

Statutory and Constitutional Provisions Relating to the Alaska Criminal Justice Data Analysis Commission

September 29, 2022

Sec. 44.19.641. Creation of commission. The Alaska Criminal Justice Data Analysis Commission is established in the Office of the Governor.

AS 44.19.642 Membership; staff.

(a) The commission consists of 16 members, appointed or designated in a manner that ensures rural areas of the state are represented, as follows:

- (1) the chief justice of the Alaska Supreme Court or another active or retired justice of the supreme court or an active or retired judge of the court of appeals designated by the chief justice;
- (2) an active or retired superior court judge designated by the chief justice for a three-year term;
- (3) an active or retired district court judge designated by the chief justice for a three-year term;
- (4) a member of the Alaska Native community designated by the Alaska Native Justice Center for a three-year term;
- (5) the deputy attorney general for the division of the Department of Law that has responsibility for criminal cases or the deputy attorney general's designee;
- (6) the public defender or the public defender's designee;
- (7) the commissioner of corrections or the commissioner's designee;
- (8) the commissioner of public safety or the commissioner's designee;
- (9) the chief executive officer of the Alaska Mental Health Trust Authority or the chief executive officer's designee for a three-year term;
- (10) two active duty peace officers, one representing a rural community off the road system and one representing an urban community, designated by the Alaska Association of Chiefs of Police for three-year terms;
- (11) one victims' rights advocate designated by the Alaska Network on Domestic Violence and Sexual Assault, after consultation with its members and partner organizations, for a three-year term;
- (12) one nonvoting member, serving ex officio, who is a member of the senate appointed by the president of the senate;

(13) one nonvoting member, serving ex officio, who is a member of the house of representatives appointed by the speaker of the house of representatives;

(14) the commissioner of health or the commissioner's designee; and

(15) one person who has been convicted of a felony offense in the state for which the person has been unconditionally discharged, designated jointly by the deputy attorney general for the division of the Department of Law that has responsibility for criminal cases and the public defender for a three-year term; in this paragraph, "unconditionally discharged" has the meaning given in AS 12.55.185.

(b) [repealed]

(c) The commission shall, by a majority vote of the membership, elect a chair and other officers it considers necessary from among its membership to serve on a yearly basis.

(d) The Alaska Judicial Council shall provide staff and administrative support to the commission.

AS 44.19.644. Meetings

A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission. The commission shall meet at least quarterly, at the call of the chair, at the request of the majority of the members, or at a regularly scheduled time as determined by a majority of the members. The commission shall keep a record of its proceedings and make these records available for public inspection.

AS 44.19.645. Powers and duties of the commission. (a) The commission shall

(1) contract for data analysis, research, reports, or studies necessary to understand the functions, operations, and outcomes of the criminal justice system in the state, including studies that consider

(A) statutes, court rules, and court decisions relevant to sentencing of criminal defendants in misdemeanor and felony cases;

(B) the needs and views of crime victims;

(C) means of promoting uniformity, proportionality, and accountability in sentencing;

(D) alternatives to traditional forms of incarceration;

(E) the efficacy of parole and probation in ensuring public safety, achieving rehabilitation, and reducing recidivism;

(F) the adequacy, availability, and effectiveness of treatment and rehabilitation programs;

(G) crime and incarceration rates, including the rate of violent crime and the abuse of controlled substances, in this state compared to other states, and best practices adopted by other states that have proven to be successful in reducing recidivism;

(2) review the information collected under (1) of this subsection to identify areas for improving the efficiencies and effectiveness of the criminal justice system;

(3) if requested by the legislature, the governor, or the chief justice of the supreme court, provide the results of data analysis, studies, or research or make recommendations for improving criminal sentencing practices and criminal justice practices, including rehabilitation and restitution; and

(4) submit the annual report required under AS 44.19.647.

(b) The commission may

(1) select and retain the services of consultants as necessary;

(2) enter into data-sharing agreements with the Justice Center and the Alaska Justice Information Center at the University of Alaska, the Alaska Judicial Council, or other research institutions for the purposes of analyzing data and performance metrics.

(c) The commission shall

(1) receive and analyze data collected by agencies and entities under (e) - (g) of this section, information reported by the Department of Law under AS 44.23.040, and information from other sources determined by the commission;

(2) track and assess outcomes and trends criminal justice system; and

(3) request, receive, and review data and reports on performance outcome data relating to the efficiency and effectiveness of the criminal justice system.

