

Alaska State Legislature

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SENATE BILL 91 SECTIONAL ANALYSIS

Omnibus Criminal Law & Procedure; Corrections
Version V

Section 1

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

Conforms to the realigned misconduct involving controlled substances statutes.

Section 2

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

Conforms to the realigned misconduct involving controlled substances statutes.

Section 3

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

Increases the threshold value for theft in the second degree from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 4

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

Increases the threshold value for theft in the third degree from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 5

11.46.150(a) – Theft in the Fourth Degree (Amended)

Adjusts the threshold levels for theft in the fourth degree for inflation every five years.

Section 6

11.46.220(c) - Concealment of Merchandise (Amended)

Increases the threshold value for concealment of merchandise from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 7

11.46.260(b) - Removal of Identification Marks (Amended)

Increases the threshold value for removal of identification marks from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 8

11.46.270(b) - Unlawful Possession (Amended)

Increases the threshold value for unlawful possession from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 9

11.46.280(d) - Issuing a Bad Check (Amended)

Increases the threshold value for issuing a bad check from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 10

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

Increases the threshold value for fraudulent use of an access device to \$1000 and adjusts those levels for inflation every five years.

Section 11

11.46.295 – Prior Convictions (Amended)

Conforms definition for prior convictions for theft related crimes.

Section 12

11.46.360(a) – Vehicle Theft in the First Degree (Amended)

Increases the threshold value for vehicle theft from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 13

11.46.460 - Disregard of a Highway Obstruction (Amended)

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

Section 14

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

Increases the threshold value for criminal mischief in the third degree from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 15

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

Increases the threshold value for criminal mischief in the fourth degree from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 16

11.46.486(a) - Criminal Mischief in the Fifth Degree (Amended)

Adjusts the threshold levels for theft in the fifth degree for inflation every five years.

Section 17

11.46.530(b) - Criminal Simulation (Amended)

Increases the threshold value for criminal simulation from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 18

11.46.620(d) - Misapplication of Property (Amended)

Increases the threshold value for misapplication of property from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 19

11.46.730(c) - Defrauding Creditors (Amended)

Increases the threshold value for defrauding creditors from \$750 to \$1,000 and adjusts those levels for inflation every five years.

Section 20

11.46.980 - Determination of Value (New Subsection)

Requires the court to refer to inflation-adjusted property value thresholds in making a finding related to the degree or classification of a crime.

Section 21

11.46.982 – Adjustment for Inflation Increasing the Value of Property or Services as an Element of an Offense (New Section)

Requires the Alaska Judicial Council to publish a report re-setting property crime threshold levels based on changes in the Consumer Price Index every five years.

Section 22

11.56.730(a) – Failure to Appear (Amended)

Conforms to the reclassification of failure to appear.

Section 23

11.56.730(c) - Failure to Appear (Amended)

Conforms to the reclassification of failure to appear.

Section 24

11.56.730 - Failure to Appear (New Subsection)

Establishes that failure to appear is a class A misdemeanor if the person absconds for 30 days or fails to appear in order to avoid prosecution; and otherwise is a violation punishable up to \$1,000.

Section 25

11.56.757(a) - Violation of Condition of Release (Amended)

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

Section 26

11.56.757(b) - Violation of Condition of Release (Amended)

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

Section 27

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

Conforms to renumbered statutes.

Section 28

11.61.110(c) - Disorderly Conduct (Amended)

Removes the language limiting sentences of imprisonment for disorderly conduct to 10 days.

Section 29***11.61.145(d) - Promoting an Exhibition of Fighting Animals (Amended)***

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

Section 30***11.61.150(a) - Obstruction of Highways (Amended)***

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

Section 31***11.61.150(c) - Obstruction of Highways (Amended)***

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

Section 32***11.66.100 – Prostitution (New Subsection)***

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

Section 33***11.66.110(a) – Sex Trafficking in the First Degree (Amended)***

Restricts the crime of sex trafficking in the first degree to instances in which the person induces or causes another person to engage in prostitution.

Section 34***11.66.130(a) – Sex Trafficking in the Third Degree (Amended)***

Restricts the crime of sex trafficking in the third degree to instances in which the person induces or causes another person to engage in prostitution..

Section 35***11.66.130 (c) – Sex Trafficking in the Third Degree (New Subsection)***

Limits the definition of “promoting prostitution” to exclude cases in which the person has engaged in prostitution without inducing or causing another person

to engage in prostitution.

