

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS COGHILL, Ellis, McGuire, Costello, Bishop, Micciche, Egan

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to criminal law and procedure; relating to controlled substances;
2 relating to immunity from prosecution for the crime of prostitution; relating to
3 probation; relating to sentencing; establishing a pretrial services program with pretrial
4 services officers in the Department of Corrections; relating to the publication of
5 suspended entries of judgment on a publicly available Internet website; relating to
6 permanent fund dividends; relating to electronic monitoring; relating to penalties for
7 violations of municipal ordinances; relating to parole; relating to correctional restitution
8 centers; relating to community work service; relating to revocation, termination,
9 suspension, cancellation, or restoration of a driver's license; relating to the excise tax on
10 marijuana; establishing the recidivism reduction fund; relating to the Alaska Criminal
11 Justice Commission; relating to the disqualification of persons convicted of specified
12 drug offenses from participation in the food stamp and temporary assistance programs;

1 **relating to the duties of the commissioner of corrections; amending Rules 32, 32.1, 38,**
2 **41, and 43, Alaska Rules of Criminal Procedure, and repealing Rules 41(d) and (e),**
3 **Alaska Rules of Criminal Procedure; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 11.41.110(a) is amended to read:

6 (a) A person commits the crime of murder in the second degree if

7 (1) with intent to cause serious physical injury to another person or
8 knowing that the conduct is substantially certain to cause death or serious physical
9 injury to another person, the person causes the death of any person;

10 (2) the person knowingly engages in conduct that results in the death
11 of another person under circumstances manifesting an extreme indifference to the
12 value of human life;

13 (3) under circumstances not amounting to murder in the first degree
14 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
15 person commits or attempts to commit arson in the first degree, kidnapping, sexual
16 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
17 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
18 degree, escape in the first or second degree, robbery in any degree, or misconduct
19 involving a controlled substance under AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) -
20 (8) [11.71.020(a), 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1) or (2) and, in the course
21 of or in furtherance of that crime or in immediate flight from that crime, any person
22 causes the death of a person other than one of the participants;

23 (4) acting with a criminal street gang, the person commits or attempts
24 to commit a crime that is a felony and, in the course of or in furtherance of that crime
25 or in immediate flight from that crime, any person causes the death of a person other
26 than one of the participants; or

27 (5) the person with criminal negligence causes the death of a child
28 under the age of 16, and the person has been previously convicted of a crime involving
29 a child under the age of 16 that was

30 (A) a felony violation of AS 11.41;

(B) in violation of a law or ordinance in another jurisdiction with elements similar to a felony under AS 11.41; or

(C) an attempt, a solicitation, or a conspiracy to commit a crime listed in (A) or (B) of this paragraph.

* **Sec. 2.** AS 11.41.150(a) is amended to read:

(a) A person commits the crime of murder of an unborn child if the person

(1) with intent to cause the death of an unborn child or of another person, causes the death of an unborn child;

(2) with intent to cause serious physical injury to an unborn child or to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to an unborn child or to another person, causes the death of an unborn child;

(3) while acting alone or with one or more persons, commits or attempts to commit arson in the first degree, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, burglary in the first degree, escape in the first or second degree, robbery in any degree, or misconduct involving a controlled substance under AS 11.71.010(a), **11.71.030(a)(1), (2), or (4) - (8)** [11.71.020(a), 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1) or (2), and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of an unborn child;

(4) knowingly engages in conduct that results in the death of an unborn child under circumstances manifesting an extreme indifference to the value of human life; for purposes of this paragraph, a pregnant woman's decision to remain in a relationship in which domestic violence, as defined in AS 18.66.990, has occurred does not constitute conduct manifesting an extreme indifference to the value of human life.

* **Sec. 3.** AS 11.46.130(a) is amended to read:

(a) A person commits the crime of theft in the second degree if the person commits theft as defined in AS 11.46.100 and

(1) the value of the property or services is **\$2,000** [\$750] or more but

1 less than \$25,000;

2 (2) the property is a firearm or explosive;

3 (3) the property is taken from the person of another;

4 (4) the property is taken from a vessel and is vessel safety or survival

5 equipment;

6 (5) the property is taken from an aircraft and the property is aircraft

7 safety or survival equipment;

8 (6) the value of the property is \$250 or more but less than **\$2,000**

9 [\$750] and, within the preceding five years, the person has been convicted and

10 sentenced on two or more separate occasions in this or another jurisdiction of

11 (A) an offense under AS 11.46.120, or an offense under

12 another law or ordinance with similar elements;

13 (B) a crime set out in this subsection or an offense under

14 another law or ordinance with similar elements;

15 (C) an offense under AS 11.46.140(a)(1), or an offense under

16 another law or ordinance with similar elements; or

17 (D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an

18 offense under another law or ordinance with similar elements; or

19 (7) the property is an access device.

20 * **Sec. 4.** AS 11.46.140(a) is amended to read:

21 (a) A person commits the crime of theft in the third degree if the person

22 commits theft as defined in AS 11.46.100 and

23 (1) the value of the property or services is \$250 or more but less than

24 **\$2,000** [\$750]; or

25 (2) [REPEALED]

26 (3) the value of the property is less than \$250 and, within the past five

27 years, the person has been convicted and sentenced on two or more separate occasions

28 in this or another jurisdiction of theft or concealment of merchandise, or an offense

29 under another law or ordinance with similar elements.

30 * **Sec. 5.** AS 11.46.220(c) is amended to read:

31 (c) Concealment of merchandise is

(1) a class C felony if

- (A) the merchandise is a firearm;
- (B) the value of the merchandise is **\$2,000** [\$750] or more; or
- (C) the value of the merchandise is \$250 or more but less than **\$2,000** [\$750] and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of
 - (i) the offense of concealment of merchandise under this paragraph or (2)(A) of this subsection, or an offense under another law or ordinance with similar elements; or
 - (ii) an offense under AS 11.46.120, 11.46.130, or 11.46.140(a)(1), or an offense under another law or ordinance with similar elements;

(2) a class A misdemeanor if

- (A) the value of the merchandise is \$250 or more but less than **\$2,000** [\$750]; or
- (B) the value of the merchandise is less than \$250 and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions of the offense of concealment of merchandise or theft in any degree, or an offense under another law or ordinance with similar elements;

(3) a class B misdemeanor if the value of the merchandise is less than

* **Sec. 6.** AS 11.46.260(b) is amended to read:

(b) Removal of identification marks is

- (1) a class C felony if the value of the property on which the serial number or identification mark appeared is **\$2,000** [\$750] or more;
- (2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$250 or more but less than **\$2,000**;
- (3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$250.

serial number or identification mark appeared is less than \$250.

* Sec. 7. AS 11.46.270(b) is amended to read:

(b) Unlawful possession is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared is **\$2,000** [\$750] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$250 or more but less than \$2,000 [\$750];

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$250.

* **Sec. 8.** AS 11.46.280(d) is amended to read:

(d) Issuing a bad check is

(1) a class B felony if the face amount of the check is \$25,000 or more;

(2) a class C felony if the face amount of the check is \$2,000 [\$750] or

more but less than \$25,000;

(3) a class A misdemeanor if the face amount of the check is \$250 or
than **\$2,000** [\$750];

(4) a class B misdemeanor if the face amount of the check is less than \$250.

c. 9. AS 11.46.285(b) is amended to read:

(b) Fraudulent use of an access device is

(1) a class B felony if the value of the property or services obtained is \$25,000 or more;

(2) a class C felony if the value of the property or services obtained is **\$2,000** [\$750] or more but less than \$25,000;

(3) a class A misdemeanor if the value of the property or services obtained is less than \$2,000 [\$750].

* **Sec. 10.** AS 11.46.295 is amended to read:

Sec. 11.46.295. Prior convictions. For purposes of considering prior convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) [OR 11.46.140(a)(3),] or in prosecuting the crime of concealment of merchandise under

1 AS 11.46.220(c),

2 (1) a conviction for an offense under another law or ordinance with
3 similar elements is a conviction of an offense having elements similar to those of an
4 offense defined as such under Alaska law at the time the offense was committed;

5 (2) a conviction for an offense under Alaska law where the value of the
6 property or services for the offense was lower than the value of property or services
7 for the offense under current Alaska law is a prior conviction for that offense; and

8 (3) the court shall consider the date of a prior conviction as occurring
9 on the date that sentence is imposed for the prior offense.

10 * **Sec. 11.** AS 11.46.360(a) is amended to read:

11 (a) A person commits the crime of vehicle theft in the first degree if, having
12 no right to do so or any reasonable ground to believe the person has such a right, the
13 person drives, tows away, or takes

14 (1) the car, truck, motorcycle, motor home, bus, aircraft, or watercraft
15 of another;

16 (2) the propelled vehicle of another and

17 (A) the vehicle or any other property of another is damaged in a
18 total amount of \$2,000 [\$750] or more;

19 (B) the owner incurs reasonable expenses as a result of the loss
20 of use of the vehicle, in a total amount of \$2,000 [\$750] or more; or

21 (C) the owner is deprived of the use of the vehicle for seven
22 days or more;

23 (3) the propelled vehicle of another and the vehicle is marked as a
24 police or emergency vehicle; or

25 (4) the propelled vehicle of another and, within the preceding seven
26 years, the person was convicted under

27 (A) this section or AS 11.46.365;

28 (B) former AS 11.46.482(a)(4) or (5);

29 (C) former AS 11.46.484(a)(2);

30 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft
31 of a propelled vehicle; or

(E) a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in (A) - (D) of this paragraph.

* **Sec. 12.** AS 11.46.460 is amended to read:

Sec. 11.46.460. Disregard of a highway obstruction. (a) A person commits the **offense** [CRIME] of disregard of a highway obstruction if, without the right to do so or a reasonable ground to believe the person has the right, the person

(1) drives a vehicle through, over, or around an obstruction erected on [UPON] a highway under authority of AS 19.10.100; or

(2) opens an obstruction erected on [UPON] a highway under authority of AS 19.10.100

(b) Violation of this section is a **violation punishable by a fine of not more than \$1,000 [CLASS B MISDEMEANOR]**.

* **Sec. 13.** AS 11.46.482(a) is amended to read:

(a) A person commits the crime of criminal mischief in the third degree if, having no right to do so or any reasonable ground to believe the person has such a right,

(1) with intent to damage property of another, the person damages property of another in an amount of **\$2,000** [\$750] or more;

(2) the person recklessly creates a risk of damage in an amount exceeding \$100,000 to property of another by the use of widely dangerous means; or

(3) the person knowingly

(A) defaces, damages, or desecrates a cemetery or the contents of a cemetery or a tomb, grave, or memorial regardless of whether the tomb, grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or memorial appears to be abandoned, lost, or neglected;

(B) removes human remains or associated burial artifacts from a cemetery, tomb, grave, or memorial regardless of whether the cemetery, tomb, grave, or memorial appears to be abandoned, lost, or neglected.

* **Sec. 14.** AS 11.46.484(a) is amended to read:

(a) A person commits the crime of criminal mischief in the fourth degree if,

1 having no right to do so or any reasonable ground to believe the person has such a
2 right;
3

4 (1) with intent to damage property of another, the person damages
5 property of another in an amount of \$250 or more but less than \$2,000 [\$750];
6

7 (2) the person tampers with a fire protection device in a building that is
8 a public place;
9

10 (3) the person knowingly accesses a computer, computer system,
11 computer program, computer network, or part of a computer system or network;
12

13 (4) the person uses a device to descramble an electronic signal that has
14 been scrambled to prevent unauthorized receipt or viewing of the signal unless the
15 device is used only to descramble signals received directly from a satellite or unless
16 the person owned the device before September 18, 1984; or
17

18 (5) the person knowingly removes, relocates, defaces, alters, obscures,
19 shoots at, destroys, or otherwise tampers with an official traffic control device or
20 damages the work on [UPON] a highway under construction.
21

22 * **Sec. 15.** AS 11.46.530(b) is amended to read:
23

24 (b) Criminal simulation is
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26 (1) a class C felony if the value of what the object purports to represent
27 is \$2,000 [\$750] or more;
28

29 (2) a class A misdemeanor if the value of what the object purports to
30 represent is \$250 or more but less than \$2,000 [\$750];
31

32 (3) a class B misdemeanor if the value of what the object purports to
33 represent is less than \$250.
34

35 * **Sec. 16.** AS 11.46.620(d) is amended to read:
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37 (d) Misapplication of property is
38

39 (1) a class C felony if the value of the property misapplied is \$2,000
40 [\$750] or more;
41

42 (2) a class A misdemeanor if the value of the property misapplied is
43 less than \$2,000 [\$750].
44

45 * **Sec. 17.** AS 11.46.730(c) is amended to read:
46

47 (c) Defrauding creditors is a class A misdemeanor unless that secured party,
48

1 judgment creditor, or creditor incurs a pecuniary loss of **\$2,000** [\$750] or more as a
2 result of [TO] the defendant's conduct, in which case defrauding secured creditors is
3 (1) a class B felony if the loss is \$25,000 or more;
4 (2) a class C felony if the loss is **\$2,000** [\$750] or more but less than
5 \$25,000.

6 * **Sec. 18.** AS 11.56.730(a) is amended to read:

7 (a) A person commits the offense [CRIME] of failure to appear if the person
8 (1) is released under the provisions of AS 12.30;
9 (2) knows that the person is required to appear before a court or
10 judicial officer at the time and place of a scheduled hearing; and
11 (3) with criminal negligence does not appear before the court or
12 judicial officer at the time and place of the scheduled hearing.

13 * **Sec. 19.** AS 11.56.730(c) is amended to read:

14 (c) A person who commits failure to appear incurs a forfeiture of any security
15 for any appearance of the person that was given or pledged to the court for the person's
16 release [, AND IS GUILTY OF A
17 (1) CLASS C FELONY IF THE PERSON WAS RELEASED IN
18 CONNECTION WITH A CHARGE OF A FELONY, OR WHILE AWAITING
19 SENTENCE OR APPEAL AFTER CONVICTION OF A FELONY;
20 (2) CLASS A MISDEMEANOR IF THE PERSON WAS RELEASED
21 IN CONNECTION WITH A
22 (A) CHARGE OF A MISDEMEANOR, OR WHILE
23 AWAITING SENTENCE OR APPEAL AFTER CONVICTION OF A
24 MISDEMEANOR; OR
25 (B) REQUIREMENT TO APPEAR AS A MATERIAL
26 WITNESS IN A CRIMINAL PROCEEDING].

27 * **Sec. 20.** AS 11.56.730 is amended by adding new subsections to read:

28 (d) Failure to appear is a
29 (1) class C felony if the person was released in connection with a
30 charge of a felony or while awaiting sentence or appeal after conviction of a felony
31 and the person

(A) does not make contact with the court or a judicial officer within 30 days after the person does not appear at the time and place of a scheduled hearing; or

(B) does not appear at the time and place of a scheduled hearing to avoid prosecution;

(2) class A misdemeanor if the person was released in connection with a charge of a misdemeanor, while awaiting sentence or appeal after conviction of a misdemeanor, or requirement to appear as a material witness in a criminal proceeding, and the person

(A) does not make contact with the court or a judicial officer within 30 days after the person does not appear at the time and place of a scheduled hearing; or

(B) does not appear at the time and place of a scheduled hearing to avoid prosecution; or

(3) violation punishable by a fine of up to \$1,000.

(e) In a prosecution for failure to appear under (a) of this section, it is not a defense that the defendant did not receive a reminder notification from a court or judicial officer under Rule 38(e), Alaska Rules of Criminal Procedure.

* **Sec. 21.** AS 11.56.757(a) is amended to read:

(a) A person commits the **offense** [CRIME] of violation of condition of release if the person

(1) has been charged with a crime or convicted of a crime;

(2) has been released under AS 12.30; and

(3) violates a condition of release imposed by a judicial officer under
other than the requirement to appear as ordered by a judicial officer.

c. 22. AS 11.56.757(b) is amended to read:

(b) Violation of condition of release is **a violation punishable by a fine of up to \$1,000**

(1) A CLASS A MISDEMEANOR IF THE PERSON IS RELEASED FROM A CHARGE OR CONVICTION OF A FELONY;

(2) A CLASS B MISDEMEANOR IF THE PERSON IS RELEASED

1 FROM A CHARGE OR CONVICTION OF A MISDEMEANOR].

2 * **Sec. 23.** AS 11.56.759(a) is amended to read:

3 (a) A person commits the crime of violation by sex offender of condition of
4 probation if the person

5 (1) is on probation for conviction of a sex offense;

6 (2) has served the entire term of incarceration imposed for conviction
7 of the sex offense; and

8 (3) violates a condition of probation imposed under
9 **AS 12.55.100(a)(2)(E), (a)(2)(F)** [AS 12.55.100(a)(5), (a)(6)], or (e), 12.55.101(a)(1),
10 or any other condition imposed by the court that the court finds to be specifically
11 related to the defendant's offense.

12 * **Sec. 24.** AS 11.61.110(c) is amended to read:

13 (c) Disorderly conduct is a class B misdemeanor [AND IS PUNISHABLE AS
14 AUTHORIZED IN AS 12.55 EXCEPT THAT A SENTENCE OF IMPRISONMENT,
15 IF IMPOSED, SHALL BE FOR A DEFINITE TERM OF NOT MORE THAN 10
16 DAYS].

17 * **Sec. 25.** AS 11.61.145(d) is amended to read:

18 (d) Promoting an exhibition of fighting animals

19 (1) under (a)(1) or (2) of this section is a class C felony;

20 (2) under (a)(3) of this section is

21 **(A)** a violation

22 **(i)** for the first offense;

23 **(ii) punishable by a fine of not more than \$1,000** [, A

24 CLASS B MISDEMEANOR] for the second offense; [,] and

25 **(B)** a class A misdemeanor for the third and each subsequent
26 offense.

27 * **Sec. 26.** AS 11.61.150(a) is amended to read:

28 (a) A person commits the **offense** [CRIME] of obstruction of highways if the
29 person knowingly

30 (1) places, drops, or permits to drop on a highway any substance that
31 creates a substantial risk of physical injury to others using the highway; or

(1) for the first offense;

(2) punishable by a fine of not more than \$1,000 [. GAMBLING IS MISDEMEANOR] for the second and each subsequent offense.

* **Sec. 30.** AS 11.71.030(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the **second** [THIRD] degree if the person

(1) [UNDER CIRCUMSTANCES NOT PROSCRIBED UNDER AS 11.71.020(a)(2) - (6),] manufactures or delivers, [ANY AMOUNT OF A SCHEDULE IIA OR IIIA CONTROLLED SUBSTANCE] or possesses [ANY AMOUNT OF A SCHEDULE IIA OR IIIA CONTROLLED SUBSTANCE] with intent to manufacture or deliver,

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one gram or more containing a schedule IA controlled substance;

(B) 25 or more tablets, ampules, or syrettes containing a schedule IA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of 2.5 grams or more containing a schedule IIA or IIIA controlled substance; or

(D) 50 or more tablets, ampules, or syrettes containing a schedule IIA or IIIA controlled substance;

(2) delivers any amount of a schedule IVA, VA, or VIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; [OR]

(3) possesses any amount of a schedule IA or IIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center;

or

(B) on a school bus;

(4) manufactures any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers;

(5) possesses an immediate precursor of methamphetamine, or the salts, isomers, or salts of isomers of the immediate precursor of methamphetamine, with the intent to manufacture any material, compound, mixture, or preparation that contains methamphetamine, or its salts, isomers, or salts of isomers;

(6) possesses a listed chemical with intent to manufacture any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers;

(7) possesses methamphetamine in an organic solution with intent to extract from it methamphetamine or its salts, isomers, or salts of isomers; or

(8) under circumstances not proscribed under AS 11.71.010(a)(2),

(A) an immediate precursor of methamphetamine, or the salts, isomers, or salts of isomers of the immediate precursor of methamphetamine, to another person with reckless disregard that the precursor will be used to manufacture any material, compound, mixture, or preparation that contains methamphetamine, or its salts, isomers, or salts of isomers; or

(B) a listed chemical to another person with reckless disregard that the listed chemical will be used to manufacture any material, compound, mixture, or preparation that contains

(i) methamphetamine, or its salts, isomers, or salts of

isomers;

(ii) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers; or

(iii) methamphetamine or its salts, isomers, or salts of isomers in an organic solution.

* **Sec. 31.** AS 11.71.030(c) is amended to read:

(c) Misconduct involving a controlled substance in the **second** [THIRD] degree is a class B felony.

* **Sec. 32.** AS 11.71.030 is amended by adding new subsections to read:

(d) In a prosecution under (a) of this section, possession of more than six grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals is *prima facie* evidence that the person intended to use the listed chemicals to manufacture, aid or abet another person to manufacture, or deliver to another person who intends to manufacture methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers of methamphetamine or its immediate precursors. The *prima facie* evidence described in this subsection does not apply to a person who possesses

(1) the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

(A) and the listed chemical was dispensed to the person under a valid prescription; or

(B) in the ordinary course of a legitimate business, or an employee of a legitimate business, as a

(i) retailer or wholesaler;

(ii) wholesale drug distributor licensed by the Board of Pharmacy;

(iii) manufacturer of drug products licensed by the Board of Pharmacy;

(iv) pharmacist licensed by the Board of Pharmacy; or

(v) health care professional licensed by the state; or

(2) less than 24 grams of ephedrine, pseudoephedrine,

1 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals,
2 kept in a locked storage area on the premises of a legitimate business or nonprofit
3 organization operating a camp, lodge, school, day care center, treatment center, or
4 other organized group activity, and the location or nature of the activity, or the age of
5 the participants, makes it impractical for the participants in the activity to obtain
6 medicinal products.

