

# Alaska State Legislature



## House Rules Committee

State Capitol Room 216, Juneau, AK 99801-1182 (907) 465-4998  
1500 W. Benson Blvd. Anchorage, AK 99501 Phone: (907) 269-0216

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### *Sectional Analysis for the HCS (RLS) to Senate Bill 55 – Omnibus Crime/Corrections 30-LS0119\|S*

**Section 1** amends AS 11.46.280(d) regarding issuing bad checks, by removing inadvertent inflation-adjustment of \$25,000 for class B felony level check amounts.

**Section 2** amends AS 11.46.285(b) regarding fraudulent use of an access device, by removing inadvertent inflation-adjustment of \$25,000 for class B felony level value of property or services obtained.

**Section 3** amends AS 11.46.730(c) regarding defrauding creditors, by removing inadvertent inflation-adjustment of \$25,000 for class B felony level loss amounts.

**Section 4** amends AS 11.56.740(a) to add language recognizing protective orders issued by another jurisdiction, in accordance with the provisions outlined in Sections 17 and 19 of the bill.

**Section 5** amends AS 11.56.740(c), to conform to Sections 17 and 19 of the bill.

**Section 6** amends AS 11.71.050(a) regarding misconduct involving controlled substances in the fourth degree, by eliminating penalty overlap for possession of less than an ounce of a VIA controlled substance and excluding two forms of felony possession of a controlled substance from the offense of misconduct involving a controlled substance in the fourth degree, to conform to MICS 2 and 3.

**Section 7** amends AS 12.30.027(b) relating to the release conditions of a person charged with or convicted of a crime involving domestic violence. It ensures that protective orders issued by other jurisdictions are recognized in cases where a judicial officer may not allow a released person to return to the residence or place of employment of someone who has taken out a protective order against them.

**Section 8** amends AS 12.55.011(b) regarding victim and community involvement in sentencing, by clarifying that the court shall only provide the form to the victim if practicable.

**Section 9** amends AS 12.55.015(a) regarding authorized sentences and forfeiture, and provides explicit authority to the court to suspend an entry of judgment.

**Section 10** amends AS 12.55.045(1) regarding restitution and compensation, and ensures that a restitution order is not discharged and remains enforceable when a proceeding is dismissed under a suspended entry of judgment.

**Section 11** amends AS 12.55.078(a) regarding suspended entries of judgment, and clarifies that the court may not impose a sentence of imprisonment in a suspended entry of judgment.

**Section 12** amends AS 12.55.078(d) regarding suspended entries of judgment, and clarifies when the court shall discharge and dismiss proceedings in a suspended entry of judgment. It also clarifies that a person who has successfully completed probation and the requirements of a suspended entry of judgment is not convicted of a crime.

**Section 13** amends AS 12.55.078(f) regarding suspended entries of judgment, and clarifies that the crimes for which a suspended entry of judgement may not be used are the crimes currently charged, not prior convictions.

**Section 14** amends AS 12.55.090(c) regarding granting of probation, and clarifies that the maximum probation term for a felony sex offense is 15 years, while all other unclassified felonies have a maximum probation term of 10 years.

**Section 15** amends AS 12.65.130(c) to conform to Section 19 of the bill by addressing statutes related to the requirement that the Child Fatality Review Team, housed in the Department of Health and Social Services, review a report of a death of a child if anyone in the child's immediate household was a petitioner or respondent of a protective order within the previous year.

**Section 16** amends AS 18.65.865(b) regarding service of process, forms for petitions and orders, fees, warnings, notification, and pending civil or criminal actions, by updating the maximum fine that may be imposed under this section to conform to an increase in the maximum fine for a class A misdemeanor.

**Section 17** adds a new section, AS 18.65.867, regarding the enforcement and recognition of protective orders issued in other jurisdictions that have to do with stalking or sexual assault but not with domestic violence. A protective order related to stalking or sexual assault issued "by a court of the United States, a court of another state or territory, a United States military tribunal, or a tribal court" has the same effect and must be recognized and enforced in the same manner as a protective order issued by an Alaska state court. This section also cites United States Code Title 18, Chapter 2265, which is the part of the Violence Against Women Act that addresses protective orders originating in other jurisdictions. Chapter 2265 expressly states that orders issued in other jurisdictions do not have to be filed (registered) in an Alaska state court in order to be enforced here. Chapter 2265 also describes certain criteria the issuing jurisdiction needs to meet in order for its protective order to be given full faith and credit by another jurisdiction.

