

31-GS1030\U
Radford
4/17/19

CS FOR SENATE BILL NO. 33(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to rights of a prisoner after arrest; relating to pretrial release; relating
2 to sentencing; relating to the duties of a prosecuting attorney; relating to treatment
3 program credit toward service of a sentence of imprisonment; relating to electronic
4 monitoring; amending Rules 38.2 and 45(d), Alaska Rules of Criminal Procedure; and
5 providing for an effective date."

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

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 LEGISLATIVE INTENT. (a) It is the intent of the legislature that the Alaska Court
10 System continue efforts to find efficiencies in the criminal justice system and increase the use
11 of contemporaneous two-way video conference for pretrial hearings whenever possible.

12 (b) When imposing a sentence, it is the intent of the legislature that the court may take
13 into consideration any good conduct and self-improvement efforts the defendant has made

1 while in pretrial status, including taking general education development, undergraduate,
2 postgraduate, or trade school courses and participating in nonprofit volunteer activities, faith-
3 based activities, and voluntary treatment programs.

4 (c) It is the intent of the legislature that the Department of Corrections develop a plan
5 to track and measure the effectiveness of evidence-based programs offered to offenders and
6 report its progress on the plan to both the House and Senate Judiciary Committees during the
7 Second Regular Session of the Thirty-First Alaska State Legislature.

8 * **Sec. 2.** AS 12.25.150(a) is amended to read:

9 (a) A person arrested shall be taken before a judge or magistrate without
10 unnecessary delay and in any event within **48** [24] hours after arrest, [ABSENT
11 COMPELLING CIRCUMSTANCES,] including Sundays and holidays. [THE
12 UNAVAILABILITY OF A REPORT PREPARED BY THE PRETRIAL SERVICES
13 OFFICER UNDER AS 33.07 OR A DELAY IN THE TRANSMITTAL OF THAT
14 REPORT TO THE PARTIES OR TO THE COURT MAY NOT BE CONSIDERED
15 A SUFFICIENT COMPELLING CIRCUMSTANCE TO JUSTIFY DELAYING A
16 HEARING BEYOND 24 HOURS. THE HEARING BEFORE THE JUDGE OR
17 MAGISTRATE MAY NOT TAKE PLACE MORE THAN 48 HOURS AFTER
18 ARREST.] This requirement applies to municipal police officers to the same extent as
19 it does to state troopers.

20 * **Sec. 3.** AS 12.30.006(b) is amended to read:

21 (b) At the first appearance before a judicial officer, a person may be detained
22 up to 48 hours for the prosecuting authority to demonstrate that release of the person
23 under AS 12.30.011 would not reasonably ensure the appearance of the person or will
24 pose a danger to the victim, other persons, or the community, if the person has

25 (1) been charged with an unclassified, class A, class B, or class C
26 felony; or

27 (2) a criminal conviction or charge outside the state [THAT HAS NOT
28 BEEN USED IN DETERMINING THE PERSON'S RISK LEVEL IN THE
29 PRETRIAL RISK ASSESSMENT UNDER AS 33.07].

30 * **Sec. 4.** AS 12.30.006(c) is amended to read:

31 (c) A person who remains in custody 48 hours after appearing before a judicial

1 officer because of inability to meet the conditions of release shall, upon application, be
2 entitled to have the conditions reviewed by the judicial officer who imposed them. If
3 the judicial officer who imposed the conditions of release is not available, any judicial
4 officer in the judicial district may review the conditions. [UPON REVIEW OF THE
5 CONDITIONS, THE JUDICIAL OFFICER SHALL REVISE ANY CONDITIONS
6 OF RELEASE THAT HAVE PREVENTED THE DEFENDANT FROM BEING
7 RELEASED UNLESS THE JUDICIAL OFFICER FINDS ON THE RECORD THAT
8 THERE IS CLEAR AND CONVINCING EVIDENCE THAT LESS RESTRICTIVE
9 RELEASE CONDITIONS CANNOT REASONABLY ENSURE THE

10 (1) APPEARANCE OF THE PERSON IN COURT; AND

11 (2) SAFETY OF THE VICTIM, OTHER PERSONS, AND THE
12 COMMUNITY.]