7 (e) In this section, "listed chemical" means a chemical described under
8 AS 11.71.200.

9 * **Sec. 33.** AS 11.71.040(a) is amended to read:

10 (a) Except as authorized in AS 17.30, a person commits the crime of
11 misconduct involving a controlled substance in the **third** [FOURTH] degree if the
12 person

13 (1) manufactures or delivers any amount of a schedule IVA or VA
14 controlled substance or possesses any amount of a schedule IVA or VA controlled
15 substance with intent to manufacture or deliver;

16 (2) manufactures or delivers, or possesses with the intent to
17 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
18 of an aggregate weight of one ounce or more containing a schedule VIA controlled
19 substance;

20 (3) possesses

21 (A) any amount of a

22 (i) schedule IA controlled substance; or

23 (ii) IIA controlled substance except a controlled
24 substance listed in AS 11.71.150(e)(11) - (15);

25 (B) 25 or more tablets, ampules, or syrettes containing a
26 schedule IIIA or IVA controlled substance;

27 (C) one or more preparations, compounds, mixtures, or
28 substances of an aggregate weight of

29 (i) three grams or more containing a schedule IIIA or
30 IVA controlled substance except a controlled substance in a form listed
31 in (ii) of this subparagraph;

(ii) 12 grams or more containing a schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material; or

(iii) 500 milligrams or more of a schedule IIA controlled substance listed in AS 11.71.150(e)(11) - (15);

(D) 50 or more tablets, ampules, or syrettes containing a schedule VA controlled substance;

(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of six grams or more containing a schedule VA controlled substance;

(F) one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces or more containing a schedule VIA controlled substance; or

(G) 25 or more plants of the genus cannabis;

(4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center;

or

(B) on a school bus;

(5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for keeping or distributing controlled substances in violation of a felony offense under this chapter or AS 17.30;

(6) makes, delivers, or possesses a punch, die, plate, stone, or other thing that prints, imprints, or reproduces a trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of these on [UPON] a drug, drug container, or labeling so as to render the drug a counterfeit substance;

(7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or

1 issued to another person;

2 (8) knowingly furnishes false or fraudulent information in or omits
3 material information from any application, report, record, or other document required
4 to be kept or filed under AS 17.30;

5 (9) obtains possession of a controlled substance by misrepresentation,
6 fraud, forgery, deception, or subterfuge; [OR]

7 (10) affixes a false or forged label to a package or other container
8 containing any controlled substance; or

9 **(11) manufactures or delivers, or possesses with the intent to**
10 **manufacture or deliver,**

11 **(A) one or more preparations, compounds, mixtures, or**
12 **substances of an aggregate weight of less than one gram containing a**
13 **schedule IA controlled substance;**

14 **(B) less than 25 tablets, ampules, or syrettes containing a**
15 **schedule IA controlled substance;**

16 **(C) one or more preparations, compounds, mixtures, or**
17 **substances of an aggregate weight of less than 2.5 grams containing a**
18 **schedule IIA or IIIA controlled substance; or**

19 **(D) less than 50 tablets, ampules, or syrettes containing a**
20 **schedule IIA or IIIA controlled substance.**

21 * **Sec. 34.** AS 11.71.040(d) is amended to read:

22 (d) Misconduct involving a controlled substance in the third [FOURTH]
23 degree is a class C felony.

24 * **Sec. 35.** AS 11.71.050 is amended to read:

25 **Sec. 11.71.050. Misconduct involving a controlled substance in the fourth**
26 **[FIFTH] degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
27 misconduct involving a controlled substance in the fourth [FIFTH] degree if the
28 person

29 (1) manufactures or delivers, or possesses with the intent to
30 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
31 of an aggregate weight of less than one ounce containing a schedule VIA controlled

1 substance;

2 (2) possesses

3 (A) less than 25 tablets, ampules, or syrettes containing a
4 schedule IIIA or IVA controlled substance;

5 (B) one or more preparations, compounds, mixtures, or
6 substances of an aggregate weight of less than

7 (i) three grams containing a schedule IIIA or IVA
8 controlled substance except a controlled substance in a form listed in
9 (ii) of this subparagraph;

10 (ii) 12 grams but more than six grams containing a
11 schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16)
12 that has been sprayed on or otherwise applied to tobacco, an herb, or
13 another organic material; or

14 (iii) 500 milligrams containing a schedule IIA
15 controlled substance listed in AS 11.71.150(e)(11) - (15);

16 (C) less than 50 tablets, ampules, or syrettes containing a
17 schedule VA controlled substance;

18 (D) one or more preparations, compounds, mixtures, or
19 substances of an aggregate weight of less than six grams containing a schedule
20 VA controlled substance; or

21 (E) one or more preparations, compounds, mixtures, or
22 substances of an aggregate weight of one ounce or more containing a schedule
23 VIA controlled substance; [OR]

24 (3) fails to make, keep, or furnish any record, notification, order form,
25 statement, invoice, or information required under AS 17.30; or

26 (4) under circumstances not proscribed under
27 AS 11.71.060(a)(2)(B), possesses any amount of a schedule IA, IIA, IIIA, IVA,
28 VA, or VIA controlled substance.

29 (b) Misconduct involving a controlled substance in the fourth [FIFTH] degree
30 is a class A misdemeanor.

31 * **Sec. 36.** AS 11.71.060 is amended to read:

Sec. 11.71.060. Misconduct involving a controlled substance in the fifth

[SIXTH] degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the **fifth** [SIXTH] degree if the person

(1) uses or displays any amount of a schedule VIA controlled substance;

(2) possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of

(A) less than one ounce containing a schedule VIA controlled substance;

(B) six grams or less containing a schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material; or

(3) refuses entry into a premise for an inspection authorized under AS 17.30.

* **Sec. 37.** AS 11.71.311(a) is amended to read:

(a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),

11.71.040(a)(4), 11.71.050(a)(4) [11.71.040(a)(3) OR (4), 11.71.050(a)(2)], or 11.71.060(a)(1) or (2) if that person

(1) sought, in good faith, medical or law enforcement assistance for another person who the person reasonably believed was experiencing a drug overdose and

(A) the evidence supporting the prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(4), 11.71.050(a)(4) [11.71.040(a)(3) OR (4), 11.71.050(a)(2)], or 11.71.060(a)(1) or (2) was obtained or discovered as a result of the person seeking medical or law enforcement assistance;

(B) the person remained at the scene with the other person until medical or law enforcement assistance arrived; and

(C) the person cooperated with medical or law enforcement personnel, including by providing identification;

(2) was experiencing a drug overdose and sought medical assistance, and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(4), 11.71.050(a)(4) [11.71.040(a)(3) OR (4), 11.71.050(a)(2)], or 11.71.060(a)(1) or (2) was obtained as a result of the overdose and the need for medical assistance.

* **Sec. 38.** AS 12.25.150(a) is amended to read:

(a) A person arrested shall be taken before a judge or magistrate without unnecessary delay [,] and in any event within 24 [48] hours after arrest, absent compelling circumstances, including Sundays and holidays. The unavailability of a report prepared by the pretrial services officer under AS 33.07 or a delay in the transmittal of that report to the parties or to the court may not be considered a sufficient compelling circumstance to justify delaying a hearing beyond 24 hours. The hearing before the judge or magistrate may not take place more than 48 hours after arrest. This requirement applies to municipal police officers to the same extent as it does to state troopers.

* **Sec. 39.** AS 12.25.180 is amended to read:

Sec. 12.25.180. When peace officer shall [MAY] issue citation or take person before the court. (a) Except when arrest is required under another provision of law, a peace officer shall issue a citation when [WHEN] a peace officer stops or contacts a person for the commission of a class C felony offense, a misdemeanor, or the violation of a municipal ordinance [, THE OFFICER MAY, IN THE OFFICER'S DISCRETION, ISSUE A CITATION TO THE PERSON] instead of taking the person before a judge or magistrate under AS 12.25.150, except that the officer may arrest if [UNLESS]

(1) the person does not furnish satisfactory evidence of identity;

(2) [THE CONTACTING OFFICER REASONABLY BELIEVES
THE PERSON IS A DANGER TO SELF OR OTHERS;

(3)] the crime for which the person is contacted is one involving violence or harm to another person or to property;

(3) the peace officer has probable cause to believe the person committed a crime of escape under AS 11.56.320 or 11.56.330, unlawful evasion

1 under AS 11.56.335 or 11.56.340, unlawful contact under AS 11.56.750, or
2 possession of child pornography under AS 11.61.127;

3 (4) the person refuses to accept service of the citation; or

4 (5) the peace officer reasonably believes there is a risk the
5 defendant will fail to appear in court [(4) THE PERSON ASKS TO BE TAKEN
6 BEFORE A JUDGE OR MAGISTRATE UNDER AS 12.25.150; OR

7 (5) THE PEACE OFFICER HAS PROBABLE CAUSE TO BELIEVE
8 THE PERSON COMMITTED A CRIME INVOLVING DOMESTIC VIOLENCE; IN
9 THIS PARAGRAPH, "CRIME INVOLVING DOMESTIC VIOLENCE" HAS THE
10 MEANING GIVEN IN AS 18.66.990].

11 (b) When a peace officer stops or contacts a person for the commission of an
12 infraction or a violation, the officer shall issue a citation instead of taking the person
13 before a judge or magistrate under AS 12.25.150, except that the officer may arrest
14 if [UNLESS]

15 (1) the person does not furnish satisfactory evidence of identity; [OR]

16 (2) the person refuses to accept service of the citation; or

17 (3) the peace officer has probable cause to believe the person has
18 committed

19 (A) a violation of conditions of release under AS 11.56.757;

20 or

21 (B) the offense of failure to appear under AS 11.56.730.

22 * **Sec. 40.** AS 12.25.180 is amended by adding a new subsection to read:

23 (c) A person may not bring a civil action for damages for a failure to comply
24 with the provisions of this section.

25 * **Sec. 41.** AS 12.25.190(b) is amended to read:

26 (b) The time specified in the notice to appear shall be at least two [FIVE]
27 working days after the issuance of the citation under AS 12.25.180(a).

28 * **Sec. 42.** AS 12.25.190 is amended by adding a new subsection to read:

29 (d) The time specified in the notice to appear shall be at least five working
30 days after issuance of the citation under AS 12.25.180(b).

31 * **Sec. 43.** AS 12.30.006(b) is amended to read:

(b) At the first appearance before a judicial officer, a person who is charged with a felony, **other than a class C felony and the person has been assessed as low risk under AS 12.30.011(c)(1)**, may be detained up to 48 hours for the prosecuting authority to demonstrate that release of the person under **AS 12.30.011** [AS 12.30.011(a)] would not reasonably **ensure** [ASSURE] the appearance of the person or will pose a danger to the victim, other persons, or the community.

* **Sec. 44.** AS 12.30.006(c) is amended to read:

(c) A person who remains in custody 48 hours after appearing before a judicial officer because of inability to meet the conditions of release shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. If the judicial officer who imposed the conditions of release is not available, any judicial officer in the judicial district may review the conditions. Upon review of the conditions, the judicial officer shall revise any conditions of release that have prevented the defendant from being released unless the judicial officer finds on the record that there is clear and convincing evidence that less restrictive release conditions cannot reasonably ensure the

(1) appearance of the person in court; and

(2) safety of the victim, other persons, and the community.

* **Sec. 45.** AS 12.30.006(d) is amended to read:

(d) If a person remains in custody after review of conditions by a judicial officer under (c) of this section, the person may request a subsequent review of conditions. Unless the prosecuting authority stipulates otherwise or the person has been incarcerated for a period equal to the maximum sentence for the most serious charge for which the person is being held, a judicial officer may not schedule a bail review hearing under this subsection unless

(1) the person provides to the court and the prosecuting authority a written statement that new information not considered at the previous review will be presented at the hearing; the statement must include a description of the information and the reason the information was not presented at a previous hearing; in this paragraph, "new information" **includes** [DOES NOT INCLUDE] the **person's** inability to post the required bail;

(2) the prosecuting authority and any surety, if applicable, have at least 48 hours' written notice before the time set for the review requested under this subsection; the defendant shall notify the surety; and

(3) at least seven days have elapsed between the previous review and the time set for the requested review; **however, a person may receive only one bail review hearing solely for inability to pay.**

* **Sec. 46.** AS 12.30.006(f) is amended to read:

(f) The judicial officer shall issue written or oral findings that explain the reasons the officer imposed the particular conditions of release or modifications or additions to conditions previously imposed. The judicial officer shall inform the person that a law enforcement officer **or a pretrial services officer under AS 33.07** may arrest the person without a warrant for violation of the court's order establishing conditions of release.

* **Sec. 47.** AS 12.30.011 is repealed and reenacted to read:

Sec. 12.30.011. Release before trial. (a) A judicial officer may order that a person charged with an offense, in addition to other conditions imposed under this section, be released

(1) on the person's own recognizance;

(2) upon execution of an unsecured appearance bond; or

(3) upon execution of an unsecured performance bond.

(b) A person charged with a misdemeanor that does not include an offense under AS 11.41, AS 11.56.730, 11.56.757, AS 28.35.030, 28.35.032, or a crime involving domestic violence as defined under AS 18.66.990 and who is assessed by a pretrial services officer as

(1) low to moderate risk shall be released on the person's own recognizance or upon execution of an unsecured appearance bond or unsecured performance bond; or

(2) high risk shall be released on the person's own recognizance or upon execution of an unsecured appearance bond or unsecured performance bond unless the judicial officer finds on the record that there is clear and convincing evidence that no nonmonetary conditions of release in combination with the release of

1 the person on the person's own recognizance or upon execution of an unsecured bond
2 can reasonably ensure the appearance of the person in court and the safety of the
3 victim, other persons, and the community.

4 (c) A person charged with a class C felony that does not include an offense
5 under AS 11.41, AS 11.56.730, AS 28.35.030, 28.35.032, or a crime involving
6 domestic violence as defined under AS 18.66.990 and who is assessed by a pretrial
7 services officer as

8 (1) low risk shall be released on the person's own recognizance or
9 upon execution of an unsecured appearance bond or unsecured performance bond; or

10 (2) moderate to high risk shall be released on the person's own
11 recognizance or upon execution of an unsecured appearance bond or unsecured
12 performance bond unless the judicial officer finds on the record that there is clear and
13 convincing evidence that no nonmonetary conditions of release in combination with
14 the release of the person on the person's own recognizance or upon execution of an
15 unsecured bond can reasonably ensure the appearance of the person in court and the
16 safety of the victim, other persons, and the community.

17 (d) A person charged under AS 28.35.030 or 28.35.032 who is assessed by a
18 pretrial services officer as low, moderate, or high risk shall be released on the person's
19 own recognizance or upon execution of an unsecured appearance bond or unsecured
20 performance bond unless the judicial officer finds on the record that there is clear and
21 convincing evidence that no nonmonetary conditions of release in combination with
22 the release of the person on the person's own recognizance or upon execution of an
23 unsecured bond can reasonably ensure the appearance of the person in court and the
24 safety of the victim, other persons, and the community.

25 (e) A person charged under AS 11.56.730 or 11.56.757 who is assessed by a
26 pretrial services officer as

27 (1) low to moderate risk shall be released on the person's own
28 recognizance or upon execution of an unsecured appearance bond or unsecured
29 performance bond unless the judicial officer finds on the record that there is clear and
30 convincing evidence that no nonmonetary conditions of release in combination with
31 the release of the person on the person's own recognizance or upon execution of an

1 unsecured bond can reasonably ensure the appearance of the person in court and the
2 safety of the victim, other persons, and the community; or

3 (2) high risk may be required, singly or in combination, in addition to
4 other conditions specified in this section, to deposit with the court and execute

5 (A) an appearance bond with a posting not to exceed 10 percent
6 of the specified amount of the bond with the condition that the deposit be
7 returned upon the appearance of the person at scheduled hearings;

8 (B) a bail bond with sufficient solvent sureties or the deposit of
9 cash; or

10 (C) a performance bond with a full or partial posting of the
11 specified amount of the bond with the condition that the deposit be returned
12 upon the performance of the conditions of release set by the court.

13 (f) A person charged with an offense who is not otherwise required to be
14 released under (b) - (e) of this section and who is assessed by a pretrial services officer
15 as

16 (1) low risk shall be released on the person's own recognizance or
17 upon execution of an unsecured appearance bond or unsecured performance bond
18 unless the judicial officer finds on the record that there is clear and convincing
19 evidence that no nonmonetary conditions of release in combination with the release of
20 the person on the person's own recognizance or upon execution of an unsecured bond
21 can reasonably ensure the appearance of the person in court and the safety of the
22 victim, other persons, and the community; or

23 (2) moderate to high risk may be required, singly or in combination, in
24 addition to other conditions specified in this section, to deposit with the court and
25 execute

26 (A) an appearance bond with a posting not to exceed 10 percent
27 of the specified amount of the bond with the condition that the deposit be
28 returned upon the appearance of the person at scheduled hearings;

29 (B) a bail bond with sufficient solvent sureties or the deposit of
30 cash; or

31 (C) a performance bond with a full or partial posting of the

specified amount of the bond with the condition that the deposit be returned upon the performance of the conditions of release set by the court.

(g) A person released under this section shall be released on the condition that the person

- (1) obey all court orders;
- (2) obey all laws;
- (3) make all court appearances;

(4) maintain contact with the person's pretrial services officer, if one is appointed by the court, and follow the pretrial services officer's instructions;

(5) maintain contact with the person's attorney;

(6) notify the person's attorney or, if the person is not represented by an attorney, the pretrial services officer or the court within 24 hours after a change in the person's residence.

(h) The judicial officer may, singly or in combination, order additional conditions if the condition or conditions are the least restrictive conditions that will reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community. The judicial officer may

- (1) place restrictions on the person's travel, association, or residence;
- (2) order the person to refrain from possessing a deadly weapon on the

person or in the person's vehicle or residence;

(3) require the person to maintain employment or, if unemployed, actively seek employment;

(4) require the person to notify the person's lawyer and the prosecuting authority within two business days after any change in employment;

(5) require the person to avoid all contact with a victim, a potential witness, or a codefendant;

(6) require the person to refrain from the consumption and possession of alcoholic beverages;

(7) require the person to refrain from the use of a controlled substance as defined by AS 11.71, unless prescribed by a licensed health care provider with prescriptive authority;

(8) require the person to be physically inside the person's residence, or in the residence of the person's third-party custodian, at times set by the court, subject to AS 12.30.021;

(9) require the person to keep regular contact with a pretrial services officer or law enforcement officer or agency;

(10) order the person to refrain from entering or remaining in premises licensed under AS 04;

(11) place the person in the custody of an individual who agrees to serve as a third-party custodian of the person as provided in AS 12.30.021;

(12) if the person is under the treatment of a licensed health care provider, order the person to follow the provider's treatment recommendations;

(13) order the person to take medication that has been prescribed for the person by a licensed health care provider with prescriptive authority;

(14) require the person to comply with a program established under AS 47.38.020, except that a judicial officer may not impose this condition unless the person has been charged with an alcohol-related or substance-abuse-related offense that is an unclassified felony, a class A felony, a sexual felony, or a crime involving domestic violence;

(15) order the person to comply with any other condition that is reasonably necessary to ensure the appearance of the person and to ensure the safety of the victim, other persons, and the community.

(i) In determining the conditions of release under this chapter, the court shall consider the following:

- (1) the nature and circumstances of the offense charged;
- (2) the weight of the evidence against the person;
- (3) the nature and extent of the person's family ties and relationships;
- (4) the person's employment status and history;
- (5) the length and character of the person's past and present residence;
- (6) the person's record of convictions;
- (7) the person's record of appearance at court proceedings;
- (8) assets available to the person to meet monetary conditions of

1 release;

2 (9) the person's reputation, character, and mental condition;

3 (10) the effect of the offense on the victim, any threats made to the
4 victim, and the danger that the person poses to the victim;

5 (11) the conditions of release recommended by the pretrial services
6 officer;

7 (12) the person's pretrial risk assessment score; and

8 (13) any other facts that are relevant to the person's appearance or the
9 person's danger to the victim, other persons, or the community.

10 (j) Except as otherwise provided in this chapter, the burden of proof is on the
11 prosecuting authority that a person charged with an offense should be detained or
12 released with conditions described in this section or AS 12.30.016. Any monetary or
13 nonmonetary condition or conditions imposed by the court under this section shall be
14 the least restrictive condition or conditions that will reasonably ensure the appearance
15 of the person in court and the safety of the victim, other persons, and the community.

16 (k) If the report prepared by the pretrial services officer under AS 33.07 is not
17 available at the time of the first appearance or bail review hearing, the court shall
18 impose the least restrictive condition or conditions that will reasonably ensure the
19 appearance of the person in court and the safety of the victim, other persons, and the
20 community.

21 * **Sec. 48.** AS 12.30.016(b) is amended to read:

22 (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,
23 AS 28.35.030, or 28.35.032, a judicial officer may order the person

24 (1) to refrain from

25 (A) consuming alcoholic beverages; or

26 (B) possessing on the person, in the person's residence, or in
27 any vehicle or other property over which the person has control, alcoholic
28 beverages;

29 (2) to submit to a search without a warrant of the person, the person's
30 personal property, the person's residence, or any vehicle or other property over which
31 the person has control, for the presence of alcoholic beverages by a peace officer **or**

1 **pretrial services officer** who has reasonable suspicion that the person is violating the
2 conditions of the person's release by possessing alcoholic beverages;

3 (3) to submit to a breath test when requested by a law enforcement
4 officer **or pretrial services officer**;

5 (4) to provide a sample for a urinalysis or blood test when requested by
6 a law enforcement officer **or pretrial services officer**;

7 (5) to take a drug or combination of drugs intended to prevent
8 substance abuse;

9 (6) to follow any treatment plan imposed by the court under
10 AS 28.35.028;

11 (7) to comply with a program established under AS 47.38.020.

