

Alaska State Legislature

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Resources Committee

State Affairs Committee

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Rules Committee



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SENATE BILL 91

SECTIONAL ANALYSIS

Omnibus Criminal Law & Procedure; Corrections
Version S

Section 1

11.41.110(a) – Murder in the Second Degree (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 2

11.41.150(a) – Murder of an Unborn child (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 3

11.46.130(a) - Theft in the Second Degree (Amended)

Increases the threshold value for theft in the second degree from \$750 to \$2,000.

Section 4

11.46.140(a) - Theft in the Third Degree (Amended)

Increases the threshold value for theft in the third degree from \$750 to \$2,000.

Section 5

11.46.220(c) - Concealment of Merchandise (Amended)

Increases the threshold value for concealment of merchandise from \$750 to \$2,000.

Section 6*11.46.260(b) - Removal of Identification Marks (Amended)*

Increases the threshold value for removal of identification marks from \$750 to \$2,000.

Section 7*11.46.270(b) - Unlawful Possession (Amended)*

Increases the threshold value for unlawful possession from \$750 to \$2,000.

Section 8*11.46.280(d) - Issuing a Bad Check (Amended)*

Increases the threshold value for issuing a bad check from \$750 to \$2,000.

Section 9*11.46.285(b) - Fraudulent Use of an Access Device (Amended)*

Decreases the threshold value for fraudulent use of an access device from \$750 to \$50.

Section 10*11.46.295 - Prior Convictions (Amended)*

Conforms definition for prior convictions for theft related crimes.

Section 11*11.46.460 - Disregard of a Highway Obstruction (Amended)*

Reclassifies the crime of disregard of a highway obstruction to a violation punishable by up to \$1,000 fine.

Section 12*11.46.482(a) - Criminal Mischief in the Third Degree (Amended)*

Increases the threshold value for criminal mischief in the third degree from \$750 to \$2,000.

Section 13*11.46.484(a) - Criminal Mischief in the Fourth Degree (Amended)*

Increases the threshold value for criminal mischief in the fourth degree from \$750 to \$2,000.

Section 14*11.46.530(b) - Criminal Simulation (Amended)*

Increases the threshold value for criminal simulation from \$750 to \$2,000.

Section 15*11.46.620(d) - Misapplication of Property (Amended)*

Increases the threshold value for misapplication of property from \$750 to \$2,000.

Section 16*11.46.730(c) - Defrauding Creditors (Amended)*

Increases the threshold value for defrauding creditors from \$750 to \$2,000.

Section 17*11.56.730 - Failure to Appear (New Subsection)*

Establishes that not receiving a reminder notification from a court is not a defense.

Section 18*11.56.757(a) - Violation of Condition of Release (Amended)*

Conforms to the reclassification of the crime of violation of a condition of release to a violation.

Section 19*11.56.757(b) - Violation of Condition of Release (Amended)*

Reclassifies the crime of violation of condition of release to a violation punishable by a fine up to \$1,000.

Section 20*11.56.759(a) - Violation by Sex Offender of Condition of Probation (Amended)*

Conforms to renumbered statutes.

Section 21*11.61.110(c) - Disorderly Conduct (Amended)*

Decreases the punishment for disorderly conduct from 10 days to 24 hours.

Section 22*11.61.145(d) - Promoting an Exhibition of Fighting Animals (Amended)*

Reclassifies the crime of attending an exhibition of fighting animals as a violation for the second offense. Maintains third and subsequent offenses as a class A misdemeanor.

Section 23

11.61.150(a) - Obstruction of Highways (Amended)

Conforms to the reclassification of the crime of obstruction of highways to a violation.

Section 24

11.61.150(c) - Obstruction of Highways (Amended)

Reclassifies the crime of obstruction of highways to a violation punishable by a fine up to \$1,000.

Section 25 9

11.66.100 – Prostitution (New Subsection)

Provides a person may not be prosecuted for prostitution if they are cooperating with law enforcement in the reporting of another crime.

Section 26

11.66.200(c) - Gambling (Amended)

Reclassifies the crime of unlawful gambling to a violation punishable by a fine up to \$1,000.

Section 27

*11.71.030(a) - Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the third degree as misconduct involving a controlled substance in second degree. Provides that manufacture or delivery of more than 2.5 grams of a IA, IIA, or IIIA controlled substance is an element of the offense. Adds in manufacture of methamphetamine or methamphetamine precursors as an element of the offense.

Section 28

*11.71.030(c) - Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (Amended)*

Conforms to renaming of misconduct involving a controlled substance in the third degree as misconduct involving a controlled substance in the second degree.

Section 29

*11.71.030 – Misconduct Involving a Controlled Substance in the **Second** [THIRD] Degree (New Subsection)*

Provides that possession of certain amount of specific chemicals is prima facie evidence of intent to manufacture or deliver methamphetamine or methamphetamine precursors.

