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Martin
4/14/15

HOUSE CS FOR CS FOR SENATE BILL NO. 30(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to controlled substances; relating to marijuana; deleting marijuana,
2 hash, hash oil, and tetrahydrocannabinols from the controlled substance schedules and
3 making conforming and related amendments; relating to crimes and offenses related to
4 marijuana and the use of marijuana; relating to driving a commercial motor vehicle or
5 motor vehicle while under the influence of an alcoholic beverage, marijuana, inhalant,
6 or controlled substance; relating to conditions of release; relating to probation and
7 parole; relating to sentencing; relating to illicit synthetic drugs; relating to protective
8 orders; relating to delinquent minors; making conforming amendments; and providing
9 for an effective date."

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

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

12 (b) A person may not operate an aircraft occupied by a crew member or

passenger who is obviously under the influence of intoxicating liquor, marijuana, or a controlled substance.

* **Sec. 2.** AS 04.16.050(e) is amended to read:

(e) The court shall place a person sentenced under (b)(2), (c), or (d) of this section on probation for the appropriate period. The person may not refuse probation. The court may require the person to pay for and enroll in a juvenile alcohol safety action program, if one is available. The court shall impose the following conditions of probation:

(1) the person shall pay for and successfully complete any education or treatment recommended;

(2) the person may not consume inhalants or possess or consume controlled substances, marijuana, or alcoholic beverages, except as provided in AS 04.16.051(b);

(3) the person shall timely complete any community work ordered, as provided in (f) of this section; and

(4) other conditions the court considers appropriate.

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

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

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

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

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

(4) has impersonated a registered or practical nurse;

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

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

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

(8) has wilfully or repeatedly violated a provision of this chapter or regulations adopted under this chapter or AS 08.01;

(9) is professionally incompetent;

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

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

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

(1) the pharmaceutical agent

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

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

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

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

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

(2) the licensee

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

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

* **Sec. 5.** 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;
- (8) robbery in any degree;
- (9) coercion;
- (10) extortion;
- (11) arson in any degree;
- (12) burglary in any degree;
- (13) criminal mischief in the first, second, third, or fourth degree;
- (14) 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, an inhalant, or a controlled substance;
- (15) a crime involving domestic violence, as defined in AS 18.66.990.

* **Sec. 6.** AS 09.65.210 is amended to read:

Sec. 09.65.210. Damages resulting from commission of a felony or while under the influence of alcohol, marijuana, or drugs. A person who suffers personal injury or death or the person's personal representative under AS 09.55.570 or 09.55.580 may not recover damages for the personal injury or death if the injury or death occurred while the person was

(1) engaged in the commission of a felony, the person has been convicted of the felony, including conviction based on a guilty plea or plea of nolo contendere, and the party defending against the claim proves by clear and convincing evidence that the felony substantially contributed to the personal injury or death;

(2) engaged in conduct that would constitute the commission of an unclassified felony, a class A felony, or a class B felony for which the person was not convicted and the party defending against the claim proves by clear and convincing evidence

(A) the felonious conduct; and

(B) that the felonious conduct substantially contributed to the personal injury or death;

(3) fleeing after the commission, by that person, of conduct that would constitute an unclassified felony, a class A felony, or a class B felony or being apprehended for conduct that would constitute an unclassified felony, a class A felony, or a class B felony if the party defending against the claim proves by clear and convincing evidence

(A) the felonious conduct; and

(B) that the conduct during the flight or apprehension substantially contributed to the injury or death;

(4) operating a vehicle, aircraft, or watercraft while under the influence of intoxicating liquor, marijuana, or any controlled substance in violation of AS 28.35.030, was convicted, including conviction based on a guilty plea or plea of nolo contendere, and the party defending against the claim proves by clear and convincing evidence that the conduct substantially contributed to the personal injury or death; or

(5) engaged in conduct that would constitute a violation of AS 28.35.030 for which the person was not convicted if the party defending against the claim proves by clear and convincing evidence

(A) the violation of AS 28.35.030; and

(B) that the conduct substantially contributed to the personal injury or death.

* **Sec. 7.** AS 09.65.315(a) is amended to read:

(a) A person is not liable beyond the limits of any applicable insurance policy purchased by or on behalf of the owner of the vehicle, or the taxicab or limousine company or the company's owner, agents, or employees, for damages resulting from a motor vehicle accident if the person was driving a vehicle involved in the accident and

(1) before the accident, started driving the vehicle involved in the accident from or near licensed premises;

(2) is, at the time of the accident, a person employed in the course and

scope of employment to or under contract to drive a taxicab or limousine, a taxicab or limousine owner, a holder of a taxicab or limousine permit issued by a municipality, or an owner or employee of a company that dispatches taxicabs or limousines;

(3) was not under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance at the time of the accident;

(4) was driving the vehicle to the motor vehicle owner's residence or designated residential location at the request of the motor vehicle owner or operator or a law enforcement officer; and

(5) was driving the vehicle because the motor vehicle owner or operator was under the influence of an alcoholic beverage or marijuana or reasonably believed to be under the influence of an alcoholic beverage or marijuana.

* **Sec. 8.** AS 09.65.315(e) is amended by adding a new paragraph to read:

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

* **Sec. 9.** AS 09.65.320(b) is amended to read:

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

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

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

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

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

* **Sec. 10.** AS 11.41.110(a) is amended to read:

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

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

(2) the person knowingly engages in conduct that results in the death of another person under circumstances manifesting an extreme indifference to the

value of human life;

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

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

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

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

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

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

* **Sec. 11.** AS 11.41.150(a) is amended to read:

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

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

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

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

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

* **Sec. 12.** AS 11.61.200(a) is amended to read:

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

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

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

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

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

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

(6) possesses a firearm on which the manufacturer's serial number has been removed, covered, altered, or destroyed, knowing that the serial number has been removed, covered, altered, or destroyed with the intent of rendering the firearm untraceable;

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

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

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

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

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

(12) [REPEALED.]

* **Sec. 13.** AS 11.61.210(a) is amended to read:

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

(1) possesses on the person, or in the interior of a vehicle in which the person is present, a firearm when the person's physical or mental condition is impaired

as a result of the introduction of an intoxicating liquor, marijuana, or a controlled substance into the person's body in circumstances other than described in AS 11.61.200(a)(7);

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

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

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

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

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

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

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

(B) a defensive weapon;

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

1 Fairbanks; or

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

11 * **Sec. 14.** AS 11.71.030(a) is amended to read:

12 (a) Except as authorized in AS 17.30, a person commits the crime of
13 misconduct involving a controlled substance in the third degree if the person

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

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

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

22 (A) with reckless disregard that the possession occurs

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

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

25 or

26 (B) on a school bus.

27 * **Sec. 15.** AS 11.71.040(a) is amended to read:

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

30 (1) manufactures or delivers any amount of a schedule IVA or VA
31 controlled substance or possesses any amount of a schedule IVA or VA controlled

1 substance with intent to manufacture or deliver;

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

6 (3) possesses

7 (A) any amount of a

8 (i) schedule IA controlled substance; or

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

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

13 (C) one or more preparations, compounds, mixtures, or
14 substances of an aggregate weight of

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

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

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

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

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

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

- 1 (G) 25 or more plants of the genus cannabis;
- 2 (4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled
- 3 substance
- 4 (A) with reckless disregard that the possession occurs
- 5 (i) on or within 500 feet of school grounds; or
- 6 (ii) at or within 500 feet of a recreation or youth center;
- 7 or
- 8 (B) on a school bus;
- 9 (5) knowingly keeps or maintains any store, shop, warehouse,
- 10 dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for
- 11 keeping or distributing controlled substances in violation of a felony offense under this
- 12 chapter or AS 17.30;
- 13 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
- 14 thing that prints, imprints, or reproduces a trademark, trade name, or other identifying
- 15 mark, imprint, or device of another or any likeness of any of these upon a drug, drug
- 16 container, or labeling so as to render the drug a counterfeit substance;
- 17 (7) knowingly uses in the course of the manufacture or distribution of a
- 18 controlled substance a registration number that is fictitious, revoked, suspended, or
- 19 issued to another person;
- 20 (8) knowingly furnishes false or fraudulent information in or omits
- 21 material information from any application, report, record, or other document required
- 22 to be kept or filed under AS 17.30;
- 23 (9) obtains possession of a controlled substance by misrepresentation,
- 24 fraud, forgery, deception, or subterfuge; or
- 25 (10) affixes a false or forged label to a package or other container
- 26 containing any controlled substance.

