior felony	One prior felony	Two prior felonies	Earliest eligibility
Murder I	20 – 99	20 – 99	20 – 99	Mandatory minimum or $\frac{1}{3}$ (whichever is longer)
Murder II	10 – 99	10 – 99	10 – 99	
Att. Murder I, Kidnapping and MICS I	5 – 99	5 – 99	5 – 99	
A Felony	[5 – 8] – 20	[10 – 14] – 20	15 – 20	Must serve $\frac{1}{4}$
B Felony	[1 – 3] – 10	[4 – 7] – 10	6 – 10	
C Felony	[0 – 2] – 5	[2 – 4] – 5	3 – 5	Must serve $\frac{1}{4}$
Estimated bed impact from option1 : TBD				
Estimated bed impact from option 2: TBD				

Research on Short Jail Stays

Jail stays do not reduce recidivism relative to probation, and can increase recidivism.—

- Gordon and Glaser (1991) found that, **compared to defendants sentenced to probation, individuals sentenced to jail with probation had a significantly higher likelihood of future arrest and incarceration, controlling for other variables.** The average crime-increasing effect of jail remained statistically significant even after controlling for individuals' education, employment, drug abuse, and current offense.^{xiii}

A finding that has been borne out in DUI studies.—

- Brachmann and Dixon (2014), in a recent study of first-time DWI offenders in Texas, **found that jail sentences were associated with higher recidivism rates than both probation and work detail,** even when controlling for socio-economic differences among offender groups.^{xiv}
- **This finding is consistent for offenders with multiple prior DUI convictions.** Analyzing all California drivers convicted of a DUI from 1990 to 1991, DeYoung (1997) found that no matter the number of past DUI convictions (1, 2, or 3 or more), sanctions involving jail were associated with the highest recidivism rates.^{xv}

Jail stays are particularly ineffective for first-time offenders.—

- DeJong (1997), using data on over 4,500 arrestees in New York City, **found that first-time offenders sentenced to jail were more likely to be rearrested in the subsequent three years than those not jailed.**^{xvi} DeJong's analysis controls for many factors such as individuals' drug test results, education, employment, marital status, and offense type.

Driving with License Suspended

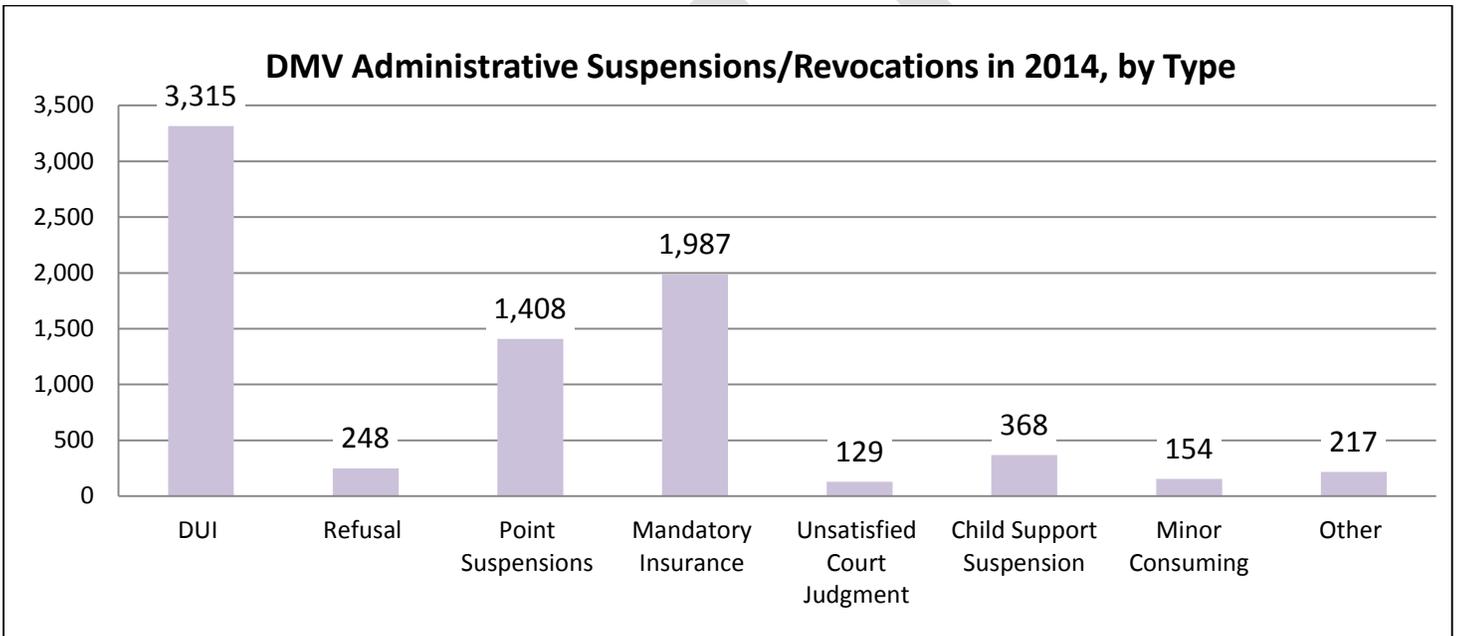
What we know about Alaska’s driving with license suspended population in prison.—

