



LAWS OF ALASKA

2018

Source

SCS HB 312(RLS) am S

Chapter No.

AN ACT

Relating to scheduled substances; relating to the Controlled Substances Advisory Committee; authorizing the attorney general to schedule substances by emergency regulation or repeal an emergency regulation that scheduled a substance; relating to arrest without a warrant for assault in the fourth degree at a health care facility; relating to detaining a person for up to 48 hours for the prosecuting authority to demonstrate that release of the person would not reasonably ensure the appearance of the person or will pose a danger to the victim, other persons, or the community if the person has a criminal conviction or charge outside the state; relating to conditions of release for a person who is represented by an attorney or has a criminal conviction or charge outside the state; relating to factors the court is required to consider when determining the conditions of release before trial; relating to the surcharge imposed for violation of state or municipal law; relating to an aggravating factor at sentencing for a felony offense against a medical professional at a health care facility; amending the authority of pretrial services officers to make a warrantless arrest or request the court to issue a warrant for arrest; providing that pretrial services, probation, and parole officers may perform duties relating to pretrial services, probation, and parole; amending Rule 41, Alaska Rules of Criminal Procedure; providing for an effective date by amending the effective date of sec. 71, ch. 1, 4SSLA 2017; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to scheduled substances; relating to the Controlled Substances Advisory Committee;
2 authorizing the attorney general to schedule substances by emergency regulation or repeal an
3 emergency regulation that scheduled a substance; relating to arrest without a warrant for
4 assault in the fourth degree at a health care facility; relating to detaining a person for up to 48
5 hours for the prosecuting authority to demonstrate that release of the person would not
6 reasonably ensure the appearance of the person or will pose a danger to the victim, other
7 persons, or the community if the person has a criminal conviction or charge outside the state;
8 relating to conditions of release for a person who is represented by an attorney or has a
9 criminal conviction or charge outside the state; relating to factors the court is required to
10 consider when determining the conditions of release before trial; relating to the surcharge
11 imposed for violation of state or municipal law; relating to an aggravating factor at sentencing

1 for a felony offense against a medical professional at a health care facility; amending the
2 authority of pretrial services officers to make a warrantless arrest or request the court to issue
3 a warrant for arrest; providing that pretrial services, probation, and parole officers may
4 perform duties relating to pretrial services, probation, and parole; amending Rule 41, Alaska
5 Rules of Criminal Procedure; providing for an effective date by amending the effective date
6 of sec. 71, ch. 1, 4SSLA 2017; and providing for an effective date.

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

10 LEGISLATIVE INTENT. It is the intent of the legislature that, if a person's criminal
11 conviction or charge outside the state is included in a pretrial risk assessment conducted under
12 AS 33.07, the result of that assessment will control the release decision and the section of this
13 bill allowing a defendant to be detained for 48 hours and directing presumptive release on a
14 person's own recognizance or on an unsecured bond when the person has a criminal
15 conviction or charge outside the state will no longer apply.

16 * **Sec. 2.** AS 11.71.100(c) is amended to read:

17 (c) The president of the Board of Pharmacy or the president's designee
18 [ATTORNEY GENERAL] is the chair [CHAIRMAN] of the committee.

19 * **Sec. 3.** AS 11.71.100(d) is amended to read:

20 (d) The committee meets at the call of the chair of the committee
21 [ATTORNEY GENERAL].

22 * **Sec. 4.** AS 11.71.110 is amended to read:

23 **Sec. 11.71.110. Duties of committee.** The committee shall

24 (1) advise the governor of the need to add, delete, or reschedule
25 substances in the schedules in AS 11.71.140 - 11.71.190;

26 (2) recommend regulations for adoption by the Board of Pharmacy to
27 prevent excessive prescription of controlled substances and the diversion of
28 prescription drugs into illicit channels;

29 (3) evaluate the effectiveness of programs in the state providing

1 treatment and counseling for persons who abuse controlled substances;

2 (4) recommend programs to the Alaska Court System to be instituted
3 as alternatives to the prosecution or imprisonment of offenders who have no prior
4 criminal record involving controlled substance offenses and who are charged with
5 crimes involving controlled substances;

6 (5) review and evaluate enforcement policies and practices of the
7 Department of Public Safety and the Department of Law with regard to crimes
8 involving controlled substances, and recommend modifications of those policies and
9 practices consistent with the committee's assessment of the probable danger of
10 particular controlled substances; [AND]

11 (6) review budget requests and recommend amounts for appropriations
12 to the governor and the legislature for departments and agencies responsible for