Section 30

*11.71.040(a) - Misconduct Involving a Controlled Substance in the **Third** [FOURTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the fourth degree as misconduct involving a controlled substance in the third degree. Provides that manufacture or delivery of less than 2.5 grams of a IA, IIA, or IIIA controlled substance, or any amount of a schedule IVA or VA controlled substance, is an element of the offense.

Section 31

*11.71.040(d) - Misconduct Involving a Controlled Substance in the **Third** [FOURTH] (Amended)*

Conforms to renaming of misconduct involving a controlled substance in the fourth degree as misconduct involving a controlled substance in the third degree.

Section 32

*11.71.050 - Misconduct Involving a Controlled Substance in the **Fourth** [FIFTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the fifth degree as misconduct involving a controlled substance in the fourth degree. Consolidates simple possession of IA, IIA, IIIA, IVA and VA controlled substances into misconduct involving a controlled substance in the fifth degree, excepting small quantities of specified IIIA drugs as set forth in AS 11.71.060.

Section 33

*11.71.060 Misconduct Involving a Controlled Substance in the **Fifth** [SIXTH] Degree (Amended)*

Renames the crime of misconduct involving a controlled substance in the sixth degree as misconduct involving a controlled substance in the fifth degree.

Section 34

11.71.311(a) - Restriction on Prosecution for Certain Persons in Connection with a Drug Overdose (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 35

12.25.150(a) – Rights of Prisoner after Arrest (Amended)

Provides that an arrested person shall appear before a judge or magistrate within 24 hours of arrest absent compelling circumstances, and that the hearing may not take place more than 48 hours after arrest.

Section 36

12.25.180 - When Peace Officer May Issue Citation or Take Person Before the Court (Amended)

Establishes a presumption to cite and summons to court for nonviolent misdemeanors and class C felonies, with exceptions including significant danger to self or others, and specified crimes. For infractions or violations, provides that a peace officer may bring the person before a judge if the violation is for a violation of conditions of release or for failure to appear.

Section 37

12.25.180 - When Peace Officer May Issue Citation or Take Person Before the Court (New Section)

Forbids civil action for damages for failure to comply with this section.

Section 38

12.25.190(b) - When Person to be Given Five-Day Notice to Appear in Court (Amended)

Reduces the minimum duration, when issued a citation for certain offenses, before the first appearance from five days to two days

Section 39

12.25.190 – When Person to be Given Five-Day Notice to Appear in Court (New Section)

Conforming to allow the notice to appear to remain five working days after the issuance of a citation for certain offenses including traffic violations.

Section 40

12.30.006(b) – Release Procedures (Amended)

Conforming to changes made in 12.30.011.

Section 41

12.30.006(c) - Release Procedures (Amended)

Requires judicial review and reconsideration of the conditions of release for instances where the defendant is detained pre-trial due to those conditions, unless the judicial officer finds that less restrictive release conditions cannot reasonably ensure the appearance of the person in court and safety of the victim, other persons, and the community.

Section 42

12.30.006(d) - Release Procedures (Amended)

Allows for defendant's inability to pay to be considered as a factor to at bail review hearings. Specifies that a defendant may only receive one bail review hearing for new information relating to the person's inability to pay.

Section 43

12.30.006(f) - Release Procedures (Amended)

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to arrest a person without a warrant for violating a court order.

Section 44

12.30.006(h) - Release Procedures (New Subsection)

Directs the first appearance to occur within 24 hours after a person's arrest absent compelling circumstances.

Section 45

12.30.011 - Release Before Trial (Amended)

Limits judicial discretion to detain low- and moderate-risk pretrial defendants charged with non-violent, non-DUI misdemeanors and low-risk pretrial defendants charged with non-violent, non-DUI Class C felonies. This section prevents the use of secured monetary bail for lower-risk defendants while ensuring conditions can be imposed to require defendants to refrain from alcohol consumption, to avoid all contact with victims, and to keep regular contact with a pretrial services officer. In determining the conditions of release, the court shall consider the conditions of release recommended by the pretrial services officer and the person's pretrial risk assessment score. In addition to conditions of release, the judicial officer may impose the least restrictive conditions that reasonably ensure the person's appearance and the safety of the victim, other persons, and the community.

Section 46

12.30.011 - Release Before Trial (New Subsection)

Creates a presumption of release on personal recognizance or unsecured bond, with appropriate release conditions, for low-risk defendants and for most nonviolent misdemeanor and Class C felony defendants. The court can overcome this presumption and order partially- or fully-secured money bond if it finds on the record that no less restrictive conditions can reasonably assure court appearance and public safety.

Section 47

12.30.016(b) - Release Before Trial in Certain Cases (Amended)

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to search a person's residence for the presence of alcohol under conditions to refrain from alcohol.

