

31-GS1029\U
Radford
3/5/19

CS FOR SENATE BILL NO. 32(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to criminal law and procedure; relating to electronic monitoring;**
2 **relating to DNA testing; relating to controlled substances; relating to probation; relating**
3 **to arrest; relating to sentencing; relating to sentencing for driving under the influence**
4 **and refusal; relating to reports of involuntary commitment; amending Rule 6(r)(6),**
5 **Alaska Rules of Criminal Procedure; and providing for an effective date."**

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

7 *** Section 1.** AS 11.41.110(a) is amended to read:

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

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

12 (2) the person knowingly engages in conduct that results in the death
13 of another person under circumstances manifesting an extreme indifference to the
14 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), 11.71.021(a), 11.71.030(a)(2) or (9) [11.71.030(a)(1), (2), OR (4) - (8)], 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 AS 11.41;

(B) in violation of a law or ordinance in another jurisdiction with elements similar to a felony under 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. 2.** 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), 11.71.021(a), 11.71.030(a)(2) or (9) [11.71.030(a)(1), (2), OR (4) - (8)], 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. 3.** AS 11.46.130(a) is amended to read:

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

(1) the value of the property or services [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than \$25,000;

(2) the property is a firearm or explosive;

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

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

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

(6) the value of the property [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750 and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of

(A) an offense under AS 11.46.120, or an offense under

another law or ordinance with similar elements;

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

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

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

(7) the property is an access device.

* **Sec. 4.** AS 11.46.140(a) is amended to read:

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

(1) the value of the property or services [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750; or

(2) [REPEALED]

(3) [REPEALED]

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

* **Sec. 5.** AS 11.46.150(a) is amended to read:

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

* **Sec. 6.** AS 11.46.220(c) is amended to read:

(c) Concealment of merchandise is

(1) a class C felony if

(A) the merchandise is a firearm;

(B) the value of the merchandise [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more; or

(C) the value of the merchandise [, ADJUSTED FOR

INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750 and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of

(i) the offense of concealment of merchandise under this paragraph or (2)(A) of this subsection, or an offense under another law or ordinance with similar elements; or

(ii) an offense under AS 11.46.120, 11.46.130, or 11.46.140(a)(1), or an offense under another law or ordinance with similar elements;

(2) a class A misdemeanor if

(A) the value of the merchandise [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750; or

(B) [REPEALED]

(C) the value of the merchandise is less than \$250 and, within the preceding five years, the person has been convicted and sentenced on three or more separate occasions of the offense of concealment of merchandise or theft in any degree, or an offense under another law or ordinance with similar elements;

(3) a class B misdemeanor if the value of the merchandise [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

* **Sec. 7.** AS 11.46.260(b) is amended to read:

(b) Removal of identification marks is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS

PROVIDED IN AS 11.46.982,] is less than \$250.

* **Sec. 8.** AS 11.46.270(b) is amended to read:

(b) Unlawful possession is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

* **Sec. 9.** AS 11.46.280(d) is amended to read:

(d) Issuing a bad check is

(1) a class B felony if the face amount of the check is \$25,000 or more;

(2) a class C felony if the face amount of the check [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than \$25,000;

(3) a class A misdemeanor if the face amount of the check [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;

(4) a class B misdemeanor if the face amount of the check [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

* **Sec. 10.** AS 11.46.285(b) is amended to read:

(b) Fraudulent use of an access device is

(1) a class B felony if the value of the property or services obtained is \$25,000 or more;

(2) a class C felony if the value of the property or services obtained [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than \$25,000;

(3) a class A misdemeanor if the value of the property or services

obtained [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$750.

* **Sec. 11.** AS 11.46.295 is amended to read:

Sec. 11.46.295. Prior convictions. For purposes of considering prior convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or 11.46.140(a)(4) or in prosecuting the crime of concealment of merchandise under AS 11.46.220(c),

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

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

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

* **Sec. 12.** AS 11.46.360(a) is amended to read:

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

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

(2) the propelled vehicle of another and

(A) the vehicle or any other property of another is damaged in a total amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of \$750 or more;

(B) the owner incurs reasonable expenses as a result of the loss of use of the vehicle, in a total amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of \$750 or more; or

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

(3) the propelled vehicle of another and the vehicle is marked as a

police or emergency vehicle; or

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

(A) this section or AS 11.46.365;

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

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

(D) AS 11.46.120 - 11.46.140 of an offense involving the theft of a propelled vehicle; or

(E) a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in (A) - (D) of this paragraph.