(d) Agencies and entities reporting data to the commission under (e) - (g) of this section shall

(1) report data individually by case number, including an identifier number such as the Alaska Public Safety Information Network number, the court case number, the Alaska Corrections Offender Management System number, and the arrest tracking number, as available;

(2) include demographic information necessary for tracking individuals across multiple databases, including the individual's first name, last name, middle initial as available, and date of birth; and

(3) include information necessary to measure possible disparate effects of criminal justice laws and policies, such as race and gender as available.

(e) The judiciary shall report quarterly to the commission. The report shall include criminal case processing data, including

(1) the date, type, and number of all charges disposed within the quarter;

(2) the disposition of each charge, and whether convicted, dismissed, acquitted, or otherwise disposed;

(3) the date of the disposition for each charge; and

(4) information on pretrial release decisions by judicial officers, including bail and supervision conditions, and information on pretrial outcomes, including whether and when a bench warrant for failure to appear was issued during the pretrial period; if this information is not readily available in electronic format, the court system shall work with the commission to facilitate commission staff review of paper case file records.

(f) The Department of Public Safety shall report quarterly to the commission. The report shall include the following information:

(1) data on citations and arrests for criminal offenses, including the offense charged and whether an arrest was made;

(2) data on the disposition of all criminal charges, including convictions and sentences during the quarter; and

(3) criminal history information for selected offenders as agreed on by the Department of Public Safety and the commission.

(g) The Department of Corrections shall report quarterly to the commission. The report shall include the following information:

(1) data on pretrial decision making and outcomes, including information on pretrial detainees admitted for a new criminal charge; detainees released at any point before case resolution; time spent detained before first release or case resolution; pretrial defendant risk level and charge; pretrial release recommendations made by pretrial services officers; pretrial conditions imposed on pretrial detainees by judicial officers, if known, including bail and supervision conditions; and information on pretrial outcomes of defendants under the supervision of the pretrial services program, including whether or not the defendant appeared in court or was re-arrested during the pretrial period;

(2) data on offenders admitted to the Department of Corrections for a new criminal conviction, including the offense type and length of stay;

(3) data on the population of the Department of Corrections, using a one-day snapshot on the first day of the first month of each quarter, broken down by type of admission, offense type, and known risk level;

(4) data on offenders on probation supervised by the Department of Corrections, including the total number of offenders supervised using a one-day snapshot on the first month of each quarter; admissions to probation; assignments to a program under AS 33.05.020(f); probation sentence length; time served on the sentence; and whether probation was successfully completed;

(5) data on parole, including the number of offenders supervised on parole, using a one-day snapshot on the first month of each quarter; the number of parole hearings; the parole

grant rate and number of parolees released on parole; and information on parolees, including time spent on parole, and whether parole was successfully completed;

(6) data on the number and percentage of offenders who earn compliance credits under AS 33.05.020(h) or AS 33.16.270 in one or more months, and the total amount of credits earned; the average number of sanctions issued under as 33.05.020(g) before a petition to revoke probation or parole is filed; and the most common violations of probation or parole; and

(7) data on probation and parole revocations, including information on probationers and parolees admitted solely for a technical violation; probationers and parolees admitted for a supervision violation pre-case and post-case resolution; probationers and parolees admitted for a new arrest; the number of previous revocations on the current sentence, if any; the length of time held pre-case resolution; the length of time to case resolution; and the length of stay.

(h) [Requirements terminated]

(i) The commission shall design and implement a project for the purposes of studying risk factors related to criminal activity, informing the legislature's policy and funding decisions related to primary crime prevention, and improving primary crime prevention strategies in the state. Under the project, the Department of Corrections shall transmit information about offenders sentenced to serve terms of incarceration of 30 days or more to the commission, and the commission shall analyze the information and provide to the legislature, in the report required under AS 44.19.647, the commission's conclusions and findings. The commission shall, in consultation with the Justice Center and the Alaska Justice Information Center at the University of Alaska, the Alaska Judicial Council, the Department of Corrections, and other relevant entities or state agencies, create a list of the types of information and inmate characteristics the Department of Corrections shall collect for the project and may revise the list when necessary to meet project goals. The information may include data relating to adverse childhood experiences, mental health and substance abuse history, education, income, and employment of inmates. The Department of Corrections shall adopt policies establishing procedures for collecting the information identified in the list required under this subsection and providing the information to the commission. The procedures may provide for the collection of the information as part of the risk assessment program established under AS 33.30.011(a)(7). In this subsection, "primary crime prevention" means intervention programs and strategies designed to reduce crime risk factors among the general population and prevent crime from happening.