- In 2014, 637 offenders were admitted to prison post-conviction for driving with license suspended – or nearly 10 percent of all post-conviction admissions in that year.
- Driving with license suspended offenders spent an average of 41 days behind bars post-conviction (not including any time spent behind bars pre-trial).

What’s driving the number of Alaskans with suspended, revoked, or cancelled licenses.—

- In 2014, the Alaska Department of Motor Vehicles suspended, revoked, or cancelled 7,826 Alaska driver’s licenses. Of those, roughly 46 percent were revoked for DUI or refusal crimes.

Department of Motor Vehicle Administrative Suspensions and Revocations in 2014.—



Overview of Alaska’s current driving on a suspended license penalties.—

License revoked due to:	Criminal History	Sentence ^{xvii}
Reason other than DUI or refusal	No previous conviction for DWLS	(10 days w/10 suspended) – 1 year and 80 hours of community service
	Previous conviction for DWLS	10 days – 1 year
DUI or refusal*	No prior conviction for DUI	(20 days w/10 suspended) – 1 year and 80 hours of community service + minimum <\$500 fine
	Second or subsequent DUI conviction	30 days – 1 year

*Or driving in violation of a limited license issued following that revocation due to DUI, or if the person was driving in violation of an ignition interlock device requirement following that revocation due to DUI.

Driving with License Suspended Continued

Comparison driving with license suspended grids.—

License revoked due to:	Alaska Current	Pennsylvania ^{xviii*}	Missouri ^{xix}
Reason other than DUI or refusal			
1 st offense	(10 days w/10 suspended) – 1 year + 80 hrs of cs	\$200	<\$300
2 nd offense	10 days – 1 year	0 – 6 months	0 – 1 year
DUI or refusal			
1 st offense	(20 days w/10 suspended) – 1 year + 80 hrs of cs + fine	60 – 90 days	0 - \$300
2 nd offense	30 days – 1 year	6 month minimum	0 – 1 year

*Additional penalties for third or subsequent offenses.

Driving with License Suspended Policy Options

Option 1: Reclassify driving with license suspended for non-DUI (and refusal) crimes as non jailable violations.—

Option 2: Option 2 *and* eliminate mandatory minimums for DUI-related DWLS offenses, while maintaining the sentence ceiling.

License revoked due to:	Alaska Current	Option 1	Option 2
Reason other than DUI or refusal			
1 st offense	(10 days w/10 suspended) – 1 year	Fine	Fine
2 nd or subsequent offense	10 days – 1 year		
DUI or refusal			
1 st offense	(20 days w/10 suspended) – 1 year and	(20 days w/10 suspended) – 1 year and	0 – 1 year
2 nd offense	30 days – 1 year	30 days – 1 year	
Estimated bed impact:		TBD	Same as option 1

Nonviolent Misdemeanor As

See appendix b for a list of common nonviolent misdemeanors (page 14).

Nonviolent Misdemeanor A Policy Options.—

Option 1: Reduce the maximum sentence for nonviolent misdemeanors to 6 months.