* **Sec. 13.** AS 11.46.482(a) is amended to read:

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

(1) with intent to damage property of another, the person damages property of another in an amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of \$750 or more;

(2) the person recklessly creates a risk of damage in an amount exceeding \$100,000 to property of another by the use of widely dangerous means; or

(3) the person knowingly

(A) defaces, damages, or desecrates a cemetery or the contents of a cemetery or a tomb, grave, or memorial regardless of whether the tomb, grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or memorial appears to be abandoned, lost, or neglected;

(B) removes human remains or associated burial artifacts from a cemetery, tomb, grave, or memorial regardless of whether the cemetery, tomb, grave, or memorial appears to be abandoned, lost, or neglected.

* **Sec. 14.** AS 11.46.484(a) is amended to read:

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

right,

(1) with intent to damage property of another, the person damages property of another in an amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of \$250 or more but less than \$750;

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

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

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

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

* **Sec. 15.** AS 11.46.486(a) is amended to read:

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

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

(2) with intent to damage property of another, the person damages property of another in an amount [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] less than \$250; or

(3) the person rides in a propelled vehicle and, with criminal negligence, disregards the fact that it has been stolen or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

* **Sec. 16.** AS 11.46.530(b) is amended to read:

(b) Criminal simulation is

(1) a class C felony if the value of what the object purports to represent

[, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more;

(2) a class A misdemeanor if the value of what the object purports to represent [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;

(3) a class B misdemeanor if the value of what the object purports to represent [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

* **Sec. 17.** AS 11.46.620(d) is amended to read:

(d) Misapplication of property is

(1) a class C felony if the value of the property misapplied [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more;

(2) a class A misdemeanor if the value of the property misapplied [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$750.

* **Sec. 18.** AS 11.46.730(c) is amended to read:

(c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of \$750 or more as a result of the defendant's conduct, in which case defrauding secured creditors is

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

(2) a class C felony if the loss [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than \$25,000.

* **Sec. 19.** AS 11.56.310(a) is amended to read:

(a) One commits the crime of escape in the second degree if, without lawful authority, one

(1) removes oneself from

(A) a secure correctional facility while under official detention for a misdemeanor;

(B) official detention for a felony or for extradition; or

(C) official detention and, during the escape or at any time before being restored to official detention, one possesses on or about oneself a

firearm;

(2) violates AS 11.56.335 or 11.56.340 and, during the time of the unlawful evasion or at any time before being restored to official detention, one possesses on or about oneself a firearm; or

(3) **while under official detention for a felony,**

(A) removes, tampers with, or disables the electronic monitoring equipment; [,] or

(B) without prior authorization, leaves one's residence or other place designated by the commissioner of corrections **or the commissioner of health and social services** for [THE] service by electronic monitoring [OF OFFICIAL DETENTION FOR A FELONY].

* Sec. 20. AS 11.56.320(a) is amended to read:

(a) One commits the crime of escape in the third degree if one

(1) removes oneself from official detention during any lawful movement or activity incident to confinement within a correctional facility for a misdemeanor; [OR]

(2) violates AS 11.56.335 or 11.56.340 and leaves or attempts to leave the state;

(3) while under official detention for a misdemeanor,

(A) removes, tampers with, or disables the electronic monitoring equipment; or

(B) without prior authorization, leaves one's residence or other place designated by the commissioner of corrections or the commissioner of health and social services for service by electronic monitoring; or

(4) while on release under AS 12.30,

(A) removes, tampers with, or disables the electronic monitoring equipment; or

(B) without prior authorization, leaves one's residence or other place designated by a judicial officer as a condition of release.

* Sec. 21. AS 11.56.730(a) is amended to read:

(a) A person commits the **crime** [OFFENSE] of failure to appear if the person

(1) is released under the provisions of AS 12.30;

(2) knows that the person is required to appear before a court or judicial officer at the time and place of a scheduled hearing; and

(3) with criminal negligence does not appear before the court or judicial officer at the time and place of the scheduled hearing.

* **Sec. 22.** AS 11.56.730(d) is amended to read:

(d) Failure to appear is a

(1) class C felony if the person was released in connection with a charge of a felony or while awaiting sentence or appeal after conviction of a felony [AND THE PERSON

(A) DOES NOT MAKE CONTACT WITH THE COURT OR A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING; OR

(B) DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING TO AVOID PROSECUTION];

(2) class A misdemeanor if the person was released in connection with

a

(A) charge of a misdemeanor, while awaiting sentence or appeal after conviction of a misdemeanor; **or**

(B) [, OR IN CONNECTION WITH A] requirement to appear as a material witness in a criminal proceeding [, AND THE PERSON

(A) DOES NOT MAKE CONTACT WITH THE COURT OR A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING; OR

(B) DOES NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED HEARING TO AVOID PROSECUTION; OR

(3) VIOLATION PUNISHABLE BY A FINE OF UP TO \$1,000].

* **Sec. 23.** AS 11.56.757(b) is amended to read:

(b) Violation of condition of release is a

(1) class A misdemeanor if the person is released from a charge or conviction of a felony;

(2) class B misdemeanor if the person is released from a charge or conviction of a misdemeanor.

