

28-LS0116\L  
Gardner  
3/12/14

**CS FOR SENATE BILL NO. 64(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): SENATE JUDICIARY COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to theft and property offenses; relating to the definition of 'prior**  
2 **convictions' for certain theft offenses; establishing the Alaska Criminal Justice**  
3 **Commission and providing an expiration date; relating to the crime of custodial**  
4 **interference; relating to the duties of the Alaska Judicial Council; relating to jail-time**  
5 **credit for offenders in court-ordered treatment programs; relating to conditions of**  
6 **release, probation, and parole; relating to duties of the commissioner of corrections and**  
7 **board of parole; establishing a fund for reducing recidivism in the Department of**  
8 **Health and Social Services; requiring the commissioner of health and social services to**  
9 **establish programs for persons on conditions of release or probation that require testing**  
10 **for controlled substances and alcoholic beverages; requiring the board of parole to**  
11 **establish programs for persons on parole that require testing for controlled substances**  
12 **and alcoholic beverages; relating to the duties of the Department of Health and Social**

Services; and providing for an effective date."

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

\* **Section 1.** AS 11.41.320(a) is amended to read:

(a) A person commits the crime of custodial interference in the first degree if the person violates AS 11.41.330(a)(1) [AS 11.41.330] and causes the child or incompetent person to be

(1) removed from the state; or

(2) kept outside the state.

\* **Sec. 2.** AS 11.41.330(a) is amended to read:

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

(1) [,] being a relative of a child under 18 years of age or a relative of an incompetent person and knowing that the person has no legal right to do so, the person takes, entices, or keeps that child or incompetent person from a lawful custodian with intent to hold the child or incompetent person for a protracted period;  
or

(2) not being a relative of a child under 18 years of age or a relative of an incompetent person and knowing that the person has no legal right to do so, the person represents to the lawful custodian that the person has a legal right to take or keep the child or incompetent person.

\* **Sec. 3.** AS 11.41.330(b) is amended to read:

(b) The affirmative defense of necessity under AS 11.81.320 does not apply to a prosecution for custodial interference under (a)(1) [(a)] of this section if the protracted period for which the person held the child or incompetent person exceeded the shorter of the following:

(1) 24 hours; or

(2) the time necessary to report to a peace officer or social service agency that the child or incompetent person has been abused, neglected, or is in imminent physical danger.

\* **Sec. 4.** AS 11.46.130(a) is amended to read:

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

3 (1) the value of the property or services is \$1,200 [\$500] or more but  
4 less than \$25,000;

5 (2) the property is a firearm or explosive;

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

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

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

11 (6) the value of the property is \$250 [\$50] or more but less than \$1,200  
12 [\$500] and, within the preceding five years, the person has been convicted and  
13 sentenced on two or more separate occasions in this or another jurisdiction of

14 (A) an offense under AS 11.46.120, or an offense under  
15 another law or ordinance with similar elements;

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

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

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

22 (7) the property is an access device.

23 \* **Sec. 5.** AS 11.46.140(a) is amended to read:

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

26 (1) the value of the property or services is \$250 [\$50] or more but less  
27 than \$1,200 [\$500]; or

28 (2) [REPEALED]

29 (3) the value of the property is less than \$250 [\$50] and, within the  
30 past five years, the person has been convicted and sentenced on two or more separate  
31 occasions in this or another jurisdiction of theft or concealment of merchandise, or an

offense under another law or ordinance with similar elements.

\* **Sec. 6.** 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 is less than \$250 [\$50].

\* **Sec. 7.** 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 is \$1,200 [\$500] or more; or

(C) the value of the merchandise is \$250 [\$50] or more but less than \$1,200 [\$500] 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 is \$250 [\$50] or more but less than \$1,200 [\$500]; or

(B) the value of the merchandise is less than \$250 [\$50] and, within the preceding five years, the person has been convicted and sentenced on two 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 is less than \$250 [\$50].

\* **Sec. 8.** 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 is \$1,200 [\$500] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$250 [\$50] or more but less than \$1,200 [\$500];

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$250 [\$50].

\* **Sec. 9.** 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 is \$1,200 [\$500] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$250 [\$50] or more but less than \$1,200 [\$500];

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$250 [\$50].