Option 2: Reduce the maximum sentence for nonviolent misdemeanor to 1 month active time and 5 months suspended time.

Alaska Current	Option 1	Option 2
0 – 1 year	0 – 6 months	0 – 1 month active time, and 0 – 5 months suspended time
Estimated bed impact:	TBD	TBD

Appendix A: Misdemeanor Bs

Offense	Description		2014:	
			Admis	LOS
Drug				
Misconduct involving controlled substances 6	Person possesses aggregate weight of ≤6g synthetic cannabinoids applied to a medium; or person refuses entry into a premise for an inspection authorized under AS 17.30.	11.71.060	19	32.25 days
Property				
Criminal trespass 2	Person enters or remains unlawfully on premises (excludes dwellings, or in cases with criminal intent).	11.46.330	376	24.28
Criminal mischief 5	Person tampers with property of another with reckless disregard; person damages property worth less than \$250.	11.46.486	146	38.96 days
Unauthorized entry	Municipal statute.	Municipal	6	10.43 days
Theft 4s (non-shoplifting)	Person steals property worth less than \$250.	11.46.130		23.29 days
Issuing a bad check	Person issues a bad check knowing that it will not be honored in an amount less than \$250.	11.46.280	0	-
Unlawful possession 3	Person possesses a propelled vehicle, bicycle, or firearm knowing that the serial number has been removed or altered with the intent to steal, where the value of the property is less than \$250	11.46.270	0	-
Theft 4s (shoplifting)	<i>Addressed in a separate policy (impacts not included).</i>			
Concealment of Merchandise <\$250				
Removal of identification marks <\$250				
Alcohol				
Minor consuming (habitual)	Person under 21 who knowingly consumes, possesses, or controls alcoholic beverages and has at least 2 prior convictions.	04.16.050	47	24.26 days
Drinking in public	Municipal statute.	Municipal	12	44.29 days
Public Order				
Disorderly conduct	Includes person making unreasonably loud noise; person refusing to comply with lawful order to disperse; person challenging another to fight or fighting other than in self-defense; person recklessly causing a hazardous condition.	11.61.110	271	15.77 days
Harassment 2	Includes person insulting or taunting another person in a manner likely to provoke a violent response; person repeatedly making telephone calls at extremely inconvenient hours; person subjecting another person to offensive contact.	11.61.120	48	28.47 days
Unlawful contact 2	Person is arrested for a crime against a person under or a crime involving domestic violence; and before the person's initial appearance before a judge, the person initiates communication with the alleged victim of the crime.	11.56.755	In PO coding	

Impersonate public servant 2	Person pretends to be a public servant and purports to exercise the authority of a public servant in relation to another person	11.56.830	In PO coding	-
Hindering prosecution 2	Person aids another who has committed a crime punishable as a misdemeanor with intent to hinder the prosecution or assist the another in profiting from the crime.	11.56.780	In PO Coding	-
Sending an explicit image of a minor	Person, with intent to annoy or humiliate another person, distributes an electronic photograph or video that depicts the genitals, anus, or female breast of a minor under 16.	11.61.116	0	-
Misconduct involving confidential information 2	Person, who without legal authority or the consent of another person, knowingly obtains confidential information about another other person.	11.76.115	0	-
Violation of custodian's duty (misdemeanor)	Person fails, when acting as a custodian appointed by the court, to report immediately that the person has violated a condition of release.	11.56.758	0	-
Interference with the rights of physically or mentally challenged persons	Person intentionally prevents a physically or mentally challenged person from having full and free pedestrian use of a street, highway, sidewalk, walkway, or other thoroughfare or being assisted by a certified service animal.	11.76.130	0	-
Violating condition of release (misdemeanor)	<i>Addressed in a separate policy (impacts not included).</i>			
Weapons				
Misconduct involving weapons 5	Person who is 21 years and older and knowingly possesses a concealed deadly weapon other than a pocket knife, and, when contacted by a peace officer, fails to inform him of that possession, among other acts.	11.61.220	In PO coding	
Non-Registrable Sex Offenses				
Prostitution	Person engages in or agrees or offers to engage in sexual conduct in return for a fee; or offers a fee in return for sexual conduct.	11.66.100	In NRSO coding	
Transportation				
Disregard for highway obstruction	Person drives through, over, or around a highway obstruction.	11.46.460	0	-
Obstruction of highways	Person knowingly renders a highway impassable or places a substance on the highway that creates substantial risk.	11.61.150	0	-
Fish and Game Violation				
Fish and game license violation*	Person who violates AS 16.05.330 - 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420.	16.05.430	In FG coding	
Falsification of application for fish and game license*	Person who knowingly makes a false statement on an application for a license under AS 16.05.440 - 16.05.660.	16.05.665	In FG coding	
Wasting salmon*	Person who wastes salmon intentionally, meaning the failure to utilize the majority of the carcass.	16.05.831	In FG Coding	
Non-resident hunting big game*	Nonresident person who hunts large game without being personally accompanied by a licensed guide.	16.05.407	In FG coding	