12 * **Sec. 49.** AS 12.30.016(c) is amended to read:

13 (c) In a prosecution charging a violation of AS 11.71 or AS 11.73, a judicial
14 officer may order the person

15 (1) to refrain from

16 (A) consuming a controlled substance; or

17 (B) possessing on the person, in the person's residence, or in
18 any vehicle or other property over which the person has control, a controlled
19 substance or drug paraphernalia;

20 (2) to submit to a search without a warrant of the person, the person's
21 personal property, the person's residence, or any vehicle or other property over which
22 the person has control, for the presence of a controlled substance or drug paraphernalia
23 by a peace officer **or pretrial services officer** who has reasonable suspicion that the
24 person is violating the terms of the person's release by possessing controlled
25 substances or drug paraphernalia;

26 (3) to enroll in a random drug testing program, at the person's expense,
27 **with testing to occur not less than once a week, or to submit to random drug**
28 **testing by the pretrial services office in the Department of Corrections** to detect
29 the presence of a controlled substance, [WITH TESTING TO OCCUR NOT LESS
30 THAN ONCE A WEEK, AND] with the results being submitted to the court and the
31 prosecuting authority;

(4) to refrain from entering or remaining in a place where a controlled substance is being used, manufactured, grown, or distributed;

(5) to refrain from being physically present at, within a two-block area of, or within a designated area near, the location where the alleged offense occurred or at other designated places, unless the person actually resides within that area;

(6) to refrain from the use or possession of an inhalant; or

(7) to comply with a program established under AS 47.38.020.

* **Sec. 50.** AS 12.30.021(a) is amended to read:

(a) In addition to other conditions imposed under AS 12.30.011 or 12.30.016, a judicial officer may appoint a third-party custodian if the officer finds, on the record, that

(1) pretrial supervision under AS 33.07 is not available in the person's location;

(2) no secured appearance or performance bonds have been ordered; and

(3) no other conditions of release or combination of conditions can
[THE APPOINTMENT WILL, SINGLY OR IN COMBINATION WITH OTHER CONDITIONS,] reasonably **ensure** [ASSURE] the person's appearance and the safety of the victim, other persons, and the community.

* **Sec. 51.** AS 12.30.021(c) is amended to read:

(c) A judicial officer may not appoint a person as a third-party custodian if

(1) the proposed custodian is acting as a third-party custodian for another person;

(2) the proposed custodian has been convicted in the previous three years of a crime under AS 11.41 or a similar crime in this or another jurisdiction;

(3) criminal charges are pending in this state or another jurisdiction against the proposed custodian;

(4) the proposed custodian is on probation in this state or another jurisdiction for an offense:

(5) **there is a reasonable probability that the state will call** the proposed custodian [MAY BE CALLED] as a witness in the prosecution of the

1 person;

2 (6) the proposed custodian resides out of state; however, a nonresident
3 may serve as a custodian if the nonresident resides in the state while serving as
4 custodian.

5 * **Sec. 52.** AS 12.30.055 is amended by adding a new subsection to read:

6 (b) A person who is in custody in connection with a petition to revoke
7 probation for a technical violation of probation under AS 12.55.110 shall be released
8 after the person has served the maximum number of days that the court could impose
9 on the person for a technical violation of probation under AS 12.55.110.

10 * **Sec. 53.** AS 12.55.011 is amended by adding a new subsection to read:

11 (b) At the time of sentencing, the court shall provide the victim with a form
12 that

13 (1) provides information on

14 (A) whom the victim should contact if the victim has questions
15 about the sentence or release of the offender;

16 (B) the potential for release of the offender on furlough,
17 probation, or parole or for good time credit; and

18 (2) allows the victim to update the victim's contact information with
19 the court and with the Department of Corrections.

20 * **Sec. 54.** AS 12.55.025(a) is amended to read:

21 (a) When imposing a sentence for conviction of a felony offense or a sentence
22 of imprisonment exceeding 90 days or upon a conviction of a violation of AS 04, a
23 regulation adopted under AS 04, or an ordinance adopted in conformity with
24 AS 04.21.010, the court shall prepare, as a part of the record, a sentencing report that
25 includes the following:

26 (1) a verbatim record of the sentencing hearing and any other in-court
27 sentencing procedures;

28 (2) findings on material issues of fact and on factual questions required
29 to be determined as a prerequisite to the selection of the sentence imposed;

30 (3) a clear statement of the terms of the sentence imposed; if a term of
31 imprisonment is imposed, the statement must include

(A) the approximate minimum term the defendant is expected to serve before being released or placed on mandatory parole if the defendant is eligible for and does not forfeit good conduct deductions under AS 33.20.010; and

(B) if applicable, the approximate minimum term of imprisonment the defendant must serve before becoming eligible for release on discretionary **or administrative** parole;

(4) any recommendations as to the place of confinement or the manner of treatment; and

(5) in the case of a conviction for a felony offense, information assessing

(A) the financial, emotional, and medical effects of the offense on the victim;

(B) the need of the victim for restitution; and

(C) any other information required by the court.

* **Sec. 55.** AS 12.55.025(c) is amended to read:

(c) Except as provided in (d) of this section, when a defendant is sentenced to imprisonment, the term of confinement commences on the date of imposition of sentence unless the court specifically provides that the defendant must report to serve the sentence on another date. If the court provides another date to begin the term of confinement, the court shall provide the defendant with written notice of the date, time, and location of the correctional facility to which the defendant must report. A defendant shall receive credit for time spent in custody pending trial, sentencing, or appeal, if the detention was in connection with the offense for which sentence was imposed **including a technical violation of probation as provided in AS 12.55.110.** A defendant may not receive credit for more than the actual time spent in custody pending trial, sentencing, or appeal. The time during which a defendant is voluntarily absent from official detention after the defendant has been sentenced may not be credited toward service of the sentence.

* **Sec. 56.** AS 12.55.027(d) is amended to read:

(d) A court may grant credit **of not more than 120 days** against a sentence of

imprisonment imposed following conviction for an offense for time spent under electronic monitoring that complies with AS 33.30.011(10), if the person has not committed a criminal offense while under electronic monitoring and the court imposes restrictions on the person's freedom of movement and behavior while under the electronic monitoring program, including requiring the person to be confined to a residence except for a

- (1) court appearance;
- (2) meeting with counsel; or

(3) period during which the person is at a location ordered by the court for the purposes of employment, attending educational or vocational training, performing community volunteer work, or attending a rehabilitative activity or medical appointment.

* **Sec. 57.** AS 12.55.027 is amended by adding a new subsection to read:

(f) To qualify as a treatment program under this section, a program must

- (1) be intended to address criminogenic traits or behaviors;
- (2) provide measures of progress or completion; and
- (3) require notification to the court or probation officer of violations of conditions of bail or probation.

* **Sec. 58.** AS 12.55.051(a) is amended to read:

(a) If the defendant defaults in the payment of a fine or any installment or of restitution or any installment, the court may order the defendant to show cause why the defendant should not be sentenced to imprisonment for nonpayment and, if the payment was made a condition of the defendant's probation, may revoke the probation of the defendant **subject to the limits set out in AS 12.55.110**. In a contempt or probation revocation proceeding brought as a result of failure to pay a fine or restitution, it is an affirmative defense that the defendant was unable to pay despite having made continuing good faith efforts to pay the fine or restitution. If the court finds that the defendant was unable to pay despite having made continuing good faith efforts, the defendant may not be imprisoned solely because of the inability to pay. If the court does not find that the default was attributable to the defendant's inability to pay despite having made continuing good faith efforts to pay the fine or restitution, the

court may order the defendant imprisoned subject to the limits set out in AS 12.55.110 [UNTIL THE ORDER OF THE COURT IS SATISFIED]. A term of imprisonment imposed under this section may not exceed one day for each \$50 of the unpaid portion of the fine or restitution or one year, whichever is shorter. Credit shall be given toward satisfaction of the order of the court for every day a person is incarcerated for nonpayment of a fine or restitution.

* **Sec. 59.** AS 12.55.055(a) is amended to read:

(a) The court may order a defendant convicted of an offense to perform community work as a condition of probation, a suspended sentence, [OR] suspended imposition of sentence, **or suspended entry of judgment**, or in addition to any fine or restitution ordered. If the defendant is sentenced to imprisonment, the court may recommend to the Department of Corrections that the defendant perform community work.

* **Sec. 60.** AS 12.55.055(c) is amended to read:

(c) The court may offer a defendant convicted of an offense the option of performing community work in lieu of a fine, surcharge, or portion of a fine or surcharge if the court finds the defendant is unable to pay the fine. The value of community work in lieu of a fine is **the state's minimum wage for each** [\$3 PER] hour.

* **Sec. 61.** AS 12.55.055 is amended by adding new subsections to read:

(g) The court may not

(1) offer a defendant convicted of an offense the option of serving jail time in lieu of performing uncompleted community work previously ordered by the court; or

(2) convert uncompleted community work hours into a sentence of imprisonment.

(h) If a court orders community work as part of the defendant's sentence under this section, the court shall provide notice to the defendant at sentencing and include as a provision of the judgment that, if the defendant fails to provide proof of community work within 20 days after the date set by the court, the court shall convert those community work hours to a fine equal to the number of uncompleted work hours

multiplied by the state's minimum hourly wage and issue a judgment against the defendant for that amount.

* **Sec. 62.** AS 12.55 is amended by adding a new section to read:

Sec. 12.55.078. Suspending entry of judgment. (a) Except as provided in (f) of this section, if a person is found guilty or pleads guilty to a crime, the court may, with the consent of the defendant and the prosecution and without imposing or entering a judgment of guilt, defer further proceedings and place the person on probation. The period of probation may not exceed the applicable terms set out in AS 12.55.090(c).

(b) The court shall impose conditions of probation for a person on probation as provided in (a) of this section, which may include that the person

- (1) abide by all local, state, and federal laws;
- (2) not leave the state without prior consent of the court;
- (3) pay restitution as ordered by the court; and
- (4) obey any other conditions of probation set by the court.

(c) At any time during the probationary term of the person released on probation, a probation officer may, without warrant or other process, rearrest the person so placed in the officer's care and bring the person before the court, or the court may, in its discretion, issue a warrant for the rearrest of the person. The court may revoke and terminate the probation if the court finds that the person placed on probation is

- (1) violating the conditions of probation;
- (2) engaging in criminal practices; or
- (3) violating an order of the court to participate in or comply with the treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

(d) If the court finds that the person has successfully completed probation, the court shall, at the end of the probationary period set by the court, or at any time after the expiration of one year from the date of the original probation, discharge the person and dismiss the proceedings against the person.

(e) If the court finds that the person has violated the conditions of probation ordered by the court, the court may revoke and terminate the person's probation, enter

1 judgment on the person's previous plea or finding of guilt, and pronounce sentence at
2 any time within the maximum probation period authorized by this section.

3 (f) The court may not suspend the imposition or entry of judgment and may
4 not defer prosecution under this section of a person who

5 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260
6 - 11.41.320, 11.41.360 - 11.41.370, 11.41.410 - 11.41.530, AS 11.46.400,
7 AS 11.61.125 - 11.61.128, or AS 11.66.110 - 11.66.135;

8 (2) uses a firearm in the commission of the offense for which the
9 person is convicted;

10 (3) has previously been granted a suspension of judgment under this
11 section or a similar statute in another jurisdiction, unless the court enters written
12 findings that by clear and convincing evidence the person's prospects for rehabilitation
13 are high and suspending judgment under this section adequately protects the victim of
14 the offense, if any, and the community;

15 (4) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
16 and the person has one or more prior convictions for a misdemeanor violation of
17 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction
18 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a
19 felony in this state; for the purposes of this paragraph, a person shall be considered to
20 have a prior conviction even if

21 (A) the charges were dismissed under this section;
22 (B) the conviction has been set aside under AS 12.55.085; or
23 (C) the charge or conviction was dismissed or set aside under
24 an equivalent provision of the laws of another jurisdiction; or

25 (5) has been convicted of a crime involving domestic violence, as
26 defined in AS 18.66.990.

27 * **Sec. 63.** AS 12.55.090(b) is amended to read:

28 (b) Except as otherwise provided in (f) of this section, the court may revoke or
29 modify any condition of probation, [OR MAY] change the period of probation, or
30 terminate probation and discharge the defendant from probation.

31 * **Sec. 64.** AS 12.55.090(c) is amended to read:

(c) The period of probation, together with any extension, may not exceed

- (1) 10 [25] years for a felony sex offense; [OR]
- (2) 10 years for an unclassified felony under AS 11;
- (3) five years for a felony offense not listed in (1) or (2) of this
tion;
- (4) three years for an offense under AS 11.41.230;
- (5) two years for a misdemeanor offense under AS 28.35.030 or
032, if the person has previously been convicted of an offense under
35.030 or 28.35.032, or a similar law or ordinance of this or another
iction; or
- (6) one year for an offense not listed in (1) - (5) of this subsection
OTHER OFFENSE].

* **Sec. 65.** AS 12.55.090(f) is amended to read:

(f) Unless the defendant and the prosecuting authority agree at the probation revocation proceeding or other proceeding related to a probation violation, the person qualifies for a reduction under AS 33.05.020(h), or a probation officer recommends to the court that probation be terminated and the defendant be discharged from probation under (g) of this section or AS 33.05.040, the court may not reduce the specific period of probation [,] or the specific term of suspended incarceration except by the amount of incarceration imposed for a probation violation, if

(1) the sentence was imposed in accordance with a plea agreement under Rule 11, Alaska Rules of Criminal Procedure; and

(2) the agreement required a specific period of probation or a specific term of suspended incarceration.

* **Sec. 66.** AS 12.55.090 is amended by adding new subsections to read:

(g) A probation officer shall recommend to the court that probation be terminated and a defendant be discharged from probation if the defendant

- (1) has completed at least one year on probation;
- (2) has completed all treatment programs required as a condition of probation;

(3) has not been found in violation of conditions of probation by the court for at least one year;

(4) is currently in compliance with all conditions of probation for all of the cases for which the person is on probation; and

(5) has not been convicted of

(A) an unclassified felony offense under AS 11;

(B) a sexual felony as defined by AS 12.55.185;

(C) a crime involving domestic violence as defined by

AS 18.66.990; or

(D) a misdemeanor.

(h) Before a court may terminate probation and discharge the defendant before the period of probation for the offense has been completed under (g) of this section, the court shall allow victims to comment in writing to the court or allow a victim to give sworn testimony or make an unsworn oral presentation at a hearing held to determine whether to reduce the period of probation or terminate probation and discharge the defendant.

(i) If a probation officer recommends to the court that probation be terminated and a defendant be discharged from probation under (g) of this section and the victim has earlier requested to be notified, the Department of Corrections shall send the victim notice of the recommendation under (g) of this section and inform the victim of the victim's rights under this section, the deadline for receipt of written comments, the hearing date, and the court's address.

(j) If the victim submits written comments directly to the court and the parties do not otherwise have the victim statements, the court shall distribute the statements to the parties.

(k) In deciding whether to terminate probation and discharge the defendant from probation under (g) of this section, the court shall consider the victim's comments, testimony, or unsworn oral presentation, when relevant, and any response by the prosecuting attorney and defendant.

(l) If a victim desires notice under this section, the victim shall maintain a current, valid mailing address on file with the commissioner of corrections. The

commissioner shall send the notice to the victim's last known address. The victim's address may not be disclosed to the defendant or the defendant's attorney.

(m) The court shall discharge the defendant from probation upon completion of the period of probation. The period of probation is considered to be completed when the combination of time served and credits earned under AS 33.05.020 is equal to the probation period imposed, or after the probationer has been discharged from probation under this section.

* **Sec. 67.** AS 12.55.100(a) is amended to read:

(a) While on probation and among the conditions of probation, the defendant

(1) shall be required to obey all state, federal, and local laws or ordinances, and any court orders applicable to the probationer; and

(2) may be required

(A) [1] to pay a fine in one or several sums;

(B) [2)] to make restitution or reparation to aggrieved parties
nages or loss caused by the crime for which conviction was had,
pensation to a victim that is a nonprofit organization for the
r or goods provided by volunteers if the labor or goods were
alleviate or mitigate the effects of the defendant's crime; when
ne amount of actual damages or loss under this **subparagraph**
H], the court shall value property as the market value of the
ne time and place of the crime or, if the market value cannot
ascertained, the cost of the replacement of the property within a
ne after the crime;

(C) [(3)] to provide for the support of any persons for whose support the defendant is legally responsible;

(D) [(4)] to perform community work in accordance with AS 12.55.055;

(E) [(5)] to participate in or comply with the treatment plan of an inpatient or outpatient rehabilitation program specified by either the court or the defendant's probation officer that is related to the defendant's offense or to the defendant's rehabilitation;

(F) [(6)] to satisfy the screening, evaluation, referral, and program requirements of an agency authorized by the court to make referrals for rehabilitative treatment or to provide rehabilitative treatment;

(G) [AND (7)] to comply with a program established under AS 47.38.020; and

(H) to comply with the sanctions imposed by the defendant's probation officer under AS 33.05.020(g).

* **Sec. 68.** AS 12.55.100(c) is amended to read:

(c) A program of inpatient treatment may be required by the authorized agency under (a)(2)(F) [(a)(6)] of this section only if authorized in the judgment, and may not exceed the maximum term of inpatient treatment specified in the judgment. A person who has been referred for inpatient treatment may make a written request to the sentencing court asking the court to review the referral. The request for review shall be made within seven days after [OF] the agency's referral, and shall specifically set out the grounds on [UPON] which the request for review is based. The court may order a hearing on the request for review.

* **Sec. 69.** AS 12.55.110 is amended by adding new subsections to read:

(c) If a defendant is serving a period of probation for an offense, the court may find that the defendant has committed a technical violation of probation. If the court finds that a defendant has committed a technical violation of probation that does not include absconding, the court may reinstate the term of probation with appropriate conditions or impose a sentence of imprisonment of not more than

(1) three days for the first petition to revoke probation filed with the court;

(2) five days for the second petition to revoke probation filed with the court;

(3) 10 days for the third petition to revoke probation filed with the court; or

(4) up to the remainder of the suspended portion of the sentence for a fourth or subsequent petition to revoke probation.

(d) If the court revokes a person's probation for absconding, the court may

1 impose a period of imprisonment not to exceed 30 days.

2 (e) The limits set out in this section on the length of imprisonment for a
3 revocation do not apply if a probationer is enrolled in a program established under
4 AS 33.05.020(f).

5 (f) If the defendant is ordered to complete treatment under
6 AS 12.55.100(a)(2)(E) and does not comply with the court's order, the court may order
7 the defendant to show cause why the defendant should not be sentenced to
8 imprisonment for noncompletion of treatment and may revoke the suspended sentence
9 subject to the limits established in this section. In a contempt or probation revocation
10 proceeding brought as a result of failure to complete treatment, it is an affirmative
11 defense that the defendant was unable to afford the cost of treatment or secure a place
12 in a free treatment program, despite having made continuing good faith efforts. If the
13 court finds that the defendant was unable to complete treatment despite having made
14 continuing good faith efforts, the defendant may not be imprisoned solely because of
15 an inability to pay. If the court does not find that the noncompletion of treatment was
16 attributable to the defendant's inability to pay, the court may order the defendant
17 imprisoned subject to the limits established in this section.

18 (g) Notwithstanding (c) of this section, a court may not find a technical
19 violation under this section if a person convicted of a sex offense, as described in
20 AS 12.63.100, violates a condition of probation provided in AS 12.55.100(e).

21 (h) In this section,

22 (1) "absconding" means failing to report within five working days after
23 release from custody under AS 33.20.030 or failing to report for a scheduled meeting
24 with a probation officer, as ordered by the court or as directed by the probation officer,
25 and failing to make contact with the probation officer within 30 days following the
26 missed meeting;

27 (2) "technical violation" means a violation of the conditions of
28 probation that does not result from

29 (A) an arrest for a new criminal offense;
30 (B) failing to complete sex offender treatment; or
31 (C) failing to complete an intervention program for batterers.

1 * **Sec. 70.** AS 12.55.115 is amended to read:

2 **Sec. 12.55.115. Fixing eligibility for discretionary or administrative parole**
3 **at sentencing.** The court may, as part of a sentence of imprisonment, further restrict
4 the eligibility of a prisoner for discretionary **or administrative** parole for a term
5 greater than that required under **AS 33.16.089, 33.16.090,** [AS 33.16.090] and
6 33.16.100.

7 * **Sec. 71.** AS 12.55.125(a) is amended to read:

8 (a) A defendant convicted of murder in the first degree or murder of an unborn
9 child under AS 11.41.150(a)(1) shall be sentenced to a definite term of imprisonment
10 of at least **25** [20] years but not more than 99 years. A defendant convicted of murder
11 in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years
12 when

13 (1) the defendant is convicted of the murder of a uniformed or
14 otherwise clearly identified peace officer, firefighter, or correctional employee who
15 was engaged in the performance of official duties at the time of the murder;

16 (2) the defendant has been previously convicted of

17 (A) murder in the first degree under AS 11.41.100 or former
18 AS 11.15.010 or 11.15.020;

19 (B) murder in the second degree under AS 11.41.110 or former
20 AS 11.15.030; or

21 (C) homicide under the laws of another jurisdiction when the
22 offense of which the defendant was convicted contains elements similar to first
23 degree murder under AS 11.41.100 or second degree murder under
24 AS 11.41.110;

25 (3) the defendant subjected the murder victim to substantial physical
26 torture;

27 (4) the defendant is convicted of the murder of and personally caused
28 the death of a person, other than a participant, during a robbery; or

29 (5) the defendant is a peace officer who used the officer's authority as a
30 peace officer to facilitate the murder.