27 * **Sec. 16.** AS 11.71.110 is amended to read:

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

- 29 (1) advise the governor of the need to add, delete, or reschedule
- 30 substances in the schedules in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190];
- 31 (2) recommend regulations for adoption by the Board of Pharmacy to

1 prevent excessive prescription of controlled substances and the diversion of
2 prescription drugs into illicit channels;

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

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

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

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

16 (A) enforcing criminal laws pertaining to controlled
17 substances;

18 (B) providing treatment and counseling of persons who abuse
19 controlled substances; and

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

21 * **Sec. 17.** AS 11.71.120(a) is amended to read:

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

27 * **Sec. 18.** AS 11.71.180(a) is amended to read:

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

1 * **Sec. 19.** AS 11.71.311(a) is amended to read:

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

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

8 (A) the evidence supporting the prosecution for an offense
9 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or
10 **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained or discovered as a
11 result of the person seeking medical or law enforcement assistance;

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

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

16 (2) was experiencing a drug overdose and sought medical assistance,
17 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),
18 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)]
19 was obtained as a result of the overdose and the need for medical assistance.

20 * **Sec. 20.** AS 11.71.900(4) is amended to read:

21 (4) "controlled substance" means a drug, substance, or immediate
22 precursor included in the schedules set out in **AS 11.71.140 - 11.71.180** [AS 11.71.140
23 - 11.71.190];

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

25 (13) "manufacture"

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

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

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

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

* **Sec. 22.** AS 11.81.900(b)(34) is amended to read:

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

* **Sec. 23.** AS 12.30.011(b) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* **Sec. 24.** AS 12.30.016 is amended by adding a new subsection to read:

(g) In a prosecution charging a violation of AS 17.38.200 or 17.38.210, a judicial officer may order the person to

(1) refrain from

(A) consuming marijuana; or

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

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

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

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

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

* **Sec. 25.** AS 12.30.080 is amended by adding a new paragraph to read:

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

* **Sec. 26.** AS 12.45.084(a) is amended to read:

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

this subsection, "marijuana" and "usable marijuana" have the meanings given in AS 17.38.900.

* **Sec. 27.** AS 12.55.015(a) is amended to read:

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

(1) impose a fine when authorized by law and as provided in AS 12.55.035;

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

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

(4) impose a definite term of continuous imprisonment;

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

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

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

(8) suspend imposition of sentence under AS 12.55.085;

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

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

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

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

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

* **Sec. 28.** AS 12.55.015(j) is amended to read:

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

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

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

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

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

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

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

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

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

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

(b) A synthetic drug is illicit if

(1) the label

(A) is false or misleading;

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

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

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

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

(B) the name or packaging of the synthetic drug uses images or 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, or in a schedule set out in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190] may not be administered, prescribed, dispensed, or distributed other than for a medical purpose.

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

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

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

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

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

(8) "medical use" means the acquisition, possession, cultivation, use or

transportation of marijuana or paraphernalia related to the administration of marijuana to alleviate a debilitating medical condition under the provisions of this chapter and AS 17.38.260 [AS 11.71.090];

* **Sec. 40.** AS 17.38.020 is amended to read:

Sec. 17.38.020. Personal use of marijuana. Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and are not [SHALL NOT BE A] criminal or civil offenses [OFFENSE] under Alaska law or the law of any political subdivision of Alaska or bases [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

(1) possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

(2) possessing, growing, processing, or transporting not [NO] more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown;

(3) transferring one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration;

(4) consumption of marijuana, except that nothing in this chapter permits [SHALL PERMIT] the consumption of marijuana in a public place; and

(5) assisting another person who is 21 years of age or older in any of the acts described in (1) - (4) of this section; under this paragraph, assisting does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in this section;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in this section.

* **Sec. 41.** AS 17.38.070(a) is amended to read:

(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a retail marijuana store, are lawful and are not offenses [SHALL NOT BE

AN OFFENSE] under Alaska law or bases [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

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

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

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

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

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

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

* **Sec. 42.** AS 17.38.070(b) is amended to read:

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

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

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

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

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

(5) receiving or purchasing marijuana from a registered marijuana

1 cultivation facility; and

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

4 * **Sec. 43.** AS 17.38.070(c) is amended to read:

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

11 (1) packaging, processing, transporting, manufacturing, displaying, or
12 possessing marijuana or marijuana products;

13 (2) delivering or transferring marijuana or marijuana products to a
14 **registered** marijuana testing facility;

15 (3) receiving marijuana or marijuana products from a **registered**
16 marijuana testing facility;

17 (4) delivering or selling marijuana or marijuana products to a
18 **registered** retail marijuana store or a marijuana product manufacturing facility;

19 (5) purchasing marijuana from a **registered** marijuana cultivation
20 facility; and

21 (6) purchasing of marijuana or marijuana products from a **registered**
22 marijuana product manufacturing facility.

23 * **Sec. 44.** AS 17.38.070(d) is amended to read:

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

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

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

(3) returning marijuana or marijuana products to a registered marijuana cultivation facility, registered marijuana retail store, registered marijuana products manufacturer, or a person 21 years of age or older.

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

Sec. 17.38.200. Misconduct involving marijuana in the first degree. (a)

Except as authorized in AS 17.38.020, a person commits the crime of misconduct involving marijuana in the first degree if the person sells any amount of marijuana to a person under 21 years of age and, within the five years preceding the violation, the person has been previously convicted of selling marijuana to a person under 21 years of age.

(b) Misconduct involving marijuana in the first degree is a class C felony.

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

Except as authorized in AS 17.38.020, a person commits the crime of misconduct involving marijuana in the second degree if the person

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

(2) manufactures a marijuana concentrate using a volatile or explosive gas;

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

(4) delivers or transports

(A) more than one ounce of usable marijuana in a public place;

or

(B) more than six plants of the genus cannabis in a public place.

(b) A person under 21 years of age does not violate (a)(3) of this section if the person enters and remains on premises registered under this chapter at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the purpose for the entry or remaining on premises is to assist in the enforcement of this section.

(c) The provisions of (a)(2) and (4) of this section do not apply to a marijuana establishment registered under this chapter, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under this chapter.

(d) Misconduct involving marijuana in the second degree is a class A misdemeanor.

Sec. 17.38.220. Misconduct involving marijuana in the third degree. (a) Except as authorized in AS 17.38.020, a person commits the crime of misconduct involving marijuana in the third degree if the person delivers or transports

(1) one ounce or less of usable marijuana for remuneration; or

(2) six plants or less of the genus cannabis for remuneration.

(b) The provisions of (a) of this section do not apply to a marijuana establishment registered under this chapter, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under this chapter.

(c) Misconduct involving marijuana in the third degree is a class B misdemeanor.

Sec. 17.38.230. Misconduct involving marijuana in the fourth degree. (a) Except as authorized in AS 17.38.020, a person commits the crime of misconduct involving marijuana in the fourth degree if the person

(1) is under 21 years of age and, under circumstances not proscribed under AS 17.38.210(a)(3), attempts to purchase any amount of marijuana;

(2) consumes marijuana while operating a motor vehicle under

circumstances not proscribed under AS 28.35.030; or

(3) consumes marijuana in a public place.

(b) Misconduct involving marijuana in the fourth degree is a violation punishable by a fine of up to

(1) \$300 for a violation of (a)(1) or (2) of this section;

(2) \$100 for a violation of (a)(3) of this section.

Sec. 17.38.240. Proof of registration to be exhibited on demand; penalty.

(a) A person shall have a copy of the person's registration issued under AS 17.38.100 in the person's immediate possession at all times when transporting more than one ounce of marijuana, and shall present the copy of the registration for inspection upon the demand of a peace officer or other authorized representative of the Department of Public Safety. However, a person charged with violating this section may not be convicted if the person produces in court or in the office of the arresting or citing officer proof of registration previously issued to the person that was valid at the time of the person's arrest or citation.

(b) A person convicted under this section is guilty of a violation punishable by a fine of \$100.

Sec. 17.38.250. Bail forfeiture for certain offenses. The supreme court shall establish by rule or order a schedule of bail amounts that may be forfeited without court appearance for a violation of AS 17.38.230 or 17.38.240.

Sec. 17.38.260. Affirmative defense to a prosecution under AS 17.38.200 - 17.38.230; medical use of marijuana. (a) In a prosecution under AS 17.38.200 - 17.38.230 charging the manufacture, delivery, or use of marijuana, it is an affirmative defense that the defendant is a patient, or the primary caregiver or alternate caregiver for a patient, and

(1) at the time of the manufacture, delivery, or use, the patient was registered under AS 17.37;

(2) the manufacture, delivery, or use complied with the requirements of AS 17.37; and

(3) if the defendant is the

(A) primary caregiver of the patient, the defendant was in

physical possession of the caregiver registry identification card at the time of the manufacture, delivery, or use; or

(B) alternate caregiver of the patient, the defendant was in physical possession of the caregiver registry identification card at the time of the manufacture, delivery, or use.

(b) In this section,

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

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

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

Sec. 17.38.270. Court records of violations of persons under 21 years of age. The Alaska Court System may not publish on a publicly available website the court records of a violation of AS 17.38.230 by a person who was under 21 years of age at the time of the offense, after the court proceedings are completed and the case is closed.