Section 48

12.30.016(c) - Release Before Trial in Certain Cases (Amended)

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to search a person's residence for the presence of a controlled substance under conditions to refrain from consuming from controlled substances. A judicial officer may order a defendant to participate in random drug testing by the pretrial services division.

Section 49

12.30.021(a) - Third-Party Custodians (Amended)

Restricts availability of third-party custodian release conditions to cases in which pretrial supervision is not available, secured money bond has not been ordered, and no other combination of release conditions can reasonably assure court appearance and public safety.

Section 50

12.30.021(c) - Third-Party Custodians (Amended)

Changes the restrictions on people who are eligible to serve as third-party custodians to prohibit those who are likely to be called as witnesses, as opposed to those who may be called as witnesses.

Section 51

12.30.055 - Persons Appearing on Petition to Revoke (New Subsection)

Provides for a probationer arrested for a technical violation to be released upon reaching imprisonment limits.

Section 52

12.55.011 – *Victim and community involvement in sentencing (New Subsection)*

Requires at sentencing the court provide the victim with a form that provides information about who to contact with questions about sentencing and potential release of the offender.

Section 53

12.55.025(a) - Sentencing Procedures (Amended)

Conforms to addition of administrative parole as a type of parole that the court must include in its sentencing report in stating the minimum term of imprisonment the defendant must serve before becoming eligible for parole.

Section 54

12.55.025(c) - Sentencing Procedures (Amended)

Conforming to ensure credit is applied for time spent in custody for a violation of a condition of probation or parole pending a revocation hearing.

Section 55

12.55.027(d) - Credit for Time Spent Toward Service of a Sentence of Imprisonment (Amended)

Limits pretrial credit to 120 days for time spent on electronic monitoring that complies with the Department of Corrections guidelines.

Section 56

12.55.027(f) – Credit for Time Spent Toward Service of a Sentence of Imprisonment (New Subsection)

Limits credit to 120 days against a total term of imprisonment imposed for person crimes, sex offenses, delivery of a controlled substance to a person under 19, burglary, arson. To qualify as a treatment program, a program must address criminogenic traits, provide measures of progress, and require notification to the court or probation officer for violations of bail or probation.

Section 57

AS 12.55.051(a) - Enforcement of Fines and Restitution (Amended)

Conforms to changes to the probation revocation process.

Section 58

12.55.051 - Enforcement of Fines and Restitution (New Subsection)

Authorizes the Department of Law to garnish a permanent fund dividend to collect restitution ordered by the court.

Section 59

12.55.055(c) - Community Work (Amended)

Increases the value of an hour of community work from three dollars to the state's minimum wage if the defendant is unable to pay the fine and the court offers the defendant the option of performing community work in lieu of a fine.

Section 60

12.55.055 - Community Work (New Subsection)

Prevents the court from converting community work service into a sentence of imprisonment or offering the defendant the option of serving jail time in lieu of completing community work service.

Section 61

12.55.078 - Suspended Entry of Judgement (New Section)

Establishes a process for suspending an entry of judgment, whereby if a person pleads guilty to a crime, the court may, with the consent of the defense and prosecution, impose conditions of probation without imposing or entering a judgment of guilt. Upon successful completion of probation, the court shall discharge the person and dismiss the case after one year.

Section 62

12.55.090(b) - Granting of Probation (Amended)

Conforms to new early discharge process.

Section 63

12.55.090(c) - Granting of Probation (Amended)

Limits probation terms to 10 years for an unclassified felony or felony sex offense, five years for any other felony offense, four years for a DV-related misdemeanor, two years for a second-time misdemeanor DUI, and one year for all other misdemeanor offenses.

Section 64

12.55.090(c) - Granting of Probation (Amended)

Authorizes the court to alter a term of probation in accordance with the earned compliance policy, or if a probation officer recommends to the court that the

probationer be discharged from probation for completing treatment and complying with the conditions of probation.

Section 65

12.55.090 - Granting of Probation (New Subsection)

Requires probation officers to recommend early discharge from probation to the court for any probationer who has served at least one year, completed any required treatment, and is currently in compliance with the conditions of probation, excepting offenders convicted of an unclassified or sex felony offenses, or a crime involving domestic violence. This section also establishes an opportunity for a crime victim to be notified and comment at an early discharge hearing. Provides that court shall discharge the defendant from probation upon completion of the period of probation, including the time served and earned credits.

Section 66

12.55.100(a) - Conditions of Probation (Amended)

Conforming to ensure that probationers can be required to comply with the graduated sanctions imposed by a probation officer.

Section 67

12.55.100(c) - Conditions of Probation (Amended)

Conforms to renumbered statutes.