\* **Sec. 10.** 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 is \$1,200 [\$500] or more but less than \$25,000;

(3) a class A misdemeanor if the face amount of the check is \$250 [\$50] or more but less than \$1,200 [\$500];

(4) a class B misdemeanor if the face amount of the check is less than \$250 [\$50].

\* **Sec. 11.** 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 is

1        **\$1,200** [\$50] or more but less than \$25,000;

2                    (3) a class A misdemeanor if the value of the property or services  
3        obtained is less than **\$1,200** [\$50].

4        \* **Sec. 12.** AS 11.46.295 is amended to read:

5                    **Sec. 11.46.295. Prior convictions.** For purposes of considering prior  
6        convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or  
7        11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under  
8        AS 11.46.220(c),

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

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

16                    **(3) the** [. THE] court shall consider the date of a prior conviction as  
17        occurring on the date that sentence is imposed for the prior offense.

18        \* **Sec. 13.** AS 11.46.360(a) is amended to read:

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

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

24                    (2) the propelled vehicle of another and

25                                (A) the vehicle or any other property of another is damaged in a  
26        total amount of **\$1,200** [\$500] or more;

27                                (B) the owner incurs reasonable expenses as a result of the loss  
28        of use of the vehicle, in a total amount of **\$1,200** [\$500] or more; or

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

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

1 police or emergency vehicle; or

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

4 (A) this section or AS 11.46.365;

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

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

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

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

12 \* **Sec. 14.** AS 11.46.482(a) is amended to read:

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

16 (1) with intent to damage property of another, the person damages  
17 property of another in an amount of \$1,200 [\$500] or more;

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

20 (3) the person knowingly

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

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

28 \* **Sec. 15.** AS 11.46.484(a) is amended to read:

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

(1) with intent to damage property of another, the person damages property of another in an amount of \$250 [\$50] or more but less than \$1,200 [\$500];

(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 upon a highway under construction.

\* **Sec. 16.** 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 less than \$250 [\$50]; or

(3) the person rides in a propelled vehicle knowing it has been stolen or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

\* **Sec. 17.** 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 is \$1,200 [\$500] or more;

(2) a class A misdemeanor if the value of what the object purports to represent is \$250 [\$50] or more but less than \$1,200 [\$500];

(3) a class B misdemeanor if the value of what the object purports to



represent is less than \$250 [\$50].

\* **Sec. 18.** 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 is \$1,200 [\$500] or more;

(2) a class A misdemeanor if the value of the property misapplied is less than \$1,200 [\$500].

\* **Sec. 19.** 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 of \$1,200 [\$500] or more as a result to 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 is \$1,200 [\$500] or more but less than \$25,000.

\* **Sec. 20.** AS 12.30.011(b) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1     \* **Sec. 21.** AS 12.30.016(b) is amended to read:

2             (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,  
3             AS 28.35.030, or 28.35.032, a judicial officer may order the person

4                     (1) to refrain from

5                             (A) consuming alcoholic beverages; or

6                             (B) possessing on the person, in the person's residence, or in  
7             any vehicle or other property over which the person has control, alcoholic  
8             beverages;

9                     (2) to submit to a search without a warrant of the person, the person's  
10            personal property, the person's residence, or any vehicle or other property over which  
11            the person has control, for the presence of alcoholic beverages by a peace officer who  
12            has reasonable suspicion that the person is violating the conditions of the person's  
13            release by possessing alcoholic beverages;

14                     (3) to submit to a breath test when requested by a law enforcement  
15            officer;

16                     (4) to provide a sample for a urinalysis or blood test when requested by  
17            a law enforcement officer;

18                     (5) to take a drug or combination of drugs intended to prevent  
19            substance abuse;

20                     (6) to follow any treatment plan imposed by the court under  
21            AS 28.35.028;

22                     **(7) to comply with a program established under AS 47.38.020.**

23     \* **Sec. 22.** AS 12.30.016(c) is amended to read:

24             (c) In a prosecution charging a violation of AS 11.71 or AS 11.73, a judicial  
25             officer may order the person

26                     (1) to refrain from

27                             (A) consuming a controlled substance; or

28                             (B) possessing on the person, in the person's residence, or in  
29             any vehicle or other property over which the person has control, a controlled  
30             substance or drug paraphernalia;

31                     (2) to submit to a search without a warrant of the person, the person's

personal property, the person's residence, or any vehicle or other property over which the person has control, for the presence of a controlled substance or drug paraphernalia by a peace officer who has reasonable suspicion that the person is violating the terms of the person's release by possessing controlled substances or drug paraphernalia;