Sec. 17.38.280. Peace officer powers. The director of the board and the persons employed for the administration and enforcement of this chapter may, with the concurrence of the commissioner of public safety, exercise the powers of peace officers when those powers are specifically granted by the board. Powers granted by the board under this section may be exercised only when necessary for the enforcement of the criminally punishable provisions of this chapter, regulations of the board, and other criminally punishable laws and regulations.

Sec. 17.38.290. Marijuana subject to tax. Marijuana possessed by a person who is not registered under this chapter in excess of the amount authorized for personal use in AS 17.38.020, including the usable weight of plants in excess of the amount lawfully cultivated, shall be subject to tax under AS 43.61.040.

* **Sec. 46.** AS 17.38.900(6) is amended to read:

(6) "marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, [SALT,] derivative, active ingredient, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, oil [,] or

cake made from the seeds of the plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products;

* **Sec. 47.** AS 17.38.900 is amended by adding new paragraphs to read:

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

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

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

(18) "manufacture" means the production, preparation, propagation, compounding, conversion, growing, or processing of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of marijuana or its container; however, the growing of marijuana for personal use is not manufacturing;

(19) "marijuana concentrate" means a product created from resins of or by extracting cannabinoids from any part of the plant (genus) Cannabis;

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

(21) "remuneration" means the payment of money for a product or service;

(22) "usable marijuana" has the meaning given in AS 17.37.070.

* **Sec. 48.** AS 18.66.100(c) is amended to read:

(c) A protective order under this section may

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

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

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

(4) direct the respondent to stay away from the residence, school, or

place of employment of the petitioner or any specified place frequented by the petitioner or any designated household member;

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

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

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

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

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

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

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

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

(11) prohibit the respondent from consuming controlled substances **or marijuana**;

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

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

(14) require the respondent to pay costs and fees incurred by the

petitioner in bringing the action under this chapter;

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

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

* **Sec. 49.** AS 18.67.080(c) is amended to read:

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

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

(2) with regard to circumstances in which the victim consented to, provoked, or incited the criminal act, the board may consider those circumstances only if the board finds that it is more probable than not that those circumstances occurred and were the cause of the crime and the victimization;

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

(A) the victim was involved in the manufacture or delivery of a controlled substance at the time of the crime or the crime and victimization was a direct result of the prior manufacture or delivery of a controlled

substance; the evidence of this manufacture or delivery must be corroborated by law enforcement or other credible sources; and

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

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

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

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

* **Sec. 50.** AS 18.67.101 is amended to read:

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

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

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

(A) murder in any degree;

(B) manslaughter;

(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,

marijuana, 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. 51.** 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. 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 violence, against the other parent or a child of the two parents, within the five years preceding the award of visitation, the court may set conditions for the visitation, including

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

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

(3) the perpetrator shall attend and complete, to the satisfaction of the court, a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by the Department of Corrections under AS 44.28.020(b), or other

counseling; the perpetrator shall be required to pay the costs of the program or other counseling;

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

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

(6) the prohibition of overnight visitation;

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

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

* **Sec. 53.** AS 28.01.010(j) is amended to read:

(j) A court may not enforce a municipal ordinance prescribing a penalty for driving while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance or refusal to submit to a chemical test unless that ordinance imposes ignition interlock device requirements under this title.

* **Sec. 54.** AS 28.15.031(b) is amended to read:

(b) The department may not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person

(1) whose license is suspended, revoked, canceled, or withdrawn in this or any other jurisdiction except as otherwise provided in this chapter;

(2) who fails to appear in court for the adjudication of a certain vehicle, driver, or traffic offense when the person's appearance is required by statute, regulation, or court rule;

(3) who is an habitual user of alcohol, marijuana, or another drug to such a degree that the person is incapable of safely driving a motor vehicle;

(4) when the department, based upon medical evidence, has determined that because of the person's physical or mental disability the person is not able to drive a motor vehicle safely;

(5) who is unable to understand official traffic control devices as

displayed in this state or who does not have a fair knowledge of traffic laws and regulations, as demonstrated by an examination;

(6) who has knowingly made a false statement in the person's application for a license or has committed fraud in connection with the person's application for, or in obtaining or attempting to obtain, a license, or who has not applied under oath on the form provided for the purpose of obtaining or attempting to obtain a license or permit; or

(7) who is required under AS 28.20 to furnish proof of financial responsibility and who has not done so.

* **Sec. 55.** AS 28.15.046(d) is amended to read:

(d) The department may not issue a license under this section if, at the time of application

(1) and under circumstances other than those described in (2) of this subsection, less than two years have elapsed from the date of the applicant's first conviction of either driving while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance under AS 28.35.030 or refusal to submit to a chemical test under AS 28.35.032;

(2) less than 10 years have elapsed from the date of the applicant's conviction for

(A) refusal to submit to a chemical test under AS 28.35.032 if the offense occurred while driving a commercial motor vehicle; or

(B) an offense described in AS 28.33.140(a)(1), (4), (5), or (10);

(3) the applicant has been convicted two or more times of misdemeanor driving while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance under AS 28.35.030 or misdemeanor refusal to submit to a chemical test under AS 28.35.032, or a combination of those offenses.

* **Sec. 56.** AS 28.15.046(k) is amended to read:

(k) Notwithstanding (c) or (d) of this section, the department may, under standards set by regulation, issue a license to a person who

(1) may otherwise not be issued a license under (d)(3) of this section if,

1 in the 10-year period immediately preceding the application under this subsection, the
2 person has not been convicted of a violation of driving while under the influence of an
3 alcoholic beverage, marijuana, inhalant, or controlled substance under AS 28.35.030
4 or refusal to submit to a chemical test under AS 28.35.032;

5 (2) has been convicted of an offense listed under (c)(2)(A) - (D) of this
6 section if less than two years have elapsed since the date of conviction and the offense
7 was not against a child.

8 * **Sec. 57.** AS 28.15.081(a) is amended to read:

9 (a) The department shall examine every applicant for a driver's license. The
10 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
11 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
12 knowledge of the effects of alcohol, marijuana, and drugs on drivers and the dangers
13 of driving under the influence of alcohol, marijuana, or drugs, (5) knowledge of the
14 laws on driving while under the influence of an alcoholic beverage, marijuana,
15 inhalant, or controlled substance, (6) knowledge of the laws on financial responsibility
16 and mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws
17 and regulations of the state. The examination may include a demonstration of ability to
18 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
19 and general class of vehicles for which the applicant seeks a license. However, an
20 applicant who has not been previously issued a driver's license by this or another
21 jurisdiction shall demonstrate ability and shall present medical information that the
22 department reasonably requires to determine fitness to safely drive a motor vehicle of
23 the type and general class of vehicles for which the applicant seeks a license.

24 * **Sec. 58.** AS 28.15.085 is amended to read:

25 **Sec. 28.15.085. Alcohol, marijuana, and drug awareness and safety**
26 **examination of applicants.** Notwithstanding another provision of this chapter and in
27 addition to other requirements, a person applying for a new license after expiration of
28 the person's license on reaching 21 years of age under AS 28.15.099 must pass a test
29 developed and administered by the department regarding alcohol, marijuana, and
30 drug awareness and safety and the laws relating to alcohol, marijuana, drugs, and
31 driving before the license may be issued or renewed.

1 * **Sec. 59.** AS 28.15.165(c) is amended to read:

2 (c) Unless the person has obtained a temporary permit or stay of a
3 departmental action under AS 28.15.166, if the chemical test administered under
4 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
5 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
6 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
7 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
8 original license, and, if the chemical test administered under AS 28.33.031(a)
9 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
10 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
11 department's action takes effect seven days after delivery to the person of the notice
12 required under (a) of this section, and after receipt of a sworn report of a law
13 enforcement officer

14 (1) that a chemical test administered under AS 28.33.031(a) or
15 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
16 chemical test administered under AS 28.33.031(a) produced a result described in
17 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
18 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

19 (2) that notice under (a) of this section was provided to the person; and

20 (3) describing the

21 (A) circumstances surrounding the arrest and the grounds for
22 the officer's belief that the person operated a motor vehicle, commercial motor
23 vehicle, or aircraft while under the influence of an alcoholic beverage,
24 marijuana, inhalant, or controlled substance in violation of AS 28.33.030 or
25 AS 28.35.030; or

26 (B) grounds for the officer's belief that the person operated a
27 motor vehicle or commercial motor vehicle that was involved in an accident
28 causing death or serious physical injury to another person.

