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Martin  
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**CS FOR HOUSE BILL NO. 79(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to controlled substances; relating to marijuana; deleting marijuana,  
2 hash, and hash oil from the controlled substance schedules and making conforming and  
3 related amendments; relating to crimes and offenses related to marijuana and the use of  
4 marijuana; relating to conditions of release; relating to probation and parole; relating to  
5 sentencing; relating to illicit synthetic drugs; relating to protective orders; relating to  
6 the prosecution of a minor for certain offenses; making conforming amendments; and  
7 providing for an effective date."

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

9 \* **Section 1.** AS 02.30.030(b) is amended to read:

10 (b) A person may not operate an aircraft occupied by a crew member or  
11 passenger who is obviously under the influence of intoxicating liquor, marijuana, or a  
12 controlled substance.

13 \* **Sec. 2.** AS 05.45.100(c) is amended to read:

1 (c) A skier may not

2 (1) ski on a ski slope or trail that has been posted as "closed" under  
3 AS 05.45.060(b)(5) and (d);

4 (2) use a ski unless the ski is equipped with a strap or other device  
5 capable of stopping the ski should the ski become unattached from the skier;

6 (3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow  
7 except at locations designated by the operator, or place an object in an uphill track;

8 (4) move uphill on a tramway or use a ski slope or trail while the skier's  
9 ability is impaired by the influence of alcohol, marijuana, or a controlled substance as  
10 defined in AS 11.71.900 or other drug;

11 (5) knowingly enter upon public or private land from an adjoining ski  
12 area when the land has been closed by an owner and is posted by the owner or by the  
13 ski area operator under AS 05.45.060(e)(3).

14 \* **Sec. 3.** AS 08.68.270 is amended to read:

15 **Sec. 08.68.270. Grounds for denial, suspension, or revocation.** The board  
16 may deny, suspend, or revoke the license of a person who

17 (1) has obtained or attempted to obtain a license to practice nursing by  
18 fraud or deceit;

19 (2) has been convicted of a felony or other crime if the felony or other  
20 crime is substantially related to the qualifications, functions, or duties of the licensee;

21 (3) habitually abuses alcoholic beverages or marijuana, or illegally  
22 uses controlled substances;

23 (4) has impersonated a registered or practical nurse;

24 (5) has intentionally or negligently engaged in conduct that has resulted  
25 in a significant risk to the health or safety of a client or in injury to a client;

26 (6) practices or attempts to practice nursing while afflicted with  
27 physical or mental illness, deterioration, or disability that interferes with the  
28 individual's performance of nursing functions;

29 (7) is guilty of unprofessional conduct as defined by regulations  
30 adopted by the board;

31 (8) has wilfully or repeatedly violated a provision of this chapter or

1 regulations adopted under this chapter or AS 08.01;

2 (9) is professionally incompetent;

3 (10) denies care or treatment to a patient or person seeking assistance if  
4 the sole reason for the denial is the failure or refusal of the patient or person seeking  
5 assistance to agree to arbitrate as provided in AS 09.55.535(a).

6 \* **Sec. 4.** AS 08.72.272(a) is amended to read:

7 (a) A licensee may prescribe and use a pharmaceutical agent, including a  
8 controlled substance, in the practice of optometry if

9 (1) the pharmaceutical agent

10 (A) is prescribed and used for the treatment of ocular disease or  
11 conditions, ocular adnexal disease or conditions, or emergency anaphylaxis;

12 (B) is not a schedule IA or [,] IIA [, OR VIA] controlled  
13 substance; however, notwithstanding this subparagraph, a licensee may  
14 prescribe and use a pharmaceutical agent containing hydrocodone;

15 (C) is prescribed in a quantity that does not exceed four days of  
16 prescribed use if it is a controlled substance;

17 (D) is not injected into the ocular globe of the eye; and

18 (E) is not a derivative of clostridium botulinum; and

19 (2) the licensee

20 (A) has a physician-patient relationship, as defined by the board  
21 in regulations adopted under this chapter, with the person to whom the  
22 pharmaceutical agent is prescribed; and

23 (B) has on file with the department the licensee's current federal  
24 Drug Enforcement Administration registration number that is valid for the  
25 controlled substance prescribed or used.

26 \* **Sec. 5.** AS 08.76.170(a) is amended to read:

27 (a) A pawnbroker may not knowingly enter into a pawnbroker transaction with  
28 a person who is

29 (1) under 18 years of age;

30 (2) under the influence of alcohol, marijuana, or a controlled  
31 substance when the influence is apparent; or

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(3) using the name of another person.

\* **Sec. 6.** AS 09.50.170 is amended to read:

**Sec. 09.50.170. Abatement of places used for certain acts.** (a) A person who erects, establishes, continues, maintains, uses, owns, or leases a building, structure, or other place used for one of the following activities is guilty of maintaining a nuisance, and the building, structure, or place, or the ground itself in or upon which or in any part of which the activity is conducted, permitted, carried on, continues, or exists, and its furniture, fixtures, and other contents, constitute a nuisance and may be enjoined and abated:

- (1) prostitution;
- (2) an illegal activity involving a place of prostitution; or
- (3) an illegal activity involving
  - (A) alcoholic beverages;
  - (B) a controlled substance;
  - (C) an imitation controlled substance; [OR]
  - (D) gambling or promoting gambling; **or**
  - (E) marijuana.**

(b) In this section, "illegal activity involving alcoholic beverages," "illegal activity involving a controlled substance," "illegal activity involving gambling or promoting gambling," "illegal activity involving an imitation controlled substance," **"illegal activity involving marijuana,"** "illegal activity involving a place of prostitution," and "prostitution" have the meanings given in AS 34.03.360.

\* **Sec. 7.** AS 09.60.070(c) is amended to read:

(c) In this section, "serious criminal offense" means the following offenses:

- (1) murder in any degree;
- (2) manslaughter;
- (3) criminally negligent homicide;
- (4) assault in any degree;
- (5) kidnapping;
- (6) sexual assault in any degree;
- (7) sexual abuse of a minor in any degree;

- 1 (8) robbery in any degree;
- 2 (9) coercion;
- 3 (10) extortion;
- 4 (11) arson in any degree;
- 5 (12) burglary in any degree;
- 6 (13) criminal mischief in the first, second, third, or fourth degree;
- 7 (14) driving while under the influence of an alcoholic beverage,
- 8 inhalant, or controlled substance or another crime resulting from the operation of a
- 9 motor vehicle, boat, or airplane when the offender is under the influence of an
- 10 alcoholic beverage, marijuana, an inhalant, or a controlled substance;
- 11 (15) a crime involving domestic violence, as defined in AS 18.66.990.

12 \* **Sec. 8.** AS 09.65.320(b) is amended to read:

13 (b) The prohibition against the recovery of noneconomic losses in (a) of this  
14 section does not apply if the person who is liable for the personal injury or wrongful  
15 death

16 (1) was driving while under the influence of an alcoholic beverage,  
17 marijuana, an inhalant, or a controlled substance;

18 (2) acted intentionally, recklessly, or with gross negligence;

19 (3) fled from the scene of the accident; or

20 (4) was acting in furtherance of an offense or in immediate flight from  
21 an offense that constitutes a felony as defined in AS 11.81.900 at the time of the  
22 accident.

23 \* **Sec. 9.** AS 11.41.110(a) is amended to read:

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

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

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

31 (3) under circumstances not amounting to murder in the first degree

1 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the  
2 person commits or attempts to commit arson in the first degree, kidnapping, sexual  
3 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor  
4 in the first degree, sexual abuse of a minor in the second degree, burglary in the first  
5 degree, escape in the first or second degree, robbery in any degree, or misconduct  
6 involving a controlled substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1)  
7 or (2), or 11.71.040(a)(1) [OR (2)] and, in the course of or in furtherance of that crime  
8 or in immediate flight from that crime, any person causes the death of a person other  
9 than one of the participants;

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

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

17 (A) a felony violation of this chapter [AS 11.41];

18 (B) in violation of a law or ordinance in another jurisdiction  
19 with elements similar to a felony under this chapter [AS 11.41]; or

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

22 \* **Sec. 10.** AS 11.41.150(a) is amended to read:

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

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

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

30 (3) while acting alone or with one or more persons, commits or  
31 attempts to commit arson in the first degree, kidnapping, sexual assault in the first

1 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,  
2 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the  
3 first or second degree, robbery in any degree, or misconduct involving a controlled  
4 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) [OR (2)], or  
5 11.71.040(a)(1) or (2), and, in the course of or in furtherance of that crime or in  
6 immediate flight from that crime, any person causes the death of an unborn child;

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

13 \* **Sec. 11.** AS 11.61.200(a) is amended to read:

14 (a) A person commits the crime of misconduct involving weapons in the third  
15 degree if the person

16 (1) knowingly possesses a firearm capable of being concealed on one's  
17 person after having been convicted of a felony or adjudicated a delinquent minor for  
18 conduct that would constitute a felony if committed by an adult by a court of this state,  
19 a court of the United States, or a court of another state or territory;

20 (2) knowingly sells or transfers a firearm capable of being concealed on  
21 one's person to a person who has been convicted of a felony by a court of this state, a  
22 court of the United States, or a court of another state or territory;