Section 68

12.55.110 - Notice and Grounds for Revocation and Suspension (New Subsection)

Limits the maximum sentence for technical violations of probation for probationers who are not in the PACE program to 3 days for the first revocation, 5 days for the second revocation, 10 days for the third revocation, and up to the remainder of the suspended sentence for the fourth or subsequent revocation. Exceptions are made for absconding and failure to complete sex offender treatment.

Section 69

12.55.115 - Fixing Eligibility for Discretionary Parole at Sentencing (Amended)

Conforms to addition of administrative parole as a type of parole for which the court has discretion to restrict eligibility.

Section 70

12.55.125(a) – Sentences of Imprisonment for Felonies (Amended)

Increases the minimum sentence of imprisonment for murder in the first degree from 20 to 25 years.

Section 71

12.55.125(b) – Sentences of Imprisonment for Felonies (Amended)

Increases the minimum sentence of imprisonment for murder in the second degree from 10 to 15 years.

Section 72

12.55.125(c) - Sentences of Imprisonment for Felonies (Amended)

Maintains the maximum sentence for non-sex Class A felonies at 20 years, while reducing the presumptive range for a first felony conviction to three to six years, a first felony conviction if the defendant uses a dangerous instrument or the offense is directed at a first responder to five to nine years, a second felony conviction to eight to twelve years, and a third felony conviction to thirteen to twenty years. Conforms to refer to the realigned misconduct involving controlled substances statutes.

Section 73

12.55.125(d) - Sentences of Imprisonment for Felonies (Amended)

Maintains the maximum sentence for non-sex Class B felonies at 10 years, while reducing the presumptive range for a first felony conviction to zero to two years, a second felony conviction to two to five years, and a third felony conviction to four to 10 years. Conforms to refer to the realigned misconduct involving controlled substances statutes.

Section 74

12.55.125(e) - Sentences of Imprisonment for Felonies (Amended)

Maintains the maximum sentence for non-sex Class C felonies at 5 years, while reducing the presumptive range for a first felony conviction to a suspended term of imprisonment of up to eighteen months, a second felony conviction to one to three years, and a third felony conviction to two to five years.

Section 75

12.55.135(a) – Sentences of Imprisonment for Misdemeanors (Amended)

Provides for a presumptive range of zero to thirty days for class A misdemeanors, excepting offenses with mandatory minimums above thirty days or if the conviction is for crime of assault in the fourth degree involving domestic violence. Allows the presumptive range to be overcome if the prosecution proves that the conduct constituting the offense was the most serious included in the definition

of the offense or the defendant has past criminal convictions similar in nature to the offense in question. .

Section 76

12.55.135(b) – Sentences of Imprisonment for Misdemeanors (Amended)

Truncates the maximum term of imprisonment for a class B misdemeanor to ten days.

Section 77

12.55.135 – Sentences of Imprisonment for Misdemeanors (Amended)

Provides that the court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of theft in the fourth degree; concealment of merchandise ; removal of identification marks; unlawful possession; issuing a bad check; or criminal simulation who has not been convicted of one of these theft offenses at least twice.

Provides that the court may not impose a sentence of longer than 24 hours for a person convicted of disorderly conduct. The court may not sentence active imprisonment for a person convicted of misconduct involving a controlled substance in the fourth or fifth degrees, unless the person has previously been convicted more than once of an offense under AS 11.71

Provides that if the state seeks to establish a fact-based aggravating factor at sentencing, the factor must be established by clear and convincing evidence before the court sitting without a jury. If the state seeks to establish a law-based aggravating factor at sentencing, the factor must be presented to a trial jury and proved beyond a reasonable doubt, unless the defendant waives trial by jury, stipulates to the existence of the factor, or consents to allow the court to establish the aggravator by clear and convincing evidence without a jury.

Section 78

12.61.015(a) – Duties of Prosecuting Attorney (Amended)

Requires the prosecuting attorney to confer with the victim of a felony crime in regards to a proposed plea agreement, at the request of the victim.

Section 79

22.35.030 –

Requires the court to publish the court record of a person granted suspended entry of judgment or a person convicted of violation of conditions of release.

Section 80

28.15.165 - Administrative Revocations and Disqualifications resulting from chemical sobriety tests and refusals to submit to tests.

Requires the DMV to restore a person's driver's license if all charges have been dismissed or if the person has been acquitted of driving while under the influence.

Section 81

28.15.181(f) - Court Suspensions, Revocations, and Limitations (Amended)

Allows for the court to terminate a revocation if the person has successfully completed the therapeutic court program, has not been convicted of DUI, and has successfully driven under the limited license for three years without being revoked.

Section 82

28.15.201 - Limitation of Driver's License (New Subsection)

Authorizes the court to grant limited license privileges for felony DUI offenders if the person has completed the therapeutic court program, has proof of insurance, and an installed ignition interlock device. This section allows the court or the department to revoke a limited license if the person is convicted of a DUI or refusal.

