

28-LS0116\Q
Gardner
4/19/14

HOUSE CS FOR CS FOR SENATE BILL NO. 64(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to theft and property offenses; relating to the definition of 'prior
2 convictions' for certain theft offenses; establishing the Alaska Criminal Justice
3 Commission and providing an expiration date; relating to electronic monitoring for
4 certain persons convicted of driving while under the influence; relating to the crime of
5 custodial interference; relating to the duties of the Alaska Judicial Council; relating to
6 jail-time credit for offenders in court-ordered treatment programs; relating to
7 conditions of release, probation, and parole; relating to a mitigating factor for a person
8 suffering from combat-related post-traumatic stress disorder or combat-related
9 traumatic brain injury; relating to duties of the commissioner of corrections and board
10 of parole; establishing a program for reducing recidivism in the Department of Health
11 and Social Services; requiring the commissioner of health and social services to establish
12 programs for persons on conditions of release or probation that require testing for

controlled substances and alcoholic beverages; requiring the board of parole to establish programs for persons on parole that require testing for controlled substances and alcoholic beverages; relating to the duties of the Department of Health and Social Services; and providing for an effective date."

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

* **Section 1.** AS 11.41.320(a) is amended to read:

(a) A person commits the crime of custodial interference in the first degree if the person violates AS 11.41.330(a)(1) [AS 11.41.330] and causes the child or incompetent person to be

(1) removed from the state; or

(2) kept outside the state.

* **Sec. 2.** AS 11.41.330(a) is amended to read:

(a) A person commits the crime of custodial interference in the second degree if

(1) [,] being a relative of a child under 18 years of age or a relative of an incompetent person and knowing that the person has no legal right to do so, the person takes, entices, or keeps that child or incompetent person from a lawful custodian with intent to hold the child or incompetent person for a protracted period;
or

(2) not being a relative of a child under 18 years of age or a relative of an incompetent person, knowing that the person has no right to do so and with the intent to take or keep the child or incompetent person, the person represents to the lawful custodian that the person has a right to take or keep the child or incompetent person.

* **Sec. 3.** AS 11.41.330(b) is amended to read:

(b) The affirmative defense of necessity under AS 11.81.320 does not apply to a prosecution for custodial interference under (a)(1) [(a)] of this section if the protracted period for which the person held the child or incompetent person exceeded the shorter of the following:

(1) 24 hours; or

(2) the time necessary to report to a peace officer or social service agency that the child or incompetent person has been abused, neglected, or is in imminent physical danger.

* **Sec. 4.** 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 \$750 [\$500] or more but less than \$25,000;

(2) the property is a firearm or explosive;

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

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

(5) the property is taken from an aircraft and the property is aircraft safety or survival equipment;

(6) the value of the property is \$250 [\$50] or more but less than \$750 [\$500] 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

(A) an offense under AS 11.46.120, or an offense under another law or ordinance with similar elements;

(B) a crime set out in this subsection or an offense under another law or ordinance with similar elements;

(C) an offense under AS 11.46.140(a)(1), or an offense under another law or ordinance with similar elements; or

(D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an offense under another law or ordinance with similar elements; or

(7) the property is an access device.

* **Sec. 5.** AS 11.46.140(a) is amended to read:

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

(1) the value of the property or services is \$250 [\$50] or more but less

than \$750 [\$500]; or

(2) [REPEALED]

(3) the value of the property is less than \$250 [\$50] and, within the past five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of theft or concealment of merchandise, or an offense under another law or ordinance with similar elements.

* **Sec. 6.** AS 11.46.150(a) is amended to read:

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is less than \$250 [\$50].

* **Sec. 7.** AS 11.46.220(c) is amended to read:

(c) Concealment of merchandise is

(1) a class C felony if

(A) the merchandise is a firearm;

(B) the value of the merchandise is \$750 [\$500] or more; or

(C) the value of the merchandise is \$250 [\$50] or more but less than \$750 [\$500] 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 [\$50] or more but less than \$750 [\$500]; or

(B) the value of the merchandise is less than \$250 [\$50] 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 \$250 [\$50].