Shellfish violation *	Person who uses a drum or reel around which a purse seine is coiled, rolled, or looped for purposes of taking or removing fish from a body of water.	16.10.120	In FG coding	
-----------------------	--	-----------	--------------	--

DRAFT

Appendix B: Nonviolent Misdemeanor As

Offense	Description	Statute AS:	2014	
			Adms	LOS
Drug				
Misconduct involving controlled substances 5	Person possesses: <ul style="list-style-type: none"> • <25 doses of IIIA or IVA • Aggregate weight of <3 g IIIA or IVA; >6 but <12 g synthetic cannabinoids applied to a medium; <500 mg of cathinone and analogs • <50 doses of VA • Aggregate weight of <6 g VA • Aggregate weight of ≥1 oz. VIA 	11.71.050	31	27.95 days
Property				
Theft 3	Person commits theft of ≥\$250 but <\$750; or person commits theft of <\$250; and has 2 or more prior thefts within preceding 5 years.	11.46.140	554	52.69 days
Criminal trespass 1	Person enters or remains unlawfully on land with intent to commit a crime on the land; or person enters or remains unlawfully in a dwelling.	11.46.330	118	39.96 days
Vehicle theft 2	<ul style="list-style-type: none"> • Person takes the propelled vehicle of another, other than a vehicle described in AS 11.46.360(a)(1) • Having custody of a propelled vehicle under a written agreement with the owner that includes an agreement to return the vehicle, the person retains possession for an extended period of time 	11.46.365	22	60.17 days
Criminal mischief 4	Damages property ≥\$250 but <\$750 or: <ul style="list-style-type: none"> • Tampers with a fire protection device in public building • Knowingly accesses a computer system without right to do so • Uses a device to descramble an electronic signal that has been scrambled to prevent viewing of the signal • Knowingly damages an official traffic control device 	11.46.484	68	72.37 days
Forgery 3	With intent to defraud, person falsely makes, possesses, or utters an instrument.	11.46.510(a)	43	46.64 days
Criminally negligent burning 2	Person damages property of another by fire or explosion with criminal negligence.	11.46.430	1	-
Criminal impersonation 2	Person assumes a false identify and does an act with intent to defraud, commit a crime, or obtain a benefit.	11.46.570	4	-
Possession of burglary tools	Person possesses a burglary tool with intent to use the tool for burglary or theft.	11.46.315	0	-
Concealment of merchandise	Person knowingly conceals merchandise of less than \$750 but more than \$250 with intent to steal the merchandise.	11.46.220	0	-
Removal of identification marks	Person erases, defaces, or otherwise alters any serial number or identification mark on merchandise worth less than \$750 but more than \$250 with intent to steal the merchandise.	11.46.260	0	-
Issuing a bad check	Person issues a bad check knowing that it will not be honored in an amount less than \$750 but more than \$250.	11.46.280	0	-