13 (A) enforcing criminal laws pertaining to controlled
14 substances;

15 (B) providing treatment and counseling of persons who abuse
16 controlled substances; and

17 (C) regulating the legitimate handling of controlled substances;

18 **and**

19 **(7) advise the attorney general of the need to schedule substances**
20 **by emergency regulation.**

21 * **Sec. 5.** AS 11.71 is amended by adding a new section to read:

22 **Sec. 11.71.125. Emergency substance scheduling.** (a) The attorney general
23 may, by regulation, schedule a substance under this chapter regardless of whether the
24 substance is substantially similar to a controlled substance listed in AS 11.71.140 -
25 11.71.180, if the attorney general finds that scheduling the substance on an emergency
26 basis is necessary to avoid an immediate hazard to public safety.

27 (b) In determining whether to schedule a substance on an emergency basis, or
28 repeal an emergency regulation that scheduled a substance, the attorney general shall

29 (1) assess the degree of danger or probable danger of the substance by
30 considering the

31 (A) actual or probable abuse of the substance including the

1 (i) history and current pattern of abuse;
2 (ii) scope, duration, and significance of abuse of the
3 substance; and
4 (iii) degree of actual or possible detriment that may
5 result from abuse of the substance; and
6 (B) risk to public health;
7 (2) consider whether the substance has been scheduled on a temporary
8 basis under federal law and may consider clandestine importation, manufacture, or
9 distribution of the substance;
10 (3) consult with the Controlled Substances Advisory Committee
11 established under AS 11.71.100; and
12 (4) consult with the chief medical officer in the Department of Health
13 and Social Services.
14 (c) The attorney general may schedule a substance by emergency regulation
15 under this section only if the substance is currently listed on a federal controlled
16 substance schedule.
17 (d) The attorney general shall clearly indicate in an emergency regulation that
18 schedules a substance the appropriate schedule under this chapter that applies to the
19 substance.
20 (e) The attorney general shall post a notice on the Alaska Online Public Notice
21 System (AS 44.62.175) 60 days before the effective date of an emergency regulation
22 that schedules a substance. The notice must include
23 (1) a summary of the attorney general's findings under (b) of this
24 section; and
25 (2) the finding required for an emergency regulation under
26 AS 44.62.250(b).
27 (f) The attorney general may not adopt an emergency regulation under this
28 section that schedules an alcoholic beverage as defined in AS 04.21.080, marijuana as
29 defined in AS 17.38.900, or tobacco.
30 (g) An emergency regulation adopted under this section is subject to the
31 requirements in AS 44.62.260(c).

1 * **Sec. 6.** AS 11.71.900(4) is amended to read:

2 (4) "controlled substance" means a drug, substance, or immediate
3 precursor included in the schedules set out in AS 11.71.140 - 11.71.190 **or included**
4 **in those schedules by an emergency regulation adopted under AS 11.71.125;**

5 * **Sec. 7.** AS 11.71.900 is amended by adding a new paragraph to read:

6 (31) "substance" means a drug, controlled substance, or immediate
7 precursor included in the schedules set out in AS 11.71.140 - 11.71.190 or in an
8 emergency regulation adopted under AS 11.71.125, AS 44.62.250, and 44.62.260.

9 * **Sec. 8.** AS 12.25.030(b) is amended to read:

10 (b) In addition to the authority granted by (a) of this section, a peace officer

11 (1) shall make an arrest under the circumstances described in
12 AS 18.65.530;

13 (2) without a warrant may arrest a person if the officer has probable
14 cause to believe the person has, either in or outside the presence of the officer,

15 (A) committed a crime involving domestic violence, whether
16 the crime is a felony or a misdemeanor; in this subparagraph, "crime involving
17 domestic violence" has the meaning given in AS 18.66.990;

18 (B) committed the crime of violating a protective order in
19 violation of AS 11.56.740; or

20 (C) violated a condition of release imposed under
21 AS 12.30.016(e) or 12.30.027;

22 (3) without a warrant may arrest a person when the peace officer has
23 probable cause for believing that the person has

24 (A) committed a crime under or violated conditions imposed as
25 part of the person's release before trial on misdemeanor charges brought under
26 AS 11.41.270;

27 (B) violated AS 04.16.050 or an ordinance with similar
28 elements; however, unless there is a lawful reason for further detention, a
29 person who is under 18 years of age and who has been arrested for violating
30 AS 04.16.050 or an ordinance with similar elements shall be cited for the
31 offense and released to the person's parent, guardian, or legal custodian; [OR]

1 (C) violated conditions imposed as part of the person's release
2 under the provisions of AS 12.30; or

3 (D) violated AS 11.41.230 at a health care facility, and the
4 person

5 (i) was not seeking medical treatment at the facility;

6 or

7 (ii) was stable for discharge.