23 (3) manufactures, possesses, transports, sells, or transfers a prohibited  
24 weapon;

25 (4) knowingly sells or transfers a firearm to another whose physical or  
26 mental condition is substantially impaired as a result of the introduction of an  
27 intoxicating liquor, marijuana, or controlled substance into that other person's body;

28 (5) removes, covers, alters, or destroys the manufacturer's serial  
29 number on a firearm with intent to render the firearm untraceable;

30 (6) possesses a firearm on which the manufacturer's serial number has  
31 been removed, covered, altered, or destroyed, knowing that the serial number has been

1 removed, covered, altered, or destroyed with the intent of rendering the firearm  
2 untraceable;

3 (7) violates AS 11.46.320 and, during the violation, possesses on the  
4 person a firearm when the person's physical or mental condition is impaired as a result  
5 of the introduction of an intoxicating liquor, marijuana, or controlled substance into  
6 the person's body;

7 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining  
8 unlawfully on premises or in a propelled vehicle in violation of a provision of an order  
9 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
10 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a  
11 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

12 (9) communicates in person with another in violation of AS 11.56.740  
13 and, during the communication, possesses on the person a defensive weapon or a  
14 deadly weapon, other than an ordinary pocketknife;

15 (10) resides in a dwelling knowing that there is a firearm capable of  
16 being concealed on one's person or a prohibited weapon in the dwelling if the person  
17 has been convicted of a felony by a court of this state, a court of the United States, or a  
18 court of another state or territory, unless the person has written authorization to live in  
19 a dwelling in which there is a concealable weapon described in this paragraph from a  
20 court of competent jurisdiction or from the head of the law enforcement agency of the  
21 community in which the dwelling is located; or

22 (11) discharges a firearm from a propelled vehicle while the vehicle is  
23 being operated in circumstances other than described in AS 11.61.190(a)(2).

24 [(12) REPEALED.]

25 \* **Sec. 12.** AS 11.61.210(a) is amended to read:

26 (a) A person commits the crime of misconduct involving weapons in the fourth  
27 degree if the person

28 (1) possesses on the person, or in the interior of a vehicle in which the  
29 person is present, a firearm when the person's physical or mental condition is impaired  
30 as a result of the introduction of an intoxicating liquor, marijuana, or a controlled  
31 substance into the person's body in circumstances other than described in

1 AS 11.61.200(a)(7);

2 (2) discharges a firearm from, on, or across a highway;

3 (3) discharges a firearm with reckless disregard for a risk of damage to  
4 property or a risk of physical injury to a person under circumstances other than those  
5 described in AS 11.61.195(a)(3)(A);

6 (4) manufactures, possesses, transports, sells, or transfers metal  
7 knuckles;

8 (5) sells or transfers a switchblade or a gravity knife to a person under  
9 18 years of age without the prior written consent of the person's parent or guardian;

10 (6) knowingly sells a firearm or a defensive weapon to a person under  
11 18 years of age;

12 (7) other than a preschool, elementary, junior high, or secondary school  
13 student, knowingly possesses a deadly weapon or a defensive weapon, without the  
14 permission of the chief administrative officer of the school or district or the designee  
15 of the chief administrative officer, within the buildings of, on the grounds of, or on the  
16 school parking lot of a public or private preschool, elementary, junior high, or  
17 secondary school, on a school bus while being transported to or from school or a  
18 school-sponsored event, or while participating in a school-sponsored event, except that  
19 a person 21 years of age or older may possess

20 (A) a deadly weapon, other than a loaded firearm, in the trunk  
21 of a motor vehicle or encased in a closed container in a motor vehicle;

22 (B) a defensive weapon;

23 (C) an unloaded firearm if the person is traversing school  
24 premises in a rural area for the purpose of entering public or private land that is  
25 open to hunting and the school board with jurisdiction over the school  
26 premises has elected to have this exemption apply to the school premises; in  
27 this subparagraph, "rural" means a community with a population of 5,500 or  
28 less that is not connected by road or rail to Anchorage or Fairbanks or with a  
29 population of 1,500 or less that is connected by road or rail to Anchorage or  
30 Fairbanks; or

31 (8) being a preschool, elementary, junior high, or secondary school

1 student, knowingly possesses a deadly weapon or a defensive weapon, within the  
2 buildings of, on the grounds of, or on the school parking lot of a public or private  
3 preschool, elementary, junior high, or secondary school, on a school bus while being  
4 transported to or from school or a school-sponsored event, or while participating in a  
5 school-sponsored event, except that a student may possess a deadly weapon, other  
6 than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student  
7 has obtained the prior permission of the chief administrative officer of the school or  
8 district or the designee of the chief administrative officer for the possession.

9 \* **Sec. 13.** AS 11.71.030(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 degree if the person

12 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6),  
13 manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or  
14 possesses any amount of a schedule IIA or IIIA controlled substance with intent to  
15 manufacture or deliver;

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

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

20 (A) with reckless disregard that the possession occurs

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

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

23 or

24 (B) on a school bus.

25 \* **Sec. 14.** AS 11.71.040(a) is amended to read:

26 (a) Except as authorized in AS 17.30, a person commits the crime of  
27 misconduct involving a controlled substance in the fourth degree if the person

28 (1) manufactures or delivers any amount of a schedule IVA or VA  
29 controlled substance or possesses any amount of a schedule IVA or VA controlled  
30 substance with intent to manufacture or deliver;

31 (2) manufactures or delivers, or possesses with the intent to

1 manufacture or deliver, one or more preparations, compounds, mixtures, or substances  
2 of an aggregate weight of one ounce or more containing a schedule VIA controlled  
3 substance;

4 (3) possesses

5 (A) any amount of a

6 (i) schedule IA controlled substance; or

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

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

11 (C) one or more preparations, compounds, mixtures, or  
12 substances of an aggregate weight of

13 (i) three grams or more containing a schedule IIIA or  
14 IVA controlled substance except a controlled substance in a form listed  
15 in (ii) of this subparagraph;

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

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

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

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

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

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

31 (4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled

1 substance

2 (A) with reckless disregard that the possession occurs

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

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

5 or

6 (B) on a school bus;

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

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

15 (7) knowingly uses in the course of the manufacture or distribution of a  
16 controlled substance a registration number that is fictitious, revoked, suspended, or  
17 issued to another person;

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

21 (9) obtains possession of a controlled substance by misrepresentation,  
22 fraud, forgery, deception, or subterfuge; or

23 (10) affixes a false or forged label to a package or other container  
24 containing any controlled substance.

25 \* **Sec. 15.** AS 11.71.110 is amended to read:

26 **Sec. 11.71.110. Duties of committee.** The committee shall

27 (1) advise the governor of the need to add, delete, or reschedule  
28 substances in the schedules in **AS 11.71.140 - 11.71.180** [AS 11.71.140 - 11.71.190];

29 (2) recommend regulations for adoption by the Board of Pharmacy to  
30 prevent excessive prescription of controlled substances and the diversion of  
31 prescription drugs into illicit channels;

1 (3) evaluate the effectiveness of programs in the state providing  
2 treatment and counseling for persons who abuse controlled substances;

3 (4) recommend programs to the Alaska Court System to be instituted as  
4 alternatives to the prosecution or imprisonment of offenders who have no prior  
5 criminal record involving controlled substance offenses and who are charged with  
6 crimes involving controlled substances;

7 (5) review and evaluate enforcement policies and practices of the  
8 Department of Public Safety and the Department of Law with regard to crimes  
9 involving controlled substances, and recommend modifications of those policies and  
10 practices consistent with the committee's assessment of the probable danger of  
11 particular controlled substances; and

12 (6) review budget requests and recommend amounts for appropriations  
13 to the governor and the legislature for departments and agencies responsible for

14 (A) enforcing criminal laws pertaining to controlled substances;

15 (B) providing treatment and counseling of persons who abuse  
16 controlled substances; and

17 (C) regulating the legitimate handling of controlled substances.

18 \* **Sec. 16.** AS 11.71.120(a) is amended to read:

19 (a) If, after considering the factors set out in (c) of this section, the committee  
20 decides to recommend that a substance should be added to, deleted from, or  
21 rescheduled in a schedule of controlled substances under **AS 11.71.140 - 11.71.180**  
22 [AS 11.71.140 - 11.71.190], the governor shall introduce legislation in accordance  
23 with the recommendation of the committee.

24 \* **Sec. 17.** AS 11.71.180(a) is amended to read:

25 (a) A substance shall be placed in schedule VA if it is found under  
26 AS 11.71.120(c) to have a degree of danger or probable danger to a person or the  
27 public **that** [WHICH] is less than substances listed in schedule IVA [, BUT HIGHER  
28 THAN SUBSTANCES LISTED IN SCHEDULE VIA].

29 \* **Sec. 18.** AS 11.71.311(a) is amended to read:

30 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),  
31 11.71.040(a)(3) or (4), 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] if

1 that person

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

5 (A) the evidence supporting the prosecution for an offense  
6 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or  
7 11.71.060(a)(2) [11.71.060(a)(1) OR (2)] was obtained or discovered as a  
8 result of the person seeking medical or law enforcement assistance;

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

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

13 (2) was experiencing a drug overdose and sought medical assistance,  
14 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),  
15 11.71.040(a)(3) or (4), 11.71.050(a)(2), or 11.71.060(a)(2) [11.71.060(a)(1) OR (2)]  
16 was obtained as a result of the overdose and the need for medical assistance.