Section 83

28.15.291 (Driving While License Suspended)

Conforms to section 78 by differentiating DWLS offenses related to DUI license revocations and those unrelated to DUI license revocations.

Section 84

28.15.291(b) - Driving While License Suspended (Repealed and Reenacted)

Reduces the mandatory minimum for second time DWLS offenders whose license revocation is related to DUI offenses to 10 days. Removes the mandatory minimum for first time DWLS offenders whose license revocation is related to DUI offenses. Reduces the penalty for non-DUI-related DWLS offenses from a misdemeanor to an infraction.

Section 85

28.35.028(b) - Court-Ordered Treatment (Amended)

Authorizes the court to reduce a license revocation for the purposes of granting a limited license to eligible offenders.

Section 86

28.35.030(k) - Operating a Vehicle... Under the Influence (Amended)

Requires first-time DUI offenders to serve a mandatory term of electronic monitoring. If unavailable, imprisonment is determined by the department.

Section 87

28.35.030(l) - Operating a Vehicle... Under the Influence (Amended)

Conforming to require that costs of imprisonment required to be paid under subsection (k) reflect the requirement to be placed on electronic monitoring.

Section 88

28.35.030(o) - Operating a Vehicle... Under the Influence (Amended)

Requires the department restore a driver's license to a person who has been granted a limited license and has successfully driven for three years without having driving privileges revoked, has successfully completed the therapeutic court program, has not been convicted of a DUI or refusal, and provides proof of insurance.

Section 89

28.35.032(o) - Refusal to Submit to Chemical Test (Amended)

Requires first-time refusal to submit to a chemical test to serve a mandatory term of electronic monitoring. If unavailable, imprisonment is determined by the department.

Section 90

29.10.200(21) - Limitation of Home Rule Powers (Amended)

Conforms to the requirement that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements.

Section 91

29.25.070(a) - Penalties (Amended)

Conforms to the requirement that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements.

Section 92

29.25.070 - Penalties (New Subsection)

Requires that a municipality may not proscribe a greater penalty for a municipal ordinance than what is imposed for a state crime with comparable elements.

Section 93*33.05.020 - Duties of Commissioner (New Subsection)*

Requires the commissioner to establish an administrative sanction and incentive program to facilitate a prompt and effective response to violations of probation. Also requires the commissioner to establish a system of earned compliance credits.

Section 94*33.05.040 - Duties of Probation Officers (Amended)*

Conforms section to include earned compliance credits, administrative sanctions, and early discharge to the duties of probation officers.

Section 95*33.05.080 - Definitions (New Paragraph)*

Defines “administrative sanctions and incentives” to mean responses by a probation officer to a probationer’s compliance or noncompliance with the conditions of probation.

Section 96*33.07.010 - Pretrial Services Program (New Section)*

Establishes a pretrial services program at the Department of Corrections to conduct pretrial risk assessments, make recommendations to the court regarding release decisions, and supervise pretrial defendants who are released. Directs the Commissioner to adopt a risk assessment tool and relevant training and regulations.

Outlines duties of pretrial services officers to conduct pretrial risk assessments, make recommendations to the court regarding release and conditions of release, and provide supervision for defendants released pretrial. Authorizes pretrial services officers to make pretrial diversion recommendations and to arrest defendants who have failed to appear or violated their release conditions.

Requires pretrial services officers to recommend release on personal recognizance or unsecured bond for nonviolent, non-DV misdemeanor and Class C felony charges, low- or moderate-risk DUI charges, and other low-risk charges, with limited options for departing from this requirement if the pretrial services officer finds that no combination of non-money conditions can reasonably ensure court appearance and public safety.

Section 97*33.16.010(c) - Parole (Amended)*

Conforms section to include administrative and special medical parole as not limiting eligibility for mandatory parole.

Section 98

33.16.010(d) - Parole (Amended)

Conforming to include prisoners released on administrative parole as being subject to the conditions of parole imposed by the board.

Section 99

33.16.010 Parole (New Subsection)

Provides for a prisoner meeting the eligibility requirements to be released on administrative parole by the board of parole.

Section 100

33.16.060(a) Duties of the Board (Amended)

Conforming to ensure the parole board shall impose conditions on all prisoners released on parole. Additionally, this section requires the board to consider prisoners who are eligible for administrative and discretionary parole at least 90 days before eligibility.

Section 101

33.16.089 - Eligibility for Administrative Parole (New Section)

Creates administrative parole for inmates convicted of a Class B or C felony that is not a sexual felony who have not been previously convicted of a felony. These inmates are eligible for administrative parole if they complete the requirements of their case action plan (including following institutional rules and completing treatment requirements) and if no victim requests a hearing.