Section 36

11.66.135 – Sex Trafficking in the Fourth Degree (New Subsection)

Limits the definition of “instituting, aiding or facilitation of prostitution” to exclude cases in which the person engages in prostitution without inducing or causing another person to engage in prostitution.

Section 37

11.66.200(c) - Gambling (Amended)

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

Section 38

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

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

Section 39

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

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

Section 40

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

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

Section 41

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

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

Section 42

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

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

Section 43

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

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

Section 44

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

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

Section 45

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

Conforms to the renumbered misconduct involving controlled substances statutes.

Section 46

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

Provides that an arrested person shall appear before a judge or magistrate within 24 hours of arrest absent compelling circumstances, and that the hearing may not take place more than 48 hours after arrest. Provides that a delay or unavailability of a report prepared by the pretrial services officer may not be considered justification to delay a hearing beyond 24 hours.

Section 47

12.25.180 - When Peace Officer Shall [MAY] Issue Citation or Take Person Before the Court (Amended)

Establishes a presumption of citation instead of arrest for misdemeanors and class C felonies with exceptions for offenses that involve violence or harm to another person or property, where the officer believes the person is a flight risk or danger to themselves or others, or where the offense is failure to appear or a violation of conditions of release.

Section 48

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

Forbids civil action for damages against an officer for failure to comply with the citation presumption.

Section 49

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

Reduces the minimum notice to appear from five days to two days for citations for misdemeanors and class C felonies.

Section 50

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

Conforming to allow the notice to appear to remain five days for citations for violations and infractions.

Section 51

12.30.006(b) – Release Procedures (Amended)

Conforming language for changes to 12.30.011 to clarify that class C felony defendants who must be released on personal recognizance or unsecured bond may not be detained for an additional 48 hours for the prosecution to prove that the person should be detained.

Section 52

12.30.006(c) - Release Procedures (Amended)

Requires judicial review and revision of the conditions of release for instances where the defendant is detained pre-trial due to those release conditions, unless the judicial officer finds that less restrictive release conditions cannot reasonably

ensure the appearance of the person in court and safety of the victim, other persons, and the community.

Section 53

12.30.006(d) - Release Procedures (Amended)

Allows for defendant's inability to pay bond to be considered "new information" for purposes of one bail review hearing.

Section 54

12.30.006(f) - Release Procedures (Amended)

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

Section 55

12.30.011 - Release Before Trial (Repealed and Reenacted)

Limits judicial discretion to order secured monetary bond for low- and moderate-risk pretrial defendants charged with nonviolent, non-DUI misdemeanors and low-risk pretrial defendants charged with non-violent, non-DUI Class C felonies. Creates a presumption of release on personal recognizance or unsecured bond for other defendants charged with nonviolent offenses, with some exceptions, allowing the court to overcome that presumption and order secured money bond if it finds that no less restrictive release conditions can reasonably assure court appearance and public safety. Requires the court to order the least restrictive additional release conditions, considering many factors including the defendant's risk assessment score and the conditions recommended by the pretrial services officer.

Section 56

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

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to enforce alcohol-related release conditions with warrantless searches, breath tests, and urine/blood tests.

Section 57

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

Conforms to creation of a pretrial services office, authorizing a pretrial services officer to enforce drug-related release conditions with warrantless searches and random drug tests.

Section 58

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

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

Section 59

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

Changes the restrictions on eligibility to serve as a third-party custodian to prohibit only those who are *likely to be called* as witnesses, as opposed to all of those who *may be called* as witnesses.

Section 60

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

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

Section 61

12.55.011 – Victim and Community Involvement in Sentencing (New Subsection)

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

Section 62

12.55.025(a) - Sentencing Procedures (Amended)

Conforms sentencing report to reflect the creation of administrative parole.

Section 63

12.55.025(c) - Sentencing Procedures (Amended)

Conforming to ensure credit is applied for time spent in custody pre-hearing for a violation of a condition of probation.

Section 64

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

Changes the criteria for treatment programs that credit pretrial toward a sentence of imprisonment to those programs that place a substantial restriction on the defendant's freedom of movement.

Section 65

12.55.027(b) – Credit for Time Spent Toward Service of a Sentence of Imprisonment (Amended)

Establishes day-for-day credit for time served pretrial in a court-ordered treatment program.