31 * **Sec. 72.** AS 12.55.125(b) is amended to read:

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of an unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of imprisonment of at least 15 [10] years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

* **Sec. 73.** AS 12.55.125(c) is amended to read:

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, **three** [FIVE] to **six** [EIGHT] years;

(2) if the offense is a first felony conviction

(A) and the defendant 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 constituting the offense at a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, **five** [SEVEN] to **nine** [11] years;

(B) and the conviction is for manufacturing related to

methamphetamine under AS 11.71.030(a)(4)(A) or (B)
[AS 11.71.020(a)(2)(A) OR (B)], seven to 11 years, if

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, **eight** [10] to **12** [14]

years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, **13** [15] to 20 years.

* **Sec. 74.** AS 12.55.125(d) is amended to read:

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, zero [ONE] to two [THREE] years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of probation under AS 12.55.086, the defendant is required to serve an active term of imprisonment within the range specified in this paragraph, unless the court finds that a mitigation factor under AS 12.55.155 applies;

(2) if the offense is a first felony conviction,

(A) the defendant violated AS 11.41.130, and the victim

(i) was a child under 16 years of age, two to four years;

(ii) was 16 years of age or older, one to two years;

(B) two to four years if the conviction is for an attempt, or conspiracy to manufacture related to methamphetamine under

1 AS 11.31 and AS 11.71.030(a)(4)(A) or (B) [AS 11.71.020(a)(2)(A) OR (B)],
2 and

3 (i) the attempted manufacturing occurred, or the
4 solicited or conspired offense was to have occurred, in a building with
5 reckless disregard that the building was used as a permanent or
6 temporary home or place of lodging for one or more children under 18
7 years of age or the building was a place frequented by children; or

8 (ii) in the course of an attempt to manufacture, the
9 defendant obtained the assistance of one or more children under 18
10 years of age or one or more children were present;

11 (3) if the offense is a second felony conviction, two [FOUR] to five
12 [SEVEN] years;

13 (4) if the offense is a third felony conviction, four [SIX] to 10 years.

14 * **Sec. 75.** AS 12.55.125(e) is amended to read:

15 (e) Except as provided in (i) of this section, a defendant convicted of a class C
16 felony may be sentenced to a definite term of imprisonment of not more than five
17 years, and shall be sentenced to a definite term within the following presumptive
18 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

19 (1) if the offense is a first felony conviction and does not involve
20 circumstances described in (4) of this subsection, probation, with a suspended term
21 of imprisonment of zero to 18 months [TWO YEARS; A DEFENDANT
22 SENTENCED UNDER THIS PARAGRAPH MAY, IF THE COURT FINDS IT
23 APPROPRIATE, BE GRANTED A SUSPENDED IMPOSITION OF SENTENCE
24 UNDER AS 12.55.085, AND THE COURT MAY, AS A CONDITION OF
25 PROBATION UNDER AS 12.55.086, REQUIRE THE DEFENDANT TO SERVE
26 AN ACTIVE TERM OF IMPRISONMENT WITHIN THE RANGE SPECIFIED IN
27 THIS PARAGRAPH];

28 (2) if the offense is a second felony conviction, one to three [TWO
29 TO FOUR] years;

30 (3) if the offense is a third felony conviction, two [THREE] to five
31 years;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years.

* **Sec. 76.** AS 12.55.135(a) is amended to read:

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than

(1) one year, if the

(A) conviction is for a crime with a mandatory minimum term of 30 days or more of active imprisonment;

(B) trier of fact finds the aggravating factor that the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(C) defendant has past criminal convictions for conduct violative of criminal laws, punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced; or

(D) conviction is for the crime of assault in the fourth degree under AS 11.41.230; or

(2) 30 days.

* **Sec. 77.** AS 12.55.135(b) is amended to read:

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 10 [90] days unless otherwise specified in the provision of law defining the offense **or in this section**.

* **Sec. 78.** AS 12.55.135 is amended by adding new subsections to read:

(l) A court sentencing a person convicted of theft in the fourth degree under AS 11.46.150, concealment of merchandise under AS 11.46.220(c)(3), removal of identification marks under AS 11.46.260(b)(3), unlawful possession under AS 11.46.270(b)(3), issuing a bad check under AS 11.46.280(d)(4), or criminal simulation under AS 11.46.530(b)(3) may not impose

(1) a sentence of more than five days of suspended imprisonment and a term of probation of more than six months if the person has previously been convicted two or more times of an offense under AS 11.46.110 - 11.46.220, 11.46.260 - 11.46.290, 11.46.360 or 11.46.365, or a law or ordinance of this or another jurisdiction

with substantially similar elements; or

(2) a sentence of active or suspended imprisonment if the person has not been previously convicted, or has previously been convicted once, of an offense under AS 11.46.110 - 11.46.220, 11.46.260 - 11.46.290, 11.46.360 or 11.46.365, or a law or ordinance of this or another jurisdiction with substantially similar elements.

(m) A court may not impose a sentence of imprisonment for a definite term of more than 24 hours for a person convicted of disorderly conduct under AS 11.61.110.

(n) A court sentencing a person convicted of misconduct involving a controlled substance in the fourth degree under AS 11.71.050(a)(4) or misconduct involving a controlled substance in the fifth degree under AS 11.71.060(a)(2) may not impose

(1) a sentence of active imprisonment, unless the person has previously been convicted more than once of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71; or

(2) a sentence of suspended imprisonment greater than

(A) 30 days, if the defendant has not been previously convicted of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71; or

(B) 180 days, if the person has been previously convicted of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71.

(o) If an aggravating factor is a necessary element of the present offense, that factor may not be used to impose a sentence above the high end of the range.

(p) If the state seeks to establish an aggravating factor at sentencing

(1) under (a)(1)(C) of this section, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence; the aggravating factors in (a)(1)(C) of this section must be established by clear and convincing evidence before the court sitting without a jury; all findings must be set out with specificity;

(2) the aggravating factor under (a)(1)(B) of this section shall be

presented to a trial jury under procedures set by the court, unless the defendant waives trial by jury, stipulates to the existence of the factor, or consents to have the factor proven under procedures set out in (1) of this subsection; an aggravating factor presented to a jury is established if proved beyond a reasonable doubt; written notice of the intent to establish an aggravating factor must be served on the defendant and filed with the court

(A) not later than 10 days before trial or at a time specified by the court;

(B) not later than within 48 hours, or at a time specified by the court, if the court instructs the jury about the option to return a verdict for a lesser included offense; or

(C) not later than five days before entering a plea that results in a finding of guilt or at a time specified by the court unless the defendant waives the notice requirement.

* **Sec. 79.** AS 12.61.015(a) is amended to read:

(a) If a victim of a felony or a crime involving domestic violence requests, the prosecuting attorney shall make a reasonable effort to

(1) confer with the person against whom the offense has been perpetrated about that person's testimony before the defendant's trial;

(2) in a manner reasonably calculated to give prompt actual notice, notify the victim

(A) of the defendant's conviction and the crimes of which the defendant was convicted;

(B) of the victim's right in a case that is a felony to make a written or oral statement for use in preparation of the defendant's presentence report, and of the victim's right to appear personally at the defendant's sentencing hearing to present a written statement and to give sworn testimony or an unsworn oral presentation;

(C) of the address and telephone number of the office that will prepare the presentence report; and

(D) of the time and place of the sentencing proceeding;

(3) notify the victim in writing of the final disposition of the case within 30 days after final disposition of the case;

(4) confer with the victim [OF A CRIME INVOLVING DOMESTIC VIOLENCE] concerning a proposed plea agreement before entering into an agreement;

(5) inform the victim of a pending motion that may substantially delay the prosecution and inform the court of the victim's position on the motion; in this paragraph, a "substantial delay" is

- (A) for a misdemeanor, a delay of one month or longer;
- (B) for a felony, a delay of two months or longer; and
- (C) for an appeal, a delay of six months or longer.

* **Sec. 80.** AS 12.70.130 is amended to read:

Sec. 12.70.130. Arrest without warrant. The arrest of a person may also be lawfully made by a peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when arrested the accused must be taken before a judge or magistrate without unnecessary delay and, in any event, within 24 [48] hours after arrest, absent compelling circumstances, including Sundays and holidays, and complaint shall be made against the accused under oath setting out the ground for the arrest as in AS 12.70.120. The hearing before the judge or magistrate may not take place more than 48 hours after arrest. Thereafter the answer of the accused shall be heard as if the accused had been arrested on a warrant.

*** Sec. 81.** AS 22.35.030 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, the Alaska Court System shall publish the court record of a person who is granted a suspended entry of judgment under AS 12.55.078 on a publicly available website with a notation indicating a suspended entry of judgment.

* **Sec. 82.** AS 28.15.165 is amended by adding a new subsection to read:

(e) A person whose driver's license, privilege to drive, or privilege to obtain a license has been revoked under this section as a result of a refusal to submit to a

1 chemical test authorized under AS 28.35.031(a) or (g) or a similar municipal
2 ordinance or a chemical test administered under AS 28.35.031(a) or (g) or a similar
3 municipal ordinance in which the test produced a result described in
4 AS 28.35.030(a)(2) may request that the department rescind the revocation. The
5 department shall rescind a revocation under this subsection if the department finds that
6 the person has supplied proof in a form satisfactory to the department that

7 (1) the person has been acquitted of driving while under the influence
8 under AS 28.35.030, refusal to submit to a chemical test under AS 28.35.032, or a
9 similar municipal ordinance for the incident on which the revocation was based; or

10 (2) all criminal charges against the person for driving while under the
11 influence under AS 28.35.030 or a similar municipal ordinance and refusing to submit
12 to a chemical test under AS 28.35.032 or a similar municipal ordinance in relation to
13 the incident on which the revocation is based have been dismissed without prejudice.

14 * **Sec. 83.** AS 28.15.181(f) is amended to read:

15 (f) The court may terminate a revocation for an offense described in (a)(5) or
16 (8) of this section if

17 (1) **either**

18 (A) the person's license, privilege to drive, or privilege to
19 obtain a license has been revoked for the minimum periods set out in (c) of this
20 section; **or**

21 (B) **the person**

22 (i) **has successfully completed a court-ordered**
23 **treatment program under AS 28.35.028;**

24 (ii) **has not been convicted of a violation of**
25 **AS 28.35.030 or 28.35.032, or a similar law or ordinance of this or**
26 **another jurisdiction since completing the program; and**

27 (iii) **has been granted limited license privileges under**
28 **AS 28.15.201(g) and has successfully driven for three years under**
29 **that limited license without having the limited license privileges**
30 **revoked;** and

31 (2) the person complies with the provisions of AS 28.15.211(d) and

(e).

* **Sec. 84.** AS 28.15.201 is amended by adding new subsections to read:

(g) Notwithstanding (d) of this section, a court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant limited license privileges if

(1) the revocation was for a felony conviction under AS 28.35.030;

(2) the person has successfully participated for at least six months in, or has successfully completed, a court-ordered treatment program under AS 28.35.028;

(3) the person provides proof of insurance as required by AS 28.20.230 and 28.20.240;

(4) the person is required to use an ignition interlock device during the period of the limited license whenever the person operates a motor vehicle in a community not included in the list published by the department under AS 28.22.011(b) and, when applicable,

(A) the person provides proof of installation of the ignition interlock device on every vehicle the person operates;

(B) the person signs an affidavit acknowledging that

(i) operation by the person of a vehicle that is not equipped with an ignition interlock device is subject to penalties for driving with a revoked license;

(ii) circumventing or tampering with the ignition interlock device is a class A misdemeanor; and

(iii) the person is required to maintain the ignition interlock device throughout the period of the limited license, to keep up-to-date records in each vehicle showing that any required service and calibration is current, and to produce those records immediately on request;

(5) the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program

1 requirements of the Department of Health and Social Services under AS 28.35.030(h);

2 (6) the person has not previously been granted a limited license under
3 this subsection and had the license revoked under (h) of this section;

4 (7) the person is participating in a program established under
5 AS 47.38.020 for a minimum of 120 days from the date a limited license is granted
6 under this section.

7 (h) The court or the department may immediately revoke a limited license
8 granted under (g) of this section if the person is convicted of a violation of
9 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction
10 or if the person is not in compliance with a court-ordered treatment program under
11 AS 28.35.028.

12 * **Sec. 85.** AS 28.15.291(a) is repealed and reenacted to read:

13 (a) A person commits the crime of driving while license canceled, suspended,
14 revoked, or in violation of a limitation if the person drives

15 (1) a motor vehicle on a highway or vehicular way or area at a time
16 when that person's driver's license, privilege to drive, or privilege to obtain a license
17 has been canceled, suspended, or revoked under circumstances described in
18 AS 28.15.181(c) or a similar law in another jurisdiction;

19 (2) a motor vehicle on a highway or vehicular way or area at a time
20 when that person's driver's license, privilege to drive, or privilege to obtain a license
21 has been canceled, suspended, or revoked under circumstances other than those
22 described in (1) of this subsection; or

23 (3) in violation of a limitation placed on that person's license or
24 privilege to drive in this or another jurisdiction.

25 * **Sec. 86.** AS 28.15.291(b) is repealed and reenacted to read:

26 (b) Driving while license canceled, suspended, revoked, or in violation of a
27 limitation is

28 (1) a class A misdemeanor if the person violates (a)(1) of this section;
29 upon conviction the court shall impose a minimum sentence of imprisonment of not
30 less than 10 days

31 (A) with 10 days suspended if the person has not been

1 previously convicted under (a)(1) of this section or a similar law of another
2 jurisdiction; or

3 (B) if the person has been previously convicted under (a)(1) of
4 this section or a similar law in another jurisdiction;

5 (2) an infraction if the person violates (a)(2) or (3) of this section.

6 * **Sec. 87.** AS 28.35.028(b) is amended to read:

7 (b) Once the court elects to proceed under this section, the defendant shall
8 enter a no contest or guilty plea to the offense or shall admit to a probation violation,
9 as appropriate. The state and the defendant may enter into a plea agreement to
10 determine the offense or offenses to which the defendant is required to plead. If the
11 court accepts the agreement, the court shall enforce the terms of the agreement. The
12 court shall enter a judgment of conviction for the offense or offenses for which the
13 defendant has pleaded or an order finding that the defendant has violated probation, as
14 appropriate. A judgment of conviction or an order finding a probation violation must
15 set a schedule for payment of restitution owed by the defendant. In a judgment of
16 conviction and on probation conditions that the court considers appropriate, the court
17 may withhold pronouncement of a period of imprisonment or a fine to provide an
18 incentive for the defendant to complete recommended treatment successfully.
19 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any
20 mandatory minimum or other sentencing provision applicable to the offense.
21 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any
22 other provision of law, the court, at any time after the period when a reduction of
23 sentence is normally available, may consider and reduce the defendant's sentence,
24 **including imprisonment, fine, or license revocation,** based on the defendant's
25 compliance with the treatment plan; when reducing a sentence, the court (1) may not
26 reduce the sentence below the mandatory minimum sentence for the offense unless the
27 court finds that the defendant has successfully complied with and completed the
28 treatment plan and that the treatment plan approximated the severity of the minimum
29 period of imprisonment, and (2) may consider the defendant's compliance with the
30 treatment plan as a mitigating factor allowing a reduction of a sentence under
31 AS 12.55.155(a). A court entering an order finding the defendant has violated

probation may withhold pronouncement of disposition to provide an incentive for the defendant to complete the recommended treatment successfully.

* **Sec. 88.** AS 28.35.030(k) is amended to read:

(k) Imprisonment required under (b)(1)(A) of this section shall be served [AT A COMMUNITY RESIDENTIAL CENTER OR] by electronic monitoring at a private residence under AS 33.30.065. If [A COMMUNITY RESIDENTIAL CENTER OR] electronic monitoring [AT A PRIVATE RESIDENCE] is not available, imprisonment required under (b)(1)(A) of this section shall [MAY] be served at a private residence by other means determined by the commissioner of corrections [ANOTHER APPROPRIATE PLACE DETERMINED BY THE COMMISSIONER OF CORRECTIONS]. Imprisonment required under (b)(1)(B) - (F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include electronic monitoring under AS 33.30.065 or, if electronic monitoring is not available, by other means as determined by the commissioner of corrections. The cost of imprisonment resulting from the sentence imposed under (b)(1) of this section shall be paid to the state by the person being sentenced. The [PROVIDED, HOWEVER, THAT THE] cost of imprisonment required to be paid under this subsection may not exceed \$2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.065. [WHILE AT THE COMMUNITY RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A PERSON SENTENCED UNDER (b)(1)(A) OF THIS SECTION SHALL PERFORM AT LEAST 24 HOURS OF COMMUNITY SERVICE WORK.] A person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of community service work, as required by the director of the community residential center or other appropriate place, or as required by the commissioner of corrections if the sentence is

1 being served at a private residence. In this subsection, "appropriate place" means a
2 facility with 24-hour on-site staff supervision that is specifically adapted to provide a
3 residence, and includes a correctional center, residential treatment facility, hospital,
4 halfway house, group home, work farm, work camp, or other place that provides
5 varying levels of restriction.

6 * **Sec. 89.** AS 28.35.030(l) is amended to read:

7 (l) The commissioner of corrections shall determine and prescribe by
8 regulation a uniform average cost of imprisonment for the purpose of determining the
9 cost of imprisonment required to be paid under (k) of this section by a convicted
10 person. **The regulations must include the costs associated with electronic**
11 **monitoring under AS 33.30.065.**

12 * **Sec. 90.** AS 28.35.030(o) is amended to read:

13 (o) Upon request, the department shall review a driver's license revocation
14 imposed under **(b) or (n)(3)** of this section and

15 **(1) may restore the driver's license if**

16 **(A) [(1)] the license has been revoked for a period of at least 10**
17 **years;**

18 **(B) [(2)] the person has not been convicted of a criminal**
19 **offense since the license was revoked; and**

20 **(C) [(3)] the person provides proof of financial responsibility;**

21 **(2) shall restore the driver's license if**

22 **(A) the person has been granted limited license privileges**
23 **under AS 28.15.201(g) and has successfully driven under that limited**
24 **license for three years without having the limited license privileges**
25 **revoked;**

26 **(B) the person has successfully completed a court-ordered**
27 **treatment program under AS 28.35.028;**

28 **(C) the court previously terminated the person's revocation**
29 **as provided in AS 28.15.181(f)(1)(B);**

30 **(D) the person has not been convicted of a violation of**
31 **AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another**

jurisdiction since the license was revoked;

(E) the person's privilege to drive may be restored as provided in AS 28.15.211; and

(F) the person provides proof of financial responsibility.

* **Sec. 91.** AS 28.35.032(o) is amended to read:

(o) Imprisonment required under (g)(1)(A) of this section shall be served at a private residence by electronic monitoring under AS 33.30.065. If electronic monitoring [AT A COMMUNITY RESIDENTIAL CENTER, OR IF A COMMUNITY RESIDENTIAL CENTER] is not available, imprisonment under (g)(1)(A) of this section shall be served at a private residence by other means as determined by the commissioner of corrections [AT ANOTHER APPROPRIATE PLACE DETERMINED BY THE COMMISSIONER OF CORRECTIONS]. Imprisonment required under (g)(1)(B) - (F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include electronic monitoring under AS 33.30.065 or, if electronic monitoring is not available, shall be served by other means as determined by the commissioner of corrections. The cost of imprisonment resulting from the sentence imposed under (g)(1) of this section shall be paid to the state by the person being sentenced. The [PROVIDED, HOWEVER, THAT THE] cost of imprisonment required to be paid under this subsection may not exceed \$2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.065. [WHILE AT THE COMMUNITY RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A PERSON SENTENCED UNDER (g)(1)(A) OF THIS SECTION SHALL PERFORM AT LEAST 24 HOURS OF COMMUNITY SERVICE WORK.] A person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of community service

1 work, as required by the director of the community residential center or other
2 appropriate place, or as required by the commissioner of corrections if the sentence is
3 being served at a private residence. In this subsection, "appropriate place" means a
4 facility with 24-hour on-site staff supervision that is specifically adapted to provide a
5 residence, and includes a correctional center, residential treatment facility, hospital,
6 halfway house, group home, work farm, work camp, or other place that provides
7 varying levels of restriction.

8 * **Sec. 92.** AS 28.35.036(a) is amended to read:

9 (a) After conviction of an offense under [AS 28.15.291(b),] AS 28.35.030 [,]
10 or 28.35.032, a motor vehicle, aircraft, or watercraft involved in the commission of the
11 offense is subject to forfeiture as provided under [AS 28.15.291(b),] AS 28.35.030 [,]
12 and 28.35.032.

13 * **Sec. 93.** AS 29.10.200(21) is amended to read:

14 (21) AS 29.25.070(e) **and (g) (penalties** [(NOTICES OF CERTAIN
15 CIVIL ACTIONS)];

16 * **Sec. 94.** AS 29.25.070(a) is amended to read:

17 (a) For the violation of an ordinance, a municipality may by ordinance
18 prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days,
19 **except as limited by (g) of this section**. For a violation that cannot result in
20 incarceration or the loss of a valuable license, a municipality may allow disposition of
21 the violation without court appearance and establish a schedule of fine amounts for
22 each offense.