* Sec. 24. AS 11.56.760(a) is amended to read:

(a) A person commits the crime of violating an order to submit to DNA testing if, when requested by a health care professional acting on behalf of the state to provide a blood sample, oral sample, or both, or when requested by a juvenile or adult correctional, probation, or parole officer or a peace officer to provide an oral sample, the person refuses to provide the sample or samples and the person

(1) has been ordered to submit to DNA testing as part of a sentence imposed under AS 12.55.015;

(2) has been convicted of an offense that requires DNA testing under the provisions of **AS 44.41.035(b)(1) and (2);** [AS 44.41.035; OR]

(3) is required to register as a sex offender or child kidnapper under AS 12.63; **or**

(4) has been arrested for an offense that requires DNA testing under the provisions of AS 44.41.035(b)(6).

* Sec. 25. AS 11.56.760(c) is amended to read:

(c) Violating an order to submit to DNA testing **under**

(1) (a)(1) - (3) of this section is a class C felony;.

(2) (a)(4) of this section is a class A misdemeanor.

* Sec. 26. AS 11.56.810(a) is amended to read:

(a) A person commits the crime of terroristic threatening in the second degree if the person **communicates a threat** [KNOWINGLY MAKES A FALSE REPORT THAT A CIRCUMSTANCE]

(1) **to commit a crime against a person or property with reckless disregard of the risk of** [DANGEROUS TO HUMAN LIFE EXISTS OR IS ABOUT TO EXIST AND]

(A) **placing** a person [IS PLACED] in reasonable fear of

1 serious physical injury to a [ANY] person;

2 (B) causing the [CAUSES] evacuation of a building, public
3 place or area, business premises, or mode of public transportation;

4 (C) causing a [CAUSES] serious public inconvenience; or

5 (D) placing the public or a substantial group of the public
6 in fear of serious physical injury [THE REPORT CLAIMS THAT A
7 BACTERIOLOGICAL, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL
8 SUBSTANCE THAT IS CAPABLE OF CAUSING SERIOUS PHYSICAL
9 INJURY HAS BEEN SENT OR IS PRESENT IN A BUILDING, PUBLIC
10 PLACE OR AREA, BUSINESS PREMISES, OR MODE OF PUBLIC
11 TRANSPORTATION]; or

12 (2) that a circumstance exists or is about to exist that is dangerous to
13 the proper or safe functioning of an oil or gas pipeline or supporting facility, utility, or
14 transportation or cargo facility; in this paragraph, "oil or gas pipeline or supporting
15 facility" and "utility" have the meanings given in AS 11.46.495.

16 * **Sec. 27.** AS 11.61.110(c) is amended to read:

17 (c) Disorderly conduct is a class B misdemeanor and is punishable as
18 authorized in AS 12.55 except that a sentence of imprisonment, if imposed, shall
19 be for a definite term of not more than 10 days.

20 * **Sec. 28.** AS 11.71 is amended by adding a new section to read:

21 **Sec. 11.71.021. Misconduct involving a controlled substance in the second**
22 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
23 misconduct involving a controlled substance in the second degree if the person

24 (1) manufactures or delivers any amount of a schedule IA controlled
25 substance or possesses any amount of a schedule IA controlled substance with intent
26 to manufacture or deliver;

27 (2) manufactures any material, compound, mixture, or preparation that
28 contains

29 (A) methamphetamine, or its salts, isomers, or salts of isomers;

30 or

31 (B) an immediate precursor of methamphetamine, or its salts,

1 isomers, or salts of isomers;

2 (3) possesses an immediate precursor of methamphetamine, or the
3 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
4 with the intent to manufacture any material, compound, mixture, or preparation that
5 contains methamphetamine, or its salts, isomers, or salts of isomers;

6 (4) possesses a listed chemical with intent to manufacture any material,
7 compound, mixture, or preparation that contains

8 (A) methamphetamine, or its salts, isomers, or salts of isomers;

9 or

10 (B) an immediate precursor of methamphetamine, or its salts,
11 isomers, or salts of isomers;

12 (5) possesses methamphetamine in an organic solution with intent to
13 extract from it methamphetamine or its salts, isomers, or salts of isomers; or

14 (6) under circumstances not proscribed under AS 11.71.010(a)(2),
15 delivers

16 (A) an immediate precursor of methamphetamine, or the salts,
17 isomers, or salts of isomers of the immediate precursor of methamphetamine,
18 to another person with reckless disregard that the precursor will be used to
19 manufacture any material, compound, mixture, or preparation that contains
20 methamphetamine, or its salts, isomers, or salts of isomers; or

21 (B) a listed chemical to another person with reckless disregard
22 that the listed chemical will be used to manufacture any material, compound,
23 mixture, or preparation that contains

24 (i) methamphetamine, or its salts, isomers, or salts of
25 isomers;

26 (ii) an immediate precursor of methamphetamine, or its
27 salts, isomers, or salts of isomers; or

28 (iii) methamphetamine or its salts, isomers, or salts of
29 isomers in an organic solution.