(3) to enroll in a random drug testing program, at the person's expense, to detect the presence of a controlled substance, with testing to occur not less than once a week, and with the results being submitted to the court and the prosecuting authority;

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

(5) to refrain from being physically present at, within a two-block area of, or within a designated area near, the location where the alleged offense occurred or at other designated places, unless the person actually resides within that area; or

(6) to refrain from the use or possession of an inhalant;

**(7) to comply with a program established under AS 47.38.020.**

\* **Sec. 23.** AS 12.55.027(c) is amended to read:

(c) To qualify for credit against a sentence of imprisonment for **a day** [TIME] spent in a treatment program, the treatment program and the facility of the treatment program must impose substantial restrictions on a person's liberty **on that day** that are equivalent to incarceration, including the requirement that a participant in the program

(1) must live in a residential facility operated by the program;

(2) must be confined at all times to the grounds of the facility or be in the physical custody of an employee of the facility, except for

**(A) court appearances;**

**(B) [,] meetings with counsel;**

**(C) employment, vocational training, or community volunteer** [, AND] work required by the treatment program [AND APPROVED IN ADVANCE BY THE COURT]; **and**

**(D) periods during which residents are permitted to leave the facility for rehabilitative purposes directly related to the person's treatment, so long as the periods during which the residents are permitted**

**to leave the facility are expressly limited as to both time and purpose by the treatment program;**

(3) is subject to disciplinary sanctions by the program if the participant violates rules of the program and facility; sanctions must be in writing and available for court review; and

(4) is subject to immediate arrest, without warrant, if the participant leaves the facility without permission.

\* **Sec. 24.** AS 12.55.100(a) is amended to read:

(a) While on probation and among the conditions of probation, the defendant may be required

(1) to pay a fine in one or several sums;

(2) to make restitution or reparation to aggrieved parties for actual damages or loss caused by the crime for which conviction was had, including compensation to a victim that is a nonprofit organization for the value of labor or goods provided by volunteers if the labor or goods were necessary to alleviate or mitigate the effects of the defendant's crime;

(3) to provide for the support of any persons for whose support the defendant is legally responsible;

(4) to perform community work in accordance with AS 12.55.055;

(5) to participate in or comply with the treatment plan of an inpatient or outpatient rehabilitation program specified by either the court or the defendant's probation officer that is related to the defendant's offense or to the defendant's rehabilitation; and

(6) to satisfy the screening, evaluation, referral, and program requirements of an agency authorized by the court to make referrals for rehabilitative treatment or to provide rehabilitative treatment;

**(7) to comply with a program established under AS 47.38.020.**

\* **Sec. 25.** AS 22.20 is amended by adding a new section to article 4 to read:

**Sec. 22.20.210. Alaska Criminal Justice Commission.** The judicial council shall provide staff and administrative support to the Alaska Criminal Justice Commission established in AS 44.19.641.

1     \* **Sec. 26.** AS 33.05.020 is amended by adding a new subsection to read:

2             (f) The commissioner shall establish a program for offenders on probation for  
3     a felony offense who have conditions of probation that include not consuming  
4     controlled substances or alcoholic beverages and who have been identified as being at  
5     moderate to high risk as identified by a risk-needs assessment. The commissioner shall  
6     adopt regulations to implement the program. The program shall

7                 (1) include random testing for controlled substances and alcoholic  
8     beverage use;

9                 (2) require that the probation officer file a petition with the court  
10    seeking appropriate sanctions by the close of the next business day if a probationer

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

13                     (B) tests positive for the use of controlled substances, inhalants,  
14    or alcoholic beverages; and

15                 (3) include a means to notify the court, by the close of the next  
16    business day, that a petition to revoke probation has been filed on a probationer placed  
17    in the program by the commissioner so that the court may review the petition,  
18    schedule a prompt hearing, address a request for a warrant provided by the probation  
19    officer, or take other action the court considers appropriate.