Section 66

12.55.027(c) – Credit for Time Spent Pretrial Toward Service of a Sentence of Imprisonment (Repealed and Reenacted)

Provides the factors that courts shall consider when determining whether a treatment program should qualify for the awarding of credit for time served pretrial.

Section 67

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

Provides that qualifying treatment programs must address criminogenic traits, provide measures of progress, and notify the court or pretrial services officer if the person is discharged for noncompliance.

Section 68

12.55.035(b) - Fines

Increases the maximum fine for class A misdemeanors to \$25,000.

Section 69

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

Conforms to changes to the probation revocation process.

Section 70

12.55.055(a) – Community Work (Amended)

Conforms to allow a defendant to perform community work as a condition of suspended entry of judgment

Section 71

12.55.055(c) - Community Work (Amended)

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

Section 72

12.55.055 - Community Work (New Subsection)

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

Section 73

12.55.078 - Suspended Entry of Judgement (New Section)

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

Section 74

12.55.090(b) - Granting of Probation (Amended)

Conforms to new early discharge process.

Section 75

12.55.090(c) - Granting of Probation (Amended)

Limits probation terms to 10 years for a sex offense, five years for a non-sex unclassified felony, three years for other felony offenses, two years for a second-time misdemeanor DUI or assault offense and one year for all other misdemeanor offenses.

Section 76

12.55.090(f) - Granting of Probation (Amended)

Authorizes the court to alter a term of probation in accordance with the earned compliance policy, or if a probation officer recommends to the court that the probationer be discharged from probation for completing treatment and complying with the conditions of probation.

Section 77

12.55.090 - Granting of Probation (New Subsection)

Requires probation officers to recommend early discharge from probation to the court for any probationer who has served at least one year, completed any required treatment, and has not been found in violation of their conditions of probation, with an exception for offenders convicted of an unclassified or sex felony offenses, or a crime involving domestic violence. This section also establishes an opportunity for a crime victim to be notified and comment at an early discharge hearing. Provides that court shall discharge the defendant from

probation upon completion of the period of probation, including the time served and earned credits.

Section 78

12.55.100(a) - Conditions of Probation (Amended)

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

Section 79

12.55.100(c) - Conditions of Probation (Amended)

Conforms to renumbered statutes.

Section 80

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

Limits the maximum sentence for technical violations of probation for probationers who are not in the PACE program to 3 days for the first revocation, 5 days for the second revocation, 10 days for the third revocation, and up to the remainder of the suspended sentence for the fourth or subsequent revocation. For defendants found absconding, the court may impose a period of imprisonment of up to 30 days. For offenders who have failed to complete required batterers intervention or sex offender treatment, the court may impose a period of imprisonment up to the remainder of the suspended portion of the sentence. These limits would not apply to probationers enrolled in the PACE program.

Section 81

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

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

Section 82

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

Increases the mandatory minimum for first degree murder from 20 years to 30 years.

Section 83

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

Maintains the maximum sentence for non-sex Class A felonies at 20 years, while reducing the presumptive range for a first felony conviction to three to six years, a first felony conviction if the defendant uses a dangerous instrument or the

offense is directed at a first responder to five to nine years, a second felony conviction to eight to twelve years, and a third felony conviction to thirteen to twenty years. Conforms to refer to the realigned misconduct involving controlled substances statutes.

Section 84

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

Maintains the maximum sentence for non-sex Class B felonies at 10 years, while reducing the presumptive range for a first felony conviction to zero to two years, a second felony conviction to two to five years, and a third felony conviction to four to 10 years. Maintains penalties for criminally negligent homicide of a child at two to four years and enhances the penalty for criminally negligent homicide of an adult to one to three years. Conforms to refer to the realigned misconduct involving controlled substances statutes.

Section 85

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

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

Section 86

12.55.127(c) - Consecutive and Concurrent Terms of Imprisonment (Amended)

Establishes a consecutive term of imprisonment of one-fourth of the mandatory minimum for each additional second degree murder conviction.

Section 87

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

Provides for a presumptive range of zero to thirty days for class A misdemeanors, with exceptions allowing sentences of up to one year for offenses with mandatory minimums of thirty days or above, for cases in which the conduct was among the most serious included in the definition of the offense, for defendants with similar past convictions, and for domestic violence assault.