30 (b) In a prosecution under (a) of this section, possession of more than six
31 grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or

the salts, isomers, or salts of isomers of those chemicals is prima facie evidence that the person intended to use the listed chemicals to manufacture, to aid or abet another person to manufacture, or to deliver to another person who intends to manufacture methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers of methamphetamine or its immediate precursors. The prima facie evidence described in this subsection does not apply to a person who possesses

(1) the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

(A) and the listed chemical was dispensed to the person under a valid prescription; or

(B) in the ordinary course of a legitimate business, or an employee of a legitimate business, as a

(i) retailer or as a wholesaler;

(ii) wholesale drug distributor licensed by the Board of Pharmacy;

(iii) manufacturer of drug products licensed by the Board of Pharmacy;

(iv) pharmacist licensed by the Board of Pharmacy; or

(v) health care professional licensed by the state; or

(2) less than 24 grams of ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals, kept in a locked storage area on the premises of a legitimate business or nonprofit organization operating a camp, lodge, school, day care center, treatment center, or other organized group activity, and the location or nature of the activity, or the age of the participants, makes it impractical for the participants in the activity to obtain medicinal products.

(c) In this section, "listed chemical" means a chemical described under AS 11.71.200.

(d) Misconduct involving a controlled substance in the second degree is a class A felony.

* **Sec. 29.** AS 11.71.030(a) is amended to read:

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

(1) manufactures or delivers, or possesses with intent to manufacture or deliver,

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one gram or more containing a schedule IA controlled substance;

(B) 25 or more tablets, ampules, or syrettes containing a schedule IA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of 2.5 grams or more containing a schedule IIA or IIIA controlled substance; or

(D) 50 or more tablets, ampules, or syrettes containing a schedule IIA or IIIA controlled substance;

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

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

(A) with reckless disregard that the possession occurs

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

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

or

(B) on a school bus;

(4) manufactures any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers;

or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers;

(5) possesses an immediate precursor of methamphetamine, or the

1 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
2 with the intent to manufacture any material, compound, mixture, or preparation that
3 contains methamphetamine, or its salts, isomers, or salts of isomers;

4 (6) possesses a listed chemical with intent to manufacture any material,
5 compound, mixture, or preparation that contains

6 (A) methamphetamine, or its salts, isomers, or salts of isomers;

7 or

8 (B) an immediate precursor of methamphetamine, or its salts,
9 isomers, or salts of isomers;

10 (7) possesses methamphetamine in an organic solution with intent to
11 extract from it methamphetamine or its salts, isomers, or salts of isomers; [OR]

12 (8) under circumstances not proscribed under AS 11.71.010(a)(2),
13 delivers

14 (A) an immediate precursor of methamphetamine, or the salts,
15 isomers, or salts of isomers of the immediate precursor of methamphetamine,
16 to another person with reckless disregard that the precursor will be used to
17 manufacture any material, compound, mixture, or preparation that contains
18 methamphetamine, or its salts, isomers, or salts of isomers; or

19 (B) a listed chemical to another person with reckless disregard
20 that the listed chemical will be used to manufacture any material, compound,
21 mixture, or preparation that contains

22 (i) methamphetamine, or its salts, isomers, or salts of
23 isomers;

24 (ii) an immediate precursor of methamphetamine, or its
25 salts, isomers, or salts of isomers; or

26 (iii) methamphetamine or its salts, isomers, or salts of
27 isomers in an organic solution; or

28 **(9) under circumstances not proscribed under AS 11.71.021(a)(2) -**
29 **(6), manufactures or delivers any amount of a schedule IIA or IIIA controlled**
30 **substance or possesses any amount of a schedule IIA or IIIA controlled substance**
31 **with intent to manufacture or deliver.**

* **Sec. 30.** AS 11.71.030(d) is amended to read:

(d) Misconduct involving a controlled substance in the **third** [SECOND] degree is a class B felony.

* **Sec. 31.** AS 11.71.040(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the **fourth** [THIRD] degree if the person

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

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

(3) possesses

(A) any amount of a

(i) schedule IA controlled substance [LISTED IN AS 11.71.140(e)];

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

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

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

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

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

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

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

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

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

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

(4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

(A) with reckless disregard that the possession occurs

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

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

or

(B) on a school bus;

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

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

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

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

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

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

(11) manufactures or delivers, or possesses with the intent to manufacture or deliver,

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one gram containing a schedule IA controlled substance;

(B) less than 25 tablets, ampules, or syrettes containing a schedule IA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than 2.5 grams containing a schedule IIA or IIIA controlled substance; or

(D) less than 50 tablets, ampules, or syrettes containing a schedule IIA or IIIA controlled substance.