* **Sec. 8.** 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 \$750 [\$500] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$250 [\$50] or more but less than \$750 [\$500];

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$250 [\$50].

* **Sec. 9.** 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 \$750 [\$500] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$250 [\$50] or more but less than \$750 [\$500];

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$250 [\$50].

* **Sec. 10.** 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 \$750 [\$500] or more but less than \$25,000;

(3) a class A misdemeanor if the face amount of the check is \$250 [\$50] or more but less than \$750 [\$500];

(4) a class B misdemeanor if the face amount of the check is less than \$250 [\$50].

* **Sec. 11.** 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 **\$750** [\$50] or more but less than \$25,000;

(3) a class A misdemeanor if the value of the property or services obtained is less than **\$750** [\$50].

* **Sec. 12.** 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 AS 11.46.220(c),

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

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

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

* **Sec. 13.** AS 11.46.360(a) is amended to read:

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

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

(2) the propelled vehicle of another and

(A) the vehicle or any other property of another is damaged in a total amount of **\$750** [\$500] or more;

(B) the owner incurs reasonable expenses as a result of the loss of use of the vehicle, in a total amount of \$750 [\$500] or more; or

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

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

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

(A) this section or AS 11.46.365;

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

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

(D) AS 11.46.120 - 11.46.140 of an offense involving the theft 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. 14.** 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 \$750 [\$500] 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. 15.** AS 11.46.484(a) is amended to read:

(a) A person commits the crime of criminal mischief in the fourth 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 \$250 [\$50] or more but less than \$750 [\$500];

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

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

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

(5) the person knowingly removes, relocates, defaces, alters, obscures, shoots at, destroys, or otherwise tampers with an official traffic control device or damages the work upon a highway under construction.

* **Sec. 16.** AS 11.46.486(a) is amended to read:

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

(1) with reckless disregard for the risk of harm to or loss of the property or with intent to cause substantial inconvenience to another, the person tampers with property of another;

(2) with intent to damage property of another, the person damages property of another in an amount less than \$250 [\$50]; or

(3) the person rides in a propelled vehicle knowing it has been stolen or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

* **Sec. 17.** AS 11.46.530(b) is amended to read:

(b) Criminal simulation is

(1) a class C felony if the value of what the object purports to represent is \$750 [\$500] or more;

(2) a class A misdemeanor if the value of what the object purports to represent is \$250 [\$50] or more but less than \$750 [\$500];

(3) a class B misdemeanor if the value of what the object purports to represent is less than \$250 [\$50].

* **Sec. 18.** AS 11.46.620(d) is amended to read:

(d) Misapplication of property is

(1) a class C felony if the value of the property misapplied is \$750 [\$500] or more;

(2) a class A misdemeanor if the value of the property misapplied is less than \$750 [\$500].

* **Sec. 19.** AS 11.46.730(c) is amended to read:

(c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss of \$750 [\$500] or more as a result to the defendant's conduct, in which case defrauding secured creditors is

(1) a class B felony if the loss is \$25,000 or more;

(2) a class C felony if the loss is \$750 [\$500] or more but less than \$25,000.

* **Sec. 20.** AS 12.30.011(b) is amended to read:

(b) If a judicial officer determines that the release under (a) of this section will not reasonably assure the appearance of the person or will pose a danger to the victim, other persons, or the community, the officer shall impose the least restrictive condition or conditions that will reasonably assure the person's appearance and protect the victim, other persons, and the community. In addition to conditions under (a) of this section, the judicial officer may, singly or in combination,

(1) require the execution of an appearance bond in a specified amount of cash to be deposited into the registry of the court, in a sum not to exceed 10 percent of the amount of the bond;

(2) require the execution of a bail bond with sufficient solvent sureties or the deposit of cash;

(3) require the execution of a performance bond in a specified amount of cash to be deposited in the registry of the court;

(4) place restrictions on the person's travel, association, or residence;

(5) order the person to refrain from possessing a deadly weapon on the person or in the person's vehicle or residence;

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

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

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

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

(10) 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;

(11) require the person to be physically inside the person's residence, or in the residence of the person's third-party custodian, at time periods set by the court;

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

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

(14) 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;

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

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

(17) order the person to comply with any other condition that is reasonably necessary to assure the appearance of the person and to assure the safety of

the victim, other persons, and the community;

(18) require the person to comply with a program established under AS 47.38.020 if 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.