Section 88

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

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

Section 89

12.55.135 – Sentences of Imprisonment for Misdemeanors (New subsections)

Provides that the court may not impose a sentence of imprisonment or suspended imprisonment for a person convicted of theft in the fourth degree and various theft offenses under \$250; and may impose no more than five days of suspended imprisonment and six months of probation if the person has two prior theft convictions.

Provides that the court may not impose a sentence of longer than 24 hours for a person convicted of disorderly conduct.

Provides that the court may not impose a sentence of active imprisonment for a person convicted of possession of a controlled substance in the fourth or fifth degree, unless the person has previously been convicted more than once of an offense under AS 11.71.

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

Section 90

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

Requires the prosecuting attorney, at the victim's request, to confer with the victim of a felony crime or domestic violence offense in regards to a proposed plea agreement.

Section 91

12.62.400(a) – National Criminal History Record Checks

Requires a national criminal background check to be conducted to determine eligibility for a license to operate a commercial marijuana establishment.

Section 92

12.70.130 – Arrest without warrant (Amended)

Reduces the period of time with which a person has to be taken before a judge after an arrest without a warrant from 48 hours to 24 hours, absent compelling circumstances. States that the hearing may not take place more than 48 hours after arrest.

Section 93

17.38.200(a) – Local Option

Requires applicants for a license to operate a marijuana establishment to submit fingerprints for a criminal history record check.

Section 94

22.35.030 – Record Concerning Criminal Cases Resulting in Acquittal or Dismissal

Prohibits the court from publishing the court record of a person granted suspended entry of judgment.

Section 95

28.10.011 – Vehicles Subject to Registration (Amended)

Creates an exception to vehicle registration requirements for vehicles driven by an operator with an off-highway commercial driver's license or a noncommercial off-road driver's license.

Section 96

28.15.126 – Restricted Off-Highway Driver's License (New Section)

Requires the Department of Motor Vehicles to issue off-road system noncommercial driver's licenses and to publish a list of off-road system eligible areas.

Section 97

28.15.165 - Administrative Revocations and Disqualifications resulting from chemical sobriety tests and refusals to submit to tests (New Subsection)

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

Section 98

28.15.201(d) – Limitation of Driver's License

Conforming amendment to reflect changes related to the DMV's publication of a list off-road system areas.

Section 99

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

Authorizes the court to grant limited license privileges for felony DUI offenders if the person has completed a court-ordered treatment program, has proof of

insurance, and an installed ignition interlock device. This section allows the court or the department to revoke a limited license if the person is convicted of a DUI or refusal, or if the person is not in compliance with the court-ordered treatment program.

Section 100

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

Defines the crime of driving while license canceled, suspended, revoked, or in violation of a limitation placed on the person's license or privilege to drive.

Section 101

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

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

Section 102

28.22.011(a) – Motor Vehicle Liability Insurance Required (Amended)

Creates an exception to the requirement for motor vehicle liability insurance for operators with off-road noncommercial driver's licenses in off-road areas and off-highway commercial driver's licenses who have not been cited for traffic violations with a demerit point value of six or more in the preceding five years.

Section 103

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

Clarifies that the court's authority to reduce a defendant's sentence based on compliance with a treatment plan includes authority to reduce a sentence of imprisonment, fine, or a license revocation.

Section 104

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

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

Section 105

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

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

Section 106

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

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

Section 107

28.35.030(t) - Operating a Vehicle... Under the Influence

Conforming to reflect changes to the off-road eligible areas for purposes of waiving ignition interlock device requirements.

Section 108

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

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

Section 109

28.35.032(t) - Refusal to Submit to a Chemical Test

Conforming to reflect changes to the off-road eligible areas for purposes of waiving ignition interlock device requirements.

Section 110

28.90.990(a) - Definitions for Title (Amended)

Defines "off-road system eligible area" as an area of the state that does not have land-connected road access to an office that offers road testing at least once every three months.

Section 111

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

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

Section 112

29.25.070(a) - Penalties (Amended)

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

Section 113

29.25.070 - Penalties (New Subsection)

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

Section 114

33.05.020 - Duties of Commissioner (New Subsection)

Requires the commissioner to establish an administrative sanction and incentive program to facilitate a prompt and effective response to compliance with or violations of conditions of probation. Also requires the commissioner to establish a system of earned compliance credits for offenders on probation for a felony offense.