* **Sec. 32.** AS 11.71.040(d) is amended to read:

(d) Misconduct involving a controlled substance in the **fourth** [THIRD] degree is a class C felony.

* **Sec. 33.** AS 11.71.050 is amended to read:

Sec. 11.71.050. Misconduct involving a controlled substance in the fifth [FOURTH] degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the **fifth** [FOURTH] degree if the person

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

(2) [REPEALED]

(3) fails to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under AS 17.30; [OR]

(4) under circumstances not proscribed under AS 11.71.030(a)(3), 11.71.040(a)(3), 11.71.040(a)(4), or 11.71.060(a)(2), possesses any amount of a schedule IA, IIA, IIIA, IVA, VA, or VIA controlled substance; or

(5) possesses

(A) less than 25 tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;

(B) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than

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

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

(iii) 500 milligrams containing a schedule IIA controlled substance listed in AS 11.71.150(e)(11) - (15);

(C) less than 50 tablets, ampules, or syrettes containing a schedule VA controlled substance;

(D) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than six grams containing a schedule VA controlled substance; or

(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule VIA controlled substance.

(b) Misconduct involving a controlled substance in the fifth [FOURTH] degree is a class A misdemeanor.

* Sec. 34. AS 11.71.060 is amended to read:

Sec. 11.71.060. Misconduct involving a controlled substance in the sixth [FIFTH] degree. (a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the sixth [FIFTH] degree if the person

(1) uses or displays any amount of a schedule VIA controlled substance;

(2) possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of

(A) less than one ounce containing a schedule VIA controlled substance;

(B) six grams or less containing a schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material; or

(3) refuses entry into a premise for an inspection authorized under AS 17.30.

(b) Misconduct involving a controlled substance in the sixth [FIFTH] degree is a class B misdemeanor.

* **Sec. 35.** AS 11.71.311(a) is amended to read:

(a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(5) [11.71.050(a)(4)], or 11.71.060(a)(1) or (2) if that person

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

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

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

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

(2) was experiencing a drug overdose and sought medical assistance, and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(5) [11.71.050(a)(4)], or 11.71.060(a)(1) or (2)

was obtained as a result of the overdose and the need for medical assistance.

* **Sec. 36.** AS 12.55.090(c) is amended to read:

(c) The period of probation, together with any extension, may not exceed

(1) 25 [15] years for a felony sex offense; or

(2) 10 years for any other offense [AN UNCLASSIFIED FELONY UNDER AS 11 NOT LISTED IN (1) OF THIS SUBSECTION;

(3) FIVE YEARS FOR A FELONY OFFENSE NOT LISTED IN (1) OR (2) OF THIS SUBSECTION;

(4) THREE YEARS FOR A MISDEMEANOR OFFENSE

(A) UNDER AS 11.41;

(B) THAT IS A CRIME INVOLVING DOMESTIC VIOLENCE; OR

(C) THAT IS A SEX OFFENSE, AS THAT TERM IS DEFINED IN AS 12.63.100;

(5) TWO YEARS FOR A MISDEMEANOR OFFENSE UNDER AS 28.35.030 OR 28.35.032, IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF AN OFFENSE UNDER AS 28.35.030 OR 28.35.032, OR A SIMILAR LAW OR ORDINANCE OF THIS OR ANOTHER JURISDICTION; OR

(6) ONE YEAR FOR AN OFFENSE NOT LISTED IN (1) - (5) OF THIS SUBSECTION].

* **Sec. 37.** AS 12.55.125(c) is amended to read:

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five [THREE] to eight [SIX] years;

(2) if the offense is a first felony conviction

(A) and the defendant

[(A)] possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense,

[FIVE TO NINE YEARS;] or

[(B)] knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven to 11 years;

(B) and the conviction is for manufacturing related to methamphetamine under AS 11.71.021(a)(2)(A) or (B), seven to 11 years if

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, **10** [EIGHT] to **14** [12] years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, **15** [13] to 20 years.

* **Sec. 38.** AS 12.55.125(d) is amended to read:

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, **one** [ZERO] to **three** [TWO] years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085 **if, as a condition of probation under AS 12.55.086, the defendant is required to serve an active term**

of imprisonment within the range specified in this paragraph, unless the court finds that a mitigation factor under AS 12.55.155 applies;

(2) if the offense is a first felony conviction,

(A) the defendant violated AS 11.41.130, and the victim was

[(A)] a child under 16 years of age, two to four years; [OR]

(B) two to four years if the conviction is for attempt, solicitation, or conspiracy to manufacture related to methamphetamine under AS 11.31 and AS 11.71.021(a)(2)(A) or (B), and

(i) the attempted manufacturing occurred, or the solicited or conspired offense was to have occurred, in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of an attempt to manufacture, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present [WAS 16 YEARS OF AGE OR OLDER, ONE TO THREE YEARS];

(3) if the offense is a second felony conviction, **four** [TWO] to **seven** [FIVE] years;

(4) if the offense is a third felony conviction, **six** [FOUR] to 10 years.