20    \* **Sec. 27.** AS 33.16.060 is amended by adding a new subsection to read:

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

25                 (1) include random testing for controlled substance and alcoholic  
26    beverage use;

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

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

31                     (B) tests positive for the use of controlled substances or

1           alcoholic beverages; and

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

5   \* **Sec. 28.** AS 33.16.150(b) is amended to read:

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

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

16                   (2) refrain from possessing or consuming alcoholic beverages;

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

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

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

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

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

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

30                   (9) refrain from operating a motor vehicle;

31                   (10) refrain from entering an establishment where alcoholic beverages

are served, sold, or otherwise dispensed;

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

\* **Sec. 29.** AS 33.30.011 is amended to read:

**Sec. 33.30.011. Duties of commissioner.** The commissioner shall

(1) establish, maintain, operate, and control correctional facilities suitable for the custody, care, and discipline of persons charged or convicted of offenses against the state or held under authority of state law; each correctional facility operated by the state shall be established, maintained, operated, and controlled in a manner that is consistent with AS 33.30.015;

(2) classify prisoners;

(3) for persons committed to the custody of the commissioner, establish programs, including furlough programs that are reasonably calculated to

(A) protect the public and the victims of crimes committed by prisoners;

(B) maintain health;

(C) create or improve occupational skills;

(D) enhance educational qualifications;

(E) support court-ordered restitution; and

(F) otherwise provide for the rehabilitation and reformation of prisoners, facilitating their reintegration into society;

(4) provide necessary

(A) medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner, including examinations for communicable and infectious diseases;

(B) psychological or psychiatric treatment if a physician or



other health care provider, exercising ordinary skill and care at the time of observation, concludes that

(i) a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(ii) the potential for harm to the prisoner by reason of delay or denial of care is substantial; **and**

**(C) assessment or screening of the risks and needs of offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based disorder;**

(5) establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner; [AND]

(6) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; **and**

**(7) establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more.**

\* **Sec. 30.** AS 44.19 is amended by adding new sections to read:

**Article 6. Alaska Criminal Justice Commission.**

**Sec. 44.19.641. Creation of commission.** The Alaska Criminal Justice Commission is established in the Office of the Governor.

**Sec. 44.19.642. Membership; staff.** (a) The commission consists of 10 members as follows:

(1) the chief justice of the Alaska Supreme Court or another active or retired justice of the supreme court or an active or retired judge of the court of appeals designated by the chief justice;

(2) an active or retired superior court judge designated by the chief justice for a three-year term;

(3) an active or retired district court judge designated by the chief justice for a three-year term;

(4) a member of the Alaska Native community designated by the Alaska Native Justice Center for a three-year term;

(5) the attorney general or a designee of the attorney general;  
(6) the public defender or a designee of the public defender;  
(7) a private attorney appointed by the governor for a three-year term;  
(8) a chief of a municipal law enforcement agency appointed by the governor for a three-year term;

(9) one nonvoting member, serving ex officio, who is a member of the senate appointed by the president of the senate; and

(10) one nonvoting member, serving ex officio, who is a member of the house of representatives appointed by the speaker of the house of representatives.

(b) A member appointed under (a)(7) or (8) of this section serves at the pleasure of the governor and may be reappointed.

(c) The commission shall, by majority vote of the membership, elect a chair and other officers it considers necessary from among its membership to serve on a yearly basis.

(d) The Alaska Judicial Council shall provide staff and administrative support to the commission.

**Sec. 44.19.643. Compensation.** Members of the commission serve without compensation but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

**Sec. 44.19.644. Meetings.** A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission. The commission shall meet at least quarterly, at the call of the chair, at the request of the majority of the members, or at a regularly scheduled time as determined by a majority of the members. The commission shall keep a record of its proceedings and make these records available for public inspection.

**Sec. 44.19.645. Powers and duties of the commission.** (a) The commission shall evaluate the effect of sentencing laws and practices on the criminal justice system to evaluate whether sentences provide for protection of the public, community condemnation of the offender, the rights of victims of crimes, restitution from the offender, and the principle of reformation. The commission shall make recommendations for improving criminal sentencing practices. In formulating its

recommendations, the commission shall consider

(1) statutes and court rules related to sentencing of criminal defendants in misdemeanor and felony cases;

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

(3) means of promoting uniformity and proportionality in sentencing;

(4) alternatives to traditional forms of incarceration;

(5) the use of parole and probation in sentencing criminal defendants and to ensure public safety;

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

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

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

(9) truth and certainty in statutes and sentencing practices; and

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

(b) The commission may

(1) select and retain the services of consultants whose advice is considered necessary to assist the commission in obtaining information;

(2) accumulate and compile information concerning sentencing practices; and

(3) recommend legislative and administrative action on sentencing practices.