23 * **Sec. 95.** AS 29.25.070 is amended by adding a new subsection to read:

24 (g) If a municipality prescribes a penalty for a violation of a municipal
25 ordinance, including a violation under (a) of this section, and there is a comparable
26 state offense under AS 11 or AS 28 with elements that are similar to the municipal
27 ordinance, the municipality may not impose a greater punishment than that imposed
28 for a violation of the state law. This subsection applies to home rule and general law
29 municipalities.

30 * **Sec. 96.** AS 33.05.020 is amended by adding new subsections to read:

31 (g) The commissioner shall establish an administrative sanction and incentive

1 program to facilitate a swift and effective response to a probationer's compliance with
2 or violation of the conditions of probation. The commissioner shall adopt regulations
3 to implement the program. At a minimum, the regulations must include

4 (1) a decision-making process to guide probation officers in
5 determining the suitable response to positive and negative offender behavior that
6 includes a list of sanctions for the most common types of negative behavior, including
7 technical violations of conditions of probation, and a list of incentives for compliance
8 with conditions and positive behavior that exceeds those conditions;

9 (2) policies and procedures that ensure

10 (A) a process for responding to negative behavior that includes
11 a review of previous violations and sanctions;

12 (B) that enhanced sanctions for certain negative conduct are
13 approved by the commissioner or the commissioner's designee; and

14 (C) that appropriate due process protections are included in the
15 process, including notice of negative behavior, an opportunity to dispute the
16 accusation and the sanction, and an opportunity to request a review of the
17 accusation and the sanction.

18 (h) The commissioner shall establish by regulation a program allowing
19 offenders on probation for a felony offense to earn credits for complying with the
20 conditions of probation. The credits earned reduce the period of probation. Nothing in
21 this subsection prohibits the department from recommending to the court the early
22 discharge of the probationer as provided in AS 33.30. At a minimum, the regulations
23 must

24 (1) require that a probationer earn a credit of 30 days for each 30-day
25 period served in which the defendant complied with the conditions of probation;

26 (2) include policies and procedures for

27 (A) calculating and tracking credits earned by probationers;

28 (B) reducing the probationer's period of probation based on
29 credits earned by the probationer; and

30 (C) notifying a victim under AS 33.30.013.

31 * **Sec. 97.** AS 33.05.040 is amended to read:

Sec. 33.05.040. Duties of probation officers. A probation officer shall

(1) furnish to each probationer under the supervision of the officer a written statement of the conditions of probation and shall instruct the probationer regarding the same;

(2) keep informed concerning the conduct and condition of each probationer under the supervision of the officer and shall report on the probationer to the court placing **the** [SUCH] person on probation;

(3) use all suitable methods, not inconsistent with the conditions imposed by the court, to aid probationers and to bring about improvements in their conduct and condition;

(4) keep records of the probation work, including administrative sanctions and incentives the probation officer imposes under AS 33.05.020(g), keep accurate and complete accounts of all money collected from persons under the supervision of the officer, give receipts for money collected and make at least monthly returns of it, make the reports to the court and the commissioner required by them, and perform other duties the court may direct;

(5) perform the [SUCH] duties with respect to persons on parole as the commissioner shall request [,] and, in that [SUCH] service, shall be termed a parole officer;

(6) use administrative sanctions and incentives developed under AS 33.05.020(g) to respond to a probationer's negative and positive behavior, including responses to technical violations of conditions of probation, in a way that is intended to interrupt negative behavior in a swift, certain, and proportional manner and support progress with a recognition of positive behavior; and

(7) upon determining that a probationer under the supervision of the officer meets the requirements of AS 12.55.090(g), recommend to the court as soon as practicable that probation be terminated and the probationer be discharged from probation.

* **Sec. 98.** AS 33.05.080 is amended by adding a new paragraph to read:

(3) "administrative sanctions and incentives" means responses by a

probation officer to a probationer's compliance with or violation of the conditions of probation under AS 33.05.020(g).

* **Sec. 99.** AS 33 is amended by adding a new chapter to read:

Chapter 07. Pretrial Services Program.

Sec. 33.07.010. Pretrial services program; establishment. The commissioner shall establish and administer a pretrial services program that provides a pretrial risk assessment for all defendants, recommendations to the court concerning pretrial release decisions, and supervision of defendants released while awaiting trial as ordered by the court.

Sec. 33.07.020. Duties of commissioner; pretrial services. The commissioner shall

(1) appoint and make available to the superior court and district court qualified pretrial services officers;

(2) fix pretrial services officers' salaries;

(3) assign pretrial services officers to each judicial district;

(4) provide for the necessary supervision, training, expenses, including clerical services, and travel of pretrial services officers;

(5) approve a risk assessment instrument that is objective, standardized, and developed based on analysis of empirical data and risk factors relevant to pretrial failure, that evaluates the likelihood of failure to appear in court and the likelihood of rearrest during the pretrial period, and that is validated on the state's pretrial population; and

(6) adopt regulations in consultation with the Department of Law, the public defender, the Department of Public Safety, the office of victims' rights, and the Alaska Court System, consistent with this chapter and as necessary to implement the program; the regulations must include a process for pretrial services officers to make a recommendation to the court concerning a pretrial release decision and guidelines for pretrial diversion recommendations.

Sec. 33.07.030. Duties of pretrial services officers. (a) Pretrial services officers shall, in advance of a first appearance before a judicial officer under AS 12.30, conduct a pretrial risk assessment on the defendant using an instrument

1 approved by the commissioner for the purpose of making a recommendation to the
2 court concerning an appropriate pretrial release decision and conditions of release. In
3 conducting a pretrial risk assessment and making a recommendation to the court, the
4 department shall follow the decision-making process established by regulation under
5 this chapter. The pretrial risk assessment shall be completed and presented to the court
6 in a pretrial release report that contains a risk assessment rating of low, moderate, or
7 high and a recommendation regarding release and release conditions before the
8 defendant's first appearance before a judicial officer.

9 (b) A pretrial services officer shall make a recommendation under (a) of this
10 section for pretrial release to the court based on factors that include the results of a
11 pretrial risk assessment, the offense charged, and the least restrictive condition or
12 conditions that will reasonably ensure the appearance of the person in court and the
13 safety of the victim, other persons, and the community. The recommendation must
14 take into account

15 (1) the defendant's risk rating;

16 (2) the appropriateness for release on the defendant's own
17 recognition or upon the execution of an unsecured appearance bond, unsecured
18 performance bond, or both; and

19 (3) the appropriateness of nonmonetary release conditions permitted
20 under AS 12.30.011, 12.30.016, 12.30.021, and 12.30.027 and supervision of those
21 conditions by a pretrial services officer for defendants who are recommended for
22 release.

23 (c) A pretrial services officer shall recommend for release on personal
24 recognition, upon execution of an unsecured appearance bond, or upon execution of
25 an unsecured performance bond, with nonmonetary conditions as appropriate, if a
26 defendant is charged with

27 (1) a misdemeanor, unless that misdemeanor is

28 (A) a crime involving domestic violence, as defined in
29 AS 18.66.990;

30 (B) a crime against the person under AS 11.41;

31 (C) an offense under AS 11.56.730 or 11.56.757;

(2) a class C felony unless that felony is

(A) a crime involving domestic violence, as defined in

(B) a crime against the person under AS 11.41;

(C) an offense under AS 11.56.730;

(3) an offense under AS 28.35.030 or 28.35.032, if the defendant has been assessed as being low or moderate risk on the pretrial risk assessment.

(d) A pretrial services officer shall recommend release on personal recognizance, upon execution of an unsecured appearance bond, or upon execution of an unsecured performance bond, with nonmonetary conditions as appropriate, unless the pretrial services officer finds

(1) by substantial evidence that no nonmonetary conditions of release in combination with release on personal recognizance or upon execution of unsecured bond can reasonably ensure public safety and appearance in court; and

(2) the defendant has been charged with

(A) an offense under AS 28.35.030 or 28.35.032, and the offender has been assessed as high risk under a pretrial risk assessment;

(B) an offense under AS 11.56.730 or 11.56.757, and the offender has been assessed as low to moderate risk under a pretrial risk assessment; or

(C) any other offense, and the defendant has been assessed as being low risk under a pretrial risk assessment.

(e) A pretrial services officer may supervise a defendant released while awaiting trial, imposing the least restrictive level of supervision that will reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community, and prioritizing higher levels of supervision for a defendant accused of serious charges or assessed as moderate or high risk under a pretrial risk assessment. The commissioner may, in accordance with AS 36.30, procure and enter into agreements or contracts for the supervision of defendants on electronic monitoring during the pretrial period.

(f) A pretrial services officer may

(1) recommend pretrial diversion to the court and parties before adjudication in accordance with the guidelines established by the commissioner under AS 33.07.020(6);

(2) arrest without a warrant a defendant who has been released while awaiting trial if the officer has probable cause to believe the defendant has committed an offense under AS 11.56.730 or 11.56.757 or has violated the defendant's release conditions;

(3) refer interested defendants for substance abuse screening, assessment, and treatment on a voluntary basis;

(4) require that a defendant charged with an offense involving the use of alcohol or controlled substances comply with a program established under AS 47.38.020; and

(5) coordinate with community-based organizations and tribal courts and councils to develop and expand pretrial diversion options.

Sec. 33.07.040. Pretrial services officers as officers of court. All pretrial services officers shall be available to the superior and district courts and shall be officers of the court.

Sec. 33.07.090. Definitions. In this chapter,

(1) "commissioner" means the commissioner of corrections;

(2) "program" means the pretrial services program.

* **Sec. 100.** AS 33.16.010(c) is amended to read:

(c) A prisoner who is not eligible for special medical, administrative, or discretionary parole, or who is not released on special medical, administrative, or discretionary parole, shall be released on mandatory parole for the term of good time deductions credited under AS 33.20, if the term or terms of imprisonment are two years or more.

* **Sec. 101.** AS 33.16.010(d) is amended to read:

(d) A prisoner released on special medical, administrative, discretionary, or mandatory parole is subject to the conditions of parole imposed under AS 33.16.150. Parole may be revoked under AS 33.16.220.

* **Sec. 102.** AS 33.16.010 is amended by adding a new subsection to read:

(f) A prisoner eligible under AS 33.16.089 shall be released on administrative parole by the board of parole.

* **Sec. 103.** AS 33.16.060(a) is amended to read:

(a) The board shall

(1) serve as the parole authority for the state;

(2) [UPON RECEIPT OF AN APPLICATION,] consider the suitability for parole of a prisoner who is eligible **for discretionary parole at least 90 days before the prisoner's first date of eligibility and upon receipt of the prisoner's application** for special medical [OR DISCRETIONARY] parole;

(3) impose parole conditions on all prisoners released under **special medical, administrative, discretionary, or mandatory parole;**

(4) under AS 33.16.210, discharge a person from parole when custody is no longer required;

(5) maintain records of the meetings and proceedings of the board;

(6) recommend to the governor and the legislature changes in the law administered by the board;

(7) recommend to the governor or the commissioner changes in the practices of the department and of other departments of the executive branch necessary to facilitate the purposes and practices of parole;

(8) upon request of the governor, review and recommend applicants for executive clemency; and

(9) execute other responsibilities prescribed by law.

* **Sec. 104.** AS 33.16 is amended by adding a new section to read:

Sec. 33.16.089. Eligibility for administrative parole. (a) A prisoner who has been convicted of a class B or C felony that is not a sex offense as defined in AS 12.63.100 or criminally negligent homicide under AS 11.41.130, has not been previously convicted of a felony in this or another jurisdiction, and has been sentenced to an active term of imprisonment of at least 181 days shall be released on administrative parole by the board without a hearing if

(1) the prisoner has served the greater of

(A) one-fourth of the active term of imprisonment imposed;

- (B) the mandatory minimum term of imprisonment imposed; or
- (C) a term of imprisonment imposed under AS 12.55.115;

(2) the prisoner is not excluded from eligibility for administrative parole by court order;

(3) the prisoner has agreed to and signed the conditions of parole under AS 33.16.150;

(4) the victim does not request a hearing to consider issues of public safety under AS 33.16.120; and

(5) the prisoner has met the requirements of the case plan established under AS 33.30.011(8).

(b) If a prisoner who is eligible for discretionary parole under AS 33.16.090 does not meet the criteria for release on administrative parole under (a) of this section, the board shall consider the prisoner for discretionary parole.

(c) If a victim makes a request at least 60 days before the prisoner's earliest parole eligibility date for a hearing under AS 33.16.120, the board shall conduct the hearing not later than 30 days before the prisoner's earliest parole eligibility date. The board may release or deny release of a prisoner on administrative parole after the hearing.

(d) The board shall send notice to the victim at least 90 days before the prisoner's earliest parole eligibility date and provide instructions on how to request a hearing under AS 33.16.120.

* **Sec. 105.** AS 33.16.090(a) is amended to read:

(a) A prisoner sentenced to an active term of imprisonment of at least 181 days **and who has not been released on administrative parole as provided in AS 33.16.089** may, in the discretion of the board, be released on discretionary parole if the prisoner

(1) has served the amount of time specified under (b) of this section, except that

(A) [1)] a prisoner sentenced to one or more mandatory 99-year terms under AS 12.55.125(a) or one or more definite terms under AS 12.55.125(l) is not eligible for consideration for discretionary parole;

(B) [2]] a prisoner is not eligible for consideration of discretionary parole if made ineligible by order of a court under AS 12.55.115;

(C) [(3)] a prisoner imprisoned under AS 12.55.086 is not eligible for discretionary parole unless the actual term of imprisonment is more than one year; or

(2) is at least 60 years of age, has served at least 10 years of a sentence for one or more crimes in a single judgment, and has not been convicted of an unclassified felony or a sexual felony as defined in AS 12.55.185.

* **Sec. 106.** AS 33.16.090(b) is amended to read:

(b) A prisoner eligible under (a)(1) [(a)] of this section who is sentenced

(1) to a single sentence under AS 12.55.125(a) or (b) may not be released on discretionary parole until the prisoner has served the mandatory minimum term under AS 12.55.125(a) or (b), one-third of the active term of imprisonment imposed, or any term set under AS 12.55.115, whichever is greatest;

(2) to a single sentence within or below a presumptive range set out in **AS 12.55.125(i)(1) and (2)** [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)], and has not been allowed by the three-judge panel under AS 12.55.175 to be considered for discretionary parole release, may not be released on discretionary parole until the prisoner has served the term imposed, less good time earned under AS 33.20.010;

(3) to a single sentence under AS 12.55.125(i) [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)], and has been allowed by the three-judge panel under AS 12.55.175 to be considered for discretionary parole release during the second half of the sentence, may not be released on discretionary parole until

(A) the prisoner has served that portion of the active term of imprisonment required by the three-judge panel; and

(B) in addition to the factors set out in AS 33.16.100(a), the board determines that

(i) the prisoner has successfully completed all rehabilitation programs ordered by the three-judge panel that were made available to the prisoner; and

(ii) the prisoner would not constitute a danger to the public if released on parole;

(4) to a single enhanced sentence under AS 12.55.155(a) that is above the applicable presumptive range may not be released on discretionary parole until the prisoner has served the greater of the following:

(A) an amount of time, less good time earned under AS 33.20.010, equal to the upper end of the presumptive range plus one-fourth of the amount of time above the presumptive range; or

(B) any term set under AS 12.55.115;

(5) to a single sentence under any other provision of law may not be released on discretionary parole until the prisoner has served at least one-fourth of the active term of imprisonment, any mandatory minimum sentence imposed under any provision of law, or any term set under AS 12.55.115, whichever is greatest;

(6) to concurrent sentences may not be released on discretionary parole until the prisoner has served the greatest of

(A) any mandatory minimum sentence or sentences imposed under any provision of law;

(B) any term set under AS 12.55.115; or

(C) the amount of time that is required to be served under (1) - (5) of this subsection for the sentence imposed for the primary crime, had that been the only sentence imposed;

(7) to consecutive or partially consecutive sentences may not be released on discretionary parole until the prisoner has served the greatest of

(A) the composite total of any mandatory minimum sentence or sentences imposed under any provision of law, including AS 12.55.127;

(B) any term set under AS 12.55.115; or

(C) the amount of time that is required to be served under (1) - (5) of this subsection for the sentence imposed for the primary crime, had that been the only sentence imposed, plus one-quarter of the composite total of the active term of imprisonment imposed as consecutive or partially consecutive sentences imposed for all crimes other than the primary crime;

(8) to a single sentence under AS 12.55.125(i)(3) and (4), and has not been allowed by the three-judge panel under AS 12.55.175 to be considered for discretionary parole release, may not be released on discretionary parole until the prisoner has served, after a deduction for good time earned under AS 33.20.010, one-half of the active term of imprisonment imposed.

* **Sec. 107.** AS 33.16.100(a) is amended to read:

(a) The board may authorize the release of a prisoner convicted of an unclassified felony who is otherwise eligible under AS 12.55.115 and AS 33.16.090(a)(1) on discretionary parole if it determines a reasonable probability exists that

(1) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board;

(2) the prisoner's rehabilitation and reintegration into society will be furthered by release on parole;

(3) the prisoner will not pose a threat of harm to the public if released on parole; and

(4) release of the prisoner on parole would not diminish the seriousness of the crime.

* **Sec. 108.** AS 33.16.100(b) is amended to read:

(b) If the board finds a change in circumstances in a prisoner's **parole reports listed in AS 33.16.110(a)** [PAROLE RELEASE PLAN SUBMITTED UNDER AS 33.16.130(a)], or discovers new information concerning a prisoner who has been granted a parole release date, the board may rescind or revise the previously granted parole release date. In reconsidering the release date, the procedures set out in **AS 33.16.130** [AS 33.16.130(b) AND (c)] shall be followed.

* **Sec. 109.** AS 33.16.100 is amended by adding new subsections to read:

(f) The board shall authorize the release of a prisoner who has been convicted of a class A, class B, or class C felony, or a misdemeanor, who is eligible for parole under AS 12.55.115 and AS 33.16.090, has met the requirement of a case plan created under AS 33.30.011(8), has agreed to and signed the condition of parole under AS 33.16.150, and has not been released on administrative parole under AS 33.16.089,

unless the board finds by clear and convincing evidence on the record that the prisoner poses a threat of harm to the public if released on parole. If the board finds that the incomplete case plan is not the fault of the prisoner or that the prisoner would not pose a threat of harm to the public if released on parole, the board may waive the case plan requirement.

(g) When considering a prisoner for release on discretionary parole under AS 33.16.090(a)(2), the board may release a prisoner if, taking into consideration the prisoner's likelihood of recidivism given the prisoner's age, criminal history, behavior in prison, participation in treatment, and plans for reentering the community, a reasonable probability exists that

(1) the prisoner will live and remain at liberty without violating any laws or conditions imposed by the board;

(2) the prisoner's rehabilitation and reintegration into society will be furthered by release on parole;

(3) the prisoner will not pose a threat of harm to the public if released on parole; and

(4) release of the prisoner on parole would not diminish the seriousness of the crime.

* **Sec. 110.** AS 33.16.110(a) is amended to read:

(a) In determining whether a prisoner is suitable for discretionary parole, the board shall consider the preparole reports including

(1) the presentence report made to the sentencing court;

(2) the recommendations made by the sentencing court, by the prosecuting attorney, and by the defense attorney, and any statements made by the victim or the prisoner at sentencing;

(3) the prisoner's institutional conduct history while incarcerated;

(4) recommendations made by the staff of the correctional facilities in which the prisoner was incarcerated;

(5) reports of prior crimes, juvenile histories, and previous experiences of the prisoner on parole or probation;

(6) physical, mental, and psychiatric examinations of the prisoner;

(7) information submitted by the prisoner, the sentencing court, the victim of the crime, the prosecutor, or other persons having knowledge of the prisoner or the crime;

(8) information concerning an unjustified disparity in the sentence imposed on a prisoner in relation to other sentences imposed under similar circumstances;

(9) the case plan created under AS 33.30.011(8) for the prisoner, including a compliance report on the case plan;

(10) a reentry plan created under AS 33.30.011(9); and

(11) [AND (9)] other relevant information that may be reasonably available.

* **Sec. 111.** AS 33.16.120(a) is amended to read:

(a) If the victim of a crime against a person or arson in the first degree requests notice of a scheduled hearing to review or consider discretionary parole for a prisoner convicted of that crime, the board shall send notice of the hearing to the victim at least 30 days before the hearing. The notice must be accompanied by a copy of the prisoner's **parole plan submitted to the board** [APPLICATION FOR PAROLE SUBMITTED UNDER AS 33.16.130(a)]. However, the copy of the **parole plan** [APPLICATION] sent to the victim may not include the prisoner's **confidential health information, information protected under AS 33.16.170, proposed residence, or** [AND] employment addresses.

* **Sec. 112.** AS 33.16.120(f) is amended to read:

(f) Upon request of the victim, if a prisoner is released under AS 33.16.010(c), 33.16.089, or 33.16.090, the board shall make every reasonable effort to notify the victim before the prisoner's release date. Notification under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.

* **Sec. 113.** AS 33.16.120(g) is amended to read:

(g) A victim of a crime involving domestic violence **or of a sexual assault** under **AS 11.41.410 - 11.41.427** shall be informed by the board at least 30 days in

1 advance of a scheduled hearing to review or consider [DISCRETIONARY] parole for
2 a prisoner. The board shall inform the victim of any decision to grant or deny
3 [DISCRETIONARY] parole or to release the prisoner under AS 33.16.010(c). If the
4 prisoner is to be released, the victim shall be notified of the expected date of the
5 release, the geographic area in which the prisoner will reside, and any other
6 information concerning conditions of parole that may affect the victim. The victim
7 shall also be informed of any changes in the conditions of parole that may affect the
8 victim. The board shall send the notice required to the last known address of the
9 victim. A person may not bring a civil action for damages for a failure to comply with
10 the provisions of this subsection.