* **Sec. 39.** AS 12.55.125(e) is amended to read:

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, zero to two years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085, and the court may, as a condition of probation under AS 12.55.086, require the defendant to serve an active

term of imprisonment within the range specified in this paragraph;

(2) if the offense is a second felony conviction, **two** [ONE] to four years;

(3) if the offense is a third felony conviction, **three** [TWO] to five years;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years.

* **Sec. 40.** AS 12.55.125(q) is amended to read:

(q) Other than for convictions subject to a mandatory 99-year sentence, the court shall impose, in addition to an active term of imprisonment imposed under (i) of this section, a minimum period of (1) suspended imprisonment of five years and a minimum period of probation supervision of 15 years for conviction of an unclassified felony, (2) suspended imprisonment of three years and a minimum period of probation supervision of 10 years for conviction of a class A or class B felony, or (3) suspended imprisonment of two years and a minimum period of probation supervision of five years for conviction of a class C felony. The period of probation is in addition to any sentence received under (i) of this section **and may not be suspended or reduced. Upon a defendant's release from confinement in a correctional facility, the defendant is subject to the probation requirement under this subsection and shall submit and comply with the terms and requirements of the probation.**

* **Sec. 41.** AS 12.55.135(a) is amended to read:

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than

[(1)] one year [, IF THE

(A) CONVICTION IS FOR A CRIME WITH A MANDATORY MINIMUM TERM OF 30 DAYS OR MORE OF ACTIVE IMPRISONMENT;

(B) TRIER OF FACT FINDS THE AGGRAVATING FACTOR THAT THE CONDUCT CONSTITUTING THE OFFENSE WAS AMONG THE MOST SERIOUS CONDUCT INCLUDED IN THE DEFINITION OF THE OFFENSE;

(C) DEFENDANT HAS PAST CRIMINAL CONVICTIONS FOR CONDUCT VIOLATIVE OF CRIMINAL LAWS, PUNISHABLE AS FELONIES OR MISDEMEANORS, SIMILAR IN NATURE TO THE OFFENSE FOR WHICH THE DEFENDANT IS BEING SENTENCED;

(D) CONVICTION IS FOR AN ASSAULT IN THE FOURTH DEGREE UNDER AS 11.41.230; OR

(E) CONVICTION IS FOR A VIOLATION OF

(i) AS 11.41.427;

(ii) AS 11.41.440;

(iii) AS 11.41.460, IF THE INDECENT EXPOSURE IS BEFORE A PERSON UNDER 16 YEARS OF AGE;

(iv) AS 11.61.116(c)(2); OR

(v) AS 11.61.118(a)(2);

(2) 30 DAYS].

* **Sec. 42.** AS 12.55.135(b) is amended to read:

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90

[(1) 10] days unless otherwise specified in the provision of law defining the offense [OR IN THIS SECTION;

(2) 90 DAYS IF THE CONVICTION IS FOR A VIOLATION OF

(A) AS 11.61.116(c)(1) AND THE PERSON IS 21 YEARS OF AGE OR OLDER; OR

(B) AS 11.61.120(a)(6) AND THE PERSON IS 21 YEARS OF AGE OR OLDER; OR

(3) FIVE DAYS IF THE CONVICTION IS FOR A VIOLATION OF AS 11.56.757].

* **Sec. 43.** AS 12.55.135 is amended by adding a new subsection to read:

(q) A court may not impose a sentence of imprisonment or suspended imprisonment for possession of marijuana in violation of AS 11.71.060 if the defendant alleges, and the court finds, that the defendant was not under formal or informal probation or parole conditions in this or another jurisdiction at the time of the

offense; that the defendant possessed the marijuana for the defendant's personal use within the defendant's permanent or temporary residence; and that the defendant has not been previously convicted more than once in this or another jurisdiction for possession of marijuana. If the defendant has not been previously convicted as described in this subsection, the maximum unsuspended fine that the court may impose is \$500. If the defendant has been previously convicted once as described in this subsection, the maximum unsuspended fine that the court may impose is \$1,000. In this subsection,

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

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

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

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

* **Sec. 44.** AS 28.35.030(k) is amended to read:

(k) Imprisonment required under (b)(1)(A) of this section shall be served **at a community residential center or** by electronic monitoring at a private residence under AS 33.30.065. If **a community residential center or** electronic monitoring **at a private residence** is not available, imprisonment required under (b)(1)(A) of this section **may** [SHALL] be served at **another appropriate place** [A PRIVATE RESIDENCE BY OTHER MEANS] determined by the commissioner of corrections. [A PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT REQUIRED UNDER (b)(1)(A) OF THIS SECTION BY ELECTRONIC MONITORING AT A

