

31-GH1029\M
Radford
4/27/19

CS FOR HOUSE BILL NO. 49(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal law and procedure; establishing the crime of possession of
2 motor vehicle theft tools; relating to electronic monitoring; relating to controlled
3 substances; relating to probation; relating to sentencing; relating to registration of sex
4 offenders; relating to operating under the influence; relating to refusal to submit to a
5 chemical test; relating to a pretrial risk assessment instrument; relating to the duties of
6 the commissioner of corrections; relating to the Alaska Criminal Justice Commission;
7 relating to the duties of the attorney general and the Department of Law; relating to
8 testing of sexual assault examination kits; relating to public disclosure of information
9 relating to certain minors; amending Rule 6(r)(6), Alaska Rules of Criminal Procedure;
10 and providing for an effective date."

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

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

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

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

5 (2) the person knowingly engages in conduct that results in the death
6 of another person under circumstances manifesting an extreme indifference to the
7 value of human life;

8 (3) under circumstances not amounting to murder in the first degree
9 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
10 person commits or attempts to commit arson in the first degree, kidnapping, sexual
11 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
12 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
13 degree, escape in the first or second degree, robbery in any degree, or misconduct
14 involving a controlled substance under AS 11.71.010(a), 11.71.025, 11.71.030(a)(1),
15 (2), or (4) - (8), or 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that
16 crime or in immediate flight from that crime, any person causes the death of a person
17 other than one of the participants;

18 (4) acting with a criminal street gang, the person commits or attempts
19 to commit a crime that is a felony and, in the course of or in furtherance of that crime
20 or in immediate flight from that crime, any person causes the death of a person other
21 than one of the participants; or

22 (5) the person with criminal negligence causes the death of a child
23 under the age of 16, and the person has been previously convicted of a crime involving
24 a child under the age of 16 that was

25 (A) a felony violation of AS 11.41;

26 (B) in violation of a law or ordinance in another jurisdiction
27 with elements similar to a felony under AS 11.41; or

28 (C) an attempt, a solicitation, or a conspiracy to commit a
29 crime listed in (A) or (B) of this paragraph.

30 * **Sec. 2.** AS 11.41.150(a) is amended to read:

31 (a) A person commits the crime of murder of an unborn child if the person

(1) with intent to cause the death of an unborn child or of another person, causes the death of an unborn child;

(2) with intent to cause serious physical injury to an unborn child or to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to an unborn child or to another person, causes the death of an unborn child;

(3) while acting alone or with one or more persons, commits or attempts to commit arson in the first degree, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, burglary in the first degree, escape in the first or second degree, robbery in any degree, or misconduct involving a controlled substance under AS 11.71.010(a), 11.71.025, 11.71.030(a)(1), (2), or (4) - (8), or 11.71.040(a)(1) or (2), and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of an unborn child;

(4) knowingly engages in conduct that results in the death of an unborn child under circumstances manifesting an extreme indifference to the value of human life; for purposes of this paragraph, a pregnant woman's decision to remain in a relationship in which domestic violence, as defined in AS 18.66.990, has occurred does not constitute conduct manifesting an extreme indifference to the value of human life.

* **Sec. 3.** AS 11.41.432(a) is amended to read:

(a) It is a defense to a crime charged under [AS 11.41.410(a)(3), 11.41.420(a)(2), 11.41.420(a)(3), 11.41.425, OR 11.41.427 THAT THE OFFENDER IS]

(1) AS 11.41.410(a)(3), 11.41.420(a)(2), 11.41.420(a)(3), 11.41.425, or 11.41.427 that the offender is mentally incapable; or

(2) AS 11.41.410(a)(3), 11.41.420(a)(2), 11.41.420(a)(3)(A), 11.41.425(a)(1)(A), 11.41.425(a)(2) - (6), or 11.41.427 that the offender is married to the person and neither party has filed with the court for a separation, divorce, or dissolution of the marriage.

* **Sec. 4.** AS 11.41.452(a) is amended to read:

(a) A person commits the crime of [ONLINE] enticement of a minor if the person, being 18 years of age or older, knowingly **communicates** [USES A COMPUTER TO COMMUNICATE] with another person to entice, solicit, or encourage the person to engage in an act described in AS 11.41.455(a)(1) - (7) and

(1) the other person is a child under 16 years of age; or

(2) the person believes that the other person is a child under 16 years of age.

* **Sec. 5.** AS 11.41.452(d) is amended to read:

(d) Except as provided in (e) of this section, [ONLINE] enticement **of a minor** is a class B felony.

* **Sec. 6.** AS 11.41.452(e) is amended to read:

(e) **Enticement of a minor** [ONLINE ENTICEMENT] is a class A felony if the defendant was, at the time of the offense, required to register as a sex offender or child kidnapper under AS 12.63 or a similar law of another jurisdiction.

* **Sec. 7.** AS 11.46.130(a) is amended to read:

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

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

(2) the property is a firearm or explosive;

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

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

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

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

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

another law or ordinance with similar elements;

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

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

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

(7) the property is an access device or identification document.