29 * **Sec. 60.** AS 28.15.166(g) is amended to read:

30 (g) The hearing for review of action by the department under AS 28.15.165
31 shall be limited to the issues of whether the law enforcement officer had probable

cause to believe that the person was operating a motor vehicle or commercial motor vehicle that was involved in an accident causing death or serious physical injury to another, or that the person was operating a motor vehicle, commercial motor vehicle, or aircraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance in violation of AS 28.33.030 or AS 28.35.030 and whether

(1) the person refused to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would result in disqualification or the suspension, revocation, or denial of the person's license, privilege to drive, or privilege to obtain a license, and that the refusal is a misdemeanor;

(2) the chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

(3) the chemical test administered under AS 28.33.031(a) produced a result described in AS 28.33.030(a)(2).

* **Sec. 61.** AS 28.15.181(a) is amended to read:

(a) Conviction of any of the following offenses is grounds for the immediate revocation of a driver's license, privilege to drive, or privilege to obtain a license:

(1) manslaughter or negligent homicide resulting from driving a motor vehicle;

(2) a felony in the commission of which a motor vehicle is used;

(3) failure to stop and give aid as required by law when a motor vehicle accident results in the death or personal injury of another;

(4) perjury or making a false affidavit or statement under oath to the department under a law relating to motor vehicles;

(5) operating a motor vehicle or aircraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance;

(6) reckless driving;

(7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer;

(8) refusal to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,

commercial motor vehicle, or aircraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, or authorized under AS 28.35.031(g);

(9) driving while license, privilege to drive, or privilege to obtain a license, canceled, suspended, or revoked, or in violation of a limitation;

(10) vehicle theft in the first degree in violation of AS 11.46.360 or vehicle theft in the second degree in violation of AS 11.46.365.

* **Sec. 62.** AS 28.15.183(a) is amended to read:

(a) If a peace officer has probable cause to believe that a person who is at least 14 years of age but not yet 21 years of age has operated a vehicle after consuming alcohol or marijuana in violation of AS 28.35.280, or refused to submit to a chemical test under AS 28.35.285, and the peace officer has cited the person or arrested the person for the offense, the peace officer shall read a notice and deliver a copy to the person. The notice must advise that

(1) the department intends to revoke the person's driver's license or permit, privilege to drive, or privilege to obtain a license or permit;

(2) the person has the right to administrative review of the revocation;

(3) if the person has a driver's license or permit, the notice itself is a temporary driver's license or permit that expires 10 days after it is delivered to the person;

(4) revocation of the person's driver's license or permit, privilege to drive, or privilege to obtain a license or permit, takes effect 10 days after delivery of the notice to the person unless the person, within 10 days, requests an administrative review;

(5) if the person has been cited under AS 28.35.280 or under AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle, aircraft, or watercraft during the 24 hours following issuance of the citation.

* **Sec. 63.** AS 28.15.183(h) is amended to read:

(h) The department may waive the provisions of (g) of this section if a person who is required to obtain drug, marijuana, or alcoholism treatment resides in an area where drug rehabilitation, marijuana abuse treatment, or alcoholism treatment is

unavailable.

* **Sec. 64.** AS 28.15.184(g) is amended to read:

(g) The hearing for review of a revocation by the department under AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years of age but not yet 21 years of age and whether the person operated a vehicle after consuming alcohol or marijuana in violation of AS 28.35.280 or refused to submit to a chemical test of breath in violation of AS 28.35.285.

* **Sec. 65.** AS 28.15.191(e) is amended to read:

(e) A court shall report to the department every change of name authorized by it, and the name, address, age, description, and driver's license number if available, of every person adjudged to be afflicted with or suffering from a mental disability or disease, or to be an habitual user of alcohol, marijuana, or another drug. The department shall prescribe and furnish the forms for making these reports.

* **Sec. 66.** AS 28.15.191(g) is amended to read:

(g) A court that has ordered a person to refrain from consuming alcoholic beverages or marijuana as part of a sentence for conviction of a crime under AS 28.35.030, 28.35.032, or a similar municipal ordinance or as a condition of probation or parole following a conviction under those sections or a similar municipal ordinance shall

(1) require the surrender of the person's license and identification card and forward the license and identification card to the department;

(2) report the order to the department within two days; and

(3) inform the person that the person's license and identification card are subject to cancellation under AS 28.15.161 and AS 18.65.310 and, if the person is otherwise qualified to receive a license or identification card, when the person obtains a new license or identification card, the license or identification card must list the restriction imposed by AS 04.16.160 for the period of probation or parole.

* **Sec. 67.** AS 28.15.191(h) is amended to read:

(h) The board of parole shall notify the department within two days whenever a person has been ordered to refrain from consuming alcoholic beverages or marijuana as a condition of parole, shall require the person to surrender the person's

license and identification card, and shall inform the person that the person's license and identification card are subject to cancellation under AS 28.15.161 and AS 18.65.310, and that, if the person is otherwise qualified to receive a license or identification card, when the person obtains a new license or identification card, the license or identification card must list the restriction imposed by AS 04.16.160.

* **Sec. 68.** AS 28.15.271(e) is amended to read:

(e) The department shall charge \$50 for issuance of a new license to replace a license cancelled under AS 28.15.161(a)(5) because the person is restricted from purchasing alcoholic beverages or marijuana under AS 04.16.160.

* **Sec. 69.** AS 28.20.230(c) is amended to read:

(c) Notwithstanding any other provisions of this chapter, a person convicted of driving under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance in violation of AS 28.35.030, or convicted of refusal to submit to a chemical test of breath under AS 28.35.032, shall maintain proof of financial responsibility for the future for (1) five years if the person has not been previously convicted; (2) 10 years if the person has been previously convicted once; (3) 20 years if the person has been previously convicted twice; (4) for as long as the person is licensed to drive under AS 28.15 if the person has been previously convicted three or more times. In this subsection, "previously convicted" has the meaning given in AS 28.35.030.

* **Sec. 70.** AS 28.33.030 is amended to read:

Sec. 28.33.030. Operating a commercial motor vehicle while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance.

(a) A person commits the crime of operating a commercial motor vehicle while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance if the person operates a commercial motor vehicle

(1) while under the influence of an alcoholic beverage, marijuana, inhalant, or any controlled substance;

(2) when, as determined by a chemical test taken within four hours after the alleged offense was committed, there is 0.04 percent or more by weight of alcohol in the person's blood or 40 milligrams or more of alcohol for each [PER] 100

1 milliliters of blood, or when there is 0.04 grams or more of alcohol for each [PER]
2 210 liters of the person's breath; or

3 (3) while under the combined influence of an alcoholic beverage,
4 marijuana, inhalant, and a controlled substance.

5 (b) Operating a commercial motor vehicle while under the influence of an
6 alcoholic beverage, marijuana, inhalant, or controlled substance is a class A
7 misdemeanor.

8 (c) The sentencing of a person convicted under this section shall be in
9 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
10 and other provisions of AS 28.35.030, as if the person had been convicted of a
11 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
12 commercial motor vehicle while under the influence of an alcoholic beverage,
13 marijuana, inhalant, or controlled substance under this section, and for refusal to
14 submit to a chemical test under AS 28.35.032, if arising out of a single transaction, are
15 considered one previous conviction.

16 * **Sec. 71.** AS 28.33.031(a) is amended to read:

17 (a) A person who operates a commercial motor vehicle in this state is
18 considered to have given consent to a chemical test or tests

19 (1) of the person's breath if lawfully arrested for an offense arising out
20 of acts alleged to have been committed when the person was operating the commercial
21 motor vehicle while under the influence of an alcoholic beverage, marijuana,
22 inhalant, or controlled substance; the test or tests may be administered at the direction
23 of a law enforcement officer who has probable cause to believe that the person was
24 operating a commercial motor vehicle while under the influence of an alcoholic
25 beverage, marijuana, inhalant, or controlled substance in violation of AS 28.33.030
26 or AS 28.35.030;

27 (2) of the person's breath and blood for the purpose of determining the
28 alcoholic content of the person's breath and blood and is considered to have given
29 consent to a chemical test or tests of the person's blood and urine for the purpose of
30 determining the presence of marijuana or controlled substances in the person's blood
31 and urine if the person is involved in a motor vehicle accident that causes death or

serious physical injury to another person; the test or tests may be administered at the direction of a law enforcement officer who has probable cause to believe that the person was operating a commercial motor vehicle that was involved in an accident causing death or serious physical injury to another person.

* **Sec. 72.** AS 28.33.130(a) is amended to read:

(a) A person may not operate a commercial motor vehicle or be on duty

(1) if, within the preceding four hours, the person

(A) consumed or was under the influence of

(i) an alcoholic beverage;

(ii) a controlled substance not prescribed by a physician; [OR]

(iii) a controlled substance prescribed by a physician that might impair a person's ability to operate a commercial motor vehicle; or

(iv) marijuana; or

(B) had any measurable alcohol concentration within the blood or breath or any detectable presence of alcohol;

(2) while in possession of an alcoholic beverage, **marijuana**, or a controlled substance not prescribed by a physician unless

(A) the alcoholic beverage, **marijuana**, or controlled substance is manifested and documented as part of an authorized shipment of cargo; or

(B) under AS 04, the alcoholic beverage may be legally served to passengers being carried for hire;

(3) after being placed out of service for violation of a regulation adopted under AS 19.10.060(c) or AS 28.05.011; or

(4) with an invalid operator's or commercial operator's license.