Section 102

33.16.090(a) - Eligibility for Discretionary Parole ...Served (Amended)

Expands eligibility for discretionary parole to all inmates, excluding inmates convicted of an unclassified or sexual felony, who are over the age of 60 and have served at least 10 years of their sentence.

Section 103

33.16.090(b) - Eligibility for Discretionary Parole ...Served (Amended)

Expands eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with a prior felony conviction.

Section 104

33.16.100(a) - Granting of Discretionary Parole (Amended)

Conforming to the expansion of eligibility for discretionary parole.

Section 105

33.16.100(b) - Granting of Discretionary Parole (Amended)

Conforming to changes in the parole release application and decision-making process.

Section 106

33.16.100 - Granting of Discretionary Parole (New Subsection)

Authorizes the parole board to grant discretionary parole to a prisoner who has been convicted of a class A, class B, or class C felony, or a misdemeanor, provided the prisoner is eligible for discretionary parole and has met the requirements of their case plan. If the board finds by clear and convincing evidence that the prisoner poses a threat to the public, the board may deny discretionary parole.

When considering a prisoner over the age of 60 for release on discretionary parole, the board must take into consideration the prisoner's likelihood of recidivism given the prisoner's age, as well as whether or not the prisoner poses a threat to the public.

Section 107

33.16.110(a) - Preparole Reports (Amended)

Requires the parole board to consider the inmate's case plan and re-entry plan when evaluating an inmate's suitability for discretionary parole.

Section 108

33.16.120(a) - Rights of Certain Victims in Connection with Parole (Amended)

Conforms to reflect changes to the parole application process.

Section 109

33.15.120(f) - Rights of Certain Victims in Connection with Parole (Amended)

Conforming to ensure victims receive notification for inmates eligible for administrative parole.

Section 110

33.16.120(g) - Rights of Certain Victims in Connection with Parole (Amended)

Conforms to the requirement that the parole board notify a victim of a crime involving domestic violence or sexual assault thirty days in advance of

discretionary and geriatric parole hearings. Additionally, the board shall inform the victim of any decision to grant or deny parole, and notify the victim of release on parole, including mandatory parole.

Section 111

33.16.120 - Rights of Certain Victims in Connection with Parole (New Subsection)

Requires notice to a victim who has a right to receive notice from the parole board and enables the victim to request a hearing before a prisoner is administratively paroled. The notice to the victim must include the procedure for requesting a hearing.

Section 112

33.16.130 - Parole Procedures (Repealed and Reenacted)

Streamlines the hearing process for discretionary parole by requiring the parole board to hold hearings for all prisoners who are eligible, rather than wait for prisoners to determine eligibility and prepare an application prior to a hearing. If the board denies parole, the board shall provide a written plan for addressing all of the factors relevant to the denial. The board shall schedule a subsequent hearing within two years after the first parole eligibility date, and for additional denials, within two years after the most recent hearing.

Section 113

33.16.140 - Order for Parole (Amended)

Conforming to include administrative parole in list of parole types where a parole order is issued by the board that sets out conditions of release.

Section 114

33.16.150(a) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries mandatory conditions of parole.

Section 115

33.16.150(b) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries conditions that can be imposed by the board or a designated member of the board.

Section 116

33.16.150(e) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that can carry conditions imposed by a designated member of the board acting on behalf of the full board.

Section 117

33.16.150(f) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries additional conditions for a prisoner serving a term for a crime involving domestic violence.

Section 118

33.16.150(g) - Conditions of Parole (Amended)

Conforming to include administrative parole as a type of parole that carries the additional condition of electronic monitoring if the prisoner was sentenced with an aggravating factor relating to street gangs.

Section 119

33.16.150 – Conditions of Parole (New Subsection)

Provides that the parole board may require that prisoners serving a sentence for an offense involving the use of alcohol or controlled substances comply with a program established under AS 33.16.060(c) or AS 47.38.020

Section 120

33.16.180 - Duties of the Commissioner (Amended)

Includes administrative parole as a type of parole that the commissioner is responsible for conducting investigations of prisoner eligibility and notifying the board within 30 days after sentencing of potential eligibility. Requires preparation of pre-parole reports and notification to the parole board of compliance or noncompliance with the prisoner's case plan no less than 30 days before the next parole eligibility date or hearing. The commissioner is required to implement and administer a schedule of sanctions and incentives to facilitate a swift and certain response to violations, while including a process for due process considerations. Additionally, the commissioner shall facilitate the application of earned credit for compliance with the conditions of parole. Requires commissioner to notify victim information regarding release of offender.

Section 121

33.16.200 - Custody of Parolee (Amended)

Conforming to include administrative parolees as a type of parolees that the board retains custody of until the expiration of the maximum term of imprisonment to which the parolee is sentenced.