* **Sec. 8.** AS 11.46.140(a) is amended to read:

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

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

(2) [REPEALED]

(3) [REPEALED]

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

* **Sec. 9.** AS 11.46.150(a) is amended to read:

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

* **Sec. 10.** AS 11.46.220(c) is amended to read:

(c) Concealment of merchandise is

(1) a class C felony if

(A) the merchandise is a firearm;

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

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

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

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

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

(2) a class A misdemeanor if

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

(B) [REPEALED]

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

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

* **Sec. 11.** AS 11.46.260(b) is amended to read:

(b) Removal of identification marks is

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

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

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

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

* **Sec. 12.** AS 11.46.270(b) is amended to read:

(b) Unlawful possession is

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

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

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

* **Sec. 13.** AS 11.46.280(d) is amended to read:

(d) Issuing a bad check is

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

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

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

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

* **Sec. 14.** AS 11.46.285 is amended to read:

Sec. 11.46.285. Fraudulent use of an access device or identification document. (a) A person commits the crime of fraudulent use of an access device or identification document if, with intent to defraud, the person uses an access device or identification document to obtain property or services with knowledge that

(1) the access device or identification document is stolen or forged;

(2) the access device or identification document is expired or has been revoked or cancelled; or

(3) for any other reason, that person's use of the access device or identification document is unauthorized by either the issuer or the person to whom the access device or identification document is issued.

(b) Fraudulent use of an access device or identification document is

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

(2) a class C felony if the value of the property or services obtained [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$75 [\$750] or more but less than \$25,000;

(3) a class A misdemeanor if the value of the property or services obtained [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$75 [\$750].

* **Sec. 15.** AS 11.46.295 is amended to read:

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

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

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

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

* **Sec. 16.** AS 11.46.360(a) is amended to read:

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

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

(2) the propelled vehicle of another and

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

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

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

(3) the propelled vehicle of another and the vehicle is marked as a police or emergency vehicle; or

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

(A) this section or AS 11.46.365;

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

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

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

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

* **Sec. 17.** AS 11.46 is amended by adding a new section to article 3 to read:

Sec. 11.46.370. Possession of motor vehicle theft tools. (a) A person commits the crime of possession of motor vehicle theft tools if the person possesses a motor vehicle theft tool with intent to use or permit use of the tool in the commission of vehicle theft.

(b) In this section,

(1) "altered or shaved key" means a key altered by cutting, filing, or other means to fit multiple vehicles or vehicles other than vehicles for which the key was originally manufactured;

(2) "motor vehicle theft tool" includes a slim jim, master key, altered

or shaved key, trial or jiggle key, lock puller, electronic unlocking device, or similar device adapted or designed for use in committing vehicle theft;

(3) "trial or jiggle key" means a key designed or altered to manipulate a vehicle locking mechanism other than the lock for which the key was originally manufactured.

(c) Possession of motor vehicle theft tools is a class A misdemeanor.

* **Sec. 18.** AS 11.46.482(a) is amended to read:

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

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

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

(3) the person knowingly

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

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

* **Sec. 19.** AS 11.46.484(a) is amended to read:

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

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

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

a public place;

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

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

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

*** Sec. 20.** AS 11.46.486(a) is amended to read:

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

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

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

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

*** Sec. 21.** AS 11.46.530(b) is amended to read:

(b) Criminal simulation is

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

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

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

* **Sec. 22.** AS 11.46.620(d) is amended to read:

(d) Misapplication of property is

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

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

* **Sec. 23.** AS 11.46.730(c) is amended to read:

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

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

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

* **Sec. 24.** AS 11.46.980 is amended by adding a new subsection to read:

(e) In determining the degree or classification of a crime under this chapter, if the combined value of the property or services taken from one or more persons or commercial establishments within a period of 180 days is \$750 or more but less than \$25,000, the value may be aggregated.

* **Sec. 25.** AS 11.56.810(a) is amended to read:

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

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

(A) **causing the** [A PERSON IS PLACED IN REASONABLE FEAR OF PHYSICAL INJURY TO ANY PERSON; (B) CAUSES]

1 evacuation of a building, public place or area, business premises, or mode of
2 public transportation;

3 **(B) causing** [(C) CAUSES] serious public inconvenience; or

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

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

15 * **Sec. 26.** AS 11.71 is amended by adding a new section to read:

16 **Sec. 11.71.025. Misconduct involving a controlled substance in the second**
17 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
18 misconduct involving a controlled substance in the second degree if the person
19 manufactures or delivers, or possesses with intent to manufacture or deliver,

20 (1) one or more preparations, compounds, mixtures, or substances of
21 an aggregate weight of 100 grams or more containing a schedule IA controlled
22 substance;

23 (2) 200 or more tablets, ampules, or syrettes containing a schedule IA
24 controlled substance;

25 (3) one or more preparations, compounds, mixtures, or substances of
26 an aggregate weight of 200 grams or more containing a schedule IIA controlled
27 substance; or

28 (4) 400 or more tablets, ampules, or syrettes containing a schedule IIA
29 controlled substance.

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

* **Sec. 27.** AS 11.71.030(a) is amended to read:

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

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

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one gram or more **but less than 100 grams** containing a schedule IA controlled substance;

(B) 25 or more **but less than 200** tablets, ampules, or syrettes containing a schedule IA controlled substance;

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

(i) 2.5 grams or more **but less than 200 grams** containing a schedule IIA **controlled substance**;

(ii) **2.5 grams or more containing a schedule** [OR] IIIA controlled substance; or

(D) 50 or more

(i) **but less than 400** tablets, ampules, or syrettes containing a schedule IIA **controlled substance**;

(ii) **tablets, ampules, or syrettes containing a schedule** [OR] IIIA controlled substance;

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

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

(A) with reckless disregard that the possession occurs

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

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

or

(B) on a school bus;

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

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

or

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

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

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

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

or

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

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

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

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

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

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

(ii) an immediate precursor of methamphetamine, or its

1 salts, isomers, or salts of isomers; or

2 (iii) methamphetamine or its salts, isomers, or salts of
3 isomers in an organic solution.