This new section further instructs law enforcement, in subsection (b), that a stalking or sexual-assault-related protective order issued in another jurisdiction that appears authentic on its face should be presumed valid.

**Section 18** amends AS 18.66.130(d) regarding specific protective orders. Updates the maximum fine that may be imposed under this section to conform to an increase in the maximum fine for a class A misdemeanor.

**Section 19** amends AS 18.66.140(b) to state that (just as with protective orders relating to stalking and sexual assault in the absence of domestic violence, addressed in Section 20) a protective order related to domestic violence issued in another jurisdiction must be recognized and enforced just as if it were issued by an Alaskan court, regardless of whether the protective order has been filed (registered) with an Alaskan court. This section also cites United States Code Title 18, Chapter 2265, which includes certain criteria the issuing jurisdiction needs to meet in order for its protective order to be given full faith and credit.

**Section 20** adds a new subsection, AS 18.66.140(d), stating that a domestic-violence-related protective order issued in another jurisdiction that appears authentic on its face should be presumed valid.

**Section 21** amends AS 22.35.030, statutes detailing what the Court System is prohibited from publishing on a publically available website. At AS 22.35.030(2), Section 21 adds a prohibition against publishing “...a protective order under AS 18.65.850 – AS 18.65.870 or AS 18.66.100 – AS 18.66.180, restraining order, or injunction in a case involving domestic violence, stalking, or sexual assault if the publication would likely reveal the identity or location of the party protected under the order.”

**Sections 22** amends AS 25.24.210(e) by adding recognition of domestic-violence-related protective orders issued by another jurisdiction in statutes concerned with divorce and dissolution of marriage. A petition for dissolution of a marriage must state whether during the marriage either spouse was either the petitioner or respondent of a domestic-violence-related protective order issued in another jurisdiction. The change in Section 22 specifies that the protective order in question need not have been filed with a state court.

**Section 23** amends AS 25.24.220(h) to instruct the courts to use a heightened level of scrutiny of agreements relating to a dissolution of marriage if during the marriage one or the other spouse was either the petitioner or respondent for a domestic-violence-related protective order issued in another jurisdiction. Similar to Section 22, Section 23 specifies that the protective order issued in another jurisdiction need not have been filed with a state court.

**Section 24** amends AS 28.15.165(e) regarding administrative revocations and disqualifications resulting from chemical sobriety tests and refusals to submit to tests. Clarifies that the dismissal of all charges, regardless of prejudice, serves to meet the requirement of this section.

**Section 25** amends AS 29.25.070(g) regarding municipal penalties. Specifies that limitations on municipal authority to impose punishments does not apply to non-criminal offenses.

**Section 26** amends AS 44.19.645(g) regarding the powers and duties of the Alaska Criminal Justice Commission. Requires the Department of Corrections to report certain data to the commission regarding earned compliance credits for parolees.

**Section 27** amends AS 47.37.040 regarding the duties of the Department of Health and Social Services, and authorizes the Alcohol Safety Action Program to accept referrals from the court for minor consuming/possession and similar offenses.

**Section 28** repeals AS 33.16.120(h) regarding rights of certain victims in connection with parole. Resolves a drafting error that requires the Department of Corrections to provide notifications for hearings that will not occur.

**Section 29** adds a new section to uncodified law of the State of Alaska requiring an inventory of all untested sexual assault examination kits by September 1, 2017. Additionally, a report prepared by the Dept. of Public Safety and transmitted to the legislature by November 1, 2017 shall detail the number of untested sexual assault examination kits, the date each kit was collected, and a plan to address the current backlog and prevent further accumulation of untested kits.

**Section 30** adds a new section to uncodified law regarding applicability to offenses committed on or after the effective date of this bill.

**Section 31** amends uncodified law regarding applicability provisions clarifying that no decisions made by the Board of Parole prior to January 1, 2017 that extended the period of supervision beyond the maximum release date are to be construed as invalidated by the passage of SB 91 (2016). There is further clarification that the earned compliance credit for parolees does not apply to time served prior to January 1, 2017.

**Section 32** states that sections 1-3, 6, 8-14, 16, 18, and 24-31 of this Act would take effect immediately.