17 \* **Sec. 19.** AS 11.71.900(4) is amended to read:

18 (4) "controlled substance" means a drug, substance, or immediate  
19 precursor included in the schedules set out in AS 11.71.140 - 11.71.180 [AS 11.71.140  
20 - 11.71.190];

21 \* **Sec. 20.** AS 11.71.900(13) is amended to read:

22 (13) "manufacture"

23 (A) means the production, preparation, propagation,  
24 compounding, conversion, growing, or processing of a controlled substance,  
25 either directly or indirectly by extraction from substances of natural origin, or  
26 independently by means of chemical synthesis, or by a combination of  
27 extraction and chemical synthesis [; HOWEVER, THE GROWING OF  
28 MARIJUANA FOR PERSONAL USE IS NOT MANUFACTURING];

29 (B) includes the preparation, compounding, packaging,  
30 repackaging, labeling, or relabeling of a controlled substance or its container  
31 unless done in conformity with applicable federal law

1 (i) by a practitioner as an incident to the practitioner's  
2 administering or dispensing of a controlled substance in the course of  
3 the practitioner's professional practice; or

4 (ii) by a practitioner, or by the practitioner's authorized agent under the  
5 practitioner's supervision, for the purpose of, or as an incident to, research, teaching,  
6 or chemical analysis and not for sale;

7 \* **Sec. 21.** AS 11.81.900(b)(34) is amended to read:

8 (34) "intoxicated" means intoxicated from the use of a drug,  
9 marijuana, or alcohol;

10 \* **Sec. 22.** AS 12.30.011(b) is amended to read:

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

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

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

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

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

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

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

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

31 (8) require the person to avoid all contact with a victim, a potential

1 witness, or a codefendant;

2 (9) require the person to refrain from the consumption and possession  
3 of alcoholic beverages **or marijuana**;

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

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

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

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

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

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

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

19 (17) order the person to comply with any other condition that is  
20 reasonably necessary to assure the appearance of the person and to assure the safety of  
21 the victim, other persons, and the community;

22 (18) require the person to comply with a program established under  
23 AS 47.38.020 if the person has been charged with an alcohol-related, **marijuana-**  
24 **related**, or substance-abuse-related offense that is an unclassified felony, a class A  
25 felony, a sexual felony, or a crime involving domestic violence;

26 **(19) order the person to refrain from entering or remaining in**  
27 **premises registered under AS 17.38.**

28 \* **Sec. 23.** AS 12.30.016 is amended by adding a new subsection to read:

29 (g) In a prosecution charging a violation of AS 17.38.200 - 17.38.220, a  
30 judicial officer may order the person to

31 (1) refrain from

1 (A) consuming marijuana; or

2 (B) possessing on the person, in the person's residence, or in  
3 any vehicle or other property over which the person has control, marijuana,  
4 marijuana products, or marijuana accessories;

5 (2) submit to a search without a warrant of the person, the person's  
6 personal property, the person's residence, or any vehicle or other property over which  
7 the person has control, for the presence of marijuana, marijuana products, or marijuana  
8 accessories by a peace officer who has reasonable suspicion that the person is  
9 violating the terms of the person's release by possessing marijuana, marijuana  
10 products, or marijuana accessories;

11 (3) provide a sample for a urinalysis or blood test when requested by a  
12 law enforcement officer;

13 (4) refrain from entering or remaining in a place where marijuana is  
14 being used, manufactured, grown, or distributed;

15 (5) comply with a program established under AS 47.38.020.

16 \* **Sec. 24.** AS 12.30.080 is amended by adding a new paragraph to read:

17 (8) "marijuana," "marijuana accessories," and "marijuana products"  
18 have the meanings given in AS 17.38.900.

19 \* **Sec. 25.** AS 12.45.084(a) is amended to read:

20 (a) In a prosecution under AS 11.71.010 - 11.71.060 **or AS 17.38.200 -**  
21 **17.38.230**, a complete copy of an official laboratory report from the Department of  
22 Public Safety or a laboratory operated by another law enforcement agency is prima  
23 facie evidence of the content, identity, and weight of a controlled substance **or**  
24 **marijuana**. The report must be signed by the person performing the analysis and must  
25 state that the substance **that** [WHICH] is the basis of the alleged offense has been  
26 weighed and analyzed. In the report, the author shall state with specificity findings as  
27 to the content, weight, and identity of the substance.

28 \* **Sec. 26.** AS 12.55.015(a) is amended to read:

29 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing  
30 sentence on a defendant convicted of an offense, may singly or in combination

31 (1) impose a fine when authorized by law and as provided in

1 AS 12.55.035;

2 (2) order the defendant to be placed on probation under conditions  
3 specified by the court that may include provision for active supervision;

4 (3) impose a definite term of periodic imprisonment, but only if an  
5 employment obligation of the defendant preexisted sentencing and the defendant  
6 receives a composite sentence of not more than two years to serve;

7 (4) impose a definite term of continuous imprisonment;

8 (5) order the defendant to make restitution under AS 12.55.045;

9 (6) order the defendant to carry out a continuous or periodic program of  
10 community work under AS 12.55.055;

11 (7) suspend execution of all or a portion of the sentence imposed under  
12 AS 12.55.080;

13 (8) suspend imposition of sentence under AS 12.55.085;

14 (9) order the forfeiture to the commissioner of public safety or a  
15 municipal law enforcement agency of a deadly weapon that was in the actual  
16 possession of or used by the defendant during the commission of an offense described  
17 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

18 (10) order the defendant, while incarcerated, to participate in or comply  
19 with the treatment plan of a rehabilitation program that is related to the defendant's  
20 offense or to the defendant's rehabilitation if the program is made available to the  
21 defendant by the Department of Corrections;

22 (11) order the forfeiture to the state of a motor vehicle, weapon,  
23 electronic communication device, or money or other valuables, used in or obtained  
24 through an offense that was committed for the benefit of, at the direction of, or in  
25 association with a criminal street gang;

26 (12) order the defendant to have no contact, either directly or indirectly,  
27 with a victim or witness of the offense until the defendant is unconditionally  
28 discharged;

29 (13) order the defendant to refrain from consuming alcoholic beverages  
30 or using marijuana for a period of time.

31 \* **Sec. 27.** AS 12.55.015(j) is amended to read:

1 (j) Nothing in (a)(13) of this section limits or restricts the authority of a court  
2 to order a person to refrain from the consumption of alcohol or use of marijuana as a  
3 condition of sentence or probation.

4 \* **Sec. 28.** AS 12.55.135(j) is amended to read:

5 (j) A court may not impose a sentence of imprisonment or suspended  
6 imprisonment for possession of marijuana in violation of AS 17.38.200 or 17.38.210  
7 [AS 11.71.060] if the defendant alleges, and the court finds, that the defendant was not  
8 under formal or informal probation or parole conditions in this or another jurisdiction  
9 at the time of the offense; that the defendant possessed the marijuana for the  
10 defendant's personal use within the defendant's permanent or temporary residence; and  
11 that the defendant has not been previously convicted more than once in this or another  
12 jurisdiction for possession of marijuana. If the defendant has not been previously  
13 convicted as described in this subsection, the maximum unsuspended fine that the  
14 court may impose is \$500. If the defendant has been previously convicted once as  
15 described in this subsection, the maximum unsuspended fine that the court may  
16 impose is \$1,000. In this subsection,

17 (1) "permanent or temporary residence" means a permanent structure  
18 adopted for overnight accommodation; "permanent or temporary residence" does not  
19 include

20 (A) vehicles, tents, prisons or other correctional facilities,  
21 residential treatment facilities, or shelters operated by a charitable organization  
22 or a government agency;

23 (B) any place where the defendant's possession or use of  
24 marijuana violated established rules for residents, such as a ban on smoking or  
25 a ban on marijuana or [OTHER] controlled substances;

26 (2) "previously convicted" means the defendant entered a plea of guilty,  
27 no contest, or nolo contendere, or has been found guilty by a court or jury, regardless  
28 of whether the conviction was set aside under AS 12.55.085 or a similar procedure in  
29 another jurisdiction, of possession of marijuana; "previously convicted" does not  
30 include a judgment that has been reversed or vacated by a court.

31 \* **Sec. 29.** AS 12.55.155(c)(5) is amended to read:

1 (5) the defendant knew or reasonably should have known that the  
2 victim of the offense was particularly vulnerable or incapable of resistance due to  
3 advanced age, disability, ill health, homelessness, consumption of alcohol, marijuana,  
4 or drugs, or extreme youth or was for any other reason substantially incapable of  
5 exercising normal physical or mental powers of resistance;

6 \* **Sec. 30.** AS 12.55.155(c)(30) is amended to read:

7 (30) the defendant is convicted of an offense specified in AS 11.41.410  
8 - 11.41.455, and the defendant knowingly supplied alcohol, marijuana, or a  
9 controlled substance to the victim in furtherance of the offense with the intent to make  
10 the victim incapacitated; in this paragraph, "incapacitated" has the meaning given in  
11 AS 11.41.470;

12 \* **Sec. 31.** AS 12.55.155(g) is amended to read:

13 (g) Voluntary alcohol, marijuana, or other drug intoxication or chronic  
14 alcoholism or other drug or marijuana addiction may not be considered an  
15 aggravating or mitigating factor.