AS 44.19.646. Methodology. In conducting research, the commission shall

- (1) solicit and consider information and views from a variety of constituencies to represent the broad spectrum of views that exist with respect to possible approaches to sentencing and administration of justice in the state; and
- (2) adopt a research agenda and priorities based on art. I, secs. 7, 12, and 24, Constitution of the State of Alaska, and the issues of most pressing concern to the criminal justice system, including
 - (A) the elimination of unjustified disparity in the criminal justice system;
 - (B) the effect of criminal justice laws and practices on the rate of recidivism in the state and the needs of victims of crimes.

AS 44.19.647 Annual report and recommendations

(a) The commission shall submit to the governor and the legislature an annual report. The report must include

- (1) a description of its proceedings for the previous calendar year;
- (2) a description of recidivism rates;
- (3) analysis of the data reported by the Department of Law under AS 44.23.040;
- (4) the results of any data analysis, studies, or research conducted under AS 44.19.645 relevant to understanding the efficiency and effectiveness of the criminal justice system;
- (5) a description provided by the Department of Health, the Department of Corrections, and the Council on Domestic Violence and Sexual Assault of state-funded treatment programs designed to promote rehabilitation, such as substance abuse, mental health, and violence prevention programs, including a description of program funding, capacity, utilization, and any available outcome data; and
- (6) if requested by the legislature, the governor, or the chief justice of the supreme court, the results of data analysis, studies, or research or the recommendations for improving criminal sentencing practices and criminal justice practices, including rehabilitation and restitution.

(b) The commission shall submit the annual report, findings, and recommendations provided under this section not later than November 1 of each year.

(c) [repealed]

(d) In the report required under (a) of this section, the commission shall include a summary and analysis of the information collected under AS 44.19.645(i). The commission shall

- (1) provide a summary in the form of tables, charts, graphs, or other formats that are easily understood;

- (2) include a review of the data and the commission's interpretations, findings, or conclusions related to the information collected;
- (3) describe any changes in the types of information collected during the preceding fiscal year;
- (4) make the summary and analysis required under this subsection available to the public; the commission may not publish or present individually identifiable information relating to an inmate;
- (5) include, when possible, information from the previous fiscal year, comparisons to previous fiscal years, and cumulative information; and
- (6) present the summary and analysis to the legislature within 10 days after the convening of the next regular session of the legislature following the submission of the report.

AS 44.19.649. Definitions. In AS 44.19.641 - 44.19.649,

- (1) "commission" means the Alaska Criminal Justice Data Analysis Commission;
- (2) "recidivism" means the percentage of convicted defendants who are booked into, or who return to, a correctional facility within three years after release or the date of conviction, whichever is later;
- (3) "technical violation" means a violation of a condition of probation or parole that does not constitute
 - (A) a new criminal offense;
 - (B) failure to complete sex offender treatment; or
 - (C) failure to complete an intervention program for batterers.

Alaska Constitution

Article I, Section 7. Due Process.

No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

Article I, Section 12. Criminal Administration.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Criminal administration shall be based upon the following: the need for protecting the public, community condemnation of the offender, the rights of victims of crimes, restitution from the offender, and the principle of reformation.

Article I, Section 24. Rights of Crime Victims.

Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication.

AS 44.23.040. Records, reports, and recommendations on uniform laws.

(a) The Department of Law shall, not less than 30 days before the beginning of each regular session of the legislature, present to the governor a report of its activities under AS 44.23.030, together with recommendations that it considers proper. The governor shall notify the legislature when it convenes that the report is available.

(b) The Department of Law, in consultation with the Department of Public Safety, shall gather and report data on felony sex offenses to the Alaska Judicial Council. The data must include

(1) the number of felony sex offenses reported to the Department of Public Safety that were not referred for prosecution;

(2) the number of felony sex offenses referred for prosecution that were not prosecuted;

(3) the number of felony sex offenses that resulted in a conviction for a crime other than a sex offense; and

(4) the number of sex offenses referred for prosecution that were charged as a felony and, under a plea agreement, resulted in a conviction for a crime other than a sex offense.

AS 22.20.211. Staff and support for criminal justice data analysis commission. The judicial council shall provide staff and administrative support to the Alaska Criminal Justice Data Analysis Commission established in AS 44.19.641.