Section 115

33.05.040 - Duties of Probation Officers (Amended)

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

Section 116

33.05.080 - Definitions (New Paragraph)

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

Section 117

33.07.010 - Pretrial Services Program (New Section)

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

Outlines duties of pretrial services officers to conduct pretrial risk assessments, make recommendations to the court regarding release and conditions of release, and provide supervision for defendants released pretrial. Authorizes pretrial

services officers to make pretrial diversion recommendations and to arrest defendants who have failed to appear or violated their release conditions.

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

Section 118

33.16.010(c) - Parole (Amended)

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

Section 119

33.16.010(d) - Parole (Amended)

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

Section 120

33.16.010 - Parole (New Subsection)

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

Section 121

33.16.060(a) - Duties of the Board (Amended)

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

Section 122

33.16.089 - Eligibility for Administrative Parole (New Section)

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

Section 123

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

Expands eligibility for discretionary parole to all inmates who are over the age of 55 and have served at least 10 years of their sentence.

Section 124

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

Expands eligibility for discretionary parole to all non-sex offenders. Expands eligibility for discretionary parole for certain lower-level sex offenders, after the offender has served at least half of their sentence.

Section 125

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

Conforming to the expansion of eligibility for discretionary parole.

Section 126

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

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

Section 127

33.16.100 - Granting of Discretionary Parole (New Subsection)

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

When considering a prisoner over the age of 55 for release on discretionary parole, the board must take into consideration the prisoner's likelihood of recidivism given the prisoner's age, as well as whether or not the prisoner poses a threat to the public.

Section 128

33.16.110(a) - Preparole Reports (Amended)

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

Section 129

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

Conforms victim notification requirements to reflect changes to the parole application process.

Section 130

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

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

Section 131

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

Conforms notification requirements for victims of domestic violence and sexual assault to include notice of all parole hearings and decisions (not just discretionary parole).

Section 132

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

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

Section 133

33.16.130 - Parole Procedures (Repealed and Reenacted)

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

Section 134

33.16.140 - Order for Parole (Amended)

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

Section 135

33.16.150(a) - Conditions of Parole (Amended)

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

Section 136

33.16.150(b) - Conditions of Parole (Amended)

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

Section 137

33.16.150(e) - Conditions of Parole (Amended)

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

Section 138

33.16.150(f) - Conditions of Parole (Amended)

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

Section 139

33.16.150(g) - Conditions of Parole (Amended)

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

Section 140

33.16.150 – Conditions of Parole (New Subsection)

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

Section 141

33.16.180 - Duties of the Commissioner (Amended)

Adds to the duties of the DOC Commissioner the responsibility to prepare pre-parole reports, notify the parole board of a prisoner's compliance or noncompliance with their case plan, establish administrative sanctions and incentives for offenders on parole supervision, and notify victims of release from prison.

Section 142***33.16.200 - Custody of Parolee (Amended)***

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

Section 143***33.16.210 - Discharge of Parolee (Amended)***

Permits the parole board to discharge a parolee after one year of parole, in some cases to serve a residual period of probation.

Section 144***33.16.210 - Discharge of Parolee (New Subsection)***

Requires parole officers to recommend early discharge to the board for parolees for parolees who were not convicted of unclassified or sexual felonies, domestic violence offenses, or misdemeanors, if the parolee has completed at least one year on parole, has completed all required treatment programs, and has not violated conditions.

Section 145***33.16.215 - Sanctions for a Technical Violation of Parole (New Section)***

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

Section 146***33.16.220(b) - Revocation of Parole (Amended)***

Conforms to include the commission of a new offense or failing to complete a sex offender treatment program as conduct that requires a preliminary hearing within 15 days to determine if there is probable cause to believe a violation of the conditions of parole occurred.

Section 147***33.16.220(f) - Revocation of Parole (Amended)***

Conforms to ensure that if a parolee has had a preliminary hearing, the final revocation hearing for a violation of parole occurs within 120 days.

Section 148

33.16.220(i) - Revocation of Parole (Amended)

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

Section 149

33.16.220 - Revocation of Parole (New Subsection)

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

Section 150

33.16.240 - Arrest of a Parole Violator (New Subsection)

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

Section 151

33.16.270 - Earned Compliance Credits (New Section)

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

Section 152

33.16.900 - Definitions (New Paragraph)

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

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

Section 153

33.20.010(a) - Computation of Good Time (Amended)

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

Section 154

33.20.010(c) - Computation of Good Time (Amended)

This section extends good time credit to individuals on electronic monitoring.