16 \* **Sec. 32.** AS 12.55.185 is amended by adding a new paragraph to read:

17 (20) "marijuana" has the meaning given in AS 17.38.900.

18 \* **Sec. 33.** AS 17.21.010(b) is amended to read:

19 (b) A synthetic drug is illicit if

20 (1) the label

21 (A) is false or misleading;

22 (B) does not specify the identity of the substances contained in  
23 the synthetic drug; or

24 (C) does not specify the name and place of business of the  
25 manufacturer, packer, or distributor; and

26 (2) the synthetic drug has one or more of the following characteristics:

27 (A) the packaging or labeling of the synthetic drug suggests that  
28 the user will achieve euphoria, a hallucination, mood enhancement, relaxation,  
29 stimulation, or another effect on the body;

30 (B) the name or packaging of the synthetic drug uses images or  
31 labels suggesting that it is a controlled substance or marijuana or has the

effect of a controlled substance or marijuana;

(C) the synthetic drug resembles a controlled substance or marijuana in appearance, in chemical structure, or composition;

(D) the synthetic drug is marketed or advertised for a particular use or purpose and the cost of the synthetic drug is disproportionately higher than other products marketed or advertised for the same or similar use or purpose;

(E) the synthetic drug contains a warning label stating or suggesting that the synthetic drug is in compliance with state laws regulating controlled substances or marijuana;

(F) the synthetic drug is a product to which has been added a synthetic chemical or synthetic chemical compound that does not have a legitimate relationship to the advertised use of the product.

\* **Sec. 34.** AS 17.21.090(3) is amended to read:

(3) "synthetic drug" means a substance that is

(A) a chemical or chemical compound intended, when introduced into the human body, to mimic or simulate the effect of a drug, [OR] controlled substance, or marijuana;

(B) in the form of

(i) a crystalline or powder product in crystalline, loose powder, block, tablet, or capsule form; or

(ii) plant material in granular, loose leaf, powder, or liquid form or used as a food additive; and

(C) not a controlled substance or marijuana.

\* **Sec. 35.** AS 17.30.070(c) is amended to read:

(c) If the classification of a controlled substance in a schedule set out in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190] is different from its corresponding classification under federal law, the requirements of (a) and (b) of this section are determined by the classification of the substance under federal law.

\* **Sec. 36.** AS 17.30.080(a) is amended to read:

(a) A controlled substance classified under federal law, other than marijuana,

1 or in a schedule set out in **AS 11.71.140 - 11.71.180** [AS 11.71.140 - 11.71.190] may  
2 not be administered, prescribed, dispensed, or distributed other than for a medical  
3 purpose.

4 \* **Sec. 37.** AS 17.30.080(b) is amended to read:

5 (b) A person who violates (a) of this section, or who otherwise manufactures,  
6 distributes, dispenses, or conducts research with a controlled substance in the state  
7 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act),  
8 **except as to marijuana**, and regulations adopted under those sections, **except as to**  
9 **marijuana**, is guilty of misconduct involving a controlled substance under  
10 AS 11.71.010 - 11.71.060 in the degree appropriate to the circumstances as described  
11 in those sections. Upon filing a complaint, information, presentment, or indictment  
12 charging a medical assistance provider with misconduct involving a controlled  
13 substance under **AS 11.71.140 - 11.71.180** [AS 11.71.140 - 11.71.190], the attorney  
14 general shall, in writing, notify the commissioner of health and social services of the  
15 filing.

16 \* **Sec. 38.** AS 17.37.030(a) is amended to read:

17 (a) A patient, primary caregiver, or alternate caregiver registered with the  
18 department under this chapter has an affirmative defense to a criminal prosecution  
19 related to marijuana to the extent provided in **AS 17.38.260** [AS 11.71.090].

20 \* **Sec. 39.** AS 17.37.070(8) is amended to read:

21 (8) "medical use" means the acquisition, possession, cultivation, use or  
22 transportation of marijuana or paraphernalia related to the administration of marijuana  
23 to alleviate a debilitating medical condition under the provisions of this chapter and  
24 **AS 17.38.260** [AS 11.71.090];

25 \* **Sec. 40.** AS 17.38.070(a) is amended to read:

26 (a) Notwithstanding any other provision of law, the following acts, when  
27 performed by a retail marijuana store with a current, valid registration, or a person 21  
28 years of age or older who is acting in the person's capacity as an owner, employee, or  
29 agent of a retail marijuana store, are lawful and **are not offenses** [SHALL NOT BE  
30 AN OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture of  
31 assets under Alaska law:

1 (1) possessing, displaying, storing, or transporting marijuana or  
2 marijuana products, except that marijuana and marijuana products may not be  
3 displayed in a manner that is visible to the general public from a public right-of-way;

4 (2) delivering or transferring marijuana or marijuana products to a  
5 marijuana testing facility;

6 (3) receiving marijuana or marijuana products from a marijuana testing  
7 facility;

8 (4) purchasing marijuana from a marijuana cultivation facility;

9 (5) purchasing marijuana or marijuana products from a marijuana  
10 product manufacturing facility; and

11 (6) delivering, distributing, or selling marijuana or marijuana products  
12 to consumers.

13 \* **Sec. 41.** AS 17.38.070(b) is amended to read:

14 (b) Notwithstanding any other provision of law, the following acts, when  
15 performed by a marijuana cultivation facility with a current, valid registration, or a  
16 person 21 years of age or older who is acting in the person's capacity as an owner,  
17 employee, or agent of a marijuana cultivation facility, are lawful and **are not offenses**  
18 [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A BASIS] for  
19 seizure or forfeiture of assets under Alaska law:

20 (1) cultivating, manufacturing, harvesting, processing, packaging,  
21 transporting, displaying, storing, or possessing marijuana;

22 (2) delivering or transferring marijuana to a marijuana testing facility;

23 (3) receiving marijuana from a marijuana testing facility;

24 (4) delivering, distributing, or selling marijuana to a marijuana  
25 cultivation facility, a marijuana product manufacturing facility, or a retail marijuana  
26 store;

27 (5) receiving or purchasing marijuana from a marijuana cultivation  
28 facility; and

29 (6) receiving marijuana seeds or immature marijuana plants from a  
30 person 21 years of age or older.

31 \* **Sec. 42.** AS 17.38.070(c) is amended to read:

1 (c) Notwithstanding any other provision of law, the following acts, when  
2 performed by a marijuana product manufacturing facility with a current, valid  
3 registration, or a person 21 years of age or older who is acting in the person's capacity  
4 as an owner, employee, or agent of a marijuana product manufacturing facility, are  
5 lawful and **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or  
6 **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

7 (1) packaging, processing, transporting, manufacturing, displaying, or  
8 possessing marijuana or marijuana products;

9 (2) delivering or transferring marijuana or marijuana products to a  
10 marijuana testing facility;

11 (3) receiving marijuana or marijuana products from a marijuana testing  
12 facility;

13 (4) delivering or selling marijuana or marijuana products to a retail  
14 marijuana store or a marijuana product manufacturing facility;

15 (5) purchasing marijuana from a marijuana cultivation facility; and

16 (6) purchasing of marijuana or marijuana products from a marijuana  
17 product manufacturing facility.

18 \* **Sec. 43.** AS 17.38.070(d) is amended to read:

19 (d) Notwithstanding any other provision of law, the following acts, when  
20 performed by a marijuana testing facility with a current, valid registration, or a person  
21 21 years of age or older who is acting in the person's capacity as an owner, employee,  
22 or agent of a marijuana testing facility, are lawful and **are not offenses** [SHALL NOT  
23 BE AN OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture  
24 of assets under Alaska law:

25 (1) possessing, cultivating, processing, repackaging, storing,  
26 transporting, displaying, transferring, or delivering marijuana;

27 (2) receiving marijuana or marijuana products from a marijuana  
28 cultivation facility, a marijuana retail store, a marijuana products manufacturer, or a  
29 person 21 years of age or older; and

30 (3) returning marijuana or marijuana products to a marijuana  
31 cultivation facility, marijuana retail store, marijuana products manufacturer, or a

1 person 21 years of age or older.

2 \* **Sec. 44.** AS 17.38.070(e) is amended to read:

3 (e) Notwithstanding any other provision of law, it is lawful and **is** [SHALL]  
4 not [BE] an offense under Alaska law or [BE] a basis for seizure or forfeiture of assets  
5 under Alaska law to lease or otherwise allow the use of property owned, occupied, or  
6 controlled by any person, corporation, or other entity for any of the activities  
7 conducted lawfully in accordance with (a) - (d) of this section.