Fraudulent use of an access device	Person uses an access device to obtain property valued at less than \$750 knowing that the access device has been stolen, forged, or cancelled.	11.46.285	0	-
Failure to control or report a dangerous fire	Person knows that a fire is endangering life or substantial amount of property and fails to take reasonable measures to control the fire.	11.46.450	0	-
Obtaining signature by deception	Person causes another to sign a document by deception.	11.46.540	0	-
Offering a false instrument for recording 2	Person presents a lien to the recorder for registration, filing, or recording with reckless disregard that the lien is not provided for in statute or was not authorized under state or federal law.	11.46.560	0	-
Deceptive business practices	Person, in the course of engaging in a business, occupation, or profession, makes a false statement in an advertisement, among other acts.	11.46.710	0	-
Misrepresentation of use of propelled vehicle	Person sells or leases a propelled vehicle knowing that a usage registering device on the vehicle has been disconnected or replaced so as to misrepresent the distance traveled by the vehicle or the hours of engine use.	11.46.720	0	-
Alcohol				
Misdemeanor DUI	<i>Addressed in a separate policy (impacts not included).</i>			
Furnish alcohol to person under 21	Furnishing or delivering alcoholic beverage to person under 21 (This does not prohibit furnishing alcohol (1) by a parent to a child; (2) by a guardian to the guardian's ward; and (3) by one spouse to another.)	04.16.051	19	34.32 days
Drunk person on licensed premises	Drunken person knowingly enters or remains on alcohol-licensed premises.	04.16.040	9	6.69 days
Alcohol restricted persons – in licensed areas	Person who is restricted from purchasing alcohol knowingly enters or remains in alcohol-licensed premises.	04.16.047	2	5 days
Sell alcohol without license – wet area	Knowingly manufacturing, selling etc. an alcoholic beverage without a license or permit. (Mandatory minimum – 10 days).	04.11.010; 04.16.200	3	173.2 days
Importation of alcoholic beverages into local option area	Person who brings, sends, or transports alcohol beverages into area that has elected to be dry If less than 10.5 liters of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages.	04.11.499	0	-
Purchase alcohol in dry area	Person knowingly purchases alcohol in a designated dry area.	04.16.200(f)	0	-
Public Order				
Escape 4	Person removes oneself from official detention for a misdemeanor; or person removes oneself from a restraint after being placed under a restraint by a peace officer; or person removes an EM device or leaving one's residence against EM restrictions.	11.56.330	TBD	
Unlawful evasion 2	Person fails to return to official detention within the time authorized following temporary leave; or while on furlough, person fails to return to the place of confinement.	11.56.340	TBD	
Promoting contraband 2	Person takes contraband into a correctional facility. Person makes or possesses contraband while under official detention in a correctional facility.	11.56.380	TBD	

Tampering with a witness 2	Person knowingly induces a witness to be absent from an official judicial proceeding.	11.56.545	TBD	
Resisting or interfering with arrest	Person resists or interferes with an arrest by (1) force; (2) committing any degree of criminal mischief; or (3) any means that creates a substantial risk of physical injury to any person.	11.56.700	TBD	
Violate DV protective order	Person commits or attempts to commit an act that violates a DV protective order.	11.56.745	TBD	
Interfere with report of DV crime	Person interferes with another person who is reporting a crime involving domestic violence.	11.56.745	TBD	
Harm police dog 2	Person intentionally causes physical injury to or torments a police dog.	11.56.710	TBD	
Unlawful contact 1	Person is arrested for a crime involving domestic violence; and, before the initial appearance before a judge, person attempts to communicate with the alleged victim.	11.56.750	TBD	
Hindering prosecution 2	Person renders assistance to another who has committed a crime punishable as a misdemeanor with intent to hinder the prosecution.	11.56.780	TBD	
False report	Person gives false information to a peace officer; makes a false report or gives a false alarm etc.	11.56.800	TBD	
Tamper with public records 2	Person knowingly makes a false entry in or falsely alters a public record.	11.56.820	TBD	
Unsworn falsification 2	Person, with intent to mislead, submits a false written or recorded statement.	11.56.210	TBD	
Impersonate public servant 2	Person pretends to be a public servant and purports to exercise the authority of a public servant in relation to another person.	11.56.830	TBD	
Harassment 1	Person subjects someone to offensive physical contact and the contact is contact with human or animal blood, saliva and other bodily fluids; or person subjects someone to offensive physical contact through touching another person's genitals, buttocks, or female breast.	11.61.118	TBD	
Contributing to delinquency of a minor	Person over 19 years of age who aids or induces a child under 18 years of age to do any act prohibited by state law, among other acts.	11.51.130	0	-
Tampering with public records 2	Person knowingly makes a false entry in or falsely alters a public record, among other acts.	11.56.820	0	-
Unlawful possession of traffic preemption device	Person possesses or uses a traffic preemption device and that person is not, at the time of the possession or use, operating an emergency vehicle.	11.56.825	0	-
Recruiting a gang member 2	Adult person, without force or the threat of force, encourages or recruits a person who is under 18 years of age and at least three years younger to participate in a criminal street gang.	11.61.165	0	-
Misconduct involving a corpse	Person intentionally disinters, removes, mutilates a corpse; or engages in sexual penetration of a corpse; or detains a corpse for a debt.	11.61.130	0	-
Promoting gambling 2	Person promotes or profits from unlawful gambling.	11.66.220	0	-
Possession of gambling records 2	Person, with knowledge of its contents or character, possesses a gambling record.	11.66.240	0	-