Section 155

33.20.010 – Computation of Good Time (New Subsection)

Establishes an earned time credit for sex offenders who complete required treatment and receive a positive recommendation from the treatment program supervisor.

Section 156

33.30.011 - Duties of Commissioner (Amended)

Requires the commissioner of corrections to establish a program to assess risk levels for prisoner's being released on parole, furlough or electronic monitoring; establish procedures for case plans and reentry plans; assist prisoners in obtaining valid state identification cards, and to coordinate with the Department of Labor and Workforce Development to provide access to job training and employment services; and establish standards for electronic monitoring and the approval of private contractors that provide electronic monitoring.

Section 157

33.30.013(a) - Commissioner to Notify Victims (New Subsection)

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

Section 158

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

Requires the Department of Corrections to establish a program to prepare a prisoner for re-entry that begins 90 days before the date of release. The program must include a re-entry plan and instruction on resources available in the community and obtaining state identification. It must also include a partnership with one or more non-profits to assist in the re-entry process.

Section 159

33.30.151 - Correctional Restitution Centers (Amended)

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

Section 160

34.03.360(7) – Definitions (Amended)

Conforms to the realigned misconduct involving controlled substances statutes.

Section 161

39.30.400(b) – Benefits Payable from the Individual Account (Amended)

Extends reimbursement of medical benefits to an eligible member's dependent children if the member dies and there is no surviving spouse.

Section 162

39.35.535(a) – Medical Benefits (Amended)

Extends major medical insurance coverage to the surviving spouses and dependent children of deceased peace officers and firefighters.

Section 163

39.35.535(c) – Medical Benefits (Amended)

Specifies that a surviving spouse or dependent child of a deceased peace officer or firefighter receiving retiree major medical insurance coverage is not required to make premium payments.

Section 164

39.35.870(c) – Eligibility for Retirement and Medical Benefits (Repealed and Reenacted)

Extends eligibility to elect medical benefits to the surviving spouse and dependent children of a deceased peace officer or firefighter.

Section 165

39.35.870(d) – Eligibility for Retirement and Medical Benefits (Amended)

Conforming amendment to enable application for benefits by persons other than members of the retirement / benefit plan.

Section 166

39.35.870(g) – Eligibility for Retirement and Medical Benefits (Repealed and Reenacted)

Clarifies that the decision not to participate in the retiree major medical insurance plan only becomes irrevocable upon application for retirement and medical benefits or when the person reaches 70 ½, whichever is later.

Section 167

39.35.870 – Eligibility for Retirement and Medical Benefits (New Subsection)

Establishes that medical benefits for a surviving spouse or dependent child of a peace officer or firefighter shall be paid until the last day of the month in which there is no surviving spouse and no dependent child.

Section 168

39.35.880(b) – Medical Benefits (Repealed and Reenacted)

Specifies that retiree major medical insurance plan coverage covers the surviving spouse and dependent children of the eligible member if the surviving spouse is the elector; and the dependent child if the child or a person authorized to act on his or her behalf is the elector.

Section 169

39.35.880(d) – Medical Benefits (Amended)

Changes the termination of major medical insurance coverage so that it is tied to when the elector is no longer eligible to receive coverage, rather than when the elector dies.

Section 170

39.35.880(g) – Medical Benefits (Amended)

Conforms to use the word “person” rather than “member or surviving spouse” with regard to eligibility for major medical insurance coverage.

Section 171

39.35.880 – Medical Benefits (New Subsection)

Establishes that surviving spouses and dependent children of peace officers and firefighters killed in the line of duty do not have to pay premiums for major medical insurance coverage.

Section 172

39.35.894 – Premiums for Retiree Major Medical Insurance Coverage... (Amended)

Eliminates reference to the termination of pension under AS 39.35.982(e) (occupational death benefit) in the statutory language on setting premiums for retiree major medical insurance coverage.

Section 173

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

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

Section 174

43.61.010 – Marijuana Tax (New Subsections)

Establishes the recidivism reduction fund in the general fund with 50 percent of the commercial marijuana tax revenue collected to make appropriations for recidivism reduction programs.

Section 175

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

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

Section 176

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

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

Section 177

44.19.647 – Annual Report and Recommendations (Amended)

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

Section 178

44.19.647 – Annual Report and Recommendations (New Subsection)

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

Section 179

44.66.010(a)(12) – Expiration of State Boards and Commissions (Amended)

Extends the life of the commission to June 30, 2021.