4 * **Sec. 28.** AS 11.71.030(d) is amended to read:

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

7 * **Sec. 29.** AS 11.71.040(a) is amended to read:

8 (a) Except as authorized in AS 17.30 **and AS 17.38**, a person commits the
9 crime of misconduct involving a controlled substance in the **fourth** [THIRD] degree if
10 the person

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

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

18 (3) possesses any amount of a schedule IA controlled substance listed
19 in AS 11.71.140(e);

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

21 (A) with reckless disregard that the possession occurs

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

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

24 or

25 (B) on a school bus;

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

30 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
31 thing that prints, imprints, or reproduces a trademark, trade name, or other identifying

mark, imprint, or device of another or any likeness of any of these on a drug, drug container, or labeling so as to render the drug a counterfeit substance;

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

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

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

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

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

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

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

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

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

(12) under circumstances not proscribed under AS 11.71.030(a)(3) or (3) of this subsection, possesses any amount of a schedule IA or IIA controlled substance and, within the preceding 10 years, has been convicted on two or more separate occasions of a crime under

(A) this paragraph;

(B) AS 11.71.050(a)(4); or

(C) a law or ordinance of this or another jurisdiction with

elements similar to a crime listed under (A) or (B) of this paragraph.

* **Sec. 30.** AS 11.71.040(d) is amended to read:

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

* **Sec. 31.** AS 11.71.050 is amended to read:

Sec. 11.71.050. Misconduct involving a controlled substance in the fifth [FOURTH] degree. (a) Except as authorized in AS 17.30 **and AS 17.38**, a person commits the crime of misconduct involving a controlled substance in the **fifth** [FOURTH] degree if the person

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

(2) [REPEALED]

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

(4) under circumstances not proscribed under AS 11.71.030(a)(3), 11.71.040(a)(3), **(4), or (12)** [11.71.040(a)(4)], or 11.71.060(a)(2), possesses any amount of a schedule IA, IIA, IIIA, IVA, VA, or VIA controlled substance.

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

* **Sec. 32.** AS 11.71.060 is amended to read:

Sec. 11.71.060. Misconduct involving a controlled substance in the sixth [FIFTH] degree. (a) Except as authorized in AS 17.30 **and AS 17.38**, a person commits the crime of misconduct involving a controlled substance in the **sixth** [FIFTH] degree if the person

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

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

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

substance;

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

(3) refuses entry into premises [A PREMISE] for an inspection authorized under AS 17.30.

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

* **Sec. 33.** AS 11.71.311(a) is amended to read:

(a) A person may not be prosecuted for a violation of AS 11.71.025(a), 11.71.030(a)(3), 11.71.040(a)(3), (4), or (12) [AS 11.71.030(a)(3), 11.71.040(a)(3) OR (4)], 11.71.050(a)(4), or 11.71.060(a)(1) or (2) if that person

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

(A) the evidence supporting the prosecution for an offense under AS 11.71.025(a), 11.71.030(a)(3), 11.71.040(a)(3), (4), or (12) [AS 11.71.030(a)(3), 11.71.040(a)(3) OR (4)], 11.71.050(a)(4), or 11.71.060(a)(1) or (2) was obtained or discovered as a result of the person seeking medical or law enforcement assistance;

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

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

(2) was experiencing a drug overdose and sought medical assistance, and the evidence supporting a prosecution for an offense under AS 11.71.025(a), 11.71.030(a)(3), 11.71.040(a)(3), (4), or (12) [AS 11.71.030(a)(3), 11.71.040(a)(3) OR (4)], 11.71.050(a)(4), or 11.71.060(a)(1) or (2) was obtained as a result of the overdose and the need for medical assistance.

* **Sec. 34.** AS 12.55.015 is amended by adding a new subsection to read:

(l) At sentencing for a defendant convicted of a crime involving a sex offense

as defined in AS 12.63.100 or a crime involving domestic violence as defined in AS 18.66.990, there is a presumption that, unless the court finds on the record that contact between a defendant and the victim of the offense is necessary, the court shall order the defendant to have no contact, either directly or indirectly, with the victim until the defendant is unconditionally discharged.

* **Sec. 35.** AS 12.55.027 is amended by adding a new subsection to read:

(i) A court may grant credit under this section for time spent in a treatment program or under electronic monitoring only if the court finds that the sentence, including any credit toward the sentence of imprisonment, meets the requirements of AS 12.55.005.

* **Sec. 36.** AS 12.55.125(d) is amended to read:

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

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) **or 3** of this subsection, **90 days** [ZERO] to two years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085;

(2) if the offense is a first felony conviction, the defendant violated AS 11.41.130, and the victim was

(A) a child under 16 years of age, two to four years; or

(B) was 16 years of age or older, one to three years;

(3) if the offense is a first felony conviction under AS 11.71.030(a)(4), (5), (6), (7), or (8) for manufacture or possession with intent to manufacture a controlled substance that is listed in AS 11.71.150(e)(2) and

(A) the manufacture or possession with intent to manufacture occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age, or a place frequented by children, two to four years; or

(B) in the course of manufacturing, the defendant obtained the assistance of one or more children under 18 years of age, or one or more children were present, two to four years;

(4) [(3)] if the offense is a second felony conviction, two to five years;

(5) [(4)] if the offense is a third felony conviction, four to 10 years.

* **Sec. 37.** AS 12.55.135(a) is amended to read:

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

(1) one year, if the

(A) conviction is for a crime with a mandatory minimum term of 30 days or more of active imprisonment;

(B) trier of fact finds the aggravating factor that the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(C) defendant has past criminal convictions for conduct violative of criminal laws, punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced;

(D) conviction is for an assault in the fourth degree under AS 11.41.230; [OR]

(E) conviction is for a violation of

(i) AS 11.41.427;

(ii) AS 11.41.440;

(iii) AS 11.41.460, if the indecent exposure is before a person under 16 years of age;

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

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

(F) conviction is for a crime involving domestic violence; or

(2) **90** [30] days.