* **Sec. 73.** AS 28.33.140(a) is amended to read:

(a) In addition to any court action or administrative action in this or any other jurisdiction, conviction of a person who holds or is required to have a commercial driver's license or commercial instruction permit of any of the following offenses is grounds for immediate disqualification from driving a commercial motor vehicle for

the periods set out in this section:

(1) operating a commercial motor vehicle while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance in violation of AS 28.33.030;

(2) refusal to submit to a chemical test in violation of AS 28.35.032;

(3) operating a motor vehicle while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance in violation of AS 28.35.030;

(4) leaving the scene of an accident in violation of AS 28.35.060, or failing to file, or providing false information in, an accident report in violation of AS 28.35.110;

(5) a felony under state or federal law that was facilitated because the person used a motor vehicle;

(6) a serious traffic violation;

(7) taking one of the following actions in violation of regulations adopted under AS 19.10.060(c) or AS 28.05.011:

(A) driving after being placed out of service; or

(B) operating a commercial vehicle that has been placed out of service;

(8) operating a commercial motor vehicle in violation of a federal or state statute or regulation, or a local law or ordinance, relating to railroad-highway grade crossings;

(9) operating a commercial motor vehicle while the driver's commercial motor vehicle license is suspended, revoked, or canceled, or the driver is disqualified;

(10) causing a fatality through the negligent operation, or operation in violation of a felony criminal law, of a commercial motor vehicle.

* **Sec. 74.** AS 28.33.190 is amended by adding a new paragraph to read:

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

* **Sec. 75.** AS 28.35.028(h)(1) is amended to read:

(1) "court-ordered treatment program" or "treatment plan" means a treatment program for a person who consumes alcohol, marijuana, or drugs and that

(A) requires participation for at least 18 consecutive months;

(B) includes planning and treatment for alcohol, marijuana, or drug addiction;

(C) includes emphasis on personal responsibility;

(D) provides in-court recognition of progress and sanctions for relapses;

(E) requires payment of restitution to victims and completion of community work service;

(F) includes physician-approved treatment of physical addiction and treatment of the psychological causes of addiction;

(G) includes a monitoring program and physical placement or housing; and

(H) requires adherence to conditions of probation;

* **Sec. 76.** AS 28.35.030(a) is amended to read:

(a) A person commits the crime of driving while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance if the person operates or drives a motor vehicle or operates an aircraft or a watercraft

(1) while under the influence of an alcoholic beverage, intoxicating liquor, marijuana, inhalant, or any controlled substance, singly or in combination; or

(2) and if, as determined by a chemical test taken within four hours after the alleged operating or driving, there is 0.08 percent or more by weight of alcohol in the person's blood or 80 milligrams or more of alcohol for each [PER] 100 milliliters of blood, or if there is 0.08 grams or more of alcohol for each [PER] 210 liters of the person's breath.

* **Sec. 77.** AS 28.35.030(b) is amended to read:

(b) Except as provided under (n) of this section, driving while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance is a class A misdemeanor. Upon conviction,

(1) the court shall impose a minimum sentence of imprisonment of

(A) not less than 72 consecutive hours, require the person to use an ignition interlock device after the person regains the privilege, including

any limited privilege, to operate a motor vehicle for a minimum of six months, and impose a fine of not less than \$1,500 if the person has not been previously convicted;

(B) not less than 20 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of 12 months, and impose a fine of not less than \$3,000 if the person has been previously convicted once;

(C) not less than 60 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of 18 months, and impose a fine of not less than \$4,000 if the person has been previously convicted twice and is not subject to punishment under (n) of this section;

(D) not less than 120 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of 24 months, and impose a fine of not less than \$5,000 if the person has been previously convicted three times and is not subject to punishment under (n) of this section;

(E) not less than 240 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of 30 months, and impose a fine of not less than \$6,000 if the person has been previously convicted four times and is not subject to punishment under (n) of this section;

(F) not less than 360 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of 36 months, and impose a fine of not less than \$7,000 if the person has been previously convicted more than four times and is not subject to punishment under (n) of this section;

(2) the court may not

(A) suspend execution of sentence or grant probation except on condition that the person

(i) serve the minimum imprisonment under (1) of this

subsection;

(ii) pay the minimum fine required under (1) of this subsection;

(B) suspend imposition of sentence; or

(C) suspend the requirement for an ignition interlock device for a violation of (a)(1) of this section involving an alcoholic beverage or intoxicating liquor, singly or in combination, or a violation of (a)(2) of this section;

(3) the court shall revoke the person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181, and may order that the motor vehicle, aircraft, or watercraft that was used in commission of the offense be forfeited under AS 28.35.036; and

(4) the court may order that the person, while incarcerated or as a condition of probation or parole, take a drug or combination of drugs intended to prevent the consumption of an alcoholic beverage; a condition of probation or parole imposed under this paragraph is in addition to any other condition authorized under another provision of law.

* **Sec. 78.** AS 28.35.031(a) is amended to read:

(a) A person who operates or drives a motor vehicle in this state or who operates an aircraft as defined in AS 28.35.030(u) or who operates a watercraft as defined in AS 28.35.030(u) shall be considered to have given consent to a chemical test or tests of the person's breath for the purpose of determining the alcoholic content of the person's blood or breath if lawfully arrested for an offense arising out of acts alleged to have been committed while the person was operating or driving a motor vehicle or operating an aircraft or a watercraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance or if lawfully arrested under AS 28.35.280 for the offense of minor operating a vehicle after consuming alcohol or marijuana. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the person was operating or driving a motor vehicle or operating an aircraft or a watercraft in this state while under the influence of an alcoholic beverage, marijuana, inhalant,

or controlled substance or that the person was a minor operating a vehicle after consuming alcohol.

* **Sec. 79.** AS 28.35.031(g) is amended to read:

(g) A person who operates or drives a motor vehicle in this state shall be considered to have given consent to a chemical test or tests of the person's breath and blood for the purpose of determining the alcoholic content of the person's breath and blood and shall be considered to have given consent to a chemical test or tests of the person's blood and urine for the purpose of determining the presence of marijuana or controlled substances in the person's blood and urine if the person is involved in a motor vehicle accident that causes death or serious physical injury to another person. The test or tests may be administered at the direction of a law enforcement officer who has probable cause to believe that the person was operating or driving a motor vehicle in this state that was involved in an accident causing death or serious physical injury to another person.

* **Sec. 80.** AS 28.35.032(a) is amended to read:

(a) If a person under arrest for operating a motor vehicle or aircraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance refuses the request of a law enforcement officer to submit to a chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person involved in a motor vehicle accident that causes death or serious physical injury to another person refuses the request of a law enforcement officer to submit to a chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being advised by the officer that the refusal will result in the denial or revocation of the driver's license, privilege to drive, or privilege to obtain a license, that the refusal may be used against the person in a civil or criminal action or proceeding arising out of an act alleged to have been committed by the person while operating a motor vehicle or aircraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, and that the refusal is a crime, a chemical test may not be given, except as provided by AS 28.35.035. If a person under arrest for operating a watercraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance refuses the request of a law enforcement officer to submit to a chemical test authorized

under AS 28.35.031(a), after being advised by the officer that the refusal may be used against the person in a civil or criminal action or proceeding arising out of an act alleged to have been committed by the person while operating a watercraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, and that the refusal is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

* **Sec. 81.** AS 28.35.032(e) is amended to read:

(e) The refusal of a person to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by the person while operating or driving a motor vehicle or operating an aircraft or watercraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance.

* **Sec. 82.** AS 28.35.033(a) is amended to read:

(a) Upon the trial of a civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating or driving a motor vehicle or operating an aircraft or a watercraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, the amount of alcohol in the person's blood or breath at the time alleged shall give rise to the following presumptions:

(1) If there was 0.04 percent or less by weight of alcohol in the person's blood, or 40 milligrams or less of alcohol for each [PER] 100 milliliters of the person's blood, or 0.04 grams or less of alcohol for each [PER] 210 liters of the person's breath, it shall be presumed that the person was not under the influence of an alcoholic beverage.

(2) If there was in excess of 0.04 percent but less than 0.08 percent by weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams of alcohol for each [PER] 100 milliliters of the person's blood, or in excess of 0.04 grams but less than 0.08 grams of alcohol for each [PER] 210 liters of the person's breath, that fact does not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but that fact may be considered with

other competent evidence in determining whether the person was under the influence of an alcoholic beverage.