Section 180

47.12.310(a) - Agency Records

Conforms to new misconduct involving a controlled substance policy.

Section 181

47.27.015 - Disqualifying Conditions (New Subsection)

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

Section 182

47.37.040 – Duties of department (Amended)

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

Section 183

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

Requires the ASAP program to develop regulations that ensure the use of a validated risk screening tool and monitoring of participants, as appropriate, based on risk.

Section 184

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

Provides that ASAP screen participants for risk to re-offend and monitor based on that risk.

Section 185

47.38.020 – Alcohol, and Substance Abuse Monitoring Program (Amended)

Allows for department to enter into contracts to establish and implement alcohol and substance abuse monitoring required in this section.

Section 186

47.38.100(a) – Recidivism Reduction Program (Amended)

Broadens the purpose of the recidivism reduction program to include rehabilitation programs for persons on probation, parole, or incarcerated and recently released. Removes language referencing Transitional Re-Entry Programs.

Section 187

47.38.100(b) - Recidivism Reduction Program (Amended)

Expands the recidivism reduction program to provide funding for treatment and reentry services for offenders returning to the community.

Section 188

47.38.100 – Recidivism Reduction Program (New Subsection)

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

Section 189

Uncodified Law

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

Section 190

Uncodified Law

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

Section 191

Uncodified Law

Repeals Court Rules 41(d) and (e)

Section 192

Uncodified Law

Repeals AS 11.46.140(a)(3), 11.46.220(c)(2)(B), AS 11.71.020, 11.71.040(a)(3), 11.71.050(a)(2), 12.30.016(d), 12.55.125(c)(2)(B), 12.55.125 (d)(2)(B), 12.55.125(o), 12.55.135(j), 28.22.011(b), and 33.16.100(e).

Section 193

Uncodified Law

Repeals AS 39.35.880(c).

Section 194

Uncodified Law (New Section)

Indirect Court Rule Amendments to the Alaska Rules of Criminal Procedure related to pretrial release practices, community work service, dismissal of charges, notice of aggravating factors, and pretrial services officers.

Section 195

Uncodified Law (New Section)

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

Section 196

Uncodified Law (New Section)

Requires the Alaska Criminal Justice Commissions to provide a report on the effectiveness of Alaska's DUI laws.

Section 197

Uncodified Law (New Section)

Requires the Alaska Criminal Justice Commission to provide a report regarding victim's restitution.

Section 198

Uncodified Law (New Section)

Requires the Alaska Criminal Justice Commission to provide a report on the potential of social impact bonds to reduce recidivism rates.

Section 199

Uncodified Law

Applicability provisions.

Section 200

Uncodified Law (New Section)

The Department of Administration may adopt regulations necessary to implement the provisions in Sections 161-172 and 193 related to medical benefits for surviving spouses and depending children of peace officers.

Section 201

Uncodified Law (New Section)

Provides that the provisions in Sections 161-172 and 193 related to medical benefits for surviving spouses and dependent children of peace officers are retroactive to January 1, 2013.

Section 202

Uncodified Law (New Section)

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

Section 203

Uncodified Law

Establishes immediate effective date for sections 91, 93, 200, and 201 related to medical benefits for surviving spouses and dependent children of peace officers.

Section 204

Uncodified Law

Establishes July 1, 2016 effective date for sections 1-23, 5-45, 70-73, 75, 82-90, 97, 99-101, 103, 106, 111-113, 154, 160, 173-182, 192, 194(b), 194(c), and 194(d), and AS 11.56.730(d), enacted by section 24.

Section 205

Uncodified Law

Establishes October 1, 2016 effective date for section 94 regarding CourtView.

Section 206

Uncodified Law

Establishes January 1, 2017 effective date for sections 47-50, 60, 62, 63, 69, 74, 76-81, 92, 104, 105, 108, 114-116, 118-15, 156-158, and 183-185.

Section 207

Uncodified Law

Establishes January 1, 2018 effective date for sections 46, 51-59, 117, 190, 191, 194(a), and 194(e).

Section 208

Uncodified Law

Establishes July 1, 2018 effective date for section 159 regarding CRCs.

Section 209

Uncodified Law

Establishes January 1, 2019 effective date for AS 11.56.730(e), enacted by section 24, and sec. 189, if they take effect (regarding hearing reminders and failure to appear).