8 \* **Sec. 45.** AS 17.38 is amended by adding new sections to read:

9 **Sec. 17.38.200. Misconduct involving marijuana in the first degree.** (a) A  
10 person commits the crime of misconduct involving marijuana in the first degree if the  
11 person

12 (1) knowingly possesses

13 (A) one or more preparations, compounds, mixtures, or  
14 substances of an aggregate weight of more than one ounce containing  
15 marijuana and

16 (i) the person was not registered under this chapter at the  
17 time of the possession; or

18 (ii) the person was registered under this chapter at the  
19 time of the possession and the possession did not comply with the  
20 requirements of this chapter;

21 (B) 25 or more marijuana plants and

22 (i) the person was not registered under this chapter at the  
23 time of the possession; or

24 (ii) the person was registered under this chapter at the  
25 time of the possession and the possession did not comply with the  
26 requirements of this chapter;

27 (2) knowingly manufactures or delivers, or possesses with the intent to  
28 manufacture or deliver, one or more preparations, compounds, mixtures, or substances  
29 of an aggregate weight of more than one ounce containing marijuana and

30 (A) the person was not registered under this chapter at the time  
31 of the manufacture, delivery, or possession with the intent to manufacture or

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deliver; or

(B) the person was registered under this chapter and the manufacture, delivery, or possession with the intent to manufacture or deliver did not comply with the requirements of this chapter;

(3) delivers any amount of marijuana to a person under 21 years of age;

(4) is not registered under this chapter and the person manufactures marijuana through use of a solvent-based extraction method using a substance other than vegetable glycerin;

(5) is a marijuana establishment registered under this chapter and with criminal negligence

(A) allows another person to deliver marijuana to a person under 21 years of age within the licensed premises;

(B) allows a person under 21 years of age to enter and remain within the licensed premises;

(C) allows a person under 21 years of age to use marijuana within the licensed premises;

(D) allows a person under 21 years of age to deliver marijuana;

or

(E) while working on the licensed premises, delivers marijuana to a person under 21 years of age.

(b) Misconduct involving marijuana in the first degree is a class A misdemeanor.

**Sec. 17.38.210. Misconduct involving marijuana in the second degree. (a)**

A person commits the crime of misconduct involving marijuana in the second degree if the person

(1) is under 18 years of age and possesses, uses, or displays one ounce or less of marijuana;

(2) is not licensed as a marijuana establishment under this chapter and delivers

(A) more than one ounce of marijuana and six immature marijuana plants;

1 (B) one ounce or less of marijuana for remuneration; or  
2 (C) up to six immature marijuana plants for remuneration;  
3 (3) sells any amount of marijuana and the person is not registered under  
4 this chapter.

5 (b) Misconduct involving marijuana in the second degree is a class B  
6 misdemeanor.

7 **Sec. 17.38.220. Misconduct involving marijuana in the third degree.** (a) A  
8 person commits the crime of misconduct involving marijuana in the third degree if the  
9 person

10 (1) possesses, manufactures, or displays marijuana plants

11 (A) in a location where the plants are subject to public view  
12 without the use of binoculars, aircraft, or other optical aids;

13 (B) in a location that is not secure from unauthorized access; or

14 (C) on property not lawfully in the possession of the person or  
15 on property without the consent of the person in lawful possession of the  
16 property;

17 (2) is under 21 years of age and enters premises registered under this  
18 chapter where marijuana, marijuana products, or marijuana accessories are sold and  
19 offers or presents to a registered marijuana establishment or an agent or employee of  
20 the registered marijuana establishment a birth certificate or other written evidence of  
21 age, that is fraudulent or false or that is not actually the person's own, or otherwise  
22 misrepresents the person's age, for the purpose of inducing the registered marijuana  
23 establishment or an agent or employee of the registered marijuana establishment to  
24 deliver marijuana, marijuana products, or marijuana accessories to the person;

25 (3) is registered under this chapter and transports more than one ounce  
26 of marijuana without carrying a copy of the registration issued under AS 17.38.100 in  
27 the vehicle; a person charged with violating this paragraph may not be convicted if the  
28 person produces in court or to the clerk of court proof of registration previously issued  
29 to the person that was valid at the time of the person's arrest or citation.

30 (b) Misconduct involving marijuana in the third degree is a violation and is  
31 punishable as provided in AS 12.55.035.

1           **Sec. 17.38.230. Misconduct involving marijuana in the fourth degree.** (a) A  
2 person commits the crime of misconduct involving marijuana in the fourth degree if  
3 the person

4                   (1) is 21 years of age or older and uses or displays any amount of  
5 marijuana in a public place; or

6                   (2) is under 21 years of age but at least 18 years of age and uses,  
7 displays, or possesses one ounce or less of marijuana.

8           (b) Misconduct involving marijuana in the fourth degree is a violation and is  
9 punishable by a fine of not more than \$100.

10           **Sec. 17.38.240. Bail forfeiture for certain offenses.** The supreme court shall  
11 establish by rule or order a schedule of bail amounts that may be forfeited without a  
12 court appearance for a violation of AS 17.38.220 or 17.38.230.

13           **Sec. 17.38.250. Offenses defined by amounts.** Whenever a provision of this  
14 chapter defining an offense requires a determination of an amount, it is not a defense  
15 to the lowest class of offense established by the evidence that the amount in question  
16 was equal to or greater than the amount that would make the offense a higher class of  
17 offense, and a person may be charged and convicted accordingly.

18           **Sec. 17.38.260. Affirmative defense to a prosecution under AS 17.38.200 -**  
19 **17.38.230; medical use of marijuana.** (a) In a prosecution under AS 17.38.200 -  
20 17.38.230 charging the manufacture, delivery, possession, possession with intent to  
21 manufacture or deliver, use, or display of marijuana, it is an affirmative defense that  
22 the defendant is a patient, or the primary caregiver or alternate caregiver for a patient,  
23 and

24                   (1) at the time of the manufacture, delivery, possession, possession with  
25 intent to manufacture or deliver, use, or display, the patient was registered under  
26 AS 17.37;

27                   (2) the manufacture, delivery, possession, possession with intent to  
28 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

29                   (3) if the defendant is the

30                           (A) primary caregiver of the patient, the defendant was in  
31 physical possession of the caregiver registry identification card at the time of

1 the manufacture, delivery, possession, possession with intent to manufacture or  
2 deliver, use, or display; or

3 (B) alternate caregiver of the patient, the defendant was in  
4 physical possession of the caregiver registry identification card at the time of  
5 the manufacture, delivery, possession, possession with intent to manufacture or  
6 deliver, use, or display.

7 (b) In this section,

8 (1) "alternate caregiver" has the meaning given in AS 17.37.070;

9 (2) "patient" has the meaning given in AS 17.37.070;

10 (3) "primary caregiver" has the meaning given in AS 17.37.070.

11 **Sec. 17.38.270. Definitions.** In AS 17.38.200 - 17.38.270,

12 (1) "criminal negligence" has the meaning given in AS 11.81.900;

13 (2) "deliver" or "delivery" means the actual, constructive, or attempted  
14 transfer from one person to another of marijuana, whether or not there is an agency  
15 relationship;

16 (3) "knowingly" has the meaning given in AS 11.81.900;

17 (4) "manufacture" means the production, preparation, propagation,  
18 compounding, conversion, growing, or processing of marijuana, either directly or  
19 indirectly by extraction from substances of natural origin, or independently by means  
20 of chemical synthesis, or by a combination of extraction and chemical synthesis, and  
21 includes the preparation, compounding, packaging, repackaging, labeling, or  
22 relabeling of a controlled substance or its container;

23 (5) "public place" has the meaning given in AS 11.81.900;

24 (6) "recreation or youth center" has the meaning given in  
25 AS 11.71.900;

26 (7) "school bus" has the meaning given in AS 11.71.900;

27 (8) "school grounds" has the meaning given in AS 11.71.900.

28 \* **Sec. 46.** AS 17.38.900 is amended by adding a new paragraph to read:

29 (15) "marijuana concentrate" means a product created by extracting  
30 cannabinoids from any part of the plant (genus) Cannabis.

31 \* **Sec. 47.** AS 18.66.100(c) is amended to read:

1 (c) A protective order under this section may

2 (1) prohibit the respondent from threatening to commit or committing  
3 domestic violence, stalking, or harassment;

4 (2) prohibit the respondent from telephoning, contacting, or otherwise  
5 communicating directly or indirectly with the petitioner;

6 (3) remove and exclude the respondent from the residence of the  
7 petitioner, regardless of ownership of the residence;

8 (4) direct the respondent to stay away from the residence, school, or  
9 place of employment of the petitioner or any specified place frequented by the  
10 petitioner or any designated household member;

11 (5) prohibit the respondent from entering a propelled vehicle in the  
12 possession of or occupied by the petitioner;

13 (6) prohibit the respondent from using or possessing a deadly weapon if  
14 the court finds the respondent was in the actual possession of or used a weapon during  
15 the commission of domestic violence;

16 (7) direct the respondent to surrender any firearm owned or possessed  
17 by the respondent if the court finds that the respondent was in the actual possession of  
18 or used a firearm during the commission of the domestic violence;

19 (8) request a peace officer to accompany the petitioner to the  
20 petitioner's residence to ensure that the petitioner

21 (A) safely obtains possession of the petitioner's residence,  
22 vehicle, or personal items; and

23 (B) is able to safely remove a vehicle or personal items from the  
24 petitioner's residence;