(3) If there was 0.08 percent or more by weight of alcohol in the person's blood, or 80 milligrams or more of alcohol for each [PER] 100 milliliters of the person's blood, or 0.08 grams or more of alcohol for each [PER] 210 liters of the person's breath, it shall be presumed that the person was under the influence of an alcoholic beverage.

* **Sec. 83.** AS 28.35.035(a) is amended to read:

(a) If a person is under arrest for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, and that arrest results from an accident that causes death or physical injury to another person, a chemical test may be administered without the consent of the person arrested to determine the amount of alcohol in that person's breath or blood or to determine the presence of marijuana or controlled substances in that person's blood and urine.

* **Sec. 84.** AS 28.35.035(b) is amended to read:

(b) A person who is unconscious or otherwise in a condition rendering that person incapable of refusal is considered not to have withdrawn the consent provided under AS 28.33.031(a) or AS 28.35.031(a) or (g) and a chemical test may be administered to determine the amount of alcohol in that person's breath or blood or to determine the presence of marijuana or controlled substances in that person's blood and urine. A person who is unconscious or otherwise incapable of refusal need not be placed under arrest before a chemical test may be administered.

* **Sec. 85.** AS 28.35.039(1) is amended to read:

(1) "alcohol safety action program" means a program for alcohol, marijuana, and substance abuse screening, referral, and monitoring developed and implemented or approved by the Department of Health and Social Services under AS 47.37;

* **Sec. 86.** AS 28.35.039 is amended by adding a new paragraph to read:

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

1 * **Sec. 87.** AS 28.35.280(a) is amended to read:

2 (a) A person who is at least 14 years of age but not yet 21 years of age
3 commits the offense of minor operating a vehicle after consuming alcohol or
4 marijuana if the person operates or drives a motor vehicle or operates an aircraft or a
5 watercraft after having consumed any quantity of alcohol or marijuana. A peace
6 officer who has probable cause to believe that a person has committed the offense of
7 minor operating a vehicle after consuming alcohol or marijuana may

8 (1) place the person under arrest;

9 (2) request that the person submit to a chemical test or tests of the
10 person's breath for the purpose of determining the alcoholic content of the person's
11 blood or breath; and

12 (3) transport the person to a location at which a chemical or other test
13 authorized under (2) of this subsection may be administered.

14 * **Sec. 88.** AS 28.35.280(b) is amended to read:

15 (b) If a chemical test under this section reveals any alcohol or marijuana
16 concentration within the person's blood or breath, the person shall be cited for
17 violating this section and then released unless there is a lawful reason for further
18 detention. A person who is 18 years of age or older shall be released on the person's
19 own recognizance. A person who is under the age of 18 shall be released to a parent,
20 guardian, or legal custodian.

21 * **Sec. 89.** AS 28.35.280(d) is amended to read:

22 (d) The offense of a minor operating a vehicle after consuming alcohol or
23 marijuana is an infraction, and, if the minor

24 (1) has not been previously convicted under this section,
25 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

26 (A) fine of \$500; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol or marijuana if opportunities are available for that type of work
31 service in the community; if those [SUCH] opportunities are not available, the

1 court shall make other provisions for the work service;

2 (2) has been previously convicted once under this section,
3 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

4 (A) fine of \$1,000; and

5 (B) period of community work service of not less than 40 hours
6 nor more than 60 hours; the community work service under this subparagraph
7 must be related to education about or prevention or treatment of misuse of
8 alcohol or marijuana if opportunities are available for that type of work
9 service in the community; if those [SUCH] opportunities are not available, the
10 court shall make other provisions for the work service;

11 (3) has been previously convicted two or more times under this
12 section, AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

13 (A) fine of \$1,500; and

14 (B) period of community work service of not less than 60 hours
15 nor more than 80 hours; the community work service under this subparagraph
16 must be related to education about or prevention or treatment of misuse of
17 alcohol or marijuana if opportunities are available for that type of work
18 service in the community; if those [SUCH] opportunities are not available, the
19 court shall make other provisions for the work service.

20 * **Sec. 90.** AS 28.35.285(a) is amended to read:

21 (a) If a person under arrest for minor operating a vehicle after consuming
22 alcohol or marijuana refuses the request of a peace officer to submit to a chemical
23 test or tests of the person's breath authorized under AS 28.35.031(a) and 28.35.280(a),
24 after being advised by the officer that the refusal will result in the denial or revocation
25 of the driver's license, privilege to drive, or privilege to obtain a license, that the
26 refusal may be used against the person in a civil or criminal action or proceeding
27 arising out of an act alleged to have been committed by the person while operating a
28 vehicle after consuming alcohol or marijuana, and that the refusal is a violation, a
29 chemical test may not be given.

30 * **Sec. 91.** AS 28.35.285(c) is amended to read:

31 (c) The refusal of a minor to submit to a chemical test authorized under

AS 28.35.031(a) and 28.35.280(a) is admissible evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by the person while operating a vehicle after consuming alcohol or marijuana.

* **Sec. 92.** AS 28.35.285(d) is amended to read:

(d) Refusal to submit to a chemical test or tests of the person's breath requested under AS 28.35.280 is an infraction, and, if the minor

(1) has not been previously convicted under this section, AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

(A) fine of \$500; and

(B) period of community work service of not less than 20 hours nor more than 40 hours; the community work service under this subparagraph must be related to education about or prevention or treatment of misuse of alcohol or marijuana if opportunities are available for that type of work service in the community; if those [SUCH] opportunities are not available, the court shall make other provisions for the work service;

(2) has been previously convicted once under this section, AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

(A) fine of \$1,000; and

(B) period of community work service of not less than 40 hours nor more than 60 hours; the community work service under this subparagraph must be related to education about or prevention or treatment of misuse of alcohol or marijuana if opportunities are available for that type of work service in the community; if those [SUCH] opportunities are not available, the court shall make other provisions for the work service;

(3) has been previously convicted two or more times under this section, AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

(A) fine of \$1,500; and

(B) period of community work service of not less than 60 hours nor more than 80 hours; the community work service under this subparagraph must be related to education about or prevention or treatment of misuse of alcohol or marijuana if opportunities are available for that type of work

1 service in the community; if those [SUCH] opportunities are not available, the
2 court shall make other provisions for the work service.

3 * **Sec. 93.** AS 28.35.290(a) is amended to read:

4 (a) A person who has been cited for minor operating a vehicle after consuming
5 alcohol or marijuana under AS 28.35.280 or for refusal to submit to a chemical test
6 of breath under AS 28.35.285 may not operate a motor vehicle, aircraft, or watercraft
7 during the 24 hours following issuance of the citation.

8 * **Sec. 94.** AS 28.35.290(b) is amended to read:

9 (b) Operating a motor vehicle during the 24 hours after being cited for minor
10 operating a vehicle after consuming alcohol or marijuana or for minor's refusal to
11 submit to a chemical test is an infraction, and, if the minor

12 (1) has not been previously convicted under this section,
13 AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

14 (A) fine of \$500; and

15 (B) period of community work service of not less than 20 hours
16 nor more than 40 hours; the community work service under this subparagraph
17 must be related to education about or prevention or treatment of misuse of
18 alcohol or marijuana if opportunities are available for that type of work
19 service in the community; if those [SUCH] opportunities are not available, the
20 court shall make other provisions for the work service;

21 (2) has been previously convicted once under this section,
22 AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

23 (A) fine of \$1,000; and

24 (B) period of community work service of not less than 40 hours
25 nor more than 60 hours; the community work service under this subparagraph
26 must be related to education about or prevention or treatment of misuse of
27 alcohol or marijuana if opportunities are available for that type of work
28 service in the community; if those [SUCH] opportunities are not available, the
29 court shall make other provisions for the work service;

30 (3) has been previously convicted two or more times under this
31 section, AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

(A) fine of \$1,500; and

(B) period of community work service of not less than 60 hours nor more than 80 hours; the community work service under this subparagraph must be related to education about or prevention or treatment of misuse of alcohol or marijuana if opportunities are available for that type of work service in the community; if those [SUCH] opportunities are not available, the court shall make other provisions for the work service.

* **Sec. 95.** AS 28.37.140(a) is amended to read:

(a) The licensing authority in the home state, for the purposes of suspending, revoking, or limiting the license to operate a motor vehicle, shall give the same effect to the conduct reported under AS 28.37.130 as it would if the conduct had occurred in the home state, in the case of a conviction for

(1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) driving a motor vehicle while under the influence of intoxicating liquor, marijuana, or a narcotic drug, or under the influence of any other drug to a degree that renders the driver incapable of safely driving a motor vehicle;

(3) any felony in the commission of which a motor vehicle is used;

(4) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

* **Sec. 96.** AS 33.16.060(c) is amended to read:

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

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

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

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

(B) tests positive for the use of controlled substances,

marijuana, or alcoholic beverages; and

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

* **Sec. 97.** AS 33.16.150(b) is amended to read:

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

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

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

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

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

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

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

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

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

(9) refrain from operating a motor vehicle;

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

(11) **refrain from entering an establishment where marijuana is sold or otherwise dispensed;**

(12) refrain from participating in any other activity or conduct reasonably related to the parolee's offense, prior record, behavior or prior behavior, current circumstances, or perceived risk to the community, or from associating with any other person that the board determines is reasonably likely to diminish the rehabilitative goals of parole, or that may endanger the public; in the case of special medical parole, for a prisoner diagnosed with a communicable disease, comply with conditions set by the board designed to prevent the transmission of the disease.