Section 122

33.16.210 - Discharge of Parolee (Amended)

Reduces the period of time before a parolee becomes eligible for unconditional discharge from parole, in some cases to serve a residual period of probation.

Section 123

33.16.210 - Discharge of Parolee (New Subsection)

Allows the board to initiate early discharge if the parolee has completed at least one year on parole, has completed all required treatment programs, is in compliance with all other conditions, and has not been convicted of unclassified felony, a sexual felony, or a crime involving domestic violence. The board shall also grant monthly parole incentive reductions for compliance with conditions imposed by the board.

Section 124

33.16.215 - Sanctions for a Technical Violation of Parole (New Section)

Provides for a system of imprisonment for technical violations not to exceed three days for the first technical violation of parole; five days for the second technical violation of parole; 10 days for the third technical violation of parole; and up to the remainder of the suspended portion of the sentence for a fourth or subsequent technical violation of parole. For defendants found absconding, the board may impose a period of imprisonment of up to 30 days. For probationers failing to complete sex offender treatment, the board may impose a period of imprisonment up to the remainder of the suspended portion of the sentence. These limits would not apply to parolees enrolled in the PACE program.

Section 125

33.16.220(b) - Revocation of Parole (Amended)

Conforms to include the commission of a new offense or failing to complete a sex offender treatment program as conduct that requires a preliminary hearing to determine if a violation of the conditions of parole occurred.

Section 126

33.16.220(f) - Revocation of Parole (Amended)

Conforms to ensure that revocation hearings for technical violations of parole occur within 15 days, while preserving current process for non-technical offenses.

Section 127***33.16.220(i) - Revocation of Parole (Amended)***

Conforms to ensure the limits on parole revocations listed in Section 124 apply. Also conforming to ensure that any credits a parolee earned for compliance under Section 87 cannot indirectly be taken away through a board extension of the term of parole.

Section 128***33.16.220 - Revocation of Parole (New Subsection)***

Changes the parole hearing process to ensure that revocation hearings for technical violations of parole occur within 15 days

Section 129***33.16.240 - Arrest of a Parole Violator (New Subsection)***

Provides for a parolee arrested for a technical violation to be released upon reaching imprisonment limits.

Section 130***33.16.270 – Earned Compliance Credits (New Section)***

Requires the commissioner to establish a program that allows parolees to earn credits for complying with the conditions of parole. A parolee can earn a credit of 30 days for each month served in which the parolee has complied with conditions of parole.

Section 131***33.16.900 - Definitions (New Paragraph)***

Defines “administrative parole” as the release of a prisoner who is eligible for administrative parole under AS 33.16.089 and who has satisfied the criteria for release, subject to conditions imposed by the board and subject to its custody and jurisdiction.

Defines “administrative sanctions and incentives” as a response by a parole officer to a parolee’s compliance or noncompliance with the conditions of parole.

Section 132***33.20.010(a) – Computation of Good Time (Amended)***

Conforms to new technical violation statute making it so technical violators are not eligible for good time credits.

Section 133***33.20.010(c) - Computation of Good Time (Amended)***

This section extends credit to individuals on electronic monitoring.

Section 134***33.20.010 - Computation of Good Time (New Subsection)***

Allows prisoners convicted of a sexual felony to receive earned credit upon completion of treatment requirements listed in the prisoner's case plan.

Section 135***33.30.011 - Duties of Commissioner (Amended)***

Requires the commissioner of corrections to establish a program to assess risk levels for pretrial defendants, as well as establish a procedure for providing a written case plan to prisoners within 90 days of sentencing and a reentry plan at least 90 days before release. Additionally, this section establishes standards for electronic monitoring and the approval of private contractors that provide electronic monitoring.

Section 136***33.30.013(a) - Commissioner to Notify Victims (New Subsection)***

Requires the Department of Corrections to notify the victim if the parolee is eligible for a parole reduction for compliance with conditions.

Section 137***33.30.065(a) – Service of Sentence by Electronic Monitoring (Amended)***

Allows for a private contractor approve by the department to administer electronic monitoring.

Section 138***30.30.095 - Duties of Commissioner Before Release of Prisoner (New Section)***

Requires the Department of Corrections to establish a program to prepare a prisoner for re-entry that begins 90 days before the date of release. The program must include a re-entry plan and instruction on resources available in the community and obtaining state identification.

Section 139***33.30.151 - Correctional Restitution Centers (Amended)***

Requires CRC's to provide treatment, reduce mixing low and high risk offenders, and adopt quality assurance measures, including standards for assessing risk levels.