13 * **Sec. 5.** AS 12.30.006(d) is amended to read:

14 (d) If a person remains in custody after review of conditions by a judicial
15 officer under (c) of this section, the person may request a subsequent review of
16 conditions. Unless the prosecuting authority stipulates otherwise or the person has
17 been incarcerated for a period equal to the maximum sentence for the most serious
18 charge for which the person is being held, a judicial officer may not schedule a bail
19 review hearing under this subsection unless

20 (1) the person provides to the court and the prosecuting authority a
21 written statement that new information not considered at the previous review will be
22 presented at the hearing; the statement must include a description of the information
23 and the reason the information was not presented at a previous hearing; in this
24 paragraph, "new information" **does not include** [INCLUDES] the person's inability to
25 post the required bail;

26 (2) the prosecuting authority and any surety, if applicable, have at least
27 48 **hours** [HOURS"] written notice before the time set for the review requested under
28 this subsection; the defendant shall notify the surety; and

29 (3) at least seven days have elapsed between the previous review and
30 the time set for the requested review [; HOWEVER, A PERSON MAY RECEIVE
31 ONLY ONE BAIL REVIEW HEARING SOLELY FOR INABILITY TO PAY].

1 * **Sec. 6.** AS 12.30.006(f) is amended to read:

2 (f) The judicial officer shall issue written or oral findings that explain the
3 reasons the officer imposed the particular conditions of release or modifications or
4 additions to conditions previously imposed. The judicial officer shall inform the
5 person that a law enforcement officer or a pretrial services officer under
6 AS 33.05.040(a)(11) [AS 33.07] may arrest the person without a warrant for violation
7 of the court's order establishing conditions of release.

8 * **Sec. 7.** AS 12.30.011 is repealed and reenacted to read:

9 **Sec. 12.30.011. Release before trial.** (a) Except as otherwise provided in this
10 chapter, a judicial officer shall order a person charged with an offense to be released
11 on the person's personal recognizance or upon execution of an unsecured appearance
12 bond, on the condition that the person

13 (1) obey all court orders and all federal, state, and local laws;
14 (2) appear in court when ordered;
15 (3) if represented, maintain contact with the person's lawyer; and
16 (4) notify the person's lawyer, who shall notify the prosecuting
17 authority and the court, not more than 24 hours after the person changes residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (17) order the person to submit to electronic monitoring administered
28 by a private organization;

29 (18) order the person to submit to supervision by the pretrial services
30 office in the Department of Corrections under AS 33.05, which may include the use of
31 electronic monitoring if determined necessary by the commissioner of corrections;

1 (19) order the person to comply with any other condition that is
2 reasonably necessary to ensure the appearance of the person and to ensure the safety
3 of the victim, other persons, and the community; and

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

8 (c) In determining the conditions of release under this chapter, the court shall
9 consider the following:

- 10 (1) the nature and circumstances of the offense charged;
11 (2) the weight of the evidence against the person;
12 (3) the nature and extent of the person's family ties and relationships;
13 (4) the person's employment status and history;
14 (5) the length and character of the person's past and present residence;
15 (6) the person's record of convictions;
16 (7) the person's record of appearance at court proceedings;
17 (8) assets available to the person to meet monetary conditions of
18 release;
19 (9) the person's reputation, character, and mental condition;
20 (10) the effect of the offense on the victim, any threats made to the
21 victim, and the danger that the person poses to the victim; and
22 (11) any other facts that are relevant to the person's appearance or the
23 person's danger to the victim, other persons, or the community.

24 (d) In making a finding regarding the release of a person under this chapter,

25 (1) except as otherwise provided in this chapter, the burden of proof is
26 on the prosecuting authority that a person charged with an offense should be detained
27 or released with conditions described in (b) of this section or AS 12.30.016;

28 (2) there is a rebuttable presumption that there is a substantial risk that
29 the person will not appear and the person poses a danger to the victim, other persons,
30 or the community, if the person is

31 (A) charged with an unclassified felony, a class A felony, a

1 sexual felony, or a felony under AS 28.35.030 or 28.35.032;

2 (B) charged with a felony crime against a person under
3 AS 11.41, was previously convicted of a felony crime against a person under
4 AS 11.41 in this state or a similar offense in another jurisdiction, and less than
5 five years have elapsed between the date of the person's unconditional
6 discharge on the immediately preceding offense and the commission of the
7 present offense;

8 (C) charged with a felony offense committed while the person
9 was on release under this chapter for a charge or conviction of another offense;

10 (D) charged with a crime involving domestic violence, and has
11 been convicted in the previous five years of a crime involving domestic
12 violence in this state or a similar offense in another jurisdiction;

13 (E) arrested in connection with an accusation that the person
14 committed a felony outside the state or is a fugitive from justice from another
15 jurisdiction, and the court is considering release under AS 12.70.