8 * **Sec. 9.** AS 12.25.030 is amended by adding a new subsection to read:

9 (e) In this section, "health care facility" has the meaning given in
10 AS 18.07.111.

11 * **Sec. 10.** AS 12.30.006(b) is amended to read:

12 (b) At the first appearance before a judicial officer, a person may be detained
13 up to 48 hours for the prosecuting authority to demonstrate that release of the person
14 under AS 12.30.011 would not reasonably ensure the appearance of the person or will
15 pose a danger to the victim, other persons, or the community, if the person has [BEEN
16 CHARGED WITH THE FOLLOWING CRIMES:]

17 (1) been charged with an unclassified, class A, [OR] class B, or class
18 C felony; or

19 (2) a criminal conviction or charge outside the state that has not
20 been used in determining the person's risk level in the pretrial risk assessment
21 under AS 33.07

22 [(2) A CLASS C FELONY

23 (A) UNDER AS 11.41, AS 11.56.730, AS 28.35.030, OR
24 28.35.032;

25 (B) THAT IS A SEX OFFENSE; IN THIS
26 SUBPARAGRAPH, "SEX OFFENSE" HAS THE MEANING GIVEN IN
27 AS 12.63.100; OR

28 (C) THAT IS A CRIME INVOLVING DOMESTIC
29 VIOLENCE; IN THIS SUBPARAGRAPH, "CRIME INVOLVING
30 DOMESTIC VIOLENCE" HAS THE MEANING GIVEN IN AS 18.66.990;
31 OR

1 (3) A CLASS C FELONY, OTHER THAN A CLASS C FELONY
2 LISTED IN (2) OF THIS SUBSECTION, AND THE PERSON HAS BEEN
3 ASSESSED AS MODERATE TO HIGH RISK UNDER AS 12.30.011(c)(2)].

4 * **Sec. 11.** AS 12.30.011(a) is amended to read:

5 (a) **Except as otherwise provided in this chapter, a** [A] judicial officer may
6 order that a person charged with an offense, in addition to other conditions imposed
7 under this section, be released

8 (1) on the person's own recognizance;

9 (2) upon execution of an unsecured appearance bond; or

10 (3) upon execution of an unsecured performance bond.

11 * **Sec. 12.** AS 12.30.011(b) is amended to read:

12 (b) A person charged with a misdemeanor that does not include an offense
13 under AS 11.41, AS 11.56.730, 11.56.757, AS 28.35.030, or 28.35.032, a sex offense
14 as defined in AS 12.63.100, or a crime involving domestic violence as defined in
15 AS 18.66.990 and who is assessed by a pretrial services officer as

16 [(1)] low, [TO] moderate, **or** [RISK SHALL BE RELEASED ON
17 THE PERSON'S OWN RECOGNIZANCE OR UPON EXECUTION OF AN
18 UNSECURED APPEARANCE BOND OR UNSECURED PERFORMANCE BOND;
19 OR

20 (2)] high risk shall be released on the person's own recognizance or
21 upon execution of an unsecured appearance bond or unsecured performance bond
22 unless the judicial officer finds on the record that there is clear and convincing
23 evidence that no nonmonetary conditions of release in combination with the release of
24 the person on the person's own recognizance or upon execution of an unsecured bond
25 can reasonably ensure the appearance of the person in court and the safety of the
26 victim, other persons, and the community.

27 * **Sec. 13.** AS 12.30.011(c) is amended to read:

28 (c) A person charged with a class C felony that does not include an offense
29 under AS 11.41, AS 11.56.730, AS 28.35.030, or 28.35.032, a sex offense as defined
30 in AS 12.63.100, or a crime involving domestic violence as defined in AS 18.66.990
31 and who is assessed by a pretrial services officer as **low,**

1 [(1) LOW RISK SHALL BE RELEASED ON THE PERSON'S OWN
2 RECOGNIZANCE OR UPON EXECUTION OF AN UNSECURED APPEARANCE
3 BOND OR UNSECURED PERFORMANCE BOND; OR

4 (2)] moderate, or [TO] high risk shall be released on the person's own
5 recognizance or upon execution of an unsecured appearance bond or unsecured
6 performance bond unless the judicial officer finds on the record that there is clear and
7 convincing evidence that no nonmonetary conditions of release in combination with
8 the release of the person on the person's own recognizance or upon execution of an
9 unsecured bond can reasonably ensure the appearance of the person in court and the
10 safety of the victim, other persons, and the community.