* **Sec. 38.** AS 12.55.135(b) is amended to read:

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

(1) **30** [10] days unless otherwise specified in the provision of law defining the offense or in this section;

(2) 90 days if the conviction is for a violation of

(A) AS 11.61.116(c)(1) and the person is 21 years of age or older; or

(B) AS 11.61.120(a)(6) and the person is 21 years of age or older; or

(3) five days if the conviction is for a violation of AS 11.56.757.

* **Sec. 39.** AS 12.55.135(n) is amended to read:

(n) A court sentencing a person convicted of misconduct involving a controlled substance in the **fifth** [FOURTH] degree under AS 11.71.050(a)(4) or misconduct involving a controlled substance in the **sixth** [FIFTH] degree under AS 11.71.060(a)(2) may not impose

(1) a sentence of active imprisonment, unless the person has previously been convicted more than once of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71; or

(2) a sentence of suspended imprisonment greater than

(A) 30 days, if the defendant has not been previously convicted of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71; or

(B) 180 days, if the person has been previously convicted of an offense under AS 11.71 or a law of this or another jurisdiction with elements substantially similar to an offense under AS 11.71.

* **Sec. 40.** AS 12.55.185(16) is amended to read:

(16) "sexual felony" means sexual assault in the first degree, sexual abuse of a minor in the first degree, sex trafficking in the first degree, sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, **indecent viewing or photography under AS 11.61.123(f)(1)**, distribution of child pornography, sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, online enticement of a minor, and

felony attempt, conspiracy, or solicitation to commit those crimes;

* **Sec. 41.** AS 12.61.050 is amended by adding a new subsection to read:

(c) Through the automated victim notification system established in (a) of this section, the Department of Corrections shall notify a victim of a sex offense as defined in AS 12.63.100 or a crime involving domestic violence as defined in AS 18.66.990 of the option to request a protective order under AS 18.65.850 or AS 18.66.100 and provide contact information for state victim resources, including the Council on Domestic Violence and Sexual Assault, the Alaska Network on Domestic Violence and Sexual Assault, the Office of Victims' Rights, and the Violent Crimes Compensation Board. This notification must occur when the offender of the victim is released from incarceration or when the order under AS 12.55.015(l) expires, whichever is later.

* **Sec. 42.** AS 12.63.010(d) is amended to read:

(d) A sex offender or child kidnapper required to register

(1) for 15 years under (a) of this section and AS 12.63.020 [AS 12.63.020(a)(2)] shall, annually, during the term of a duty to register under AS 12.63.020, on a date set by the department at the time of the sex offender's or child kidnapper's initial registration, provide written verification to the department, in the manner required by the department, of the sex offender's or child kidnapper's address and notice of any changes to the information previously provided under (b)(1) of this section;

(2) for life under (a) of this section and AS 12.63.020 [AS 12.63.020(a)(1)] shall, not less than quarterly, on a date set by the department, provide written verification to the department, in the manner required by the department, of the sex offender's or child kidnapper's address and any changes to the information previously provided under (b)(1) of this section.

* **Sec. 43.** AS 12.63.010 is amended by adding a new subsection to read:

(g) Notwithstanding the requirement to register under this section, a sex offender or child kidnapper, as that term is defined in AS 12.63.100(6)(B), may petition the department for removal from the central registry of sex offenders and child kidnappers and to be exempt from the registration requirements under this section. The

department shall grant the petition if the petitioner submits proof acceptable to the department that the facts underlying the conviction in another jurisdiction do not constitute a sex offense or child kidnapping in this state. When the petition is granted, the department shall remove from the central registry information about the sex offender or child kidnapper as provided in AS 18.65.087(d)(4).

* **Sec. 44.** AS 12.63.020 is amended to read:

Sec. 12.63.020. Duration of sex offender or child kidnapper duty to register. (a) The duty of a sex offender or child kidnapper to comply with the requirements of AS 12.63.010 is as follows:

(1) for a sex offender or child kidnapper, as that term is defined in AS 12.63.100(6)(A), for each sex offense or child kidnapping, **the duty**

(A) [(1)] continues for the lifetime of a sex offender or child kidnapper convicted of

(i) [(A)] one aggravated sex offense; or

(ii) [(B)] two or more sex offenses, two or more child kidnappings, or one sex offense and one child kidnapping; for purposes of this section, a person convicted of indecent exposure before a person under 16 years of age under AS 11.41.460 more than two times has been convicted of two or more sex offenses;

(B) [(2)] ends 15 years following the sex offender's or child kidnapper's unconditional discharge from a conviction for a single sex offense that is not an aggravated sex offense or for a single child kidnapping if the sex offender or child kidnapper has supplied proof that is acceptable to the department of the unconditional discharge; the registration period under this **subparagraph**

(i) [PARAGRAPH (A)] is tolled for each year that a sex offender or child kidnapper [(i)] fails to comply with the requirements of this chapter **or** [(ii)] is incarcerated for the offense or kidnapping for which the offender or kidnapper is required to register or for any other offense;

(ii) [(B)] may include the time a sex offender or child

kidnapper was absent from this state if the sex offender or child kidnapper has complied with any sex offender or child kidnapper registration requirements of the jurisdiction in which the offender or kidnapper was located and if the sex offender or child kidnapper provides the department with proof of the compliance while the sex offender or child kidnapper was absent from this state; and

(iii) [(C)] continues for a sex offender or child kidnapper who has not supplied proof acceptable to the department of the offender's or kidnapper's unconditional discharge for the sex offense or child kidnapping requiring registration;

(2) for a sex offender or child kidnapper, as that term is defined in AS 12.63.100(6)(B), the duty continues for the period determined by the department under (b) of this section.