PRIVATE RESIDENCE MAY NOT BE SUBJECT TO A SEARCH OF THE PERSON'S DWELLING BY A PEACE OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE.] Imprisonment required under (b)(1)(B) - (F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include electronic monitoring under AS 33.30.065 [OR, IF ELECTRONIC MONITORING IS NOT AVAILABLE, BY OTHER MEANS AS DETERMINED BY THE COMMISSIONER OF CORRECTIONS]. The cost of imprisonment resulting from the sentence imposed under (b)(1) of this section shall be paid to the state by the person being sentenced. The cost of imprisonment required to be paid under this subsection may not exceed \$2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.140. A person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of community service work, as required by the director of the community residential center or other appropriate place, or as required by the commissioner of corrections if the sentence is being served at a private residence. In this subsection, "appropriate place" means a facility with 24-hour on-site staff supervision that is specifically adapted to provide a residence, and includes a correctional center, residential treatment facility, hospital, halfway house, group home, work farm, work camp, or other place that provides varying levels of restriction.

* **Sec. 45.** AS 28.35.032(o) is amended to read:

(o) Imprisonment required under (g)(1)(A) of this section shall be served at a community residential center, or if a community residential center [PRIVATE RESIDENCE BY ELECTRONIC MONITORING UNDER AS 33.30.065. IF ELECTRONIC MONITORING] is not available, at another appropriate place

[IMPRISONMENT UNDER (g)(1)(A) OF THIS SECTION SHALL BE SERVED AT A PRIVATE RESIDENCE BY OTHER MEANS AS] determined by the commissioner of corrections. [A PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT REQUIRED UNDER (g)(1)(A) OF THIS SECTION BY ELECTRONIC MONITORING AT A PRIVATE RESIDENCE MAY NOT BE SUBJECT TO A SEARCH OF THE PERSON'S DWELLING BY A PEACE OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE.]

Imprisonment required under (g)(1)(B) - (F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include electronic monitoring under AS 33.30.065 [OR, IF ELECTRONIC MONITORING IS NOT AVAILABLE, SHALL BE SERVED BY OTHER MEANS AS DETERMINED BY THE COMMISSIONER OF CORRECTIONS]. The cost of imprisonment resulting from the sentence imposed under (g)(1) of this section shall be paid to the state by the person being sentenced. The cost of imprisonment required to be paid under this subsection may not exceed \$2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.140. A person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of community service work, as required by the director of the community residential center or other appropriate place, or as required by the commissioner of corrections if the sentence is being served at a private residence. In this subsection, "appropriate place" means a facility with 24-hour on-site staff supervision that is specifically adapted to provide a residence, and includes a correctional center, residential treatment facility, hospital, halfway house, group home, work farm, work camp, or other place that provides varying levels of restriction.

* **Sec. 46.** 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), **11.71.021(a), 11.71.030(a)(2) or (9)** [11.71.030(a)(1), (2), OR (4) - (8)], or 11.71.040(a)(1), (2), or (5);

* **Sec. 47.** AS 47.12.315(a) is amended to read:

(a) Notwithstanding AS 47.12.310 and except as otherwise provided in this section, the department shall disclose information to the public, on request, concerning a minor subject to this chapter who was at least 13 years of age at the time of commission of

- (1) a felony offense against a person under AS 11.41;
- (2) arson in the first or second degree;
- (3) burglary in the first degree;
- (4) distribution of child pornography;
- (5) sex trafficking in the first degree;
- (6) misconduct involving a controlled substance in the first, [OR] second, **or third** degrees involving distribution or possession with intent to deliver; or
- (7) misconduct involving weapons in the first through fourth degrees.

* **Sec. 48.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 6(r)(6), Alaska Rules of Criminal Procedure, is amended to read:

(6) **When a prior conviction is an element of an offense** [IN A PROSECUTION FOR DRIVING WHILE INTOXICATED UNDER AS 28.35.030(n) OR FOR REFUSAL TO SUBMIT TO A CHEMICAL TEST UNDER AS 28.35.032(p)], hearsay evidence received through the Alaska Public Safety Information Network or from other government agencies of prior convictions [OF DRIVING WHILE INTOXICATED OR REFUSAL TO SUBMIT TO A CHEMICAL TEST] may be presented to the grand jury.

* **Sec. 49.** AS 11.46.980(d), 11.46.982; AS 11.56.330(a)(3); AS 11.71.030(a)(1), 11.71.030(a)(4), 11.71.030(a)(5), 11.71.030(a)(6), 11.71.030(a)(7), 11.71.030(a)(8), 11.71.030(c), 11.71.030(e), 11.71.040(a)(11), 11.71.050(a)(4); AS 12.25.180(b)(3); AS 12.55.135(l), 12.55.135(m), 12.55.135(n), 12.55.135(o), 12.55.135(p), and

12.55.145(a)(5) are repealed.