16 (e) If the supreme court establishes a schedule of bail amounts or conditions of
17 release for misdemeanor offenses, the schedule must include a condition providing
18 that a correctional facility shall, at the time of release, conduct a chemical test of the
19 breath of a person who has been arrested and who is intoxicated and shall detain the
20 person until the test result indicates that the person's breath has less than 0.08 grams of
21 alcohol for each 210 liters of breath or, with the consent of the person, release the
22 person to another person who is willing and able to provide care for the person.

23 * **Sec. 8.** AS 12.30.021(a) is amended to read:

24 (a) In addition to other conditions imposed under AS 12.30.011 or 12.30.016,
25 a judicial officer may appoint a third-party custodian if the officer finds [, ON THE
26 RECORD,] that **the appointment will, singly or in combination with other**
27 **conditions,**

28 [(1) PRETRIAL SUPERVISION UNDER AS 33.07 IS NOT
29 AVAILABLE IN THE PERSON'S LOCATION;

30 (2) NO SECURED APPEARANCE OR PERFORMANCE BONDS
31 HAVE BEEN ORDERED; AND

1 (3) NO OTHER CONDITIONS OF RELEASE OR COMBINATION
2 OF CONDITIONS CAN] reasonably ensure the person's appearance and the safety of
3 the victim, other persons, and the community.

4 * **Sec. 9.** AS 12.30.021(c) is amended to read:

5 (c) A judicial officer may not appoint a person as a third-party custodian if

6 (1) the proposed custodian is acting as a third-party custodian for
7 another person;

8 (2) the proposed custodian has been **unconditionally discharged**
9 **within** [CONVICTED IN] the previous **five** [THREE] years **from a felony,** [OF] a
10 crime under AS 11.41, or a similar crime in this or another jurisdiction;

11 (3) criminal charges are pending in this state or another jurisdiction
12 against the proposed custodian;

13 (4) the proposed custodian is on probation in this state or another
14 jurisdiction for an offense;

15 (5) [THERE IS A REASONABLE PROBABILITY THAT THE
16 STATE WILL CALL] the proposed custodian **may be called** as a witness in the
17 prosecution of the person;

18 (6) the proposed custodian resides out of state; however, a nonresident
19 may serve as a custodian if the nonresident resides in the state while serving as
20 custodian.

21 * **Sec. 10.** AS 12.55.025 is amended by adding a new subsection to read:

22 (m) When imposing a sentence for conviction of a felony offense or a
23 sentence of imprisonment exceeding 90 days or upon a conviction of a violation of
24 AS 04, a regulation adopted under AS 04, or an ordinance adopted in conformity with
25 AS 04.21.010, the court shall orally state on the record the terms of the sentence
26 imposed as required in (a)(3) of this section.

27 * **Sec. 11.** AS 12.55.027(d) is amended to read:

28 (d) A court may **not** grant credit against a sentence of imprisonment for time
29 spent **in a private residence or** under electronic monitoring [IF THE PERSON HAS
30 NOT COMMITTED A CRIMINAL OFFENSE WHILE UNDER ELECTRONIC
31 MONITORING AND THE COURT IMPOSES RESTRICTIONS ON THE

1 PERSON'S FREEDOM OF MOVEMENT AND BEHAVIOR WHILE UNDER THE
2 ELECTRONIC MONITORING PROGRAM, INCLUDING REQUIRING THE
3 PERSON TO BE CONFINED TO A RESIDENCE EXCEPT FOR A

4 (1) COURT APPEARANCE;

5 (2) MEETING WITH COUNSEL; OR

6 (3) PERIOD DURING WHICH THE PERSON IS AT A LOCATION
7 ORDERED BY THE COURT FOR THE PURPOSES OF EMPLOYMENT,
8 ATTENDING EDUCATIONAL OR VOCATIONAL TRAINING, PERFORMING
9 COMMUNITY VOLUNTEER WORK, OR ATTENDING A REHABILITATIVE
10 ACTIVITY OR MEDICAL APPOINTMENT].