25 (9) award temporary custody of a minor child to the petitioner and may  
26 arrange for visitation with a minor child if the safety of the child and the petitioner can  
27 be protected; if visitation is allowed, the court may order visitation under the  
28 conditions provided in AS 25.20.061;

29 (10) give the petitioner possession and use of a vehicle and other  
30 essential personal items, regardless of ownership of the items;

31 (11) prohibit the respondent from consuming controlled substances;

1 (12) require the respondent to pay support for the petitioner or a minor  
2 child in the care of the petitioner if there is an independent legal obligation of the  
3 respondent to support the petitioner or child;

4 (13) require the respondent to reimburse the petitioner or other person  
5 for expenses associated with the domestic violence, including medical expenses,  
6 counseling, shelter, and repair or replacement of damaged property;

7 (14) require the respondent to pay costs and fees incurred by the  
8 petitioner in bringing the action under this chapter;

9 (15) order the respondent, at the respondent's expense, to participate in  
10 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the  
11 standards set by, and that is approved by, the Department of Corrections under  
12 AS 44.28.020(b), or (B) treatment for the abuse of alcohol, marijuana, or controlled  
13 substances, or a combination of them [BOTH]; a protective order under this section  
14 may not require a respondent to participate in a program for the rehabilitation of  
15 perpetrators of domestic violence unless the program meets the standards set by, and  
16 that is approved by, the Department of Corrections under AS 44.28.020(b);

17 (16) order other relief the court determines necessary to protect the  
18 petitioner or any household member.

19 \* **Sec. 48.** AS 18.67.080(c) is amended to read:

20 (c) In determining whether to make an order under this section, the board shall  
21 consider all circumstances determined to be relevant, including provocation, consent,  
22 or any other behavior of the victim that directly or indirectly contributed to the  
23 victim's injury or death, the prior case or social history, if any, of the victim, the  
24 victim's need for financial aid, and any other relevant matters. In applying this  
25 subsection,

26 (1) the board may not deny an order based on the factors in this  
27 subsection, unless those factors relate significantly to the occurrence that caused the  
28 victimization and are of such a nature and quality that a reasonable or prudent person  
29 would know that the factors or actions could lead to the crime and the victimization;

30 (2) with regard to circumstances in which the victim consented to,  
31 provoked, or incited the criminal act, the board may consider those circumstances only

1 if the board finds that it is more probable than not that those circumstances occurred  
2 and were the cause of the crime and the victimization;

3 (3) the board may deny an order based on the victim's involvement with  
4 illegal drugs, only if

5 (A) the victim was involved in the manufacture or delivery of a  
6 controlled substance at the time of the crime or the crime and victimization  
7 was a direct result of the prior manufacture or delivery of a controlled  
8 substance; the evidence of this manufacture or delivery must be corroborated  
9 by law enforcement or other credible sources; and

10 (B) the evidence shows a direct correlation linking the illegal  
11 activity and the crime and victimization; or

12 (4) if a claim is based on a crime involving domestic violence or on a  
13 crime of sexual abuse of a minor or sexual assault and the offender is

14 (A) convicted of one of those crimes, notwithstanding (1) - (3)  
15 of this subsection, the board may not deny an order based on considerations of  
16 provocation, the use of alcohol, marijuana, or drugs by the victim, or the prior  
17 social history of the victim; or

18 (B) not convicted of one of those crimes, the board may not  
19 deny an order based on the involvement or behavior of the victim.

20 \* **Sec. 49.** AS 18.67.101 is amended to read:

21 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The  
22 board may order the payment of compensation in accordance with the provisions of  
23 this chapter for personal injury or death that resulted from

24 (1) an attempt on the part of the applicant to prevent the commission of  
25 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police  
26 officer to do so, or aiding a victim of crime; or

27 (2) the commission or attempt on the part of one other than the  
28 applicant to commit any of the following offenses:

- 29 (A) murder in any degree;
- 30 (B) manslaughter;
- 31 (C) criminally negligent homicide;

(D) assault in any degree;

(E) kidnapping;

(F) sexual assault in any degree;

(G) sexual abuse of a minor;

(H) robbery in any degree;

(I) threats to do bodily harm;

(J) driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender is under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance;

(K) arson in the first degree;

(L) sex trafficking in violation of AS 11.66.110 or 11.66.130(a)(2);

(M) human trafficking in any degree; or

(N) unlawful exploitation of a minor.

\* **Sec. 50.** AS 21.42.365(b) is amended to read:

(b) In this section, "alcoholism or drug abuse" means an illness characterized by

(1) a physiological or psychological dependency, or both, on alcoholic beverages, marijuana, or controlled substances as defined in AS 11.71.900; or

(2) habitual lack of self-control in using alcoholic beverages, marijuana, or controlled substances to the extent that the person's health is substantially impaired or the person's social or economic function is substantially disrupted.

\* **Sec. 51.** AS 23.10.699(2) is amended to read:

(2) "drug testing" means testing for evidence of the use of a drug or marijuana; in this paragraph, "marijuana" has the meaning given in AS 17.38.900;

\* **Sec. 52.** AS 25.20.061 is amended to read:

**Sec. 25.20.061. Visitation in proceedings involving domestic violence.** If visitation is awarded to a parent who has committed a crime involving domestic

1 violence, against the other parent or a child of the two parents, within the five years  
2 preceding the award of visitation, the court may set conditions for the visitation,  
3 including

4 (1) the transfer of the child for visitation must occur in a protected  
5 setting;

6 (2) visitation shall be supervised by another person or agency and under  
7 specified conditions as ordered by the court;

8 (3) the perpetrator shall attend and complete, to the satisfaction of the  
9 court, a program for the rehabilitation of perpetrators of domestic violence that meets  
10 the standards set by the Department of Corrections under AS 44.28.020(b), or other  
11 counseling; the perpetrator shall be required to pay the costs of the program or other  
12 counseling;

13 (4) the perpetrator shall abstain from possession or consumption of  
14 alcohol, marijuana, or controlled substances during the visitation and for 24 hours  
15 before visitation;

16 (5) the perpetrator shall pay costs of supervised visitation as set by the  
17 court;

18 (6) the prohibition of overnight visitation;

19 (7) the perpetrator shall post a bond to the court for the return and  
20 safety of the child; and

21 (8) any other condition necessary for the safety of the child, the other  
22 parent, or other household member.

23 \* **Sec. 53.** AS 28.35.029(a) is amended to read:

24 (a) A person may not drive a motor vehicle on a highway or vehicular way or  
25 area, when there is an open bottle, can, or other receptacle containing an alcoholic  
26 beverage or an open marijuana container in the passenger compartment of the  
27 vehicle, except as provided in (b) or (e) of this section.

28 \* **Sec. 54.** AS 28.35.029(c) is amended by adding new paragraphs to read:

29 (6) "marijuana" has the meaning given in AS 11.71.900;

30 (7) "marijuana accessory" has the meaning given to "marijuana  
31 accessories" in AS 17.38.900;

1 (8) "open marijuana container" means a receptacle or marijuana  
2 accessory that contains any amount of marijuana and that is open or has a broken seal,  
3 and there is evidence that marijuana has been consumed in the motor vehicle by the  
4 current operator of the motor vehicle.

5 \* **Sec. 55.** AS 28.35.029 is amended by adding a new subsection to read:

6 (e) Except as provided in AS 28.33.130, a person may transport an open  
7 marijuana container

8 (1) in the trunk of a motor vehicle; or

9 (2) on a motor driven cycle, or behind the last upright seat in a motor  
10 home, station wagon, hatchback, or similar trunkless vehicle, if the open marijuana  
11 container is enclosed within another container.

12 \* **Sec. 56.** AS 33.16.060(c) is amended to read:

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

17 (1) include random testing for controlled substance, marijuana, and  
18 alcoholic beverage use;

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

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

23 (B) tests positive for the use of controlled substances,  
24 marijuana, or alcoholic beverages; and

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

28 \* **Sec. 57.** AS 33.16.150(b) is amended to read:

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

1 parole

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

8 (2) refrain from possessing or consuming alcoholic beverages or  
9 marijuana;

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, marijuana, or alcohol examination, treatment, or counseling;

14 (5) submit to periodic examinations designed to detect the use of  
15 alcohol, marijuana, or controlled substances; the periodic examinations may include  
16 testing under 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 entering an establishment where marijuana is  
27 sold or otherwise dispensed;

28 (12) refrain from participating in any other activity or conduct  
29 reasonably related to the parolee's offense, prior record, behavior or prior behavior,  
30 current circumstances, or perceived risk to the community, or from associating with  
31 any other person that the board determines is reasonably likely to diminish the

1 rehabilitative goals of parole, or that may endanger the public; in the case of special  
2 medical parole, for a prisoner diagnosed with a communicable disease, comply with  
3 conditions set by the board designed to prevent the transmission of the disease.