**Sec. 44.19.646. Methodology.** In making recommendations, the commission shall

(1) solicit and consider information and views from a variety of constituencies to represent the broad spectrum of views that exist with respect to possible approaches to sentencing criminals in the state; and

(2) base recommendations on the following factors:

(A) the seriousness of each offense in relation to other offenses;

(B) the effect of an offender's prior criminal history on sentencing;

(C) the need to rehabilitate criminal offenders;

(D) the need to confine offenders to prevent harm to the public;

(E) the extent to which criminal offenses harm victims and endanger the public safety and order;

(F) the effect of sentencing in deterring an offender or other members of society from future criminal conduct;

(G) the effect of sentencing as a community condemnation of criminal acts and as a reaffirmation of societal norms;

(H) the elimination of unjustified disparity in sentences;

(I) the resources available to agencies in the criminal justice system; and

(J) the effect of sentencing on reducing the rate of recidivism in the state.

**Sec. 44.19.647. Annual report and recommendations.** The commission shall submit to the governor and the legislature an annual report of its proceedings for the previous calendar year and may submit recommendations for legislative and administrative action. Reports and recommendations provided under this section shall be submitted not later than January 1 of each year.

**Sec. 44.19.649. Definition.** In AS 44.19.641 - 44.19.649, "commission" means the Alaska Criminal Justice Commission.

\* **Sec. 31.** AS 44.66.010(a) is amended by adding a new paragraph to read:

(10) Alaska Criminal Justice Commission (AS 44.19.642) - June 30, 2018.

\* **Sec. 32.** AS 47 is amended by adding a new chapter to read:

### **Chapter 38. Alcohol and Substance Abuse Accountability.**

## **Article 1. Alcohol and Substance Abuse Monitoring and Treatment for Persons Released on Bail or on Probation.**

1           **Sec. 47.38.010. Cooperation with the Department of Corrections.** The  
2 department shall cooperate with the Department of Corrections in establishing and  
3 conducting programs to provide treatment for alcoholics, intoxicated persons, drug  
4 abusers, and inhalant abusers who are on conditions of release as provided in  
5 AS 12.30 or on probation.

6           **Sec. 47.38.020. Alcohol and substance abuse monitoring program.** (a) The  
7 commissioner, in cooperation with the commissioner of corrections, shall establish a  
8 program for certain persons with release conditions ordered as provided under  
9 AS 12.30, or offenders with conditions of probation, that include not consuming  
10 controlled substances or alcoholic beverages.

11                   (b) The commissioner shall adopt regulations to implement the program.

12                   (c) The commissioner shall include in the program

13                           (1) a requirement for twice-a-day testing, in person if practicable, for  
14 alcoholic beverage use and random testing for controlled substances;

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

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

23                                   (B) tests positive for the use of controlled substances or  
24 alcoholic beverages; and

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

28                   (d) The department shall provide or conduct the testing required under (c) of  
29 this section.

30           **Article 2. Recidivism Reduction Grant Program.**

31           **Sec. 47.38.100. Recidivism reduction grant program and fund.** (a) The

recidivism reduction fund is established in the general fund to promote the rehabilitation through transitional re-entry programs of persons incarcerated for offenses and recently released from correctional facilities. The fund consists of money appropriated to the fund.

(b) Appropriations to the fund do not lapse.

(c) The commissioner, in cooperation with the commissioner of corrections, may make grants from the fund for programs that the commissioner of corrections determines have, as a primary focus, rehabilitation and reduction of recidivism through transitional re-entry for persons incarcerated for offenses and recently released from correctional facilities. To qualify for a grant under this section, a program shall

(1) include case management;

(2) require sober living;

(3) provide, on-site or by referral, treatment for substance abuse or mental health treatment;

(4) require employment, educational programming, vocational training, or community volunteer work as approved by the director of the treatment program; and

(5) limit residential placements in the program to a maximum of one year.

(d) The commissioner and the commissioner of corrections shall prepare a joint annual report on the fund and grant program, and notify the legislature on or before January 15 of each year that the report is available. The report must include the balance of the fund, a summary of the grants provided from the fund, and the effects on recidivism for program participants.