11 * **Sec. 12.** AS 12.55.027(e) is amended to read:

12 (e) If a defendant intends to claim credit toward a sentence of imprisonment
13 for time spent in a treatment program [OR UNDER ELECTRONIC MONITORING]
14 either as a condition of probation or as a condition of bail release after a petition to
15 revoke probation has been filed, the defendant shall file notice with the court and the
16 prosecutor 10 days before the disposition hearing. The notice shall include the amount
17 of time the defendant is claiming. The defendant must prove by a preponderance of the
18 evidence that the credit claimed meets the requirements of this section. A court may
19 not consider, except for good cause, a request for credit made under this subsection
20 more than 90 days after the disposition hearing.

21 * **Sec. 13.** AS 12.55.027(f) is amended to read:

22 (f) To qualify as a treatment program under this section, a program must

23 (1) be intended to address criminogenic traits or behaviors;

24 (2) provide measures of progress or completion; and

25 (3) require notification to the prosecuting authority, pretrial services
26 officer, [OFFICE] or probation officer if the person is discharged from the program
27 for noncompliance.

28 * **Sec. 14.** AS 12.55.027 is amended by adding a new subsection to read:

29 (i) A court granting credit against a sentence of imprisonment under (a) of this
30 section may grant credit of not more than 180 days against the total term of
31 imprisonment imposed.

1 * **Sec. 15.** AS 12.61.015 is amended by adding a new subsection to read:

2 (d) The prosecuting attorney shall notify a victim of a sex offense as defined
3 in AS 12.63.100 or crime involving domestic violence as defined in AS 18.66.990 if
4 the offender of the victim is discharged from a treatment program for noncompliance.

5 * **Sec. 16.** AS 12.70.130 is amended to read:

6 **Sec. 12.70.130. Arrest without warrant.** The arrest of a person may also be
7 lawfully made by a peace officer or a private person without a warrant upon
8 reasonable information that the accused stands charged in the courts of another state
9 with a crime punishable by death or imprisonment for a term exceeding one year, but
10 when arrested the accused must be taken before a judge or magistrate without
11 unnecessary delay and, in any event, within **48** [24] hours after arrest, [ABSENT
12 COMPELLING CIRCUMSTANCES,] including Sundays and holidays, and
13 complaint shall be made against the accused under oath setting out the ground for the
14 arrest as in AS 12.70.120. [THE HEARING BEFORE THE JUDGE OR
15 MAGISTRATE MAY NOT TAKE PLACE MORE THAN 48 HOURS AFTER
16 ARREST.] Thereafter the answer of the accused shall be heard as if the accused had
17 been arrested on a warrant.

18 * **Sec. 17.** AS 33.05.010 is amended to read:

19 **Sec. 33.05.010. Powers of commissioner.** The commissioner shall administer
20 a probation system, [AND] enforce the probation laws in the superior court, **and**
21 **provide supervision of defendants released while awaiting trial as ordered by the**
22 **court.**

23 * **Sec. 18.** AS 33.05.020 is amended by adding new subsections to read:

24 (i) The commissioner shall appoint and make available to the superior court
25 and district court qualified pretrial services officers under AS 33.05.040(11) and
26 assign pretrial services officers to each judicial district for the supervision of
27 defendants released while awaiting trial as ordered by the court.

28 (j) The commissioner may, in accordance with AS 36.30, procure and enter
29 into agreements or contracts for the supervision of defendants on electronic
30 monitoring during the pretrial period.

31 * **Sec. 19.** AS 33.05.030(a) is amended to read:

1 (a) All probation officers made available to the courts under this chapter shall
2 be officers of the superior and district courts [COURT] and subject to the authority
3 of the superior and district courts [COURT].

4 * **Sec. 20.** AS 33.05.040(a) is amended to read:

5 (a) A probation officer shall

6 (1) furnish to each probationer under the supervision of the officer a
7 written statement of the conditions of probation and shall instruct the probationer
8 regarding the same;

9 (2) keep informed concerning the conduct and condition of each
10 probationer under the supervision of the officer and shall report on the probationer to
11 the court placing that person on probation;

12 (3) use all suitable methods, not inconsistent with the conditions
13 imposed by the court, to aid probationers and to bring about improvements in their
14 conduct and condition;

15 (4) keep records of the probation work, including administrative
16 sanctions and incentives the probation officer imposes under AS 33.05.020(g), keep
17 accurate and complete accounts of all money collected from persons under the
18 supervision of the officer, give receipts for money collected and make at least monthly
19 returns of it, make the reports to the court and the commissioner required by them, and
20 perform other duties the court may direct;