Section 140

34.03.360(7) – Definitions (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 141

43.23.065(b) - Exemption of and Levy on Permanent Fund Dividends (Amended)

Conforms to ensure that forfeiture of an appearance or performance bond is not exempted from permanent fund dividend garnishment

Section 142

44.19.645 – Powers and duties of the commission. (Amended)

Provides that the Alaska Criminal Justice Commission shall annually make recommendations to the governor and legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism. Allows the commission to appoint a working group to review and analyze the implementation of recommendations, as well as enter into data-sharing agreements with the University of Alaska and the Alaska Judicial Council.

Section 143

44.19.645 – Powers and duties of the commission (New Subsections)

Requires the commission to track and analyze data collected by agencies and entities charged with implementing the recommendations. Requires the Judiciary, the Department of Public Safety, and the Department of Corrections to report data to the commission on a quarterly basis.

Section 144

44.19.647 – Annual Report and Recommendations (Amended)

Requires the commission to issue an annual report that must include a description of the past year, a summary of savings, performance metrics and outcomes from the recommendations, and recommendations for additional reforms.

Section 145

44.19.647 – Annual Report and Recommendations (New Subsection)

Requires the commission to submit the report no later than November 1 of each year.

Section 146

44.66.010(a)(12)

Extends the life of the commission to June 30, 2021

Section 147

47.05.035 – Disqualification from public assistance for felony drug offenses (New Section)

Requires a person with a prior conviction for a controlled substances offense to participate in random drug testing if they are receiving public assistance.
Disqualifies a person who tests positive or refuses to take a test

Section 148

47.27.015 - Disqualifying Conditions (New Subsection)

Lifts the restriction on eligibility for food stamps for persons convicted of drug felonies, provided the individual is compliant with conditions of probation, has completed treatment, or is working toward rehabilitation.

Section 149

47.37.040 – Duties of department (Amended)

Restricts ASAP referrals to persons who have been referred by a court under AS 28.35.028, 28.35.030, or 28.35.032.

Section 150

47.37.130(h) – Comprehensive program for treatment: regional facilities. (Amended)

Requires the department to develop regulations for the operation and management of public and private ASAP programs that ensures the uses of a validated risk assessment.

Section 151

47.37.130 – Comprehensive program for treatment: regional facilities. (New Subsection)

Provides that ASAP assess participants for risk to re-offend and supervise based on that risk.

Section 152

47.38.020(d) – Alcohol, and Substance Abuse Monitoring Program (Repeal and Reenacted)

Allows for department to enter into contracts to establish and implement test required in this section.

Section 153

47.38.100(a) – Recidivism Reduction Program (Amended)

Removes language reference Transitional Re-Entry Programs

Section 154

47.38.100(b) Recidivism Reduction Program (Amended)

Requires that programs that increase access to evidence-based rehabilitation programs and support offender transition and re-entry.

Section 155

47.38.100 – Recidivism Reduction Program (New Subsection)

Defines “evidence-based” as a program or practice that offers a high level of research on effectiveness.

Section 156

Uncodified Law

Amendment to Court Rule 38 of the Alaska Rules of Criminal Procedure providing for hearing reminders to defendants.

Section 157

Uncodified Law

Amendment to Court Rule 41 of the Alaska Rules of Criminal Procedure prohibiting bail schedules for misdemeanors or felonies.

Section 158

Uncodified Law

Repeals Court Rules 41(d) and (e)

Section 159

Uncodified Law

Repeals AS 11.46.140(a)(3), 11.46.220(c)(2)(B), AS 11.71.020, 11.71.040(a)(3), 11.71.050(a)(2), 11.71.060(a)(2)(A); AS 12.30.016(d); AS 12.55.125(o), 12.55.135(j); and AS 33.16.100 .

Section 160

Uncodified Law

Indirect Court Rule Amendments to the Alaska Rules of Criminal Procedure.

Section 161

Uncodified Law

The Council on Domestic Violence and Sexual Assault shall create or expand community-based violence prevention programming.

Section 162

Uncodified Law

The Alaska Criminal Justice Commission shall provide in the 2017 report an evaluation of barrier offenses.

Section 163

Uncodified Law

Applicability provisions.

Section 164

Uncodified Law

Provides that certain sections of the bill are conditional on a two-thirds majority vote of each house.

Section 165

Uncodified Law

Establishes effective date for Sections 1-16, 21-34, 55, 57, 59, 61, 63, 67, 72-85, 88, 90, 92, 132, 133, 142-151, and 159 as July 1, 2016

Section 166

Uncodified Law

Establishes effective date for Section 79 as October 1, 2016

Section 167

Uncodified Law

Establishes effective date for Sections 51, 53, 54, 60, 62, 64-66, 68, 69, 86, 87, 89, 93-95, 97-131, and 134-139 as July 1, 2017

Section 168

Uncodified Law

Establishes effective date for Sections 17 and 156 as January 1, 2018.

Section 169

Uncodified Law

Establishes effective date for Sections 18-20, 35-50, 58, 96,141,156-158 and 160(f) as January 1, 2018.