* **Sec. 50.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REPORT OF THE SUPERIOR COURT REGARDING INVOLUNTARY COMMITMENT. By December 31, 2019, the superior court shall transmit the information under AS 47.30.907(a), if known, to the Department of Public Safety for all orders of the superior court issued on or after October 1, 1981, for the involuntary commitment of a person under AS 47.30.735 - 47.30.755 or for orders of relief from a disability resulting from an involuntary commitment or an adjudication of mental illness or mental incompetence granted under AS 47.30.851(b).

* **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) The following sections apply to offenses committed on or after the effective date of those sections:

- (1) AS 11.41.110(a), as amended by sec. 1 of this Act;
- (2) AS 11.41.150(a), as amended by sec. 2 of this Act;
- (3) AS 11.46.130(a), as amended by sec. 3 of this Act;
- (4) AS 11.46.140(a), as amended by sec. 4 of this Act;
- (5) AS 11.46.150(a), as amended by sec. 5 of this Act;
- (6) AS 11.46.220(c), as amended by sec. 6 of this Act;
- (7) AS 11.46.260(b), as amended by sec. 7 of this Act;
- (8) AS 11.46.270(b), as amended by sec. 8 of this Act;
- (9) AS 11.46.280(d), as amended by sec. 9 of this Act;
- (10) AS 11.46.285(b), as amended by sec. 10 of this Act;
- (11) AS 11.46.295, as amended by sec. 11 of this Act;
- (12) AS 11.46.360(a), as amended by sec. 12 of this Act;
- (13) AS 11.46.482(a), as amended by sec. 13 of this Act;
- (14) AS 11.46.484(a), as amended by sec. 14 of this Act;
- (15) AS 11.46.486(a), as amended by sec. 15 of this Act;
- (16) AS 11.46.530(b), as amended by sec. 16 of this Act;
- (17) AS 11.46.620(d), as amended by sec. 17 of this Act;

- (18) AS 11.46.730(c), as amended by sec. 18 of this Act;
- (19) AS 11.56.310(a), as amended by sec. 19 of this Act;
- (20) AS 11.56.320(a), as amended by sec. 20 of this Act;
- (21) AS 11.56.730(a), as amended by sec. 21 of this Act;
- (22) AS 11.56.730(d), as amended by sec. 22 of this Act;
- (23) AS 11.56.757(b), as amended by sec. 23 of this Act;
- (24) AS 11.56.760(a), as amended by sec. 24 of this Act;
- (25) AS 11.56.760(c), as amended by sec. 25 of this Act;
- (26) AS 11.56.810(a), as repealed and reenacted by sec. 26 of this Act;
- (27) AS 11.61.110(c), as amended by sec. 25 of this Act;
- (28) AS 11.71.021, enacted by sec. 28 of this Act;
- (29) AS 11.71.030(a), as amended by sec. 29 of this Act;
- (30) AS 11.71.030(d), as amended by sec. 30 of this Act;
- (31) AS 11.71.040(a), as amended by sec. 31 of this Act;
- (32) AS 11.71.040(d), as amended by sec. 32 of this Act;
- (33) AS 11.71.050, as amended by sec. 33 of this Act;
- (34) AS 11.71.060, as amended by sec. 34 of this Act;
- (35) AS 11.71.311(a), as amended by sec. 35 of this Act.

(b) The following sections apply to sentences imposed on or after the effective date of those sections for conduct occurring on or after the effective date of those sections:

- (1) AS 12.55.125(c), as amended by sec. 37 of this Act;
- (2) AS 12.55.125(d), as amended by sec. 38 of this Act;
- (3) AS 12.55.125(e), as amended by sec. 39 of this Act;
- (4) AS 12.55.125(q), as amended by sec. 40 of this Act;
- (5) AS 12.55.135(a), as amended by sec. 41 of this Act;
- (6) AS 12.55.135(b), as amended by sec. 42 of this Act;
- (7) AS 12.55.135(q), enacted by sec. 43 of this Act;
- (8) AS 28.35.030(k), as amended by sec. 44 of this Act;
- (9) AS 28.35.032(o), as amended by sec. 45 of this Act.

(c) AS 12.55.090(c), as amended by sec. 36 of this Act, applies to probation ordered on or after the effective date of sec. 36 of this Act for conduct occurring on or after the

1 effective date of sec. 36 of this Act.

2 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 **CONDITIONAL EFFECT.** Section 48 of this Act takes effect only if sec. 48 of this
5 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
6 Constitution of the State of Alaska.

7 * **Sec. 53.** Section 50 of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 54.** Except as provided in sec. 53 of this Act, this Act takes effect July 1, 2019.