21 (5) perform duties with respect to persons on parole as the
22 commissioner shall request, and in that service shall be termed a parole officer;

23 (6) use administrative sanctions and incentives developed under
24 AS 33.05.020(g) to respond to a probationer's negative and positive behavior,
25 including responses to technical violations of conditions of probation, in a way that is
26 intended to interrupt negative behavior in a swift, certain, and proportional manner
27 and support progress with a recognition of positive behavior;

28 (7) upon determining that a probationer under the supervision of the
29 officer meets the requirements of AS 12.55.090(g), recommend to the court as soon as
30 practicable that probation be terminated and the probationer be discharged from
31 probation;

1 (8) for each probationer who owes restitution and who is under the
2 supervision of the officer, create a restitution payment schedule based on the
3 probationer's income and ability to pay if the court has not already set a restitution
4 payment schedule;

5 (9) accommodate the diligent efforts of each probationer to secure and
6 maintain steady employment or to participate in educational courses or training
7 programs when prescribing the times at which a probationer shall report;

8 (10) permit each probationer to travel in the state to make diligent
9 efforts to secure and maintain steady employment or to participate in educational
10 courses or training programs if the travel is not inconsistent with other terms and
11 conditions of probation;

12 **(11) perform duties with respect to persons on pretrial release as**
13 **the commissioner requests; in that service, the probation officer shall be**
14 **considered to be acting as a pretrial services officer for the purposes of**
15 **AS 33.05.045.**

16 * **Sec. 21.** AS 33.05 is amended by adding a new section to read:

17 **Sec. 33.05.045. Duties of probation officers when acting as pretrial services**
18 **officers.** A probation officer acting as a pretrial services officer shall

19 (1) upon order of the court and request by the commissioner, supervise
20 a defendant released while awaiting trial, which may include the supervision of
21 electronic monitoring;

22 (2) if the probation officer acting as a pretrial services officer has
23 probable cause to believe the defendant has committed an offense under AS 11.56.730
24 or 11.56.757 or has violated the defendant's release conditions, file a complaint with
25 the court and

26 (A) arrest, with or without a warrant, a defendant who has been
27 released while awaiting trial; or

28 (B) request the court to issue a warrant related to any violation
29 of the defendant's release conditions;

30 (3) refer interested defendants for substance abuse screening,
31 assessment, and treatment on a voluntary basis and assist any defendant whose offense

1 or criminal history identified a dependency on, abuse of, or addiction to alcohol or
2 controlled substances with accessing and obtaining appropriate treatment in the
3 community to address those needs.

4 * **Sec. 22.** AS 33.16.190 is amended to read:

5 **Sec. 33.16.190. Authority of parole [, PRETRIAL SERVICES,] and**
6 **probation officers.** An officer appointed by the commissioner under AS 33.05.020(a)
7 [, AS 33.07,] or this chapter [,] may discharge duties under AS 33.05 [, AS 33.07,] or
8 this chapter.

9 * **Sec. 23.** AS 44.19.645(g) is amended to read:

10 (g) The Department of Corrections shall report quarterly to the working group
11 authorized in (b)(3) of this section. The report shall include the following information:

12 (1) data on pretrial decision making and outcomes, including
13 information on pretrial detainees admitted for a new criminal charge; detainees
14 released at any point before case resolution; time spent detained before first release or
15 case resolution [; PRETRIAL DEFENDANT RISK LEVEL AND CHARGE;
16 PRETRIAL RELEASE RECOMMENDATIONS MADE BY PRETRIAL SERVICES
17 OFFICERS]; pretrial conditions imposed on pretrial detainees by judicial officers,
18 including amount of bail, and supervision conditions; and information on pretrial
19 outcomes, including whether or not the defendant appeared in court or was re-arrested
20 during the pretrial period;

21 (2) data on offenders admitted to the Department of Corrections for a
22 new criminal conviction, including the offense type, number of prior felony
23 convictions, sentence length, and length of stay;

24 (3) data on the population of the Department of Corrections, using a
25 one-day snapshot on the first day of the first month of each quarter, broken down by
26 type of admission, offense type, and risk level;

27 (4) data on offenders on probation supervised by the Department of
28 Corrections, including the total number of offenders supervised using a one-day
29 snapshot on the first month of each quarter; admissions to probation; assignments to a
30 program under AS 33.05.020(f); probation sentence length; time served on the
31 sentence; whether probation was successfully completed, any new convictions for a