### **Article 3. General Provisions.**

**Sec. 47.38.199. Definitions.** In this chapter,

(1) "commissioner" means the commissioner of health and social services;

(2) "department" means the Department of Health and Social Services.

\* **Sec. 33.** AS 22.20.210 is repealed June 30, 2018.

1     \* **Sec. 34.** The uncoded law of the State of Alaska is amended by adding a new section to  
2 read:

3           APPLICABILITY. (a) AS 11.41.320(a), as amended by sec. 1 of this Act,  
4 AS 11.41.330(a), as amended by sec. 2 of this Act, AS 11.41.330(b), as amended by sec. 3 of  
5 this Act, AS 11.46.130(a), as amended by sec. 4 of this Act, AS 11.46.140(a), as amended by  
6 sec. 5 of this Act, AS 11.46.150(a), as amended by sec. 6 of this Act, AS 11.46.220(c), as  
7 amended by sec. 7 of this Act, AS 11.46.260(b), as amended by sec. 8 of this Act,  
8 AS 11.46.270(b), as amended by sec. 9 of this Act, AS 11.46.280(d), as amended by sec. 10  
9 of this Act, AS 11.46.285(b), as amended by sec. 11 of this Act, AS 11.46.295, as amended  
10 by sec. 12 of this Act, AS 11.46.360(a), as amended by sec. 13 of this Act, AS 11.46.482(a),  
11 as amended by sec. 14 of this Act, AS 11.46.484(a), as amended by sec. 15 of this Act,  
12 AS 11.46.486(a), as amended by sec. 16 of this Act, AS 11.46.530(b), as amended by sec. 17  
13 of this Act, AS 11.46.620(d), as amended by sec. 18 of this Act, AS 11.46.730(c), as amended  
14 by sec. 19 of this Act, AS 12.30.011(b), as amended by sec. 20 of this Act, AS 12.30.016(b),  
15 as amended by sec. 21 of this Act, AS 12.30.016(c), as amended by sec. 22 of this Act, and  
16 AS 12.55.027(c), as amended by sec. 23 of this Act apply to offenses occurring on or after the  
17 effective date of secs. 1 - 28 and 30 - 34 of this Act.

18           (b) The changes made to AS 12.55.100(a), as amended by sec. 24 of this Act,  
19 AS 33.05.020, as amended by sec. 26 of this Act, AS 33.16.060, as amended by sec. 27 of this  
20 Act, and AS 33.16.150(b), as amended by sec. 28 of this Act, AS 47.38.020, as enacted by  
21 sec. 32 of this Act, apply to convictions occurring before, on, or after the effective date of  
22 secs. 1 - 28 and 30 - 34 of this Act for offenses occurring before, on, or after the effective date  
23 of secs. 1 - 28 and 30 - 34 of this Act.

24     \* **Sec. 35.** The uncoded law of the State of Alaska is amended by adding a new section to  
25 read:

26           TRANSITIONAL PROVISIONS. The initial designations and appointments to the  
27 Alaska Criminal Justice Commission under AS 44.19.642, added by sec. 30 of this Act, shall  
28 be made and the first meeting of the commission shall be held not later than September 30,  
29 2014. The first report required under AS 44.19.647, added by sec. 30 of this Act, shall be  
30 submitted not later than February 1, 2016.

31     \* **Sec. 36.** The uncoded law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITIONAL PROVISIONS: REGULATIONS. (a) The Department of  
3 Corrections may adopt regulations necessary to implement AS 33.05.020(f), added by sec. 26  
4 of this Act.

5 (b) The board of parole may adopt regulations necessary to implement  
6 AS 33.16.060(c), added by sec. 27 of this Act, and AS 33.16.150(b), as amended by sec. 28 of  
7 this Act.

8 (c) The Department of Health and Social Services may adopt regulations necessary to  
9 implement AS 47.38.010 - 47.38.199, added by sec. 32 of this Act.

10 (d) The regulations adopted under (a) - (c) of this section take effect under AS 44.62  
11 (Administrative Procedure Act), but not before July 1, 2014.

12 \* **Sec. 37.** Section 29 of this Act takes effect January 1, 2016.

13 \* **Sec. 38.** Section 36 of this Act takes effect immediately under AS 01.10.070(c).

14 \* **Sec. 39.** Sections 1 - 28 and 30 - 34 of this Act take effect July 1, 2014.