4 \* **Sec. 58.** AS 33.16.900(3) is amended to read:

5 (3) "controlled substance" means a drug, substance, or immediate  
6 precursor included in the schedules set out in AS 11.71.140 - 11.71.180 [AS 11.71.140  
7 - 11.71.190];

8 \* **Sec. 59.** AS 33.30.015(a) is amended to read:

9 (a) The commissioner may not

10 (1) make per capita expenditures for food for prisoners in a state  
11 correctional facility operated by the state that exceed 90 percent of per capita  
12 expenditures for food that is available to enlisted personnel in the United States Army  
13 stationed in the state;

14 (2) provide, in a state correctional facility operated by the state,

15 (A) living quarters for a prisoner into which the view is  
16 obstructed; however, the commissioner is not required to renovate a facility to  
17 comply with this subparagraph if the facility is being used as a correctional  
18 facility on August 27, 1997, or if the facility was already built before being  
19 acquired by the department;

20 (B) equipment or facilities for publishing or broadcasting  
21 material the content of which is not subject to prior approval by the department  
22 as consistent with keeping order in the institution and prisoner discipline;

23 (C) cable television service other than a level of basic cable  
24 television service that is available as a substitute for services that are broadcast  
25 to the public in the community in which a correctional facility is located;

26 (3) allow a prisoner held in a state correctional facility operated by the  
27 state to

28 (A) possess in the prisoner's cell a cassette tape player or  
29 recorder, a video cassette recorder (VCR), or a computer or modem of any  
30 kind;

31 (B) view movies rated "R," "X," or "NC-17";

1 (C) possess printed or photographic material that

2 (i) is obscene as defined by the commissioner in  
3 regulation;

4 (ii) could reasonably be expected to incite racial, ethnic,  
5 or religious hatred that is detrimental to the security, good order, or  
6 discipline of the institution or violence;

7 (iii) could reasonably be expected to aid in an escape or  
8 in the theft or destruction of property;

9 (iv) describes procedures for brewing alcoholic  
10 beverages or for manufacturing controlled substances, marijuana,  
11 weapons, or explosives; or

12 (v) could reasonably be expected to facilitate criminal  
13 activity or a violation of institution rules;

14 (D) receive instruction in person, or by broadcast medium, or  
15 engage in boxing, wrestling, judo, karate, or other martial art or in any activity  
16 that, in the commissioner's discretion, would facilitate violent behavior;

17 (E) possess or have access to equipment for use in the activities  
18 listed in (D) of this paragraph;

19 (F) possess or have access to free weights;

20 (G) possess in the prisoner's cell a coffee pot, hot plate,  
21 appliance or heating element for food preparation, or more than three electrical  
22 appliances of any kind;

23 (H) possess or appear in a state of dress, hygiene, grooming, or  
24 appearance other than as permitted as uniform or standard in the correctional  
25 facility;

26 (I) use a computer other than those approved by the correctional  
27 facility; the use of a computer under this subparagraph may be approved only  
28 as part of the prisoner's employment, education, or vocational training and may  
29 not be used for any other purpose;

30 (J) smoke or use tobacco products of any kind.

31 \* **Sec. 60.** AS 33.30.065(b) is amended to read:

1 (b) In determining whether to designate a prisoner to serve a term of  
2 imprisonment or period of temporary commitment by electronic monitoring, the  
3 commissioner shall consider

- 4 (1) safeguards to the public;
- 5 (2) the prospects for the prisoner's rehabilitation;
- 6 (3) the availability of program and facility space;
- 7 (4) the nature and circumstances of the offense for which the prisoner  
8 was sentenced or for which the prisoner is serving a period of temporary commitment;
- 9 (5) the needs of the prisoner as determined by a classification  
10 committee and any recommendations made by the sentencing court;
- 11 (6) the record of convictions of the prisoner, with particular emphasis  
12 on crimes specified in AS 11.41 or crimes involving domestic violence;
- 13 (7) the use of drugs, marijuana, or alcohol by the prisoner; and
- 14 (8) other criteria considered appropriate by the commissioner.

15 \* **Sec. 61.** AS 34.03.120(b) is amended to read:

16 (b) The tenant may not knowingly engage at the premises in prostitution, an  
17 illegal activity involving a place of prostitution, an illegal activity involving alcoholic  
18 beverages, an illegal activity involving gambling or promoting gambling, an illegal  
19 activity involving a controlled substance, [OR] an illegal activity involving an  
20 imitation controlled substance, or an illegal activity involving marijuana, or  
21 knowingly permit others in the premises to engage in one or more of those activities at  
22 the rental premises.

23 \* **Sec. 62.** AS 34.03.360(7) is amended to read:

24 (7) "illegal activity involving a controlled substance" means a violation  
25 of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [, (2),] or  
26 (5);

27 \* **Sec. 63.** AS 34.03.360 is amended by adding a new paragraph to read:

28 (24) "illegal activity involving marijuana" means a violation of  
29 AS 17.38.200(a)(2).

30 \* **Sec. 64.** AS 34.05.100(a) is amended to read:

31 (a) In rented premises other than premises to which the provisions of AS 34.03

1 apply, the tenant may not knowingly engage at the premises in prostitution, an illegal  
2 activity involving a place of prostitution, an illegal activity involving alcoholic  
3 beverages, an illegal activity involving gambling or promoting gambling, an illegal  
4 activity involving a controlled substance, [OR] an illegal activity involving an  
5 imitation controlled substance, or an illegal activity involving marijuana, or  
6 knowingly permit others in the premises to engage in one or more of those activities at  
7 the rental premises.

8 \* **Sec. 65.** AS 34.05.100(d)(1) is amended to read:

9 (1) "illegal activity involving alcoholic beverages," "illegal activity  
10 involving a controlled substance," "illegal activity involving an imitation controlled  
11 substance," "illegal activity involving gambling or promoting gambling," "illegal  
12 activity involving marijuana," "illegal activity involving a place of prostitution," and  
13 "prostitution" have the meanings given in AS 34.03.360;

14 \* **Sec. 66.** AS 44.19.645(a) is amended to read:

15 (a) The commission shall evaluate the effect of sentencing laws and criminal  
16 justice practices on the criminal justice system to evaluate whether those sentencing  
17 laws and criminal justice practices provide for protection of the public, community  
18 condemnation of the offender, the rights of victims of crimes, the rights of the accused  
19 and the person convicted, restitution from the offender, and the principle of  
20 reformation. The commission shall make recommendations for improving criminal  
21 sentencing practices and criminal justice practices, including rehabilitation and  
22 restitution. In formulating its recommendations, the commission shall consider

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

25 (2) sentencing practices of the judiciary, including use of presumptive  
26 sentences;

27 (3) means of promoting uniformity, proportionality, and accountability  
28 in sentencing;

29 (4) alternatives to traditional forms of incarceration;

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

1 (6) the adequacy, availability, and effectiveness of treatment and  
2 rehabilitation programs;

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

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

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

11 (10) whether the schedules for controlled substances in AS 11.71.140 -  
12 11.71.180 [AS 11.71.140 - 11.71.190] are reasonable and appropriate, considering the  
13 criteria established in AS 11.71.120(c).

14 \* **Sec. 67.** AS 47.10.990(17) is amended to read:

15 (17) "intoxicant" means a substance that temporarily diminishes a  
16 person's control over mental or physical powers, including alcohol, marijuana,  
17 controlled substances under AS 11.71, and a hazardous volatile material or substance  
18 misused by inhaling its vapors;

19 \* **Sec. 68.** AS 47.12.030(b) is amended to read:

20 (b) When a minor is accused of violating a statute specified in this subsection,  
21 other than a statute the violation of which is a felony, this chapter and the Alaska  
22 Delinquency Rules do not apply, and the minor accused of the offense shall be  
23 charged, prosecuted, and sentenced in the district court in the same manner as an  
24 adult; if a minor is charged, prosecuted, and sentenced for an offense under this  
25 subsection, the minor's parent, guardian, or legal custodian shall be present at all  
26 proceedings; the provisions of this subsection apply when a minor is accused of  
27 violating

28 (1) a traffic statute or regulation, or a traffic ordinance or regulation of  
29 a municipality;

30 (2) AS 11.76.105, relating to the possession of tobacco by a person  
31 under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21;

(5) AS 04.16.050, relating to possession, control, or consumption of alcohol, except for conduct constituting habitual minor consuming or in possession or control under AS 04.16.050(d); [AND]

(6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled; **and**

**(7) AS 17.38.220(a)(2), relating to access, use of fraudulent evidence of age for access, and misrepresentation of age with regard to registered marijuana premises.**

\* **Sec. 69.** AS 47.17.024(a) is amended to read:

(a) A practitioner of the healing arts involved in the delivery or care of an infant who the practitioner determines has been adversely affected by, or is withdrawing from exposure to, a controlled substance, **marijuana**, or alcohol shall immediately notify the nearest office of the department of the infant's condition.

\* **Sec. 70.** AS 47.37.170(b) is amended to read:

(b) A person who appears to be incapacitated by alcohol, **marijuana**, or drugs in a public place shall be taken into protective custody by a peace officer or a member of the emergency service patrol and immediately brought to an approved public treatment facility, an approved private treatment facility, or another appropriate health facility or service for emergency medical treatment. If no treatment facility or emergency medical service is available, a person who appears to be incapacitated by

1 alcohol, marijuana, or drugs in a public place shall be taken to a state or municipal  
2 detention facility in the area if that appears necessary for the protection of the person's  
3 health or safety. However, emergency protective custody under this subsection may  
4 not include placement of a minor in a jail or secure facility.