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

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

(1) to refrain from

(A) consuming alcoholic beverages; or

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

(2) to submit to a search without a warrant of the person, the person's personal property, the person's residence, or any vehicle or other property over which the person has control, for the presence of alcoholic beverages by a peace officer who has reasonable suspicion that the person is violating the conditions of the person's release by possessing alcoholic beverages;

(3) to submit to a breath test when requested by a law enforcement officer;

(4) to provide a sample for a urinalysis or blood test when requested by a law enforcement officer;

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

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

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

* **Sec. 22.** AS 12.30.016(c) is amended to read:

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

(1) to refrain from

(A) consuming a controlled substance; or

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

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

(3) to enroll in a random drug testing program, at the person's expense, to detect the presence of a controlled substance, with testing to occur not less than once a week, and with the results being submitted to the court and the 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; or

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

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

* **Sec. 23.** AS 12.55.027(c) is amended to read:

(c) To qualify for credit against a sentence of imprisonment for **a day** [TIME] spent in a treatment program, the treatment program and the facility of the treatment program must impose substantial restrictions on a person's liberty **on that day** that are equivalent to incarceration, including the requirement that a participant in the program

(1) must live in a residential facility operated by the program;

(2) must be confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for

(A) court appearances;

(B) [,] meetings with counsel;

(C) **employment, vocational training, or community**

volunteer [, AND] work required by the treatment program [AND APPROVED IN ADVANCE BY THE COURT]; and

(D) periods during which the resident is permitted to leave the facility for rehabilitative purposes directly related to the person's treatment, so long as the periods during which the resident is permitted to leave the facility are expressly limited as to both time and purpose by the treatment program;

(3) is subject to disciplinary sanctions by the program if the participant violates rules of the program and facility; sanctions must be in writing and available for court review; and

(4) is subject to immediate arrest, without warrant, if the participant leaves the facility without permission.

* **Sec. 24.** AS 12.55.100(a) is amended to read:

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

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

(2) to make restitution or reparation to aggrieved parties for actual damages or loss caused by the crime for which conviction was had, including compensation to a victim that is a nonprofit organization for the value of labor or goods provided by volunteers if the labor or goods were necessary to alleviate or mitigate the effects of the defendant's crime;

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

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

(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; and

(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;

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

* **Sec. 25.** AS 12.55.155(d) is amended to read:

(d) The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence below the presumptive range set out in AS 12.55.125:

(1) the offense was principally accomplished by another person, and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim;

(2) the defendant, although an accomplice, played only a minor role in the commission of the offense;

(3) the defendant committed the offense under some degree of duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but that significantly affected the defendant's conduct;

(4) the conduct of a youthful defendant was substantially influenced by another person more mature than the defendant;

(5) the conduct of an aged defendant was substantially a product of physical or mental infirmities resulting from the defendant's age;

(6) in a conviction for assault under AS 11.41.200 - 11.41.220, the defendant acted with serious provocation from the victim;

(7) except in the case of a crime defined by AS 11.41.410 - 11.41.470, the victim provoked the crime to a significant degree;

(8) before the defendant knew that the criminal conduct had been discovered, the defendant fully compensated or made a good faith effort to fully compensate the victim of the defendant's criminal conduct for any damage or injury sustained;

(9) the conduct constituting the offense was among the least serious conduct included in the definition of the offense;

(10) the defendant was motivated to commit the offense solely by an overwhelming compulsion to provide for emergency necessities for the defendant's immediate family;

(11) after commission of the offense for which the defendant is being

1 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other
2 persons who committed an offense;

3 (12) the facts surrounding the commission of the offense and any
4 previous offenses by the defendant establish that the harm caused by the defendant's
5 conduct is consistently minor and inconsistent with the imposition of a substantial
6 period of imprisonment;

7 (13) the defendant is convicted of an offense specified in AS 11.71 and
8 the offense involved small quantities of a controlled substance;