* **Sec. 98.** AS 33.16.900(3) is amended to read:

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

* **Sec. 99.** AS 33.30.015(a) is amended to read:

(a) The commissioner may not

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

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

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

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

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

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

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

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

(C) possess printed or photographic material that

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

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

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

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

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

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

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

(F) possess or have access to free weights;

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

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

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

(J) smoke or use tobacco products of any kind;

(K) use, possess, or consume marijuana or marijuana products.

* **Sec. 100.** AS 33.30.065(b) is amended to read:

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

(1) safeguards to the public;

(2) the prospects for the prisoner's rehabilitation;

(3) the availability of program and facility space;

(4) the nature and circumstances of the offense for which the prisoner was sentenced or for which the prisoner is serving a period of temporary commitment;

(5) the needs of the prisoner as determined by a classification committee and any recommendations made by the sentencing court;

(6) the record of convictions of the prisoner, with particular emphasis on crimes specified in AS 11.41 or crimes involving domestic violence;

(7) the use of drugs, marijuana, or alcohol by the prisoner; and

(8) other criteria considered appropriate by the commissioner.

* **Sec. 101.** AS 34.03.360(7) is amended to read:

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

* **Sec. 102.** AS 43.61 is amended by adding a new section to read:

Sec. 43.61.040. Tax for excess marijuana. (a) A person who is not registered

1 under AS 17.38 who is found to be in possession of marijuana in excess of the amount
2 of marijuana authorized for personal use in AS 17.38.020 is subject to the tax under
3 AS 43.61.010. The amount of tax due under this section is equal to \$50 for each ounce
4 or partial ounce of marijuana possessed in excess of the amount of marijuana
5 authorized for personal use in AS 17.38.020, regardless of whether that marijuana is
6 sold or transferred.

7 (b) The department may seize marijuana subject to the tax in (a) of this section
8 for failure to pay assessed taxes under (a) of this section. The Department may
9 authorize employees of the Alcoholic Beverage Control Board or the Department of
10 Public Safety to seize marijuana subject to the tax in (a) of this section for failure to
11 pay assessed taxes under (a) of this section.

12 * **Sec. 103.** AS 44.19.645(a) is amended to read:

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

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

23 (2) sentencing practices of the judiciary, including use of presumptive
24 sentences;

25 (3) means of promoting uniformity, proportionality, and accountability
26 in sentencing;

27 (4) alternatives to traditional forms of incarceration;

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

30 (6) the adequacy, availability, and effectiveness of treatment and
31 rehabilitation programs;

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

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

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

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

* **Sec. 104.** AS 47.10.990(17) is amended to read:

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

* **Sec. 105.** AS 47.12.030(b) is amended to read:

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

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

(2) AS 11.76.105, relating to the possession of tobacco by a person 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 17.38.230, relating to misconduct involving marijuana in the fourth degree.

* **Sec. 106.** 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. 107.** AS 47.37.010 is amended to read:

Sec. 47.37.010. Declaration of policy. It is the policy of the state to recognize, appreciate, and reinforce the example set by its citizens who lead, believe in, and support a life of sobriety. It is also the policy of the state that alcoholics and intoxicated persons should not be criminally prosecuted for their consumption of alcoholic beverages **or marijuana** and that they should be afforded a continuum of treatment that can introduce them to, and help them learn, new life skills and social skills that would be useful to them in attaining and maintaining normal lives as productive members of society.

* **Sec. 108.** AS 47.37.030 is amended to read:

Sec. 47.37.030. Powers of department. The department may

(1) plan, establish, and maintain programs for the prevention and treatment of alcoholism, marijuana abuse, drug abuse, and misuse of hazardous volatile materials and substances by inhalant abusers;

(2) make contracts and award grants necessary or incidental to the performance of its duties and the execution of its powers, including contracts with the grants to public and private agencies, organizations, and individuals, to pay them for services rendered or furnished to alcoholics, intoxicated persons, marijuana abusers, drug abusers, or inhalant abusers; to the maximum extent possible, contracts and grants must be for a period of two years; contracts under this paragraph are governed by AS 36.30 (State Procurement Code);

(3) solicit and accept for use a gift of money or property or a grant of money, services, or property from the federal government, the state or a political subdivision of it, or a private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for a grant;

(4) administer or supervise the administration of the provisions relating to alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers of state plans submitted for federal funding under federal health, welfare, or treatment legislation;

(5) coordinate its activities and cooperate with alcoholism, marijuana abuse, drug abuse, and inhalant abuse programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies for the treatment of alcoholics, intoxicated persons, marijuana abusers, drugs abusers, and inhalant abusers, and for the common advancement of alcoholism, marijuana abuse, drug abuse, and inhalant abuse programs in this and other states;

(6) keep records and engage in research and the gathering of relevant statistics;

(7) do other acts necessary to implement the authority expressly granted to it;

(8) acquire, hold, or dispose of real property or any interest in it, and construct, lease, or otherwise provide treatment facilities for alcoholics, intoxicated

persons, marijuana abusers, drug abusers, and inhalant abusers; however, the department shall encourage local initiative, involvement, and financial participation under grants-in-aid whenever possible in preference to the construction or operation of facilities directly by the department; contracting and construction under this paragraph are governed by AS 36.30 (State Procurement Code);

(9) strengthen and enhance the process for identifying people who have co-occurring substance abuse and mental health disorders;

(10) establish a secure enhanced detoxification and treatment center for persons involuntarily detained because they are likely to inflict physical harm to self or others; in this paragraph, "enhanced" means the ability to treat co-occurring substance abuse and mental health disorders;

(11) develop and implement a substance abuse treatment system using evidence-based best practices or, if evidence-based best practices do not exist, research-based practices, that includes a procedure for adapting the practices to new situations and for collaboration with consumer-based programs; if research-based practices are not known or available, the department may include consensus-based or, if funds are available, promising practices; a practice must promote independence, recovery, employment, education, ongoing community-based treatment, housing, and other aspects of harm reduction.

* **Sec. 109.** AS 47.37.040 is amended to read:

Sec. 47.37.040. Duties of department. The department shall

(1) develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism, marijuana abuse, and drug abuse and treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers in cooperation with public and private agencies, organizations, and individuals, and provide technical assistance and consultation services for these purposes;

(2) coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism, marijuana abuse, drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers;

(3) cooperate with the Department of Corrections in establishing and conducting programs to provide treatment for alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers in or on parole from penal institutions;

(4) cooperate with the Department of Education and Early Development, school boards, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of alcoholism, marijuana abuse, drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers, and preparing curriculum materials for use at all levels of school education;

(5) prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol, marijuana, and drugs, and the misuse of hazardous volatile substances;

(6) develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers that includes the dissemination of information concerning the nature and effects of alcohol, marijuana, drugs, and hazardous volatile substances;

(7) organize and foster training programs for all persons engaged in treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers, and establish standards for training paraprofessional alcoholism, marijuana abuse, drug abuse, and inhalant abuse workers;

(8) sponsor and encourage research into the causes and nature of alcoholism, marijuana abuse, drug abuse, and inhalant abuse, and the treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers, and serve as a clearinghouse for information relating to alcoholism, marijuana abuse, drug abuse, and inhalant abuse;

(9) specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated,

frequency of admission and readmission, and frequency and duration of treatment;

(10) conduct program planning activities approved by the Advisory Board on Alcoholism and Drug Abuse;

(11) review all state health, welfare, and treatment plans to be submitted for federal funding, and advise the commissioner on provisions to be included relating to alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers;

(12) assist in the development of, and cooperate with, alcohol, marijuana, drug abuse, and inhalant abuse education and treatment programs for employees of state and local governments and businesses and industries in the state;

(13) use the support and assistance of interested persons in the community, particularly recovered alcoholics, marijuana abusers, drug abusers, and inhalant abusers, to encourage alcoholics, marijuana abusers, drug abusers, and inhalant abusers to voluntarily undergo treatment;

(14) cooperate with the Department of Public Safety, the Department of Administration, and the Department of Transportation and Public Facilities in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, and develop and approve alcohol and marijuana information courses required to be taken by drivers under AS 28.15 or made available to drivers to reduce points assessed for violation of traffic laws;

