

Sentencing Subgroup Policy Recommendations

1. **Limit the use of prison for nonviolent misdemeanor offenders**
 - a. Misdemeanor B offenses
 - b. Theft under \$250 offenses
 - c. Driving while license suspended offenses
 - d. Misdemeanor driving under the influence offenses
 - e. Nonviolent misdemeanor A offenses
 2. **Revise drug penalties to focus the most severe punishments on higher-level drug offenders**
 3. **Utilize inflation-adjusted property crime thresholds**
 4. **Align non-sex felony presumptive ranges with prior presumptive terms**
 5. **Incentivize completion of treatment for sex offenders with an earn time program**
 6. **Return sentences for Felony C and B sex offenders to 2005 levels**
 7. **Expand the use of discretionary parole**
 8. **Implement a specialty parole option for the oldest cohort of inmates**
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1. **Limit the use of prison for nonviolent misdemeanor offenders**

- a. Misdemeanor B offenses (excepting theft under \$250, see (1)(b)):
 - i. Reclassify all state misdemeanor b and similar municipal offenses as violations, punishable by a fine up to \$1000, excepting theft under \$250.
- b. Theft under \$250 offenses:
 - i. Reclassify all first- and second-time theft offenses under \$250 as non-jailable misdemeanors (includes theft 4, as well as concealing merchandise - under \$250, removal of identification marks – under \$250, unlawful possession – value under \$250, and issuing a bad check – value under \$250).
 - ii. Reduce the penalty for third and subsequent theft under \$250 offenses to 5 days suspended with a maximum 180 probation term.
- c. Driving while license suspended (DWLS) offenses:
 - i. Reclassify DWLS offenses when the suspended license was not due to a DUI or refusal to submit to a chemical test offense as violations, punishable by a fine up to \$1000.
 - ii. Eliminate the mandatory minimum for a first DUI or refusal-related DWLS offense.
 - iii. Reduce the mandatory minimum for a second or subsequent DUI or refusal-related DWLS offense to 10 days.
- d. Misdemeanor driving under the influence (DUI) offenses:
 - i. Option 1:
 1. Mandate the post-conviction diversion of first-time misdemeanor DUI and refusal to submit to a chemical test offenders to surveillance under remote monitoring technologies.
 - a. If surveillance under remote monitoring technologies is not available, the DOC may divert first-time offenders to supervised probation.
 - ii. Option 2:
 1. Mandate the post-conviction diversion all misdemeanor DUI offenders (including first- and second-time misdemeanor DUI and refusal to submit to a chemical test offenders) to surveillance under remote monitoring technologies; or – in the case of second or subsequent misdemeanor DUI offenders – diversion to either surveillance under remote monitoring technologies or to a halfway house.
 - a. If surveillance under remote monitoring technologies is not available, the DOC may divert first-time misdemeanor DUI offenders to supervised probation.
 2. Allow the DOC to divert first-time felony DUI or refusal to submit to a chemical test offenders to surveillance under remote monitoring technologies or a halfway house.

- a. *This will be forwarded not as a part of the consensus recommendations, but as an additional recommendation for legislative consideration that did meet consensus approval.*
- e. Misdemeanor A offenses (excluding DUI, DWLS offenses)
 - i. Presumptively setting a zero to thirty day range for all misdemeanor A's, excluding DUI and refusal to submit to a chemical test offenses, unless there is a finding by a jury trial that the offender exhibited past similar criminal convictions, or the conduct was among the most serious constituting the offense.

2. Revise drug penalties to focus the most severe punishments on higher-level drug offenders

- a. Reclassify possession of IA and IIA controlled substances as misdemeanors.
- b. Limit the maximum penalty for first- and second-time possession offenses at one month and six months of suspended time, respectively.
- c. Bring penalties for IA controlled substances into alignment with penalties for IIA controlled substances; and forward this recommendation to the Controlled Substances Advisory Committee for their review and consideration.
- d. 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.

Summary drug offense recommendation

Offense Levels		Alaska Current	Policy Recommendation
MICS 2	Felony A	Sale of any amount of IA	
MICS 3	Felony B	Sale of any amount of IIA	Sale of more than 5g IA, IIA
MICS 4	Felony C	Possession of any amount of IA, IIA	Sale of less than 5g of IA, IIA
MICS 5	Misdemeanor A		Possession of any amount of IA, IIA; first and second possession convictions are non-jailable

IA – opiates, including heroin

IIA – methamphetamine, cocaine, PCP etc.

3. Utilize inflation-adjusted property crime thresholds

- a. Raise the felony threshold from \$750 to \$2000 for all property crimes with a required dollar amount, including, but not limited to theft 3, criminal mischief 3, and vehicle theft 1.
- b. Require the Department of Labor to set in regulation an inflation-adjusted felony property threshold every 5 years, rounded up to the nearest \$50 increment.
- c. Require the Department of Labor to set in regulation an inflation-adjusted threshold between misdemeanor A and B property crimes (set at \$250) every 5 years, rounded up to the nearest \$50 increment.

4. Align non-sex felony presumptive ranges with prior presumptive terms

- a. Option 1: Bring presumptive ranges under the ceiling of 2005 presumptive terms; implement presumptive probation for first- and second-time Class C offenders.
 - a. *This will be forwarded not as a part of the consensus recommendations, but as an additional recommendation for legislative consideration.*
- b. Option 2: Align presumptive ranges with 2005 presumptive terms; implement presumptive probation for first-time Class C offenders.

Summary presumptive felony sentencing recommendation

Felony Class	Presumptive Term (2005)	Alaska Current	Option 1	Option 2
Class A				

First	[5] – 20	[5 – 8] – 20	[2 – 5] – 20	[3 – 6] – 20
First/Enhanced	[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	[0 – 2] – 10	[0 – 2] – 10
First/Enhanced	[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

5. Incentivize completion of treatment for sex offenders with an earn time program

- a. Implement an earned time program for sex offenders, whereby 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 as set forth by the Courts and/or DOC.

6. Revise sentences for Felony C and B sex offenders to 2005 levels

- a. Return presumptive ranges and statutory maximums for Felony C and B sex offenders to 2005 levels.
 - i. *This will be forwarded not as a part of the consensus recommendations, but as an additional recommendation for legislative consideration that did meet consensus approval.*

7. Expand the use of discretionary parole

- a. Expand eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with prior felony convictions.

8. Implement a specialty parole option for the oldest cohort of offenders

- b. Provide for automatic parole hearings for offenders, including those incarcerated prior to the implementation of the legislation, who are over an age threshold set between 55 and 60 and have served at least 10 years of their sentence.