5 \* **Sec. 71.** AS 47.37.170(d) is amended to read:

6 (d) A person who, after medical examination at an approved private treatment  
7 facility, or another appropriate health facility or service for emergency medical  
8 treatment, is found to be incapacitated by alcohol, marijuana, or drugs at the time of  
9 admission or to have become incapacitated by alcohol, marijuana, or drugs at any  
10 time after admission, may not be detained at a facility after the person is no longer  
11 incapacitated by alcohol, marijuana, or drugs. A person may not be detained at a  
12 facility if the person remains incapacitated by alcohol or marijuana for more than 48  
13 hours after admission as a patient. A person may consent to remain in the facility as  
14 long as the physician in charge considers it appropriate.

15 \* **Sec. 72.** AS 47.37.170(f) is amended to read:

16 (f) If a patient is admitted to an approved public treatment facility, family or  
17 next of kin shall be promptly notified. If an adult patient who is not incapacitated by  
18 alcohol, marijuana, or drugs requests that there be no notification of next of kin, the  
19 request shall be granted.

20 \* **Sec. 73.** AS 47.37.170(g) is amended to read:

21 (g) A person may not bring an action for damages based on the decision under  
22 this section to take or not to take an intoxicated person or a person incapacitated by  
23 alcohol, marijuana, or drugs into protective custody, unless the action is for damages  
24 caused by gross negligence or intentional misconduct.

25 \* **Sec. 74.** AS 47.37.170(i) is amended to read:

26 (i) A person taken to a detention facility under (a) or (b) of this section may be  
27 detained only (1) until a treatment facility or emergency medical service is made  
28 available, (2) until the person is no longer intoxicated or incapacitated by alcohol,  
29 marijuana, or drugs, or (3) for a maximum period of 12 hours, whichever occurs first.  
30 A detaining officer or a detention facility official may release a person who is detained  
31 under (a) or (b) of this section at any time to the custody of a responsible adult. A

1 peace officer or a member of the emergency service patrol, in detaining a person under  
2 (a) or (b) of this section and in taking the person to a treatment facility, an emergency  
3 medical service, or a detention facility, is taking the person into protective custody and  
4 the officer or patrol member shall make reasonable efforts to provide for and protect  
5 the health and safety of the detainee. In taking a person into protective custody under  
6 (a) and (b) of this section, a detaining officer, a member of the emergency service  
7 patrol, or a detention facility official may take reasonable steps for self-protection,  
8 including a full protective search of the person of a detainee. Protective custody under  
9 (a) and (b) of this section does not constitute an arrest and no entry or other record  
10 may be made to indicate that the person detained has been arrested or charged with a  
11 crime, except that a confidential record may be made that is necessary for the  
12 administrative purposes of the facility to which the person has been taken or that is  
13 necessary for statistical purposes where the person's name may not be disclosed.

14 \* **Sec. 75.** AS 47.37.180(a) is amended to read:

15 (a) An intoxicated person who (1) has threatened, attempted to inflict, or  
16 inflicted physical harm on another or is likely to inflict physical harm on another  
17 unless committed, or (2) is incapacitated by alcohol, marijuana, or drugs, may be  
18 committed to an approved public treatment facility for emergency treatment. A refusal  
19 to undergo treatment does not constitute evidence of lack of judgment as to the need  
20 for treatment.

21 \* **Sec. 76.** AS 47.37.190(a) is amended to read:

22 (a) A spouse or guardian, a relative, the certifying physician, physician  
23 assistant, advanced nurse practitioner, or the administrator in charge of an approved  
24 public treatment facility may petition the court for a 30-day involuntary commitment  
25 order. The petition must allege that the person is an alcoholic or drug abuser who (1)  
26 has threatened, attempted to inflict, or inflicted physical harm on another and that  
27 unless committed is likely to inflict physical harm on another; or (2) is incapacitated  
28 by alcohol, marijuana, or drugs. A refusal to undergo treatment does not constitute  
29 evidence of lack of judgment as to the need for treatment. The petition must be  
30 accompanied by a certificate of a licensed physician, physician assistant, or advanced  
31 nurse practitioner who has examined the person within two days before submission of

1 the petition, unless the person whose commitment is sought has refused to submit to a  
2 medical examination, in which case the fact of refusal must be alleged in the petition.  
3 The certificate must set out the physician's, physician assistant's, or advanced nurse  
4 practitioner's findings of the examination in support of the allegations of the petition.

5 \* **Sec. 77.** AS 47.37.205(a) is amended to read:

6 (a) At any time during a person's 30-day commitment, the director of an  
7 approved public facility or approved private facility may file with the court a petition  
8 for a 180-day commitment of that person. The petition must include all material  
9 required under AS 47.37.190(a) except that references to "30 days" shall be read as  
10 "180 days" and must allege that the person continues to be an alcoholic or drug abuser  
11 who is incapacitated by alcohol, marijuana, or drugs, or who continues to be at risk  
12 of serious physical harm or illness.

13 \* **Sec. 78.** AS 47.37.270(1) is amended to read:

14 (1) "alcoholic or drug abuser" means a person who demonstrates  
15 increased tolerance to alcohol, marijuana, or drugs, who suffers from withdrawal  
16 when alcohol, marijuana, or drugs are not available, whose habitual lack of self-  
17 control concerning the use of alcohol, marijuana, or drugs causes significant hazard  
18 to the person's health, and who continues to use alcohol, marijuana, or drugs despite  
19 the adverse consequences;

20 \* **Sec. 79.** AS 47.37.270(4) is amended to read:

21 (4) "drugs" means a drug that is included in the controlled substance  
22 schedules set out in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190];

23 \* **Sec. 80.** AS 47.37.270(7) is amended to read:

24 (7) "incapacitated by alcohol, marijuana, or drugs" means a person  
25 who, as a result of alcohol, marijuana, or drugs, is unconscious or whose judgment is  
26 otherwise so impaired that the person (A) is incapable of realizing and making rational  
27 decisions with respect to the need for treatment, and (B) is unable to take care of the  
28 person's basic safety or personal needs, including food, clothing, shelter, or medical  
29 care;

30 \* **Sec. 81.** AS 47.37.270(10) is amended to read:

31 (10) "intoxicated person" means a person whose mental or physical

1 functioning is substantially impaired as a result of the use of alcohol, marijuana, or  
2 drugs;

3 \* **Sec. 82.** AS 47.37.270 is amended by adding a new paragraph to read:

4 (13) "marijuana" has the meaning given in AS 17.38.900.

5 \* **Sec. 83.** AS 47.38.020(a) is amended to read:

6 (a) The commissioner, in cooperation with the commissioner of corrections,  
7 shall establish a program for certain persons with release conditions ordered as  
8 provided under AS 12.30, or offenders with conditions of probation, that include not  
9 consuming controlled substances, marijuana, or alcoholic beverages.

10 \* **Sec. 84.** AS 47.38.020(c) is amended to read:

11 (c) The commissioner shall include in the program

12 (1) a requirement for twice-a-day testing, in person if practicable, for  
13 alcoholic beverage or marijuana use and random testing for controlled substances;

14 (2) a means to provide the probation officer, prosecutor's office, or  
15 local law enforcement agency with notice within 24 hours, so that a complaint may be  
16 filed alleging a violation of AS 11.56.757, a petition may be filed with the court  
17 seeking appropriate sanctions and may be scheduled by the court for a prompt hearing,  
18 or an arrest warrant may be issued for the person on release or offender with  
19 conditions of probation provided in this subsection, if the person or offender

20 (A) fails to appear for an appointment as required by the  
21 program requirements; or

22 (B) tests positive for the use of controlled substances,  
23 marijuana, or alcoholic beverages; and

24 (3) a requirement that the person or offender pay, based on the person's  
25 or offender's ability under financial guidelines established by the commissioner, for  
26 the cost of participating in the program.

27 \* **Sec. 85.** AS 47.38.199 is amended by adding new paragraphs to read:

28 (3) "intoxicated person" has the meaning given in AS 47.37.270;

29 (4) "marijuana" has the meaning given in AS 17.38.900.

30 \* **Sec. 86.** AS 11.71.040(a)(2), 11.71.040(a)(3)(F), 11.71.040(a)(3)(G), 11.71.050(a)(1),  
31 11.71.050(a)(2)(E), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.080, 11.71.090,

1 11.71.160(f)(1), 11.71.160(f)(2), 11.71.190, 11.71.900(10), 11.71.900(11), 11.71.900(14),  
2 11.71.900(27); AS 11.81.900(b)(6); AS 17.38.020, 17.38.030, 17.38.040, and 17.38.050 are  
3 repealed.

4 \* **Sec. 87.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 APPLICABILITY. (a) This Act applies to offenses committed on or after the effective  
7 date of this Act.

8 (b) The amendments to AS 12.55.015 in secs. 26 and 27 of this Act, AS 12.55.135 in  
9 sec. 28 of this Act, and AS 12.55.155 in secs. 29 - 31 of this Act apply to a sentence imposed  
10 on or after the effective date of this Act for an offense committed before, on, or after the  
11 effective date of this Act.

12 \* **Sec. 88.** This Act takes effect immediately under AS 01.10.070(c).