9 (14) the defendant is convicted of an offense specified in AS 11.71 and
10 the offense involved the distribution of a controlled substance, other than a schedule
11 IA controlled substance, to a personal acquaintance who is 19 years of age or older for
12 no profit;

13 (15) the defendant is convicted of an offense specified in AS 11.71 and
14 the offense involved the possession of a small amount of a controlled substance for
15 personal use in the defendant's home;

16 (16) in a conviction for assault or attempted assault or for homicide or
17 attempted homicide, the defendant acted in response to domestic violence perpetrated
18 by the victim against the defendant and the domestic violence consisted of aggravated
19 or repeated instances of assaultive behavior;

20 (17) except in the case of an offense defined by AS 11.41 or
21 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the
22 time of sentencing, has successfully completed a court-ordered treatment program as
23 defined in AS 28.35.028 that was begun after the offense was committed;

24 (18) except in the case of an offense defined under AS 11.41 or
25 AS 11.46.400 or a defendant who has previously been convicted of a felony, the
26 defendant committed the offense while suffering from a mental disease or defect as
27 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that
28 significantly affected the defendant's conduct;

29 (19) the defendant is convicted of an offense under AS 11.71, and the
30 defendant sought medical assistance for another person who was experiencing a drug
31 overdose contemporaneously with the commission of the offense;

(20) except in the case of an offense defined under AS 11.41 or AS 11.46.400, the defendant committed the offense while suffering from a condition diagnosed

(A) as a fetal alcohol spectrum disorder, the fetal alcohol spectrum disorder substantially impaired the defendant's judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and the fetal alcohol spectrum disorder, though insufficient to constitute a complete defense, significantly affected the defendant's conduct; in this paragraph, "fetal alcohol spectrum disorder" means a condition of impaired brain function in the range of permanent birth defects caused by maternal consumption of alcohol during pregnancy; or

(B) as combat-related post-traumatic stress disorder or combat-related traumatic brain injury, the combat-related post-traumatic stress disorder or combat-related traumatic brain injury substantially impaired the defendant's judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and the combat-related post-traumatic stress disorder or combat-related traumatic brain injury, though insufficient to constitute a complete defense, significantly affected the defendant's conduct; in this paragraph, "combat-related post-traumatic stress disorder or combat-related traumatic brain injury" means post-traumatic stress disorder or traumatic brain injury resulting from combat with an enemy of the United States in the line of duty while on active duty as a member of the armed forces of the United States; nothing in this paragraph is intended to limit the application of (18) of this subsection.

* **Sec. 26.** AS 22.20 is amended by adding a new section to article 4 to read:

Sec. 22.20.210. Alaska Criminal Justice Commission. The judicial council shall provide staff and administrative support to the Alaska Criminal Justice Commission established in AS 44.19.641.

* **Sec. 27.** AS 28.35.030(k) is amended to read:

(k) Imprisonment required under (b)(1)(A) of this section shall be served **by**

1 electronic monitoring at a private residence, or at a community residential center.
2 If electronic monitoring at a private residence or [OR, IF] a community residential
3 center is not available, imprisonment required under (b)(1)(A) of this section may
4 be served at another appropriate place determined by the commissioner of corrections.
5 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
6 community residential center or at a private residence if approved by the
7 commissioner of corrections. Imprisonment served at a private residence must include
8 electronic monitoring. The cost of imprisonment resulting from the sentence imposed
9 under (b)(1) of this section shall be paid to the state by the person being sentenced
10 provided, however, that the cost of imprisonment required to be paid under this
11 subsection may not exceed \$2,000. Upon the person's conviction, the court shall
12 include the costs of imprisonment as a part of the judgment of conviction. Except for
13 reimbursement from a permanent fund dividend as provided in this subsection,
14 payment of the cost of imprisonment is not required if the court determines the person
15 is indigent. For costs of imprisonment that are not paid by the person as required by
16 this subsection, the state shall seek reimbursement from the person's permanent fund
17 dividend as provided under AS 43.23.065. While at the community residential center
18 or other appropriate place, a person sentenced under (b)(1)(A) of this section shall
19 perform at least 24 hours of community service work. A person sentenced under
20 (b)(1)(B) of this section shall perform at least 160 hours of community service work,
21 as required by the director of the community residential center or other appropriate
22 place, or as required by the commissioner of corrections if the sentence is being served
23 at a private residence. In this subsection, "appropriate place" means a facility with 24-
24 hour on-site staff supervision that is specifically adapted to provide a residence, and
25 includes a correctional center, residential treatment facility, hospital, halfway house,
26 group home, work farm, work camp, or other place that provides varying levels of
27 restriction.