(b) The department shall adopt, by regulation,

(1) procedures to notify a sex offender or child kidnapper

(A) who, on the registration form under AS 12.63.010, lists a conviction for a sex offense or child kidnapping that is a violation of a former law of this state or a law of another jurisdiction, of the duration of the offender's or kidnapper's duty under (a) of this section for that sex offense or child kidnapping;

(B) as that term is defined in AS 12.63.100(6)(B), of the duration of the sex offender or child kidnapper's duty under (a) of this section and of the procedure to petition for removal from the central registry; in adopting regulations under this subparagraph, the department shall

(i) consider the period of registration required in the other jurisdiction; and

(ii) provide for tolling of the registration period if the sex offender or child kidnapper fails to comply with the requirements of this chapter or is incarcerated;

(2) a requirement that an [. AS A PART OF THE REGULATIONS,

THE DEPARTMENT SHALL REQUIRE THE] offender or kidnapper [TO] supply proof acceptable to the department of unconditional discharge and the date it occurred;

(3) procedures to remove a sex offender or child kidnapper, as that term is defined in AS 12.63.100(6)(B), from the central registry of sex offenders and child kidnappers.

* Sec. 45. AS 12.63.100(6) is amended to read:

(6) "sex offender or child kidnapper" means

(A) a person convicted of a sex offense or child kidnapping in this state or another jurisdiction regardless of whether the conviction occurred before, after, or on January 1, 1999;

(B) a person charged and convicted as an adult of an offense that requires registration as a sex offender or child kidnapper in another jurisdiction;

* Sec. 46. AS 18.65.087(d) is amended to read:

(d) The Department of Public Safety

(1) shall adopt regulations to

(A) allow a sex offender or child kidnapper to review sex offender or child kidnapper registration information that refers to that sex offender or child kidnapper, and if the sex offender or child kidnapper believes the information is inaccurate or incomplete, to request the department to correct the information; if the department finds the information is inaccurate or incomplete, the department shall correct or supplement the information;

(B) ensure the appropriate circulation to law enforcement agencies of information contained in the central registry;

(C) ensure the anonymity of members of the public who request information under this section;

(2) shall provide to the Department of Corrections and municipal police departments the forms and directions necessary to allow sex offenders and child kidnappers to comply with AS 12.63.010;

(3) may adopt regulations to establish fees to be charged for registration under AS 12.63.010 and for information requests; the fee for registration

shall be based on [UPON] the actual costs of performing the registration and maintaining the central registry but may not be set at a level whereby registration is discouraged; the fee for an information request may not be greater than \$10;

(4) shall remove from the central registry of sex offenders and child kidnappers under this section information about a sex offender or child kidnapper

(A) required to register under AS 12.63.020(a)(2) at the end of the sex offender's or child kidnapper's duty to register if the offender or kidnapper has not been convicted of another sex offense or child kidnapping and the offender or kidnapper has supplied proof of unconditional discharge acceptable to the department;

(B) who has successfully petitioned the Department of Public Safety to be removed from the central registry of sex offenders and child kidnappers under AS 12.63.010(g) [IN THIS PARAGRAPH, "SEX OFFENSE" AND "CHILD KIDNAPPING" HAVE THE MEANINGS GIVEN IN AS 12.63.100].

* **Sec. 47.** AS 18.65.087 is amended by adding a new subsection to read:

(j) In this section, "sex offense" and "child kidnapping" have the meanings given in AS 12.63.100.

* **Sec. 48.** AS 28.35.030(k) is amended to read:

(k) Imprisonment required under (b)(1)(A) of this section shall be served at a community residential center or by electronic monitoring at a private residence under AS 33.30.065. If a community residential center or electronic monitoring at a private residence is not available, imprisonment required under (b)(1)(A) of this section may [SHALL] be served at another appropriate place [A PRIVATE RESIDENCE BY OTHER MEANS] determined by the commissioner of corrections. [A PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT REQUIRED UNDER (b)(1)(A) OF THIS SECTION BY ELECTRONIC MONITORING AT A PRIVATE RESIDENCE MAY NOT BE SUBJECT TO A SEARCH OF THE PERSON'S DWELLING BY A PEACE OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE.] Imprisonment required under (b)(1)(B) - (F)

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

* **Sec. 49.** AS 28.35.032(o) is amended to read:

(o) Imprisonment required under (g)(1)(A) of this section shall be served at a community residential center, or if a community residential center [PRIVATE RESIDENCE BY ELECTRONIC MONITORING UNDER AS 33.30.065. IF ELECTRONIC MONITORING] is not available, at another appropriate place [IMPRISONMENT UNDER (g)(1)(A) OF THIS SECTION SHALL BE SERVED AT A PRIVATE RESIDENCE BY OTHER MEANS AS] determined by the commissioner of corrections. [A PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT REQUIRED UNDER (g)(1)(A) OF THIS SECTION BY

1 ELECTRONIC MONITORING AT A PRIVATE RESIDENCE MAY NOT BE
2 SUBJECT TO A SEARCH OF THE PERSON'S DWELLING BY A PEACE
3 OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC
4 MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE.]