1 felony offense, and any sentences to a term of imprisonment while on probation;

2 (5) data on parole, including the number of offenders supervised on
3 parole, using a one-day snapshot on the first month of each quarter; the number of
4 parole hearings; the parole grant rate and number of parolees released on discretionary
5 and special medical parole; and information on parolees, including time spent on
6 parole, whether parole was successfully completed, any new convictions for a new
7 felony offense, and any sentences to a term of imprisonment while on parole;

8 (6) data on the implementation of policies from the 2015 justice
9 reinvestment report, including the number and percentage of offenders who earn
10 compliance credits under AS 33.05.020(h) or AS 33.16.270 in one or more months,
11 and the total amount of credits earned; the average number of sanctions issued under
12 AS 33.05.020(g) before a petition to revoke probation or parole is filed; and the most
13 common violations of probation or parole; and

14 (7) data on probation and parole revocations, including information on
15 probationers and parolees admitted for a supervision violation pre-case and post-case
16 resolution; probationers and parolees admitted solely for a technical violation;
17 probationers and parolees admitted for a new arrest; the number of previous
18 revocations on the current sentence, if any; the length of time held pre-case resolution;
19 the length of time to case resolution; and the length of stay.

20 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 DIRECT COURT RULE AMENDMENT. Rule 38.2(a), Alaska Rules of
23 Criminal Procedure, is amended to read:

24 (a) The Administrative Director of the Alaska Court System, after consultation
25 with the presiding judge, Public Defender Agency, and Attorney General's Office,
26 may enter into agreements with the Department of Public Safety and Department of
27 Corrections which approve systems allowing judges to provide for the appearance by a
28 defendant at certain criminal proceedings by way of **contemporaneous two-way**
29 **video conference** [TELEVISION] equipment in lieu of the physical presence of the
30 defendant in the courtroom. Such an agreement must provide for a procedure by which
31 the defendant may confer with the defendant's attorney in private.

1 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECT COURT RULE AMENDMENT. Rule 38.2(b), Alaska Rules of
4 Criminal Procedure, is amended to read:

5 (b) In those court locations in which a **contemporaneous two-way video**
6 **conference** [TELEVISION] system has been approved by the supreme court and has
7 been installed, in custody defendants **may** [SHALL] appear by way of
8 **contemporaneous two-way video conference** [TELEVISION] for **all hearings**
9 **except for trial and sentencings** [ARRAIGNMENT, PLEAS, AND NON-
10 EVIDENTIARY BAIL REVIEWS IN TRAFFIC AND MISDEMEANOR CASES;
11 AND INITIAL APPEARANCE HEARINGS, NON-EVIDENTIARY BAIL
12 REVIEWS, AND NOT GUILTY PLEA ARRAIGNMENTS IN FELONY CASES],
13 unless otherwise ordered for cause stated by the presiding judge. **However, with**
14 **[WITH]** the defendant's consent, sentencings may be done by way of
15 **contemporaneous two-way video conference** [TELEVISION] in traffic and
16 misdemeanor cases. In any particular case, the trial court may order that the defendant
17 be transported to court for court proceedings if the trial judge finds that the defendant's
18 rights would be prejudiced by use of the system.

19 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 DIRECT COURT RULE AMENDMENT. Rule 45(d), Alaska Rules of
22 Criminal Procedure, is amended to read:

23 **(d) Excluded Periods.** The following periods shall be excluded in computing
24 the time for trial:

25 (1) The period of delay resulting from other proceedings concerning
26 the defendant, including but not limited to motions to dismiss or suppress,
27 examinations and hearings on competency, the period during which the defendant is
28 incompetent to stand trial, interlocutory appeals, and trial of other charges. No pretrial
29 motion shall be held under advisement for more than 30 days and any time longer than
30 30 days shall not be considered as an excluded period.

31 (2) The period of delay resulting from an adjournment or continuance

1 granted at the timely request or with the consent of the defendant or [AND] the
2 defendant's counsel. The court shall grant such a continuance only if it is satisfied that
3 the postponement is in the interest of justice, taking into account the public interest in
4 the prompt disposition of criminal offenses, and after consideration of the interests of
5 the crime victim, if known, as provided in (h) of this rule. A defendant without
6 counsel shall not be deemed to have consented to a continuance unless the defendant
7 has been advised by the court of the right to a speedy trial under this rule and of the
8 effect of consent.