28 * **Sec. 28.** AS 33.05.020 is amended by adding a new subsection to read:

29 (f) The commissioner shall establish a program for offenders on probation for
30 a felony offense who have conditions of probation that include not consuming
31 controlled substances or alcoholic beverages and who have been identified as being at

1 moderate to high risk as identified by a risk-needs assessment. The commissioner shall
2 adopt regulations to implement the program. The program shall

3 (1) include random testing for controlled substances and alcoholic
4 beverage use;

5 (2) require that the probation officer file a petition with the court
6 seeking appropriate sanctions by the close of the next business day if a probationer

7 (A) fails to appear for an appointment as directed by the
8 probation officer; or

9 (B) tests positive for the use of controlled substances, inhalants,
10 or alcoholic beverages; and

11 (3) include a means to notify the court, by the close of the next
12 business day, that a petition to revoke probation has been filed on a probationer placed
13 in the program by the commissioner so that the court may review the petition,
14 schedule a prompt hearing, address a request for a warrant provided by the probation
15 officer, or take other action the court considers appropriate.

16 * **Sec. 29.** AS 33.16.060 is amended by adding a new subsection to read:

17 (c) The board shall establish a program for a parolee who has conditions of
18 parole that include not consuming controlled substances or alcoholic beverages and
19 who has been identified as being at moderate to high risk as identified by a risk-needs
20 assessment. The program must

21 (1) include random testing for controlled substance and alcoholic
22 beverage use;

23 (2) require that a parole officer file a parole violation report by the
24 close of the next business day if a parolee

25 (A) fails to appear for an appointment as directed by the parole
26 officer; or

27 (B) tests positive for the use of controlled substances or
28 alcoholic beverages; and

29 (3) include a means to notify the board by the close of the next
30 business day that a parole violation report has been filed on a parolee placed in the
31 program by the board.

1 * **Sec. 30.** AS 33.16.150(b) is amended to read:

2 (b) The board may require as a condition of special medical, discretionary, or
3 mandatory parole, or a member of the board acting for the board under (e) of this
4 section may require as a condition of mandatory parole, that a prisoner released on
5 parole

6 (1) not possess or control a defensive weapon, a deadly weapon other
7 than an ordinary pocket knife with a blade three inches or less in length, or
8 ammunition for a firearm, or reside in a residence where there is a firearm capable of
9 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
10 weapon," "defensive weapon," and "firearm" have the meanings given in
11 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

12 (2) refrain from possessing or consuming alcoholic beverages;

13 (3) submit to reasonable searches and seizures by a parole officer, or a
14 peace officer acting under the direction of a parole officer;

15 (4) submit to appropriate medical, mental health, or controlled
16 substance or alcohol examination, treatment, or counseling;

17 (5) submit to periodic examinations designed to detect the use of
18 alcohol or controlled substances; **the periodic examinations may include testing**
19 **under the program established under AS 33.16.060(c);**

20 (6) make restitution ordered by the court according to a schedule
21 established by the board;

22 (7) refrain from opening, maintaining, or using a checking account or
23 charge account;

24 (8) refrain from entering into a contract other than a prenuptial contract
25 or a marriage contract;

26 (9) refrain from operating a motor vehicle;

27 (10) refrain from entering an establishment where alcoholic beverages
28 are served, sold, or otherwise dispensed;

29 (11) refrain from participating in any other activity or conduct
30 reasonably related to the parolee's offense, prior record, behavior or prior behavior,
31 current circumstances, or perceived risk to the community, or from associating with

any other person that the board determines is reasonably likely to diminish the rehabilitative goals of parole, or that may endanger the public; in the case of special medical parole, for a prisoner diagnosed with a communicable disease, comply with conditions set by the board designed to prevent the transmission of the disease.