Possession of gambling device	Person manufactures, sells, or possesses a gambling device knowing that the device is used or is to be used in unlawful gambling.	11.66.260	0	-
Minors present at adult entertainment business	An agent of the owner of a business that offers adult entertainment allows a person under the age of 18 years to enter and remain within premises where adult entertainment is offered with criminal negligence.	11.66.30	0	-
Cruelty to animals	<i>Some forms are a felony.</i>	11.61.140	0	-
Official misconduct	A public servant performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized, among other acts.	11.56.850	0	-
Misuse of confidential information	A public servant who learns confidential information through employment as a public servant; and uses the confidential information for personal gain, among other acts.	11.56.860	0	-
Custodial interference 2	A relative of a child under 18 years of age takes, entices, or keeps that child from a lawful custodian for a protracted period, among other acts.	11.41.330	0	-
Endangering welfare of child 1	Only if no serious physical injury or sexual contact A parent or guardian intentionally deserts the child in a place under circumstances creating a substantial risk of physical injury to the child, among other acts.	11.51.100	0	-
Criminal nonsupport	Personally legally charged with the support of a child the person knowingly fails, without lawful excuse, to provide support for the child.	11.51.120	0	-
Aiding nonpayment of child support 2	Person who knows that an obligor has a duty for periodic payment of child support and being a person with a statutory duty to disclose information to a child support enforcement agency, intentionally withholds the information when it is requested by a child support enforcement agency, among other acts.	11.51.122	0	-
Violation of custodian's duty (felony)	Person fails, when acting as a custodian appointed by the court, to report immediately that the person has violated a condition of release.	11.56.758	0	-
Violating condition of release (felony)	<i>Addressed in a separate policy (impacts not included).</i>			
Transportation Offenses				
Leave scene of accident	Person involved in an accident who does not shall immediately stop the vehicle and remain at the scene until they have rendered assistance and provided information	28.25.050	TBD	
Accident report – provide false info or fail to report	Person involved in an accident who does not give his name, address, and license number to the person stuck or injured, and provide assistance if necessary.	28.25.060(TBD	
Drive without valid operator's license	Person who drives and does not have in their possession a valid Alaska driver's license.	28.15.011	1	7 days
Drive without valid CMV license	Person who drives a commercial motor vehicle without being licensed or privileged to drive a commercial motor vehicle.	28.33.150	1	7 days
Unlawful use of license	Person who displays a canceled, suspended, or revoked license; or displays a license not issued to the person; or lends the person's license to another person, among other acts.	28.15.281	1	2 days