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

27 * **Sec. 50.** AS 33.07.020 is amended to read:

28 **Sec. 33.07.020. Duties of commissioner; pretrial services.** The commissioner
29 shall

30 (1) appoint and make available to the superior court and district court
31 qualified pretrial services officers;

- 1 (2) fix pretrial services officers' salaries;
- 2 (3) assign pretrial services officers to each judicial district;
- 3 (4) provide for the necessary supervision, training, expenses, including
- 4 clerical services, and travel of pretrial services officers;
- 5 (5) approve a risk assessment instrument that is objective,
- 6 standardized, and developed based on analysis of empirical data and risk factors
- 7 relevant to pretrial failure, that evaluates the likelihood of failure to appear in court
- 8 and the likelihood of rearrest during the pretrial period, [AND] that is validated on the
- 9 state's pretrial population, **and that has been verified by peer review as provided in**
- 10 **(b) - (e) of this section;** and
- 11 (6) adopt regulations in consultation with the Department of Law, the
- 12 public defender, the Department of Public Safety, the office of victims' rights, and the
- 13 Alaska Court System, consistent with this chapter and as necessary to implement the
- 14 program; the regulations must include a process for pretrial services officers to make a
- 15 recommendation to the court concerning a pretrial release decision and guidelines for
- 16 pretrial diversion recommendations.

17 * **Sec. 51.** AS 33.07.020 is amended by adding new subsections to read:

- 18 (b) Before the commissioner approves a risk assessment instrument under
- 19 (a)(5) of this section, and every three years thereafter, the commissioner shall submit
- 20 the studies on which the risk assessment instrument is based and other related data for
- 21 peer review by a minimum of three separate parties who are not employees of the
- 22 department and whom the commissioner determines to be technically qualified in the
- 23 subject matter under review. The commissioner shall ensure that the peer review
- 24 includes an analysis of the factors considered by the commissioner in supporting the
- 25 changes or additions to the risk assessment instrument proposed to be adopted and
- 26 recommendations, if any, for additional research or investigation considered
- 27 appropriate. Peer review reports shall be submitted to the commissioner within 45
- 28 days after the department submits a matter for peer review unless the commissioner
- 29 determines that additional time is required.
- 30 (c) Before the commissioner approves a risk assessment instrument under
- 31 (a)(5) of this section, and every three years thereafter, the commissioner shall make

1 available to the public, at convenient locations and on the department's Internet
2 website, copies of the department's proposed risk assessment instrument, the findings
3 of the department describing the basis for adoption of the risk assessment instrument,
4 and the peer review reports submitted under (b) of this section.

5 (d) The commissioner shall contract with persons to perform peer review
6 under (b) of this section. All persons shall be selected based on competitive sealed
7 proposals under AS 36.30.200 - 36.30.270 (State Procurement Code). The
8 commissioner may not contract with a person to perform peer review under this
9 section if the person has a significant financial interest or other significant interest that
10 could bias evaluation of the proposed risk assessment instrument. An interest is not
11 considered significant under this subsection if it is an interest possessed generally by
12 the public or a large class of persons or if the effect of the interest on the person's
13 ability to be impartial is only conjectural.

14 (e) If one or more peer review reports submitted to the commissioner under
15 (b) of this section state the risk assessment instrument is flawed based on the analysis
16 of empirical data and risk factors relevant to pretrial failure, the commissioner shall
17 review the risk assessment instrument to determine what changes are necessary,
18 amend the risk assessment instrument, and resubmit the risk assessment instrument for
19 peer review.

20 * **Sec. 52.** AS 33.30.011(a) is amended to read:

21 (a) The commissioner shall

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

27 (2) classify prisoners;

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

30 (A) protect the public and the victims of crimes committed by
31 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;

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

(7) establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 90 [30] days or more [AND PROVIDE TO THE LEGISLATURE, BY ELECTRONIC MEANS, BY JANUARY 15, 2017, AND THEREAFTER BY JANUARY 15, PRECEDING THE FIRST REGULAR SESSION OF EACH LEGISLATURE, A REPORT SUMMARIZING THE FINDINGS AND RESULTS OF THE PROGRAM]; the program must include a

1 requirement for an assessment before a prisoner's release on parole, furlough, or
2 electronic monitoring from a correctional facility;

3 (8) establish a procedure that provides for each prisoner required to
4 serve an active term of imprisonment of 90 [30] days or more a written case plan that

5 (A) takes effect and is provided to the prisoner within 90 days
6 after sentencing;

7 (B) is based on the results of the assessment of the prisoner's
8 risks and needs under (7) of this subsection;

9 (C) includes a requirement to follow the rules of the institution;

10 (D) is modified when necessary for changes in classification,
11 housing status, medical or mental health, and resource availability;

12 (E) includes participation in programming that addresses the
13 needs identified in the assessment;

14 (9) establish a program to begin reentry planning with each prisoner
15 serving an active term of imprisonment of 90 days or more; reentry planning must
16 begin at least 90 days before release on furlough or probation or parole; the reentry
17 program must include

18 (A) a written reentry plan for each prisoner completed upon
19 release on furlough or probation or parole that includes information on the
20 prisoner's proposed

21 (i) residence;

22 (ii) employment or alternative means of support;

23 (iii) treatment options;

24 (iv) counseling services;

25 (v) education or job training services;

26 (B) any other requirements for successful transition back to the
27 community, including electronic monitoring or furlough for the period between
28 a scheduled parole hearing and parole eligibility;

29 (C) coordination with the Department of Labor and Workforce
30 Development to provide access, after release, to job training and employment
31 assistance; and

(D) coordination with community reentry coalitions or other providers of reentry services if available;

(10) for offenders under electronic monitoring, establish

(A) minimum standards for electronic monitoring, which may include the requirement of active, real-time monitoring using global positioning systems; and

(B) procedures for oversight and approving electronic monitoring programs and systems provided by private contractors; [AND]

(11) assist a prisoner in obtaining a valid state identification card if the prisoner does not have a valid state identification card before the prisoner's release; the department shall pay the application fee for the identification card; **and**

(12) provide to the legislature, by electronic means, by January 10 preceding the first regular session of each legislature, a report summarizing the findings and results of the program established under (7) of this subsection; the report must include

(A) the number of prisoners who were provided with written case plans under (8) of this subsection;

(B) the number of written case plans under (8) of this subsection initiated within the preceding year; and

(C) the number of written case plans under (8) of this subsection that were updated in the preceding year.