* **Sec. 31.** 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 rehabilitation and reformation of 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; [AND]

(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.

* **Sec. 32.** AS 44.19 is amended by adding new sections to read:

Article 6. Alaska Criminal Justice Commission.

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

Sec. 44.19.642. Membership; staff. (a) The commission consists of 13 members as follows:

(1) the chief justice of the Alaska Supreme Court or another active or retired justice of the supreme court or an active or retired judge of the court of appeals designated by the chief justice;

(2) an active or retired superior court judge designated by the chief justice for a three-year term;

(3) an active or retired district court judge designated by the chief justice for a three-year term;

(4) a member of the Alaska Native community designated by the Alaska Native Justice Center for a three-year term;

(5) the attorney general or a designee of the attorney general;

- 1 (6) the public defender or a designee of the public defender;
2 (7) the commissioner of corrections or the commissioner's designee;
3 (8) the commissioner of public safety or the commissioner's designee;
4 (9) an active duty member of a municipal law enforcement agency
5 appointed by the governor for a three-year term;
6 (10) a chief of a municipal law enforcement agency appointed by the
7 governor for a three-year term;
8 (11) one victims' rights advocate appointed by the governor for a three-
9 year term;
10 (12) one nonvoting member, serving ex officio, who is a member of
11 the senate appointed by the president of the senate; and
12 (13) one nonvoting member, serving ex officio, who is a member of
13 the house of representatives appointed by the speaker of the house of representatives.
14 (b) A member appointed under (a)(9) - (11) of this section serves at the
15 pleasure of the governor and may be reappointed.
16 (c) The commission shall, by majority vote of the membership, elect a chair
17 and other officers it considers necessary from among its membership to serve on a
18 yearly basis.
19 (d) The Alaska Judicial Council shall provide staff and administrative support
20 to the commission.

21 **Sec. 44.19.643. Compensation.** Members of the commission serve without
22 compensation but are entitled to per diem and travel expenses authorized for boards
23 and commissions under AS 39.20.180.

24 **Sec. 44.19.644. Meetings.** A majority of the members constitutes a quorum for
25 conducting business and exercising the powers of the commission. The commission
26 shall meet at least quarterly, at the call of the chair, at the request of the majority of the
27 members, or at a regularly scheduled time as determined by a majority of the
28 members. The commission shall keep a record of its proceedings and make these
29 records available for public inspection.

30 **Sec. 44.19.645. Powers and duties of the commission.** (a) The commission
31 shall evaluate the effect of sentencing laws and criminal justice practices on the

1 criminal justice system to evaluate whether those sentencing laws and criminal justice
2 practices provide for protection of the public, community condemnation of the
3 offender, the rights of victims of crimes, the rights of the accused and the person
4 convicted, restitution from the offender, and the principle of reformation. The
5 commission shall make recommendations for improving criminal sentencing practices
6 and criminal justice practices, including rehabilitation and restitution. In formulating
7 its recommendations, the commission shall consider

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

10 (2) sentencing practices of the judiciary, including use of presumptive
11 sentences;

12 (3) means of promoting uniformity, proportionality, and accountability
13 in sentencing;

14 (4) alternatives to traditional forms of incarceration;

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

17 (6) the adequacy, availability, and effectiveness of treatment and
18 rehabilitation programs;

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

23 (8) the relationship between sentencing priorities and correctional
24 resources;

25 (9) the effectiveness of the state's current methodologies for the
26 collection and dissemination of criminal justice data; and

27 (10) whether the schedules for controlled substances in AS 11.71.140 -
28 11.71.190 are reasonable and appropriate, considering the criteria established in
29 AS 11.71.120(c).

30 (b) The commission may

31 (1) recommend legislative and administrative action on criminal justice

practices; and

(2) select and retain the services of consultants as necessary.