Drive with license suspended	<i>Addressed in a separate policy (impacts not included).</i>			
Weapons Offenses				
Misconduct involving weapons 4	Person possesses on the person, or in the interior of a vehicle in which the person is present, a firearm when the person's physical or mental condition is impaired as a result of the intoxicating liquor or a controlled substance, among other acts.	11.61.210	TBD	
Non-Registrable Sex Offenses				
Failure to register as a sex offender 2	Person who is required to register as a sex offender and fails to register or file written notice of change of residence, change of mailing address, among other acts.	11.56.840	TBD	
Indecent exposure 2	Person knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offense effect if witness is under 16.	11.41.460	TBD	
Sexual abuse of a minor 4	Person who is under 16 years of age engages in sexual contact with a person who is under 13 years of age and at least three years younger than the offender.	11.41.440	TBD	
Sexual assault 4			0	-
Sex trafficking 4	Person engages in conduct that institutes, aids, or facilitates prostitution under circumstances not proscribed under AS 11.66.130(a)(4).	11.66.135	0	-
Fish and Game Offenses				
Airborne hunting	Person who shoots or assists in shooting a free-ranging wolf or wolverine the same day that a person has been airborne.	16.05.783	TBD	
Fishway and hatchery violations	A person who violates AS 16.05.871 - 16.05.896.	16.05.901	TBD	
Unlawful taking or sale of prohibited fish	A person may not possess, purchase, sell, or offer to sell migratory fish or migratory shellfish taken on the high seas knowing that they were taken in violation of regulations.	16.10.220	TBD	

Endnotes

ⁱ Alaska Stat. §12.55.135.

ⁱⁱ Alaska Stat. §12.55.135.

ⁱⁱⁱ Alaska Stat. §12.55.135.

^{iv} Alaska Stat. §12.55.135.

^v Fairbanks Daily News-Miner, "Alaska law on underage drinking could see major change," November 2015, http://www.newsminer.com/news/akrecovery/alaska-law-on-underage-drinking-could-see-major-change/article_0f9b8766-829e-11e5-816c-635dad776b09.html.

^{vi} Pew Charitable Trusts, "Time Served: The High Cost, Low Return of Longer Prison Terms," June 2012.

^{vii} The enhanced sentence applies to possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct at a peace officer or first responder who was engaged in official duties and to manufacturing of methamphetamine offenses if knowing within presence of children.

^{viii} The enhanced sentence applies to violations of AS 11.41.130 (CN Homicide) and the victim was a child under 16 and to manufacturing of methamphetamine offenses if reckless within presence of children.

^{ix} Bureau of Justice Statistics, "Recidivism of Sex Offenders Released from Prison in 1994," November 2003.

<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1136>

^x Alaska Judicial Council, "Criminal Recidivism in Alaska, 2008 and 2009," November 2011.

<http://www.ajc.state.ak.us/reports/recid2011.pdf>

^{xi} Washington State Institute for Public Policy, "What works and what does not?: Cost-Benefit Findings from WSIPP", February 2015.

http://www.wsipp.wa.gov/ReportFile/1602/Wsipp_What-Works-and-What-Does-Not-Benefit-Cost-Findings-from-WSIPP_Report.pdf

^{xii} Unlawful exploitation of a minor under AS 11.41.455(c)(2) and online enticement of a minor under AS 11.41.452 were removed from the lower category and added to this category in 2011.

^{xiii} Margaret Gordan and Daniel Glaser. 1991. "The Use and Effects of Financial Penalties in Municipal Courts." *Criminology* 29: 651-76.

^{xiv} Michael Bachmann and Ashford L. Dixon. 2014. "DWI Sentencing in the United States: Toward Promising Punishment Alternatives in Texas." *International Journal of Criminal Justice Sciences* 9: 181-91; Susan Martin, Sampson Annan, and Brian Forst. 1993. "The Special Deterrent Effects of a Jail Sanction on First-Time Drunk Drivers: A Quasi-Experimental Study." *Accident Analysis and Prevention* 25:561-68. Annan, Sampson O., Susan E. Martin, and Brian Forst. 1986. *Deterring the Drunk Driver: A Feasibility Study Technical Report*. Washington, DC: Police Foundation.

^{xv} David J. DeYoung. 1997. "An evaluation of the effectiveness of alcohol treatment, driver license actions and jail terms in reducing drunk driving recidivism in California." *Addiction* 92: 989-97.

^{xvi} Christina DeJong. 1997. "Survival Analysis and Specific Deterrence: Integrating Theoretical and Empirical Models of Recidivism." *Criminology* 35: 561-75.

^{xvii} Alaska Stat. §28.15.291

^{xviii} Pennsylvania Stat. 75 Pa. CSA §1543.

^{xix} Missouri Stat. §302.321.