* **Sec. 53.** AS 34.03.360(7) is amended to read:

(7) "illegal activity involving a controlled substance" means a violation of AS 11.71.010(a), **11.71.025**, 11.71.030(a)(1), (2), or (4) - (8), or 11.71.040(a)(1), (2), or (5);

* **Sec. 54.** AS 44.19.647(a) is amended to read:

(a) The commission shall submit to the governor and the legislature an annual report. The report must include

(1) a description of its proceedings for the previous calendar year;

(2) a summary of savings and recommendations on how savings from criminal justice reform should be reinvested to reduce recidivism;

(3) performance metrics and outcomes from the recommendations the commission made in its December 2015 report, including recidivism rates, defined as

(A) the percentage of inmates who return to prison within three years after release, broken down by offense type and risk level; and

(B) the percentage of inmates who return to prison within three years after release for a new criminal conviction, broken down by offense type and risk level; [AND]

(4) recommendations for additional reforms, which may include recommendations for legislative and administrative action;

(5) the number of crime victims that participated in the prosecution of and court process relating to the offense in which the person was a victim; and

(6) data reported by the Department of Law under AS 44.23.040.

* **Sec. 55.** AS 44.23.020 is amended by adding a new subsection to read:

(k) The attorney general, in consultation with the commissioner of public safety, shall

(1) develop a tool to track felony sex offenses reported to the Department of Public Safety by geographic location; the tracking tool must include a means to record the reason a reported offense was not referred for prosecution or, if referred, the reason the offense was not prosecuted and, if applicable, the reason a sex offense charged as a felony resulted in a conviction of an offense other than a sex offense under a plea agreement;

(2) develop regulations and procedures to implement the requirements established under (1) of this subsection; and

(3) provide training for the implementation of the regulations and procedures established under (2) of this subsection in each state department as necessary.

* **Sec. 56.** AS 44.23.040 is amended by adding a new subsection to read:

(b) The Department of Law, in consultation with the Department of Public Safety, shall gather and report data on felony sex offenses to the Alaska Judicial Council. The data must include

(1) the number of felony sex offenses reported to the Department of Public Safety that were not referred for prosecution;

(2) the number of felony sex offenses referred for prosecution that were not prosecuted;

(3) the number of felony sex offenses that resulted in a conviction for a crime other than a sex offense; and

(4) the number of sex offenses referred for prosecution that were charged as a felony and, under a plea agreement, resulted in a conviction for a crime other than a sex offense.

* **Sec. 57.** AS 44.41 is amended by adding a new section to read:

Sec. 44.41.065. Sexual assault examination kits. (a) When a law enforcement agency collects a sexual assault examination kit under AS 18.68.010, the agency shall

(1) within 30 days after the agency collects the sexual assault examination kit, send the sexual assault examination kit to an accredited laboratory in coordination with the Department of Public Safety or a laboratory operated by the Department of Public Safety;

(2) ensure that the laboratory to which the sexual assault examination kit is sent under (1) of this subsection conducts a serological or DNA test on the sexual assault examination kit within one year after the laboratory receives the sexual assault examination kit; and

(3) within two weeks after the laboratory that receives the sexual assault examination kit under (1) of this subsection completes serological or DNA testing, make a reasonable effort to notify the victim from whom the sexual assault examination kit was collected that the sexual assault examination kit has been tested.

(b) A criminal action may not be dismissed nor the evidence deemed nonadmissible for failure to be tested within the times established in (a)(1) and (2) of this section.

(c) If a case is resolved before a sexual assault examination kit is tested, a law enforcement agency is not required to meet the time limits established in (a) of this section.

(d) In this section,

(1) "law enforcement agency" or "agency" has the meaning given to "law enforcement agency" in AS 12.36.090;

(2) "victim" has the meaning given in AS 11.41.470.

* **Sec. 58.** AS 44.41.070(a) is amended to read:

(a) By September 1 of each year, each law enforcement agency and state department charged with the maintenance, storage, and preservation of sexual assault examination kits shall conduct an inventory of untested sexual assault examination kits and report, in writing, to the Department of Public Safety the number of untested sexual assault examination kits in the possession of the agency or department, the number of sexual assault examination kits that the law enforcement agency or state department has determined is ineligible for testing under (e) of this section, with the reason or reasons the untested sexual assault examination kits were determined to be ineligible for testing, and the date on which each untested sexual assault examination kit was collected.

* **Sec. 59.** AS 44.41.070(b) is amended to read:

(b) By November 1 of each year, the Department of Public Safety shall prepare and transmit a report to the president of the senate and the speaker of the house of representatives that contains

(1) the number of untested sexual assault examination kits stored by each law enforcement agency or department and the number of sexual assault examination kits that the law enforcement agency or state department has determined is ineligible for testing under (e) of this section, with the reason or reasons the untested sexual assault examination kits were determined to be ineligible for testing;

(2) the date each untested sexual assault examination kit was collected;
and

(3) a plan for addressing the backlog and prevention of a backlog of untested sexual assault examination kits.