Sec. 44.19.646. Methodology. In making recommendations, the commission shall

(1) solicit and consider information and views from a variety of constituencies to represent the broad spectrum of views that exist with respect to possible approaches to sentencing and administration of justice in the state; and

(2) base recommendations on the following factors:

(A) the seriousness of each offense in relation to other offenses;

(B) the effect of an offender's prior criminal history on sentencing;

(C) the need to rehabilitate criminal offenders;

(D) the need to confine offenders to prevent harm to the public;

(E) the extent to which criminal offenses harm victims and endanger the public safety and order;

(F) the effect of sentencing in deterring an offender or other members of society from future criminal conduct;

(G) the effect of sentencing as a community condemnation of criminal acts and as a reaffirmation of societal norms;

(H) the elimination of unjustified disparity in sentences;

(I) the sufficiency of state agency resources to administer the criminal justice system of the state;

(J) the effect of criminal justice laws and practices on reducing the rate of recidivism in the state;

(K) peer reviewed and data-driven research; and

(L) the efficacy of evidence-based restorative justice initiatives on persons convicted of criminal violations and offenses, the victim, and the community.

Sec. 44.19.647. Annual report and recommendations. The commission shall submit to the governor and the legislature an annual report of its proceedings for the previous calendar year 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. 44.19.649. Definition. In AS 44.19.641 - 44.19.649, "commission" means the Alaska Criminal Justice Commission.

* **Sec. 33.** AS 44.66.010(a) is amended by adding a new paragraph to read:

(10) Alaska Criminal Justice Commission (AS 44.19.642) - June 30, 2017.

* **Sec. 34.** AS 47 is amended by adding a new chapter to read:

Chapter 38. Alcohol and Substance Abuse Accountability.

Article 1. Alcohol and Substance Abuse Monitoring and Treatment for Persons Released on Bail or on Probation.

Sec. 47.38.010. Cooperation with the Department of Corrections. The department shall cooperate with the Department of Corrections in establishing and conducting programs to provide treatment for alcoholics, intoxicated persons, drug abusers, and inhalant abusers who are on conditions of release as provided in AS 12.30 or on probation.

Sec. 47.38.020. Alcohol and substance abuse monitoring program. (a) The commissioner, in cooperation with the commissioner of corrections, shall establish a program 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.

(c) The commissioner shall include in the program

(1) a requirement for twice-a-day testing, 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 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 provide or conduct the testing required under (c) of this section.

Article 2. Recidivism Reduction Program.

Sec. 47.38.100. Recidivism reduction program. (a) The recidivism reduction program is established to promote the rehabilitation through transitional re-entry programs of persons incarcerated for offenses and recently released from correctional facilities.

(b) The commissioner, in cooperation with the commissioner of corrections, may provide for programs that have, as a primary focus, rehabilitation and reduction of recidivism through transitional re-entry for persons incarcerated for offenses and recently released from correctional facilities. The commissioner may enter into contracts to provide for programs under this section. A program under this section must

(1) include case management;

(2) require sober living;

(3) provide, on-site or by referral, treatment for substance 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.

(c) The commissioner and the commissioner of corrections shall prepare a joint annual report on the program provided under (c) of this section, and notify the

legislature on or before January 15 of each year that the report is available. The report must include an analysis of the program's effects on recidivism for program participants.

Article 3. General Provisions.

Sec. 47.38.199. Definitions. In this chapter,

(1) "commissioner" means the commissioner of health and social services;

(2) "department" means the Department of Health and Social Services.

* **Sec. 35.** AS 22.20.210 is repealed June 30, 2017.