(15) encourage hospitals and other appropriate health facilities to admit without discrimination alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers and to provide them with adequate and appropriate treatment;

(16) encourage all health insurance programs to include alcoholism, marijuana abuse, and drug abuse as a covered illness;

(17) prepare an annual report covering the activities of the department and notify the legislature that the report is available;

(18) develop and implement a training program on alcoholism, marijuana, and drug abuse for employees of state and municipal governments, and

private institutions;

(19) develop curriculum materials on drug, marijuana, and alcohol abuse and the misuse of hazardous volatile substances for use in grades kindergarten through 12, as well as a course of instruction for teachers to be charged with presenting the curriculum;

(20) develop and implement or designate, in cooperation with other state or local agencies, a juvenile alcohol safety action program that provides alcohol, marijuana, and substance abuse screening, referral, and monitoring of persons under 18 years of age who have been referred to it by

(A) a court in connection with a charge or conviction of a violation or misdemeanor related to the use of alcohol, marijuana, or a controlled substance;

(B) the agency responsible for the administration of motor vehicle laws in connection with a license action related to the use of alcohol, marijuana, or a controlled substance; or

(C) department staff after a delinquency adjudication that is related to the use of alcohol, marijuana, or a controlled substance;

(21) develop and implement, or designate, in cooperation with other state or local agencies, an alcohol safety action program that provides alcohol, marijuana, and substance abuse screening, referral, and monitoring services to persons who have been referred by a court in connection with a charge or conviction of a misdemeanor involving the use of a motor vehicle, aircraft, or watercraft and alcohol, marijuana, or a controlled substance, referred by a court under AS 28.35.028, or referred by an agency of the state with the responsibility for administering motor vehicle laws in connection with a driver's license action involving the use of alcohol, marijuana, or a controlled substance;

(22) whenever possible, apply evidence-based, research-based, and consensus-based substance abuse and co-occurring substance abuse and mental health disorders treatment practices and remove barriers that prevent the use of those practices;

(23) collaborate with first responders, hospitals, schools, primary care

1 providers, developmental disability treatment providers, law enforcement, corrections,
2 attorneys, the Alaska Court System, community behavioral treatment providers,
3 Alaska Native organizations, and federally funded programs in implementing
4 programs for co-occurring substance abuse and mental health disorders treatment.

5 * **Sec. 110.** AS 47.37.170(b) is amended to read:

6 (b) A person who appears to be incapacitated by alcohol, marijuana, or drugs
7 in a public place shall be taken into protective custody by a peace officer or a member
8 of the emergency service patrol and immediately brought to an approved public
9 treatment facility, an approved private treatment facility, or another appropriate health
10 facility or service for emergency medical treatment. If no treatment facility or
11 emergency medical service is available, a person who appears to be incapacitated by
12 alcohol, marijuana, or drugs in a public place shall be taken to a state or municipal
13 detention facility in the area if that appears necessary for the protection of the person's
14 health or safety. However, emergency protective custody under this subsection may
15 not include placement of a minor in a jail or secure facility.

16 * **Sec. 111.** AS 47.37.170(d) is amended to read:

17 (d) A person who, after medical examination at an approved private treatment
18 facility, or another appropriate health facility or service for emergency medical
19 treatment, is found to be incapacitated by alcohol, marijuana, or drugs at the time of
20 admission or to have become incapacitated by alcohol, marijuana, or drugs at any
21 time after admission, may not be detained at a facility after the person is no longer
22 incapacitated by alcohol, marijuana, or drugs. A person may not be detained at a
23 facility if the person remains incapacitated by alcohol or marijuana for more than 48
24 hours after admission as a patient. A person may consent to remain in the facility as
25 long as the physician in charge considers it appropriate.

26 * **Sec. 112.** AS 47.37.170(f) is amended to read:

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

31 * **Sec. 113.** AS 47.37.170(g) is amended to read:

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

* **Sec. 114.** AS 47.37.170(i) is amended to read:

(i) A person taken to a detention facility under (a) or (b) of this section may be detained only (1) until a treatment facility or emergency medical service is made available, (2) until the person is no longer intoxicated or incapacitated by alcohol, marijuana, or drugs, or (3) for a maximum period of 12 hours, whichever occurs first. A detaining officer or a detention facility official may release a person who is detained under (a) or (b) of this section at any time to the custody of a responsible adult. A peace officer or a member of the emergency service patrol, in detaining a person under (a) or (b) of this section and in taking the person to a treatment facility, an emergency medical service, or a detention facility, is taking the person into protective custody and the officer or patrol member shall make reasonable efforts to provide for and protect the health and safety of the detainee. In taking a person into protective custody under (a) and (b) of this section, a detaining officer, a member of the emergency service patrol, or a detention facility official may take reasonable steps for self-protection, including a full protective search of the person of a detainee. Protective custody under (a) and (b) of this section does not constitute an arrest and no entry or other record may be made to indicate that the person detained has been arrested or charged with a crime, except that a confidential record may be made that is necessary for the administrative purposes of the facility to which the person has been taken or that is necessary for statistical purposes where the person's name may not be disclosed.

* **Sec. 115.** AS 47.37.180(a) is amended to read:

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

1 * **Sec. 116.** AS 47.37.190(a) is amended to read:

2 (a) A spouse or guardian, a relative, the certifying physician, physician
3 assistant, advanced nurse practitioner, or the administrator in charge of an approved
4 public treatment facility may petition the court for a 30-day involuntary commitment
5 order. The petition must allege that the person is an alcoholic, marijuana abuser, or
6 drug abuser who (1) has threatened, attempted to inflict, or inflicted physical harm on
7 another and that unless committed is likely to inflict physical harm on another; or (2)
8 is incapacitated by alcohol, marijuana, or drugs. A refusal to undergo treatment does
9 not constitute evidence of lack of judgment as to the need for treatment. The petition
10 must be accompanied by a certificate of a licensed physician, physician assistant, or
11 advanced nurse practitioner who has examined the person within two days before
12 submission of the petition, unless the person whose commitment is sought has refused
13 to submit to a medical examination, in which case the fact of refusal must be alleged
14 in the petition. The certificate must set out the physician's, physician assistant's, or
15 advanced nurse practitioner's findings of the examination in support of the allegations
16 of the petition.

17 * **Sec. 117.** AS 47.37.205(a) is amended to read:

18 (a) At any time during a person's 30-day commitment, the director of an
19 approved public facility or approved private facility may file with the court a petition
20 for a 180-day commitment of that person. The petition must include all material
21 required under AS 47.37.190(a) except that references to "30 days" shall be read as
22 "180 days" and must allege that the person continues to be an alcoholic, marijuana
23 abuser, or drug abuser who is incapacitated by alcohol, marijuana, or drugs, or who
24 continues to be at risk of serious physical harm or illness.

25 * **Sec. 118.** AS 47.37.270(1) is amended to read:

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

1 * **Sec. 119.** AS 47.37.270(4) is amended to read:

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

4 * **Sec. 120.** AS 47.37.270(7) is amended to read:

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

11 * **Sec. 121.** AS 47.37.270(10) is amended to read:

12 (10) "intoxicated person" means a person whose mental or physical
13 functioning is substantially impaired as a result of the use of alcohol, marijuana, or
14 drugs;

15 * **Sec. 122.** AS 47.38.020(a) is amended to read:

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

20 * **Sec. 123.** AS 47.38.020(c) is amended to read:

21 (c) The commissioner shall include in the program

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

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

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

(B) tests positive for the use of controlled substances,

marijuana, or alcoholic beverages; and

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

* **Sec. 124.** AS 11.71.040(a)(2), 11.71.040(a)(3)(F), 11.71.040(a)(3)(G), 11.71.050(a)(1), 11.71.050(a)(2)(E), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.080, 11.71.090, 11.71.160(f)(1), 11.71.160(f)(2), 11.71.160(f)(3), 11.71.190, 11.71.900(10), 11.71.900(11), 11.71.900(14), 11.71.900(27); AS 11.81.900(b)(6); AS 12.55.135(j); AS 17.38.040, and 17.38.050 are repealed.

* **Sec. 125.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Except as provided in (b) - (d) of this section, this Act applies to offenses committed on or after the effective date of this Act.

(b) The amendments to AS 12.55.015 in secs. 27 and 28 of this Act and AS 12.55.155 in secs. 29 - 31 of this Act apply to a sentence imposed on or after the effective date of this Act for an offense committed on or after the effective date of this Act.

(c) The amendments to AS 09.60.070(c) in sec. 5 of this Act and AS 09.65 in secs. 6 - 9 of this Act apply to causes of action accrued on or after the effective date of this Act.

(d) The amendments to AS 33.16 in secs. 96 - 98 of this Act apply to conditions of parole ordered on or after the effective date of this Act.

* **Sec. 126.** This Act takes effect immediately under AS 01.10.070(c).