11 * **Sec. 114.** AS 33.16.120 is amended by adding a new subsection to read:

12 (h) A victim who has a right to notice under (a) of this section may request a
13 hearing before a prisoner is released on administrative parole under AS 33.16.089. The
14 notice to the victim must include the procedure and time frame for requesting a
15 hearing.

16 * **Sec. 115.** AS 33.16.130 is repealed and reenacted to read:

17 **Sec. 33.16.130. Parole procedures; consultation before parole.** (a) The
18 parole board shall hold a hearing before granting an eligible prisoner special medical
19 or discretionary parole. The board shall also hold a hearing if requested by a victim
20 under procedures established for the request for a prisoner eligible for administrative
21 parole. A hearing shall be conducted within the following time frames:

22 (1) for prisoners eligible under AS 33.16.100(a) or (f), not less than 90
23 days before the first parole eligibility date, unless the prisoner is eligible for
24 administrative parole;

25 (2) for all other prisoners, not less than 30 days after the board is
26 notified of the need for a hearing by the commissioner or the commissioner's designee.

27 (b) The commissioner or the commissioner's designee shall furnish to the
28 prisoner a copy of the pre-parole reports listed in AS 33.16.110(a), and the prisoner
29 shall be permitted access to all records that the board will consider in making its
30 decision except those that are made confidential by law. The prisoner may also
31 respond in writing to all materials the board considers, be present at the hearing, and

1 present evidence to the board.

2 (c) If the board denies parole, the board shall state the reasons for the denial,
3 identify all of the factors considered relevant to the denial, and provide a written plan
4 for addressing all of the factors relevant to the denial. The board may schedule a
5 subsequent parole hearing at the time of the denial or at a later date as follows:

6 (1) for the first parole denial, within two years after the first parole
7 eligibility date;

8 (2) for the second and subsequent denials, within two years after the
9 most recent parole hearing.

10 (d) The board shall issue its decision in writing and provide a copy of the
11 decision to the prisoner.

12 (e) Before granting parole to a prisoner under this chapter, the board shall
13 consult with a corrections officer designated by the commissioner.

14 * **Sec. 116.** AS 33.16.140 is amended to read:

15 **Sec. 33.16.140. Order for parole.** An order for parole issued by the board,
16 setting out the conditions imposed under AS 33.16.150(a) and (b) and the date parole
17 custody ends, shall be furnished to each prisoner released on special medical,
18 administrative, discretionary, or mandatory parole.

19 * **Sec. 117.** AS 33.16.150(a) is amended to read:

20 (a) As a condition of parole, a prisoner released on special medical,
21 administrative, discretionary, or mandatory parole

22 (1) shall obey all state, federal, or local laws or ordinances, and any
23 court orders applicable to the parolee;

24 (2) shall make diligent efforts to maintain steady employment or meet
25 family obligations;

26 (3) shall, if involved in education, counseling, training, or treatment,
27 continue in the program unless granted permission from the parole officer assigned to
28 the parolee to discontinue the program;

29 (4) shall report

30 (A) upon release to the parole officer assigned to the parolee;

31 (B) at other times, and in the manner, prescribed by the board

1 or the parole officer assigned to the parolee;

2 (5) shall reside at a stated place and not change that residence without
3 notifying, and receiving permission from, the parole officer assigned to the parolee;

4 (6) shall remain within stated geographic limits unless written
5 permission to depart from the stated limits is granted the parolee;

6 (7) may not use, possess, handle, purchase, give, distribute, or
7 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
8 drug for which a prescription is required under state or federal law without a
9 prescription from a licensed medical professional to the parolee;

10 (8) may not possess or control a firearm; in this paragraph, "firearm"
11 has the meaning given in AS 11.81.900;

12 (9) may not enter into an agreement or other arrangement with a law
13 enforcement agency or officer that will place the parolee in the position of violating a
14 law or parole condition without the prior approval of the board;

15 (10) may not contact or correspond with anyone confined in a
16 correctional facility of any type serving any term of imprisonment or a felon without
17 the permission of the parole officer assigned to a parolee;

18 (11) shall agree to waive extradition from any state or territory of the
19 United States and to not contest efforts to return the parolee to the state;

20 (12) shall provide a blood sample, an oral sample, or both, when
21 requested by a health care professional acting on behalf of the state to provide the
22 sample or samples, or an oral sample when requested by a juvenile or adult
23 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
24 released after a conviction of an offense requiring the state to collect the sample or
25 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

26 (13) from a conviction for a sex offense shall submit to regular
27 periodic polygraph examinations; in this paragraph, "sex offense" has the meaning
28 given in AS 12.63.100.

29 * **Sec. 118.** AS 33.16.150(b) is amended to read:

30 (b) The board may require as a condition of special medical, administrative,
31 discretionary, or mandatory parole, or a member of the board acting for the board

1 under (e) of this section may require as a condition of administrative or mandatory
2 parole, that a prisoner released on parole

3 (1) not possess or control a defensive weapon, a deadly weapon other
4 than an ordinary pocket knife with a blade three inches or less in length, or
5 ammunition for a firearm, or reside in a residence where there is a firearm capable of
6 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
7 weapon," "defensive weapon," and "firearm" have the meanings given in
8 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

9 (2) refrain from possessing or consuming alcoholic beverages;

10 (3) submit to reasonable searches and seizures by a parole officer, or a
11 peace officer acting under the direction of a parole officer;

12 (4) submit to appropriate medical, mental health, or controlled
13 substance or alcohol examination, treatment, or counseling;

14 (5) submit to periodic examinations designed to detect the use of
15 alcohol or controlled substances; the periodic examinations may include testing under
16 the program established under AS 33.16.060(c);

17 (6) make restitution ordered by the court according to a schedule
18 established by the board;

19 (7) refrain from opening, maintaining, or using a checking account or
20 charge account;

21 (8) refrain from entering into a contract other than a prenuptial contract
22 or a marriage contract;

23 (9) refrain from operating a motor vehicle;

24 (10) refrain from entering an establishment where alcoholic beverages
25 are served, sold, or otherwise dispensed;

26 (11) refrain from participating in any other activity or conduct
27 reasonably related to the parolee's offense, prior record, behavior or prior behavior,
28 current circumstances, or perceived risk to the community, or from associating with
29 any other person that the board determines is reasonably likely to diminish the
30 rehabilitative goals of parole, or that may endanger the public; in the case of special
31 medical parole, for a prisoner diagnosed with a communicable disease, comply with

1 conditions set by the board designed to prevent the transmission of the disease.

2 * **Sec. 119.** AS 33.16.150(e) is amended to read:

3 (e) The board may designate a member of the board to act on behalf of the
4 board in imposing conditions of administrative or mandatory parole under (a) and (b)
5 of this section, in delegating imposition of conditions of administrative or mandatory
6 parole under (c) of this section, and in setting the period of compliance with the
7 conditions of administrative or mandatory parole under (d) of this section. The
8 decision of a member of the board under this section is the decision of the board. A
9 prisoner or parolee aggrieved by a decision of a member of the board acting for the
10 board under this subsection may apply to the board under AS 33.16.160 for a change
11 in the conditions of administrative or mandatory parole.

12 * **Sec. 120.** AS 33.16.150(f) is amended to read:

13 (f) In addition to other conditions of parole imposed under this section, the
14 board may impose as a condition of special medical, administrative, discretionary, or
15 mandatory parole for a prisoner serving a term for a crime involving domestic
16 violence (1) any of the terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a
17 requirement that, at the prisoner's expense, the prisoner participate in and complete, to
18 the satisfaction of the board, a program for the rehabilitation of perpetrators of
19 domestic violence that meets the standards set by, and that is approved by, the
20 department under AS 44.28.020(b); and (3) any other condition necessary to
21 rehabilitate the prisoner. The board shall establish procedures for the exchange of
22 information concerning the parolee with the victim and for responding to reports of
23 nonattendance or noncompliance by the parolee with conditions imposed under this
24 subsection. The board may not under this subsection require a prisoner to participate
25 in and complete a program for the rehabilitation of perpetrators of domestic violence
26 unless the program meets the standards set by, and is approved by, the department
27 under AS 44.28.020(b).

28 * **Sec. 121.** AS 33.16.150(g) is amended to read:

29 (g) In addition to other conditions of parole imposed under this section for a
30 prisoner serving a sentence for an offense where the aggravating factor provided in
31 AS 12.55.155(c)(29) has been proven or admitted, the board shall impose as a

1 condition of special medical, administrative, discretionary, and mandatory parole a
2 requirement that the prisoner submit to electronic monitoring. Electronic monitoring
3 under this subsection must comply with AS 33.30.011(10) and provide for
4 monitoring of the prisoner's location and movements by Global Positioning System
5 technology. The board shall require a prisoner serving a period of parole
6 [PROBATION] with electronic monitoring as provided under this subsection to pay
7 all or a portion of the costs of the electronic monitoring, but only if the prisoner has
8 sufficient financial resources to pay the costs or a portion of the costs. A prisoner
9 subject to electronic monitoring under this subsection is not entitled to a credit for
10 time served in a correctional facility while the defendant is on parole. In this
11 subsection, "correctional facility" has the meaning given in AS 33.30.901.

12 * **Sec. 122.** AS 33.16.150 is amended by adding a new subsection to read:

13 (h) In addition to other conditions of parole imposed under this section, for a
14 prisoner serving a sentence for an offense involving the use of alcohol or controlled
15 substances, the board may impose, as a condition of special medical, administrative,
16 discretionary, or mandatory parole, a requirement that the prisoner comply with a
17 program established under AS 33.16.060(c) or AS 47.38.020. The board may require a
18 prisoner serving a period of parole and complying with a program established under
19 AS 33.16.060(c) or AS 47.38.020 to pay all or a portion of the costs associated with
20 the program.

21 * **Sec. 123.** AS 33.16.180 is amended to read:

22 **Sec. 33.16.180. Duties of the commissioner.** The commissioner shall

23 (1) conduct investigations of prisoners eligible for administrative or
24 discretionary parole, as requested by the board and as provided in this section;

25 (2) supervise the conduct of parolees;

26 (3) appoint and assign parole officers and personnel;

27 (4) provide the board, within 30 days after sentencing, information on
28 a sentenced prisoner who may be eligible for administrative parole under
29 AS 33.16.089 or discretionary parole under AS 33.16.090;

30 (5) notify the board and provide information on a prisoner 120 days
31 before the prisoner's mandatory release date, if the prisoner is to be released on [TO]

1 mandatory parole; [AND]

2 (6) maintain records, files, and accounts as requested by the board;

3 **(7) prepare preparole reports under AS 33.16.110(a);**

4 **(8) notify the board in writing of a prisoner's compliance or**
5 **noncompliance with the prisoner's case plan created under AS 33.30.011(8) not**
6 **less than 30 days before the prisoner's next parole eligibility date or the**
7 **prisoner's parole hearing date, whichever is earlier;**

8 **(9) establish an administrative sanction and incentive program to**
9 **facilitate a swift and certain response to a parolee's compliance with or violation**
10 **of the conditions of parole and shall adopt regulations to implement the program;**
11 **at a minimum, the regulations must include**

12 **(A) a decision-making process to guide parole officers in**
13 **determining the suitable response to positive and negative offender**
14 **behavior that includes a list of sanctions for the most common types of**
15 **negative behavior, including technical violations of conditions of parole,**
16 **and a list of incentives for compliance with conditions and positive**
17 **behavior that exceeds those conditions;**

18 **(B) policies and procedures that ensure**

19 **(i) a process for responding to negative behavior**
20 **that includes a review of previous violations and sanctions;**

21 **(ii) that enhanced sanctions for certain negative**
22 **conduct are approved by the commissioner or the commissioner's**
23 **designee; and**

24 **(iii) that appropriate due process protections are**
25 **included in the process, including notice of negative behavior, an**
26 **opportunity to dispute the accusation and the sanction, and an**
27 **opportunity to request a review of the accusation and the sanction;**
28 **and**

29 **(10) within 30 days after sentencing of an offender, provide the**
30 **victim of a crime information on the earliest dates the offender could be released**
31 **on furlough, probation, or parole, including deductions or reductions for good**

time or other good conduct incentives and the process for release, including contact information for the decision-making bodies.

* **Sec. 124.** AS 33.16.200 is amended to read:

Sec. 33.16.200. Custody of parolee. Except as provided in AS 33.16.210, the board retains custody of special medical, administrative, discretionary, and mandatory parolees until the expiration of the maximum term or terms of imprisonment to which the parolee is sentenced.

* **Sec. 125.** AS 33.16.210 is amended to read:

Sec. 33.16.210. Discharge of parolee. (a) The board may unconditionally discharge a parolee from the jurisdiction and custody of the board after the parolee has completed one year [TWO YEARS] of parole. A discretionary parolee with a residual period of probation may, after one year [TWO YEARS] of parole, be discharged by the board to immediately begin serving the residual period of probation.

(b) Notwithstanding (a) of this section, the board may unconditionally discharge a mandatory parolee before the parolee has completed one year [TWO YEARS] of parole if the parolee is serving a concurrent period of residual probation under AS 33.20.040(c), and the period of residual probation and the period of suspended imprisonment each equal or exceed the period of mandatory parole.

* **Sec. 126.** AS 33.16.210 is amended by adding a new subsection to read:

(c) A parole officer shall recommend to the board early discharge for all parolees who

(1) have completed at least one year on parole;

(2) have completed all treatment programs required as a condition of

(3) have not been found in violation of conditions of parole by the board for at least one year; and

(4) have not been convicted of

(A) an unclassified felony offense under AS 11;

(B) a sexual felony as defined by AS 12.55.185;

(C) a crime involving domestic violence as defined by

AS 18.66.990; or

(D) a misdemeanor.

* **Sec. 127.** AS 33.16 is amended by adding a new section to read:

Sec. 33.16.215. Sanctions for a technical violation of parole. (a) If a parolee is serving a period of parole for an offense, the board may find that the parolee has committed a technical violation of parole. If the board finds that a parolee has committed a technical violation of parole that does not include absconding, the board may revoke parole and return the parolee to the custody of the commissioner and then place the person back on parole after the appropriate period of time below:

(1) three days for the first technical violation of parole filed with the board;

(2) five days for the second technical violation of parole filed with the board;

(3) 10 days for the third technical violation of parole filed with the board; and

(4) up to the remainder of the sentence for a fourth or subsequent technical violation of parole.

(b) If the board revokes a parolee's parole for absconding, the board may impose a period of imprisonment not to exceed 30 days.

(c) The limits on length of imprisonment the board may impose under this section if the board revokes a parolee's parole do not apply if the parolee is enrolled in the program established under AS 33.16.060(c).

(d) If the defendant is ordered to complete treatment under AS 33.16.150(a)(3) and does not comply with the board's order, the board may order the parolee to show cause why the board should not revoke the parole for noncompletion of treatment. In a parole revocation proceeding brought as a result of failure to complete treatment, it is an affirmative defense that the parolee was unable to afford the cost of treatment or secure a place in a free treatment program, despite having made continuing good faith efforts. If the board finds that the parolee was unable to complete treatment despite having made continuing good faith efforts, the parole may not be revoked solely because of an inability to pay. If the board does not find that the noncompletion of treatment was attributable to the parolee's inability to pay, the board may revoke

1 parole subject to the limits established in this section.

2 (e) Notwithstanding (a) of this section, the board may not find a technical
3 violation under this section if a person convicted of a sex offense, as described in
4 AS 12.63.100, violates a special condition of parole that is similar to a probation
5 condition described in AS 12.55.100(e).

6 (f) In this section,

7 (1) "absconding" means failing to report within five working days after
8 release from custody under AS 33.20.030 or failing to report for a scheduled meeting
9 with a parole officer, as directed by the board or the parole officer, and failing to make
10 contact with the parole officer within 30 days following the missed meeting;

11 (2) "technical violation" means a violation of the conditions of parole
12 that does not result from

13 (A) an arrest for a new criminal offense;
14 (B) failing to complete sex offender treatment; or
15 (C) failing to complete an intervention program for batterers.

16 * **Sec. 128.** AS 33.16.220(b) is amended to read:

17 (b) **If a parolee has been arrested for the commission of a new criminal**
18 **offense or for failing to complete a sex offender treatment program, except**
19 **[EXCEPT] as provided in (e) of this section, the board or its designee shall hold a**
20 **preliminary hearing** within 15 working days after the arrest and incarceration of a
21 parolee for violation of a condition of parole [, THE BOARD OR ITS DESIGNEE
22 SHALL HOLD A PRELIMINARY HEARING]. At the preliminary hearing, the board
23 or its designee shall determine if there is probable cause to believe that the parolee
24 violated the conditions of parole and, when probable cause exists, whether the parolee
25 should be released pending a final revocation hearing. A finding of probable cause at a
26 preliminary hearing in a criminal case is conclusive proof of probable cause that a
27 parole violation occurred.

28 * **Sec. 129.** AS 33.16.220(f) is amended to read:

29 (f) **If a parolee has had a preliminary hearing under (b) of this section, the**
30 **[THE] board shall hold a final revocation hearing not [NO] later than 120 days after a**
31 **parolee's arrest, subject to restrictions arising under AS 33.36.110 and (g) of this**

1 section.

2 * **Sec. 130.** AS 33.16.220(i) is amended to read:

3 (i) If, after the final revocation hearing, the board finds that the parolee has
4 violated a condition of parole imposed under AS 33.16.150(a), (b), or (f), or a law or
5 ordinance, the board may revoke all or a portion of the remaining period of parole
6 subject to the limits set out in AS 33.16.215, or change any condition of parole. A
7 parolee's period of parole is tolled from the date of filing with the parole board of
8 a violation report for absconding and the date of the parolee's arrest, if the
9 parole board finds after a hearing that the parolee violated parole by absconding,
10 as defined in AS 12.55.110(h). The board may not extend the period of parole
11 beyond the maximum release date calculated by the Department of Corrections
12 on the parolee's original sentence plus any time that has been tolled as described
13 in this section.

14 * **Sec. 131.** AS 33.16.220 is amended by adding a new subsection to read:

15 (j) If a parolee has been arrested for a technical violation of conditions of
16 parole, the board or its designee shall hold a final hearing within 15 working days.

17 * **Sec. 132.** AS 33.16.240 is amended by adding new subsections to read:

18 (h) A parolee arrested under this section for a technical violation under
19 AS 33.16.215 shall be released once the parolee has served the maximum number of
20 days that could be served for a technical violation under AS 33.16.215. Nothing in this
21 subsection prohibits the board or its designee from releasing a parolee sooner.

22 (i) The board or its designee may impose additional conditions necessary to
23 ensure the parolee's appearance at a hearing held under AS 33.16.220(h).

24 * **Sec. 133.** AS 33.16 is amended by adding a new section to read:

25 **Sec. 33.16.270. Earned compliance credits.** The commissioner shall establish
26 by regulation a program allowing offenders on parole for a felony offense to earn
27 credits for complying with the conditions of parole. The earned compliance credits
28 reduce the period of parole. Nothing in this section prohibits the department from
29 recommending to the board the early discharge of the parolee as provided in AS 33.16.
30 At a minimum, the regulations must

31 (1) require that a parolee earn a credit of 30 days for each 30-day

1 period served in which the parolee complied with the conditions of parole;

2 (2) include policies and procedures for

3 (A) calculating and tracking credits earned by parolees;

4 (B) reducing the parolee's period of parole based on credits

5 earned by the parolee; and

6 (C) notifying a victim under AS 33.30.013.

7 * **Sec. 134.** AS 33.16.900 is amended by adding new paragraphs to read:

8 (14) "administrative parole" means the release of a prisoner who is

9 eligible for administrative parole under AS 33.16.089 and who has satisfied the

10 criteria for release, subject to conditions imposed by the board and subject to its

11 custody and jurisdiction;

12 (15) "administrative sanctions and incentives" means responses by a

13 parole officer to a parolee's compliance with or violation of the conditions of parole

14 under AS 33.16.180.

15 * **Sec. 135.** AS 33.20.010(a) is amended to read:

16 (a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner

17 convicted of an offense against the state or a political subdivision of the state and

18 sentenced to a term of imprisonment that exceeds three days is entitled to a deduction

19 of one-third of the term of imprisonment rounded off to the nearest day if the prisoner

20 follows the rules of the correctional facility in which the prisoner is confined. A

21 prisoner is not eligible for a good time deduction if the prisoner has been sentenced

22 (1) to a mandatory 99-year term of imprisonment under

23 AS 12.55.125(a) after June 27, 1996;

24 (2) to a definite term under AS 12.55.125(l); [OR]

25 (3) for a sexual felony under AS 12.55.125(i)

26 (A) and has one or more prior sexual felony convictions as

27 determined under AS 12.55.145(a)(4); or

28 (B) that is an unclassified or a class A felony; or

29 **(4) to a definite term of imprisonment of not more than 10 days for**

30 **a technical violation of AS 12.55.110(c) or AS 33.16.215.**

31 * **Sec. 136.** AS 33.20.010(c) is amended to read:

(c) A prisoner may not be awarded a good time deduction under (a) of this section for any period spent in a treatment program or [,] in a private residence unless, during that time, the prisoner was [, OR WHILE] under electronic monitoring.