* **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 11.41.320(a), as amended by sec. 1 of this Act, AS 11.41.330(a), as amended by sec. 2 of this Act, AS 11.41.330(b), as amended by sec. 3 of this Act, AS 11.46.130(a), as amended by sec. 4 of this Act, AS 11.46.140(a), as amended by sec. 5 of this Act, AS 11.46.150(a), as amended by sec. 6 of this Act, AS 11.46.220(c), as amended by sec. 7 of this Act, AS 11.46.260(b), as amended by sec. 8 of this Act, AS 11.46.270(b), as amended by sec. 9 of this Act, AS 11.46.280(d), as amended by sec. 10 of this Act, AS 11.46.285(b), as amended by sec. 11 of this Act, AS 11.46.295, as amended by sec. 12 of this Act, AS 11.46.360(a), as amended by sec. 13 of this Act, AS 11.46.482(a), as amended by sec. 14 of this Act, AS 11.46.484(a), as amended by sec. 15 of this Act, AS 11.46.486(a), as amended by sec. 16 of this Act, AS 11.46.530(b), as amended by sec. 17 of this Act, AS 11.46.620(d), as amended by sec. 18 of this Act, AS 11.46.730(c), as amended by sec. 19 of this Act, AS 12.30.011(b), as amended by sec. 20 of this Act, AS 12.30.016(b), as amended by sec. 21 of this Act, AS 12.30.016(c), as amended by sec. 22 of this Act, AS 12.55.027(c), as amended by sec. 23 of this Act, and AS 12.55.100(a), as amended by sec. 24 of this Act, apply to offenses occurring on or after the effective date of secs. 1 - 30 and 32 - 38 of this Act.

(b) The changes made to AS 28.35.030(k), as amended by sec. 27 of this Act, AS 33.05.020, as amended by sec. 28 of this Act, AS 33.16.060, as amended by sec. 29 of this Act, AS 33.16.150(b), as amended by sec. 30 of this Act, and AS 47.38.020, as enacted by sec. 34 of this Act, apply to convictions occurring before, on, or after the effective date of

secs. 1 - 30 and 32 - 38 of this Act for offenses occurring before, on, or after the effective date of secs. 1 - 30 and 32 - 38 of this Act.

(c) AS 12.55.155(d)(20), as amended by sec. 25 of this Act, applies to prosecutions occurring on or after the effective date of sec. 25 of this Act for offenses occurring before, on, or after the effective date of sec. 25 of this Act.

* **Sec. 37.** The uncoded law of the State of Alaska is amended by adding a new section to read:

SPECIAL REPORT OF ALASKA CRIMINAL JUSTICE COMMISSION. The Alaska Criminal Justice Commission shall submit to the governor and the legislature a special report, not later than July 1, 2017, regarding alcohol-related offenses in AS 28. The report must include recommendations on

(1) whether a revision of the alcohol-related offenses in AS 28 is necessary;

(2) maintaining both the administrative and court license revocation processes;

(3) the effectiveness of ignition interlock devices in reducing the offenses of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and refusal to submit to a chemical test, and reducing recidivism;

(4) whether the punishment, fines, and associated driver's license revocation periods for the offenses of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and refusal to submit to a chemical test should be decreased or increased;

(5) the effectiveness of programs that promote offender accountability, emphasize swift and certain, yet measured, punishment, reduce recidivism, and maximize the offender's ability to remain productive in society;

(6) whether limited licenses should be available for persons charged with or convicted of the offenses of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or refusal to submit to a chemical test, while providing for public safety.

* **Sec. 38.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISIONS. The initial designations and appointments to the Alaska Criminal Justice Commission under AS 44.19.642, added by sec. 32 of this Act, shall

1 be made not later than June 30, 2014. Notwithstanding AS 44.19.647, added by sec. 32 of this
2 Act, the commission shall submit its first report to the governor and the legislature not later
3 than February 1, 2016.

4 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITIONAL PROVISIONS: REGULATIONS. (a) The Department of
7 Corrections may adopt regulations necessary to implement AS 33.05.020(f), added by sec. 28
8 of this Act.

9 (b) The board of parole may adopt regulations necessary to implement
10 AS 33.16.060(c), added by sec. 29 of this Act, and AS 33.16.150(b), as amended by sec. 30 of
11 this Act.

12 (c) The Department of Health and Social Services may adopt regulations necessary to
13 implement AS 47.38.010 - 47.38.199, added by sec. 34 of this Act.

14 (d) The regulations adopted under (a) - (c) of this section take effect under AS 44.62
15 (Administrative Procedure Act), but not before July 1, 2014.

16 * **Sec. 40.** Section 31 of this Act takes effect January 1, 2016.

17 * **Sec. 41.** Section 39 of this Act takes effect immediately under AS 01.10.070(c).

18 * **Sec. 42.** Sections 1 - 30 and 32 - 38 of this Act take effect July 1, 2014.