* **Sec. 60.** AS 44.41.070 is amended by adding a new subsection to read:

(e) A sexual assault examination kit is ineligible for testing if the law enforcement agency or state department finds that the sexual assault examination kit

(1) is scientifically unviable;

(2) does not meet eligibility requirements for inclusion in the Combined DNA Index System database; or

(3) was collected from a person who wishes to remain anonymous.

* **Sec. 61.** AS 47.12.315(a) is amended to read:

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

(1) a felony offense against a person under AS 11.41;

(2) arson in the first or second degree;

(3) burglary in the first degree;

(4) distribution of child pornography;

(5) sex trafficking in the first degree;

(6) misconduct involving a controlled substance in the first, [OR] second, or third degrees involving distribution or possession with intent to deliver; or

(7) misconduct involving weapons in the first through fourth degrees.

* **Sec. 62.** The uncoded law of the State of Alaska is amended by adding a new section to read:

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

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

* **Sec. 63.** AS 11.46.980(d), 11.46.982; AS 11.71.060(a)(2)(A); AS 12.25.180(b)(3); AS 12.55.135(l), 12.55.135(m), 12.55.135(o), 12.55.135(p), and 12.55.145(a)(5) are repealed.

* **Sec. 64.** The uncoded law of the State of Alaska is amended by adding a new section to

1 read:

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

- 4 (1) AS 11.41.110(a), as amended by sec. 1 of this Act;
- 5 (2) AS 11.41.150(a), as amended by sec. 2 of this Act;
- 6 (3) AS 11.41.432(a), as amended by sec. 3 of this Act;
- 7 (4) AS 11.41.452(a), as amended by sec. 4 of this Act;
- 8 (5) AS 11.41.452(d), as amended by sec. 5 of this Act;
- 9 (6) AS 11.41.452(e), as amended by sec. 6 of this Act;
- 10 (7) AS 11.46.130(a), as amended by sec. 7 of this Act;
- 11 (8) AS 11.46.140(a), as amended by sec. 8 of this Act;
- 12 (9) AS 11.46.150(a), as amended by sec. 9 of this Act;
- 13 (10) AS 11.46.220(c), as amended by sec. 10 of this Act;
- 14 (11) AS 11.46.260(b), as amended by sec. 11 of this Act;
- 15 (12) AS 11.46.270(b), as amended by sec. 12 of this Act;
- 16 (13) AS 11.46.280(d), as amended by sec. 13 of this Act;
- 17 (14) AS 11.46.285, as amended by sec. 14 of this Act;
- 18 (15) AS 11.46.295, as amended by sec. 15 of this Act;
- 19 (16) AS 11.46.360(a), as amended by sec. 16 of this Act;
- 20 (17) AS 11.46.370, enacted by sec. 17 of this Act;
- 21 (18) AS 11.46.482(a), as amended by sec. 18 of this Act;
- 22 (19) AS 11.46.484(a), as amended by sec. 19 of this Act;
- 23 (20) AS 11.46.486(a), as amended by sec. 20 of this Act;
- 24 (21) AS 11.46.530(b), as amended by sec. 21 of this Act;
- 25 (22) AS 11.46.620(d), as amended by sec. 22 of this Act;
- 26 (23) AS 11.46.730(c), as amended by sec. 23 of this Act;
- 27 (24) AS 11.46.980(e), enacted by sec. 24 of this Act;
- 28 (25) AS 11.56.810(a), as amended by sec. 25 of this Act;
- 29 (26) AS 11.71.025, enacted by sec. 26 of this Act;
- 30 (27) AS 11.71.030(a), as amended by sec. 27 of this Act;
- 31 (28) AS 11.71.030(d), as amended by sec. 28 of this Act;

(29) AS 11.71.040(a), as amended by sec. 29 of this Act;

(30) AS 11.71.040(d), as amended by sec. 30 of this Act;

(31) AS 11.71.050, as amended by sec. 31 of this Act;

(32) AS 11.71.060, as amended by sec. 32 of this Act;

(33) AS 11.71.311(a), as amended by sec. 33 of this Act;

(34) AS 12.55.015(l); enacted by sec. 34 of this Act;

(35) AS 12.55.185(16), as amended by sec. 40 of this Act.

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

(1) AS 12.55.027(i), enacted by sec. 35 of this Act;

(2) AS 12.55.125(d), as amended by sec. 36 of this Act;

(3) AS 12.55.135(a), as amended by sec. 37 of this Act;

(4) AS 12.55.135(b), as amended by sec. 38 of this Act;

(5) AS 12.55.135(n), as amended by sec. 39 of this Act;

(6) AS 28.35.030(k), as amended by sec. 48 of this Act;

(7) AS 28.35.032(o), as amended by sec. 49 of this Act.

(c) The following sections apply to the duty to register as a sex offender for offenses committed on or after the effective date of those sections:

(1) AS 12.63.010(d), as amended by sec. 42 of this Act;

(2) AS 12.63.010(g), enacted by sec. 43 of this Act;

(3) AS 12.63.020, as amended by sec. 44 of this Act;

(4) AS 12.63.100(6), as amended by sec. 45 of this Act.

* **Sec. 65.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REPORT TO LEGISLATURE; COMMISSIONER OF CORRECTIONS. On or before January 10, 2020, the commissioner of corrections shall provide a report to the legislature as described under AS 33.30.011(a)(12), enacted by sec. 52 of this Act. The commissioner shall submit the report to the senate secretary and chief clerk of the house of representatives and notify the legislature that the report is available.

* **Sec. 66.** The uncodified law of the State of Alaska is amended by adding a new section to read:

1 CONDITIONAL EFFECT. Section 62 of this Act takes effect only if sec. 62 of this
2 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
3 Constitution of the State of Alaska.

4 * **Sec. 67.** This Act takes effect July 1, 2019.