* **Sec. 137.** AS 33.30.011 is amended to read:

Sec. 33.30.011. Duties of commissioner. The commissioner shall

(1) establish, maintain, operate, and control correctional facilities suitable for the custody, care, and discipline of persons charged or convicted of offenses against the state or held under authority of state law; each correctional facility operated by the state shall be established, maintained, operated, and controlled in a manner that is consistent with AS 33.30.015;

(2) classify prisoners;

(3) for persons committed to the custody of the commissioner, establish programs, including furlough programs that are reasonably calculated to

(A) protect the public and the victims of crimes committed by

prisoners;

(B) maintain health;

(C) create or improve occupational skills;

(D) enhance educational qualifications;

(E) support court-ordered restitution; and

(F) otherwise provide for the rehabilitat

prisoners, facilitating their reintegration into society;

(4) provide necessary

(A) medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner, including examinations for communicable and infectious diseases;

(B) psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

- (i) a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(ii) the potential for harm to the prisoner by reason of

delay or denial of care is substantial; and

(C) assessment or screening of the risks and needs of offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based disorder;

(5) establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner;

(6) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; [AND]

(7) establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more and provide to the legislature, by electronic means, by January 15, 2017, and thereafter by January 15, preceding the first regular session of each legislature, a report summarizing the findings and results of the program; **the program must include a requirement for an assessment before a prisoner's release on parole, furlough, or electronic monitoring from a correctional facility;**

(8) establish a procedure that provides for each prisoner required to serve an active term of imprisonment of 30 days or more a written case plan that

(A) is provided to the prisoner within 90 days after sentencing;

(B) is based on the results of the assessment of the prisoner's risks and needs under (7) of this section;

(C) includes a requirement to follow the rules of the institution;

(D) is modified when necessary for changes in classification, housing status, medical or mental health, and resource availability;

(E) includes participation in programming that addresses the needs identified in the assessment;

(9) establish a program to begin reentry planning with each prisoner serving an active term of imprisonment of 90 days or more; reentry

1 planning must begin at least 90 days before release on furlough or probation or
2 parole; the written reentry plan must be completed upon release on furlough or
3 probation or parole and must include

4 (A) information on the prisoner's proposed

5 (i) residence;

6 (ii) employment or alternative means of support;

7 (iii) treatment options;

8 (iv) counseling services;

9 (v) education or job training services;

10 (B) any other requirements for successful transition back to

11 the community, including electronic monitoring or furlough for the period
12 between a scheduled parole hearing and parole eligibility; and

13 (10) for offenders under electronic monitoring, establish

14 (A) minimum standards for electronic monitoring,
15 including the requirement of active, real-time monitoring using global
16 positioning systems; and

17 (B) procedures for oversight and approving electronic
18 monitoring programs and systems provided by private contractors.

19 * **Sec. 138.** AS 33.30.013(a) is amended to read:

20 (a) The commissioner shall notify the victim if the offender

21 (1) escapes from custody;

22 (2) is discharged from parole under AS 33.16; or

23 (3) is released to the community on a furlough, on an early release
24 program, or for any other reason.

25 * **Sec. 139.** AS 33.30.065(a) is amended to read:

26 (a) If the commissioner designates a prisoner to serve the prisoner's term of
27 imprisonment or period of temporary commitment, or a part of the term or period, by
28 electronic monitoring, the commissioner shall direct the prisoner to serve the term or
29 period at the prisoner's residence or other place selected by the commissioner. The
30 electronic monitoring shall be administered by the department or by a private
31 contractor approved by the department under AS 33.30.011(10) and shall be

designed so that any attempt to remove, tamper with, or disable the monitoring equipment or to leave the place selected for the service of the term or period will result in a report or notice to the department.

* **Sec. 140.** AS 33.30 is amended by adding a new section to read:

Sec. 33.30.095. Duties of commissioner before release of prisoner. (a) The commissioner shall establish a program to prepare a prisoner who is serving a sentence of imprisonment exceeding one year for the prisoner's discharge, release on parole or probation, or prerelease furlough under AS 33.30.111 that begins 90 days before the date of the prisoner's discharge, release, or furlough.

(b) The program established under (a) of this section must include

(1) instruction on

(A) obtaining state identification;

(B) community resources available for housing, employment,

(2) an individualized reentry plan under AS 30.30.011(9) for the prisoner;

(3) probation and parole orientation, if appropriate; and

(4) a partnership with one or more nonprofit organizations to allow the prisoner before the prisoner's discharge, release, or furlough to assist the prisoner's application for Medicaid, Social Security benefits, public defender AS 47.25, and a state identification card or driver's license and programs to assist the prisoner's transition into the community, promote and reduce recidivism.

* **Sec. 141.** AS 33.30.151 is amended to read:

Sec. 33.30.151. Correctional restitution centers. (a) The commissioner shall establish correctional restitution centers in the state. The purpose of the centers is to provide certain offenders with rehabilitation through **comprehensive treatment for substance abuse, cognitive behavioral disorders, and other criminal risk factors, including aftercare support**, community service, and employment, while protecting the community through partial incarceration of the offender, and to create a means to provide restitution to victims of crimes.

(b) The commissioner shall adopt regulations setting standards for the operation of the centers including

(1) requirements that the centers be secure and in compliance with state and local safety laws;

(2) standards for disciplinary rules to be imposed on prisoners confined to the centers;

(3) standards for the granting of emergency absence to prisoners confined to the centers;

(4) standards for classifying prisoners to centers;

(5) standards for mandatory employment and participation in community service programs in each center; [AND]

(6) standards for periodic review of the performance of prisoners confined to the centers **and quality assurance measures to ensure centers are meeting state standards and contractual obligations;**

(7) standards for the provision of treatment, including substance abuse treatment, cognitive behavioral therapy, and aftercare designed to address an offender's individual criminogenic needs; and

(8) standards and a process to assess an offender's risk of recidivating and the criminal risk factors and needs that reduce the risk of recidivating and ensure that

(A) high risk offenders with moderate to high needs are a priority for acceptance into a correctional restitution center; and

(B) centers establish internal procedures to limit the mixing of low and high risk prisoners.

* **Sec. 142.** AS 34.03.360(7) is amended to read:

(7) "illegal activity involving a controlled substance" means a violation of AS 11.71.010(a), **11.71.030(a)(1), (2), or (4) - (8)** [11.71.020(a), 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1), (2), or (5);

* **Sec. 143.** AS 43.23.065(b) is amended to read:

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support services agency under AS 25.27.140 - 25.27.220;

(2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100, or AS 47.12.120(b)(4);

(3) claims on defaulted education loans under AS 43.23.067;

(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages and

court costs;

(B) under AS 09.65.255 against the parent, parents, or legal
unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, including the University of Alaska, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;

(7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2);

(8) a judgment for unpaid rent or damage owed to a landlord by an eligible individual that was a tenant of the landlord; in this paragraph, "tenant" has the meaning given in AS 34.03.360;

(9) court-ordered forfeiture of an appearance or performance bond under AS 12.30.075.

* **Sec. 144.** AS 43.61.010 is amended by adding new subsections to read:

(c) The recidivism reduction fund is established in the general fund. The Department of Administration shall separately account for 50 percent of the tax collected under this section and deposit it into the recidivism reduction fund.

(d) The legislature may use the annual estimated balance in the fund to make appropriations to the Department of Corrections, the Department of Health and Social Services, or the Department of Public Safety for recidivism reduction programs.

(e) Nothing in this section creates a dedicated fund.

* **Sec. 145.** AS 44.19.645 is amended to read:

Sec. 44.19.645. Powers and duties of the commission. (a) The commission shall evaluate the effect of sentencing laws and criminal justice practices on the criminal justice system to evaluate whether those sentencing laws and criminal justice practices provide for protection of the public, community condemnation of the offender, the rights of victims of crimes, the rights of the accused and the person convicted, restitution from the offender, and the principle of reformation. The commission shall make recommendations for improving criminal sentencing practices and criminal justice practices, including rehabilitation and restitution. **The commission shall annually make recommendations to the governor and the legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism.** In formulating its recommendations, the commission shall consider

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

(2) sentencing practices of the judiciary, including use of presumptive sentences:

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

(4) alternatives to traditional forms of incarceration:

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

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

(7) 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;

(8) the relationship between sentencing priorities and correctional resources;

(9) the effectiveness of the state's current methodologies for the collection and dissemination of criminal justice data; and

(10) whether the schedules for controlled substances in AS 11.71.140 - 11.71.190 are reasonable and appropriate, considering the criteria established in AS 11.71.120(c).

(b) The commission may

(1) recommend legislative and administrative action on criminal justice practices; [AND]

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

(3) appoint a working group to review and analyze the implementation of the recommendations made in the justice reinvestment report in December 2015, and other recommendations issued by the commission, and regularly report to the commission on the status of the implementation; a working group may include representatives of criminal justice agencies and key constituencies who are not members of the commission; and

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

* **Sec. 146.** AS 44.19.645 is amended by adding new subsections to read:

(c) The commission shall

(1) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the 2015 justice reinvestment report and other recommendations issued by the commission and who are collecting data during the implementation and management of specific commission recommendations;

(2) track and assess outcomes from the recommendations the commission has made and corresponding criminal justice reforms;

(3) request, receive, and review data and reports on performance outcome data relating to criminal justice reform;

(4) appoint a working group to review and analyze sexual offense statutes and report to the legislature if there are circumstances under which victims' rights, public safety, and the rehabilitation of offenders are better served by changing existing laws; the commission shall deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is

1 available; the commission may include in the working group people representing a
2 variety of viewpoints who are not members of the commission; and

3 (5) explore the possibility of entering into mutually agreeable
4 arrangements with regional nonprofit organizations, including tribes and tribal
5 organizations, to provide the pretrial, probation, and parole services needed in
6 underserved areas of the state.

7 (d) Agencies and entities reporting data to the working group authorized in
8 (b)(3) of this section under (e) - (g) of this section shall

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

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

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

18 (e) The judiciary shall report quarterly to the working group authorized in
19 (b)(3) of this section. The report shall include criminal case processing data, including

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

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

24 (3) the date of the disposition for each charge.

25 (f) The Department of Public Safety shall report quarterly to the working
26 group authorized under (b)(3) of this section. The report shall include the following
27 information:

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

30 (2) data on all criminal convictions and sentences during the quarter;
31 and

(3) criminal history information for selected offenders as agreed on by the department and the working group authorized in (b)(3) of this section.

(g) The Department of Corrections shall report quarterly to the working group authorized in (b)(3) of this section. 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 service officers; pretrial conditions imposed on pretrial detainees by judicial officers, including amount of bail, and supervision conditions; and information on pretrial outcomes, 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, number of prior felony convictions, sentence length, 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 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; whether probation was successfully completed, any new convictions for a felony offense, and any sentences to a term of imprisonment while on probation;

(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 administrative, discretionary, and special medical parole; and information on parolees, including time spent on parole, whether parole was successfully completed, any new convictions for a new felony offense, and any sentences to a term of imprisonment while on parole;

(6) data on the implementation of policies from the 2015 justice reinvestment report, including the number and percentage of offenders who earn compliance credits under AS 33.05.020(g) 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 for a supervision violation pre-case and post-case resolution; probationers and parolees admitted solely for a technical violation; 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.

* **Sec. 147.** AS 44.19.647 is amended to read:

Sec. 44.19.647. Annual report and recommendations. 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 summary of savings and recommendations on how savings from justice reform should be reinvested to reduce recidivism;

(3) performance metrics and outcomes from the recommendations the commission made in its December 2015 report, including recidivism rates, defined as

(A) the percentage of inmates who return to prison within three years after release, broken down by offense type and risk level; and

(B) the percentage of inmates who return to prison within three years after release for a new criminal conviction, broken down by offense type and risk level; and

(4) recommendations for additional reforms, which may include

[AND MAY SUBMIT] recommendations for legislative and administrative action [.]
[REPORTS AND RECOMMENDATIONS PROVIDED UNDER THIS SECTION
SHALL BE SUBMITTED NOT LATER THAN FEBRUARY 1 OF EACH YEAR].

* **Sec. 148.** AS 44.19.647 is amended by adding a new subsection to read:

(b) The commission shall submit the reports and recommendations provided under (a) of this section not later than November 1 of each year.

* Sec. 149. AS 44.66.010(a)(12) is amended to read:

(12) Alaska Criminal Justice Commission (AS 44.19.641) - June 30,

2021 [JUNE 30, 2017];

* **Sec. 150.** AS 47.12.315(a) is amended to read:

(a) Notwithstanding AS 47.12.310 and except as otherwise provided in this section, the department shall disclose information to the public, on request, concerning a minor subject to this chapter who was at least 13 years of age at the time of commission of

(1) a felony offense against a person under AS 11.41;

(2) arson in the first or second degree;

(3) burglary in the first degree;

(4) distribution of child pornography;

(5) sex trafficking in the first degree;

(6) misconduct involving a controlled substance in the first or [,] THIRD] degrees involving distribution or possession with intent to

(7) misconduct involving weapons in the first through fourth degrees.

* **Sec. 151.** AS 47.27.015 is amended by adding a new subsection to read:

(i) A person convicted after August 22, 1996, of an offense that is classified as a felony under AS 11.71.010 - 11.71.040 or by the law of another jurisdiction that has as an element the possession, use, or distribution of a controlled substance, as defined in AS 11.71.900, is disqualified from receiving temporary assistance under this chapter or food stamps under AS 47.25 unless the person demonstrates, to the satisfaction of the department, that the person

(1) is satisfactorily serving, or has successfully completed, a period of probation or parole;

(2) is in the process of serving, or has successfully completed, mandatory participation in a drug or alcohol treatment program; or

(3) has taken action toward rehabilitation, including participation in a

1 drug or alcohol treatment program.

2 * **Sec. 152.** AS 47.37.040 is amended to read:

3 **Sec. 47.37.040. Duties of department.** The department shall

4 (1) develop, encourage, and foster statewide, regional, and local plans
5 and programs for the prevention of alcoholism and drug abuse and treatment of
6 alcoholics, intoxicated persons, drug abusers, and inhalant abusers in cooperation with
7 public and private agencies, organizations, and individuals, and provide technical
8 assistance and consultation services for these purposes;

9 (2) coordinate the efforts and enlist the assistance of all public and
10 private agencies, organizations, and individuals interested in prevention of alcoholism,
11 drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, drug
12 abusers, and inhalant abusers;

13 (3) cooperate with the Department of Corrections in establishing and
14 conducting programs to provide treatment for alcoholics, intoxicated persons, drug
15 abusers, and inhalant abusers in or on parole from penal institutions;

16 (4) cooperate with the Department of Education and Early
17 Development, school boards, schools, police departments, courts, and other public and
18 private agencies, organizations, and individuals in establishing programs for the
19 prevention of alcoholism, drug abuse, and inhalant abuse, and treatment of alcoholics,
20 intoxicated persons, drug abusers, and inhalant abusers, and preparing curriculum
21 materials for use at all levels of school education;

22 (5) prepare, publish, evaluate, and disseminate educational material
23 dealing with the nature and effects of alcohol and drugs, and the misuse of hazardous
24 volatile substances;

25 (6) develop and implement, as an integral part of treatment programs,
26 an educational program for use in the treatment of alcoholics, intoxicated persons,
27 drug abusers, and inhalant abusers that includes the dissemination of information
28 concerning the nature and effects of alcohol, drugs, and hazardous volatile substances;

29 (7) organize and foster training programs for all persons engaged in
30 treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and
31 establish standards for training paraprofessional alcoholism, drug abuse, and inhalant

1 abuse workers;

2 (8) sponsor and encourage research into the causes and nature of
3 alcoholism, drug abuse, and inhalant abuse, and the treatment of alcoholics,
4 intoxicated persons, drug abusers, and inhalant abusers, and serve as a clearinghouse
5 for information relating to alcoholism, drug abuse, and inhalant abuse;

6 (9) specify uniform methods for keeping statistical information by
7 public and private agencies, organizations, and individuals, and collect and make
8 available relevant statistical information, including number of persons treated,
9 frequency of admission and readmission, and frequency and duration of treatment;

10 (10) conduct program planning activities approved by the Advisory
11 Board on Alcoholism and Drug Abuse;

12 (11) review all state health, welfare, and treatment plans to be
13 submitted for federal funding, and advise the commissioner on provisions to be
14 included relating to alcoholics, intoxicated persons, drug abusers, and inhalant
15 abusers;

16 (12) assist in the development of, and cooperate with, alcohol, drug
17 abuse, and inhalant abuse education and treatment programs for employees of state
18 and local governments and businesses and industries in the state;

19 (13) use the support and assistance of interested persons in the
20 community, particularly recovered alcoholics, drug abusers, and inhalant abusers, to
21 encourage alcoholics, drug abusers, and inhalant abusers to voluntarily undergo
22 treatment;

23 (14) cooperate with the Department of Public Safety and the
24 Department of Transportation and Public Facilities in establishing and conducting
25 programs designed to deal with the problem of persons operating motor vehicles while
26 under the influence of an alcoholic beverage, inhalant, or controlled substance, and
27 develop and approve alcohol information courses required to be taken by drivers under
28 AS 28.15 or made available to drivers to reduce points assessed for violation of traffic
29 laws;

30 (15) encourage hospitals and other appropriate health facilities to
31 admit without discrimination alcoholics, intoxicated persons, drug abusers, and

1 inhalant abusers and to provide them with adequate and appropriate treatment;

2 (16) encourage all health insurance programs to include alcoholism
3 and drug abuse as a covered illness;

4 (17) prepare an annual report covering the activities of the department
5 and notify the legislature that the report is available;

6 (18) develop and implement a training program on alcoholism and
7 drug abuse for employees of state and municipal governments, and private institutions;

8 (19) develop curriculum materials on drug and alcohol abuse and the
9 misuse of hazardous volatile substances for use in grades kindergarten through 12, as
10 well as a course of instruction for teachers to be charged with presenting the
11 curriculum;

12 (20) develop and implement or designate, in cooperation with other
13 state or local agencies, a juvenile alcohol safety action program that provides alcohol
14 and substance abuse screening, referral, and monitoring of persons under 18 years of
15 age who have been referred to it by

16 (A) a court in connection with a charge or conviction of a
17 violation or misdemeanor related to the use of alcohol or a controlled
18 substance;

19 (B) the agency responsible for the administration of motor
20 vehicle laws in connection with a license action related to the use of alcohol or
21 a controlled substance; or

22 (C) department staff after a delinquency adjudication that is
23 related to the use of alcohol or a controlled substance;

24 (21) develop and implement, or designate, in cooperation with other
25 state or local agencies, an alcohol safety action program that provides [ALCOHOL
26 AND SUBSTANCE ABUSE SCREENING, REFERRAL, AND MONITORING]
27 services to persons who have been referred by a court [IN CONNECTION WITH A
28 CHARGE OR CONVICTION OF A MISDEMEANOR INVOLVING THE USE OF
29 A MOTOR VEHICLE, AIRCRAFT, OR WATERCRAFT AND ALCOHOL OR A
30 CONTROLLED SUBSTANCE, REFERRED BY A COURT] under AS 28.35.028,
31 **28.35.030, or 28.35.032**, or referred by an agency of the state with the responsibility

1 for administering motor vehicle laws in connection with a driver's license action
2 involving the use of alcohol or a controlled substance;

3 (22) whenever possible, apply evidence-based, research-based, and
4 consensus-based substance abuse and co-occurring substance abuse and mental health
5 disorders treatment practices and remove barriers that prevent the use of those
6 practices;

7 (23) collaborate with first responders, hospitals, schools, primary care
8 providers, developmental disability treatment providers, law enforcement, corrections,
9 attorneys, the Alaska Court System, community behavioral treatment providers,
10 Alaska Native organizations, and federally funded programs in implementing
11 programs for co-occurring substance abuse and mental health disorders treatment.

12 * **Sec. 153.** AS 47.37.130(h) is amended to read:

13 (h) The department shall

14 (1) inspect, on a regular basis, approved public and private alcohol
15 safety action programs at reasonable times and in a reasonable manner; [AND]

16 (2) maintain a list of approved public and private alcohol safety action
17 programs; **and**

18 (3) **develop regulations for the operation and management of**
19 **alcohol safety action programs that ensure**

20 (A) **screenings are conducted using a validated risk tool;**
21 **and**

22 (B) **monitoring of participants is appropriate to the risk of**
23 **reoffense of the participant as determined by the screening.**

24 * **Sec. 154.** AS 47.37.130 is amended by adding a new subsection to read:

25 (k) The public and private alcohol safety action programs established under
26 AS 47.37.040(21) shall provide

27 (1) screening of eligible persons to determine the risk of the person to
28 reoffend and the criminal risk factors that are contributing to the risk; and

29 (2) monitoring of participants based on the risk to reoffend as
30 determined by the screening.

31 * **Sec. 155.** AS 47.38.020 is amended to read:

Sec. 47.38.020. Alcohol and substance abuse monitoring program. (a) The commissioner, in cooperation with the commissioner of corrections, shall establish a program **using a competitive procurement process** for certain persons with release conditions ordered as provided under AS 12.30, or offenders with conditions of probation, that include not consuming controlled substances or alcoholic beverages.

(b) The commissioner shall adopt regulations to implement the program. The regulations must include regulations regarding products and services that provide alcohol and substance abuse monitoring.