9 (3) The period of delay resulting from a continuance granted at the
10 timely request of the prosecution, if:

11 (A) The continuance is granted because of the unavailability of
12 evidence material to the state's case, when the prosecuting attorney has
13 exercised due diligence to obtain such evidence and there are reasonable
14 grounds to believe that such evidence will be available at the later date; or

15 (B) The continuance is granted to allow the prosecuting
16 attorney in a felony case additional time to prepare the state's case and
17 additional time is justified because of the exceptional complexity of the
18 particular case.

19 (4) The period of delay resulting from the absence or unavailability of
20 the defendant. A defendant should be considered absent whenever the defendant's
21 whereabouts are unknown and in addition the defendant is attempting to avoid
22 apprehension or prosecution or the defendant's whereabouts cannot be determined by
23 due diligence. A defendant should be considered unavailable whenever the defendant's
24 whereabouts are known but the defendant's presence for trial cannot be obtained or the
25 defendant resists being returned to the state for trial.

26 (5) A reasonable period of delay when the defendant is joined for trial
27 with a codefendant as to whom the time for trial has not run and there is good cause
28 for not granting a severance. In all other cases, the defendant shall be granted a
29 severance in order that the defendant may be tried within the time limits applicable to
30 the defendant.

31 (6) The period of delay resulting from detention of the defendant in

1 another jurisdiction provided the prosecuting attorney has been diligent and has made
2 reasonable efforts to obtain the presence of the defendant for trial. When the
3 prosecution is unable to obtain the presence of the defendant in detention, and seeks to
4 exclude the period of detention, the prosecution shall cause a detainer to be filed with
5 the official having custody of the defendant and request the official to advise the
6 defendant of the detainer and to inform the defendant of the defendant's rights under
7 this rule.

8 (7) Other periods of delay for good cause.

9 * **Sec. 27.** AS 12.55.027(g); AS 33.07.010, 33.07.020, 33.07.030, 33.07.040, and 33.07.090
10 are repealed.

11 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

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

- 15 (1) AS 12.25.150(a), as amended by sec. 2 of this Act;
- 16 (2) AS 12.30.006(b), as amended by sec. 3 of this Act;
- 17 (3) AS 12.30.006(c), as amended by sec. 4 of this Act;
- 18 (4) AS 12.30.006(d), as amended by sec. 5 of this Act;
- 19 (5) AS 12.30.006(f), as amended by sec. 6 of this Act;
- 20 (6) AS 12.30.011, as repealed and reenacted by sec. 7 of this Act;
- 21 (7) AS 12.30.021(a), as amended by sec. 8 of this Act;
- 22 (8) AS 12.30.021(c), as amended by sec. 9 of this Act;
- 23 (9) AS 12.70.130, as amended by sec. 16 of this Act;
- 24 (10) AS 33.05.010, as amended by sec. 17 of this Act;
- 25 (11) AS 33.05.020(i) and (j), enacted by sec. 18 of this Act;
- 26 (12) AS 33.05.030(a), as amended by sec. 19 of this Act;
- 27 (13) AS 33.05.040, as amended by sec. 20 of this Act; and
- 28 (14) AS 33.05.045, enacted by sec. 21 of this Act.

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

- 31 (1) AS 12.55.027(d), as amended by sec. 11 of this Act;

1 (2) AS 12.55.027(e), as amended by sec. 12 of this Act;

2 (3) AS 12.55.027(f), as amended by sec. 13 of this Act; and

3 (4) AS 12.55.027(i), enacted by sec. 14 of this Act.

4 (c) AS 12.55.025(m), enacted by sec. 10 of this Act, applies to sentences imposed on
5 or after the effective date of sec. 10 of this Act for offenses committed before, on, or after the
6 effective date of sec. 10 of this Act.

7 * **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION. Probation officers acting as pretrial services officers under
10 AS 33.05.045, enacted by sec. 21 of this Act, shall supervise defendants in accordance with
11 orders for pretrial services issued under former AS 12.30.006, 12.30.021, and AS 33.07.

12 * **Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 CONDITIONAL EFFECT. Sections 24 - 26 of this Act take effect only if secs. 24 - 26
15 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
16 Constitution of the State of Alaska.

17 * **Sec. 31.** This Act takes effect July 1, 2019.