(c) The commissioner shall include in the program

(1) a requirement for twice-a-day testing, either remotely or in person [IF PRACTICABLE], for alcoholic beverage use and random testing for controlled substances;

(2) a means to provide the probation officer, prosecutor's office, or local law enforcement agency with notice within 24 hours, so that a complaint may be filed alleging a violation of AS 11.56.757, a petition may be filed with the court seeking appropriate sanctions and may be scheduled by the court for a prompt hearing, or an arrest warrant may be issued for the person on release or offender with conditions of probation provided in this subsection, if the person or offender

(A) fails to appear for an appointment or fails to complete a test through the use of remote alcohol or substance abuse monitoring technology as required by the program requirements; or

(B) tests positive for the use of controlled substances or alcoholic beverages; and

(3) a requirement that the person or offender pay, based on the person's or offender's ability under financial guidelines established by the commissioner, for the cost of participating in the program.

(d) The department shall contract with one or more vendors using a competitive procurement process in accordance with AS 36.30 to provide or conduct the testing required under (c) of this section.

* **Sec. 156.** AS 47.38.100(a) is amended to read:

(a) The recidivism reduction program is established to promote the

rehabilitation [THROUGH TRANSITIONAL RE-ENTRY PROGRAMS] of persons **on probation or parole or** incarcerated for offenses and recently released from correctional facilities.

* **Sec. 157.** AS 47.38.100(b) is amended to read:

(b) The commissioner, in cooperation with the Alaska Criminal Justice Commission established in AS 44.19.641 [COMMISSIONER OF CORRECTIONS], may provide for programs that have, as a primary focus, rehabilitation and reduction of recidivism [THROUGH TRANSITIONAL RE-ENTRY] for persons on probation or parole or incarcerated for offenses and recently released from correctional facilities. The commissioner may enter into contracts to provide for programs under this section. An eligible [A] program under this section must accomplish at least one of the following objectives:

(1) increasing access to evidence-based rehabilitation programs, including drug and alcohol treatment, mental health treatment, and cognitive behavioral programs; or

(2) supporting offenders' transition and re-entry from correctional facilities to the community, including transitional housing services, employment services, vocational training, educational support, and counseling [INCLUDE CASE MANAGEMENT];

(2) REQUIRE SOBER LIVING;

(3) PROVIDE, ON-SITE OR BY REFERRAL, TREATMENT FOR
ABUSE OR MENTAL HEALTH TREATMENT;

(4) REQUIRE EMPLOYMENT, EDUCATIONAL PROGRAMMING, VOCATIONAL TRAINING, OR COMMUNITY VOLUNTEER WORK AS APPROVED BY THE DIRECTOR OF THE TREATMENT PROGRAM; AND

(5) LIMIT RESIDENTIAL PLACEMENTS IN THE PROGRAM TO A MAXIMUM OF ONE YEAR].

*** Sec. 158.** AS 47.38.100 is amended by adding a new subsection to read:

(d) In this section, "evidenced-based" means a program or practice that offers a high level of research on effectiveness.

1 * **Sec. 159.** The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 DIRECT COURT RULE AMENDMENT. Rule 38, Alaska Rules of Criminal
4 Procedure, is amended by adding new subsections to read:

5 (d) **Hearing Notice.** The court shall provide a notice to a defendant of the
6 date, time, and place of a scheduled hearing at which the defendant is required to
7 appear in a form and manner established by the court.

8 (e) **Hearing Reminder.** In addition to the notice required under (d) of this
9 rule, the court shall provide a reminder notification to a defendant who is not in
10 custody and to the Department of Corrections at least 48 hours prior to a scheduled
11 hearing at which the defendant is required to appear regarding the date, time, and
12 place of the scheduled hearing and the potential consequences of failure to appear, in a
13 form and manner established by the court.

14 * **Sec. 160.** The uncodified law of the State of Alaska is amended by adding a new section
15 to read:

16 DIRECT COURT RULE AMENDMENT. Rule 41, Alaska Rules of Criminal
17 Procedure, is amended by adding a new subsection to read:

18 (j) **Misdemeanor and Felony Bail Schedules.** No bail schedule shall be
19 established for misdemeanors or felonies.

20 * **Sec. 161.** The uncodified law of the State of Alaska is amended by adding a new section
21 to read:

22 REPEAL OF COURT RULES. Rules 41(d) and (e), Alaska Rules of Criminal
23 Procedure, are repealed.

24 * **Sec. 162.** AS 11.46.140(a)(3), 11.46.220(c)(2)(B); AS 11.56.757(c); AS 11.71.020,
25 11.71.040(a)(3), 11.71.050(a)(2), 11.71.060(a)(2)(A); AS 12.30.016(d); AS 12.55.125(o),
26 12.55.135(j); AS 28.15.181(d); and AS 33.16.100(e) are repealed.

27 * **Sec. 163.** The uncodified law of the State of Alaska is amended by adding a new section
28 to read:

29 INDIRECT COURT RULE AMENDMENT. (a) AS 12.30.011, as repealed and
30 reenacted by sec. 47 of this Act, has the effect of changing Rule 41, Alaska Rules of Criminal
31 Procedure, by changing and establishing release conditions for certain defendants, providing

1 for recommendations by pretrial services officers of release conditions based on a pretrial risk
2 assessment score, providing that a court shall order the release of a person under certain
3 circumstances upon execution of an appearance or performance bond, and providing new
4 procedures for use of appearance, surety, and performance bonds.

5 (b) AS 12.55.055(g), enacted by sec. 61 of this Act, has the effect of changing Rule
6 32, Alaska Rules of Criminal Procedure, by directing the court to include a provision in the
7 judgment that community work hours that are not completed shall be converted to a fine as
8 provided in AS 12.55.055(h), added by sec. 61 of this Act.

9 (c) AS 12.55.078, enacted by sec. 62 of this Act, has the effect of changing Rule 43,
10 Alaska Rules of Criminal Procedure, by creating an alternate procedure for when the court
11 may dismiss charges.

12 (d) AS 12.55.135(p), enacted by sec. 78 of this Act, has the effect of changing Rule
13 32.1, Alaska Rules of Criminal Procedure, by changing the procedure for notice of
14 aggravating factors.

15 (e) AS 33.07, enacted by sec. 99 of this Act, has the effect of changing Rule 41,
16 Alaska Rules of Criminal Procedure, by establishing pretrial services officers and procedures
17 and duties for pretrial services officers as officers of the superior and district courts, for the
18 purposes of performing risk assessments and making pretrial recommendations to the court
19 regarding a person's pretrial release and bail conditions.

20 * **Sec. 164.** The uncodified law of the State of Alaska is amended by adding a new section
21 to read:

22 COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT. The Council
23 on Domestic Violence and Sexual Assault established in AS 18.66.010 shall create or expand
24 community-based violence prevention programming and services for victims of a crime
25 involving domestic violence or sexual assault in the fiscal year ending June 30, 2017. In this
26 section "domestic violence" and "sexual assault" have the meanings given to those terms in
27 AS 18.66.990.

28 * **Sec. 165.** The uncodified law of the State of Alaska is amended by adding a new section
29 to read:

30 REPORT OF THE ALASKA CRIMINAL JUSTICE COMMISSION REGARDING
31 BARRIER OFFENSES. The Alaska Criminal Justice Commission shall provide in the

1 commission's 2017 annual report required under AS 44.19.647 an evaluation of the
2 relationship between offenses on a person's criminal justice record that may be a barrier to
3 entry into certain occupations and the successful re-entry of a person with barrier offenses on
4 the person's criminal justice record into the community and an evaluation of the relationship
5 between legal expungement or pardons and successful re-entry.

6 * **Sec. 166.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **APPLICABILITY.** (a) The following sections apply to offenses committed on or after
9 the effective date of those sections:

- 10 (1) AS 11.46.130(a), as amended by sec. 3 of this Act;
- 11 (2) AS 11.46.140(a), as amended by sec. 4 of this Act;
- 12 (3) AS 11.46.220(c), as amended by sec. 5 of this Act;
- 13 (4) AS 11.46.260(b), as amended by sec. 6 of this Act;
- 14 (5) AS 11.46.270(b), as amended by sec. 7 of this Act;
- 15 (6) AS 11.46.280(d), as amended by sec. 8 of this Act;
- 16 (7) AS 11.46.285(b), as amended by sec. 9 of this Act;
- 17 (8) AS 11.46.295, as amended by sec. 10 of this Act;
- 18 (9) AS 11.46.360(a), as amended by sec. 11 of this Act;
- 19 (10) AS 11.46.482(a), as amended by sec. 13 of this Act;
- 20 (11) AS 11.46.484(a), as amended by sec. 14 of this Act;
- 21 (12) AS 11.46.530(b), as amended by sec. 15 of this Act;
- 22 (13) AS 11.46.620(d), as amended by sec. 16 of this Act;
- 23 (14) AS 11.46.730(c), as amended by sec. 17 of this Act;
- 24 (15) AS 11.56.730(c), as amended by sec. 19 of this Act;
- 25 (16) AS 11.56.730(d), enacted by sec. 20 of this Act;
- 26 (17) AS 11.61.110(c), as amended by sec. 24 of this Act;
- 27 (18) AS 11.61.145(d), as amended by sec. 25 of this Act;
- 28 (19) AS 11.66.200(c), as amended by sec. 29 of this Act;
- 29 (20) AS 11.71.030(a), as amended by sec. 30 of this Act;
- 30 (21) AS 11.71.040(a), as amended by sec. 33 of this Act;
- 31 (22) AS 11.71.050, as amended by sec. 35 of this Act;

- 1 (23) AS 11.71.311(a), as amended by sec. 37 of this Act;
- 2 (24) AS 12.55.055(a), as amended by sec. 59 of this Act;
- 3 (25) AS 12.55.125(a), as amended by sec. 71 of this Act;
- 4 (26) AS 12.55.125(b), as amended by sec. 72 of this Act;
- 5 (27) AS 28.15.291(a), as repealed and reenacted by sec. 85 of this Act;
- 6 (28) AS 28.15.291(b), as repealed and reenacted by sec. 86 of this Act;
- 7 (29) AS 29.10.200(21), as amended by sec. 93 of this Act;
- 8 (30) AS 29.25.070(a), as amended by sec. 94 of this Act;
- 9 (31) AS 29.25.070(g), enacted by sec. 95 of this Act;
- 10 (32) AS 43.23.065(b), as amended by sec. 143 of this Act;
- 11 (33) AS 47.12.315(a), as amended by sec. 150 of this Act; and
- 12 (34) AS 47.27.015(i), enacted by sec. 151 of this Act.

13 (b) The following sections apply to offenses committed before, on, or after the
14 effective date of those sections:

- 15 (1) AS 11.46.460, as amended by sec. 12 of this Act;
- 16 (2) AS 11.56.757(b), as amended by sec. 22 of this Act; and
- 17 (3) AS 11.61.150(c), as amended by sec. 27 of this Act.

18 (c) The following sections apply to offenses committed before, on, or after the
19 effective date of those sections for contacts with peace officers occurring on or after the
20 effective date of those sections:

- 21 (1) AS 12.25.180, as amended by sec. 39 of this Act;
- 22 (2) AS 12.25.190(b), as amended by sec. 41 of this Act; and
- 23 (3) AS 12.70.130, as amended by sec. 80 of this Act.

24 (d) The following sections apply to sentences imposed on or after the effective date of
25 those sections for conduct occurring before, on, or after the effective date of those sections:

- 26 (1) AS 12.55.027(d), as amended by sec. 56 of this Act;
- 27 (2) AS 12.55.125(c), as amended by sec. 73 of this Act;
- 28 (3) AS 12.55.125(d), as amended by sec. 74 of this Act;
- 29 (4) AS 12.55.125(e), as amended by sec. 75 of this Act;
- 30 (5) AS 12.55.135(a), as amended by sec. 76 of this Act;
- 31 (6) AS 12.55.135(b), as amended by sec. 77 of this Act;

- (7) AS 12.55.135(l) - (p), enacted by sec. 78 of this Act; and
- (8) AS 28.35.036(a), as amended by sec. 92 of this Act.

(e) The following sections apply to sentences imposed on or after the effective date of those sections for conduct occurring before, on, or after the effective date of those sections:

- (1) AS 12.55.025(a), as amended by sec. 54 of this Act;
- (2) AS 12.55.025(c), as amended by sec. 55 of this Act;
- (3) AS 12.55.115, as amended by sec. 70 of this Act;
- (4) AS 28.35.030(k), as amended by sec. 88 of this Act;
- (5) AS 28.35.032(o), as amended by sec. 91 of this Act;
- (6) AS 33.16.010(f), enacted by sec. 102 of this Act;
- (7) AS 33.16.089, enacted by sec. 104 of this Act;
- (8) AS 33.16.090(b), as amended by sec. 106 of this Act; and
- (9) AS 33.20.010(a), as amended by sec. 135 of this Act.

(f) AS 12.30.055(b), enacted by sec. 52 of this Act, applies to persons in custody for a probation violation on or after the effective date of sec. 52 for a probation violation that occurred before, on, or after the effective date of sec. 52 of this Act.

(g) The following sections apply to community work service imposed on or after the effective date of those sections for offenses committed on or after the effective date of those sections:

- (1) AS 12.55.055(c), as amended by sec. 60 of this Act; and
- (2) AS 12.55.055(g) and (h), enacted by sec. 61 of this Act.

(h) AS 12.55.078, enacted by sec. 62 of this Act, applies to prosecutions occurring on or after the effective date of those sections for offenses committed before, on, or after the effective date of sec. 62 of this Act.

(i) AS 12.55.051(a), as amended by sec. 58 of this Act, applies to probation ordered before, on, or after the effective date of sec. 58 of this Act, for offenses committed before, on, or after the effective date of sec. 58 of this Act.

(j) AS 12.55.090(c), as amended by sec. 64 of this Act, applies to probation ordered on or after the effective date of sec. 64 of this Act, for offenses committed before, on, or after the effective date of sec. 64 of this Act.

(k) AS 12.55.100(a), as amended by sec. 67 of this Act, applies to probation ordered

1 on or after the effective date of sec. 67 of this Act, for offenses committed before, on, or after
2 the effective date of sec. 67 of this Act.

3 (l) The following sections apply to probation ordered before, on, or after the effective
4 date of those sections for offenses committed before, on, or after the effective date of those
5 sections:

- 6 (1) AS 12.55.090(b), as amended by sec. 63 of this Act;
- 7 (2) AS 12.55.090(f), as amended by sec. 65 of this Act;
- 8 (3) AS 12.55.090(g) - (m), enacted by sec. 66 of this Act;
- 9 (4) AS 12.55.110(c) - (h), enacted by sec. 69 of this Act; and
- 10 (5) AS 33.05.040, as amended by sec. 97 of this Act.

11 (m) The following sections apply to a revocation of a driver's license, privilege to
12 drive, or privilege to obtain a license occurring on or after the effective date of those sections
13 for conduct occurring before, on, or after the effective date of those sections:

- 14 (1) AS 28.15.165(e), enacted by sec. 82 of this Act;
- 15 (2) AS 28.15.181(f), as amended by sec. 83 of this Act;
- 16 (3) AS 28.15.201(g) and (h), enacted by sec. 84 of this Act; and
- 17 (4) AS 28.35.030(o), as amended by sec. 90 of this Act.

18 (n) The following sections apply to parole granted on or after the effective date of
19 those sections for conduct occurring before, on, or after the effective date of those sections:

- 20 (1) AS 33.16.010(c), as amended by sec. 100 of this Act;
- 21 (2) AS 33.16.010(d), as amended by sec. 101 of this Act;
- 22 (3) AS 33.16.060(a), as amended by sec. 103 of this Act;
- 23 (4) AS 33.16.090(a), as amended by sec. 105 of this Act;
- 24 (5) AS 33.16.100(a), as amended by sec. 107 of this Act;
- 25 (6) AS 33.16.100(b), as amended by sec. 108 of this Act;
- 26 (7) AS 33.16.100(f) and (g), enacted by sec. 109 of this Act;
- 27 (8) AS 33.16.130, as repealed and reenacted by sec. 115 of this Act;
- 28 (9) AS 33.16.140, as amended by sec. 116 of this Act;
- 29 (10) AS 33.16.150(a), as amended by sec. 117 of this Act;
- 30 (11) AS 33.16.150(b), as amended by sec. 118 of this Act;
- 31 (12) AS 33.16.150(e), as amended by sec. 119 of this Act;

- (13) AS 33.16.150(f), as amended by sec. 120 of this Act;
- (14) AS 33.16.150(g), as amended by sec. 121 of this Act;
- (15) AS 33.16.150(h), enacted by sec. 122 of this Act; and
- (16) AS 33.16.200, as amended by sec. 124 of this Act.

(o) AS 11.56.730(e), enacted by sec. 20 of this Act, and sec. 159 of this Act apply to offenses committed on or after the effective date of AS 11.56.730(e), enacted by sec. 20 of this Act and sec. 159 of this Act.

(p) The following sections apply to offenses committed on or after the effective date of those sections:

- (1) AS 12.30.006(b), as amended by sec. 43 of this Act;
- (2) AS 12.30.006(c), as amended by sec. 44 of this Act;
- (3) AS 12.30.006(d), as amended by sec. 45 of this Act;
- (4) AS 12.30.006(f), as amended by sec. 46 of this Act;
- (5) AS 12.30.011, as repealed and reenacted by sec. 47 of this Act;
- (6) AS 12.30.016(b), as amended by sec. 48 of this Act;
- (7) AS 12.30.016(c), as amended by sec. 49 of this Act;
- (8) AS 12.30.021(a), as amended by sec. 50 of this Act;
- (9) AS 12.30.021(c), as amended by sec. 51 of this Act; and
- (10) AS 33.07, enacted by sec. 99 of this Act.

(q) AS 33.05.020(h), enacted by sec. 96 of this Act, applies to sentences imposed before, on, or after the effective date of sec. 96 of this Act, for conduct occurring before, on, or after the effective date of sec. 96 of this Act, for time served on probation on or after the effective date of sec. 96 of this Act.

(r) AS 33.20.010(c), as amended by sec. 136 of this Act, applies to sentences imposed before, on, or after the effective date of sec. 136 of this Act, for offenses committed before, on, or after the effective date of sec. 136 of this Act, for time served on electronic monitoring on or after the effect date of sec. 136 of this Act.

(s) The following sections apply to parole granted before, on, or after the effective date of those sections:

- (1) AS 33.16.180, as amended by sec. 123 of this Act;
- (2) AS 33.16.210, as amended by sec. 125 of this Act;

- 1 (3) AS 33.16.210(c), enacted by sec. 126 of this Act;
- 2 (4) AS 33.16.215, enacted by sec. 127 of this Act;
- 3 (5) AS 33.16.220(b), as amended by sec. 128 of this Act;
- 4 (6) AS 33.16.220(f), as amended by sec. 129 of this Act;
- 5 (7) AS 33.16.220(i), as amended by sec. 130 of this Act;
- 6 (8) AS 33.16.220(j), enacted by sec. 131 of this Act;
- 7 (9) AS 33.16.240(h) and (i), enacted by sec. 132 of this Act; and
- 8 (10) AS 33.16.270, enacted by sec. 133 of this Act.

9 (t) AS 12.55.027(f), enacted by sec. 57 of this Act, applies to offenses committed on
10 or after the effective date of sec. 57 of this Act.

11 (u) AS 12.25.150(a), as amended by sec. 38 of this Act, applies to offenses committed
12 before, on, or after the effective date of sec. 38 of this Act, for contacts with peace officers
13 occurring on or after the effective date of sec. 38 of this Act.

14 * **Sec. 167.** The uncodified law of the State of Alaska is amended by adding a new section
15 to read:

16 **CONDITIONAL EFFECT.** (a) AS 11.56.730(e), enacted by sec. 20 of this Act, takes
17 effect only if sec. 159 of this Act receives the two-thirds majority vote of each house required
18 by art. IV, sec. 15, Constitution of the State of Alaska.

19 (b) AS 12.30.011, as repealed and reenacted by sec. 47 of this Act, takes effect only if
20 sec. 163(a) of this Act receives the two-thirds majority vote of each house required by art. IV,
21 sec. 15, Constitution of the State of Alaska.

22 (c) AS 12.55.055(g), enacted by sec. 61 of this Act, takes effect only if sec. 163(b) of
23 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
24 Constitution of the State of Alaska.

25 (d) AS 12.55.078, enacted by sec. 62 of this Act, takes effect only if sec. 163(c) of
26 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
27 Constitution of the State of Alaska.

28 (e) AS 12.55.135(p), enacted by sec. 78 of this Act, takes effect only if sec. 163(d) of
29 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
30 Constitution of the State of Alaska.

31 (f) AS 33.07, added by sec. 99 of this Act, takes effect only if sec. 163(e) of this Act

1 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
2 of the State of Alaska.

3 * **Sec. 168.** Sections 1 - 19, 21 - 37, 56, 59 - 62, 64, 71 - 79, 82 - 87, 90, 92 - 95, 136, 142,
4 143, 145 - 152, 162, 163(b), 163(c), and 163(d) of this Act and AS 11.56.730(d), enacted by
5 sec. 20 of this Act, take effect July 1, 2016.

6 * **Sec. 169.** Section 81 of this Act takes effect October 1, 2016.

7 * **Sec. 170.** Sections 39 - 42, 52, 54, 55, 58, 63, 65 - 70, 80, 88, 89, 91, 96 - 98, 100 - 135,
8 137, 138, 140, and 153 - 155 of this Act take effect January 1, 2017.

9 * **Sec. 171.** Section 139 of this Act takes effect July 1, 2017.

10 * **Sec. 172.** Sections 38, 43 - 51, 99, 160, 161, 163(a), and 163(e) of this Act take effect
11 January 1, 2018.

12 * **Sec. 173.** Section 141 of this Act takes effect July 1, 2018.

13 * **Sec. 174.** If AS 11.56.730(e), enacted by sec. 20 of this Act, and sec. 159 of this Act take
14 effect, they take effect January 1, 2019.