11 * **Sec. 14.** AS 12.30.011(g) is amended to read:

12 (g) A person released under this **chapter** [SECTION] shall be released on the
13 condition that the person

- 14 (1) obey all court orders;
15 (2) obey all laws;
16 (3) make all court appearances;
17 (4) maintain contact with the person's pretrial services officer, if one is
18 appointed by the court, and follow the pretrial services officer's instructions;
19 (5) maintain contact with the person's attorney **if the person is**
20 **represented by an attorney**;
21 (6) notify the person's attorney or, if the person is not represented by
22 an attorney, the pretrial services officer or the court within 24 hours after a change in
23 the person's residence.

24 * **Sec. 15.** AS 12.30.011(i) is amended to read:

25 (i) In determining the conditions of release under this chapter, the court shall
26 consider the following:

- 27 (1) the nature and circumstances of the offense charged;
28 (2) the weight of the evidence against the person;
29 (3) the nature and extent of the person's family ties and relationships;
30 (4) the person's employment status and history;
31 (5) the length and character of the person's past and present residence;

- 1 (6) the person's record of convictions, **including convictions outside**
2 **the state;**
3 (7) the person's record of appearance at court proceedings;
4 (8) assets available to the person to meet monetary conditions of
5 release;
6 (9) the person's reputation, character, and mental condition;
7 (10) the effect of the offense on the victim, any threats made to the
8 victim, and the danger that the person poses to the victim;
9 (11) the conditions of release recommended by the pretrial services
10 officer;
11 (12) the person's pretrial risk assessment score; and
12 (13) any other facts that are relevant to the person's appearance or the
13 person's danger to the victim, other persons, or the community.

14 * **Sec. 16.** AS 12.55.039(a) is amended to read:

15 (a) In addition to any fine or other penalty prescribed by law, a defendant who
16 pleads guilty or nolo contendere to, forfeits bail for, or is convicted of a

17 (1) felony shall be assessed a surcharge of **\$200** [\$100];

18 (2) violation of a misdemeanor offense under AS 28.33.030,
19 28.33.031, AS 28.35.030, or 28.35.032, or a violation of a municipal ordinance
20 comparable to a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030,
21 or 28.35.032 and adopted under AS 28.01.010, shall be assessed a surcharge of **\$150**
22 [\$75];

23 (3) misdemeanor or a violation of a municipal ordinance if a sentence
24 of incarceration may be imposed for the misdemeanor or ordinance violation, other
25 than a provision identified in (2) of this subsection, shall be assessed a surcharge of
26 **\$100** [\$50];

27 (4) misdemeanor for which a sentence of incarceration may not be
28 imposed, a violation or an infraction under state law, or a violation of a municipal
29 ordinance imposing a penalty authorized by AS 29.25.070(a) if a sentence of
30 incarceration may not be imposed for the ordinance violation, shall be assessed a
31 surcharge of **\$20** [\$10] if the fine or bail forfeiture amount for the offense is \$30 or

1 more.

2 * **Sec. 17.** AS 12.55.155(c) is amended to read:

3 (c) The following factors shall be considered by the sentencing court if proven
4 in accordance with this section, and may allow imposition of a sentence above the
5 presumptive range set out in AS 12.55.125:

6 (1) a person, other than an accomplice, sustained physical injury as a
7 direct result of the defendant's conduct;

8 (2) the defendant's conduct during the commission of the offense
9 manifested deliberate cruelty to another person;

10 (3) the defendant was the leader of a group of three or more persons
11 who participated in the offense;

12 (4) the defendant employed a dangerous instrument in furtherance of
13 the offense;

14 (5) the defendant knew or reasonably should have known that the
15 victim of the offense was particularly vulnerable or incapable of resistance due to
16 advanced age, disability, ill health, homelessness, consumption of alcohol or drugs, or
17 extreme youth or was for any other reason substantially incapable of exercising
18 normal physical or mental powers of resistance;

19 (6) the defendant's conduct created a risk of imminent physical injury
20 to three or more persons, other than accomplices;

21 (7) a prior felony conviction considered for the purpose of invoking a
22 presumptive range under this chapter was of a more serious class of offense than the
23 present offense;

24 (8) the defendant's prior criminal history includes conduct involving
25 aggravated assaultive behavior, repeated instances of assaultive behavior, repeated
26 instances of cruelty to animals proscribed under AS 11.61.140(a)(1) and (3) - (5), or a
27 combination of assaultive behavior and cruelty to animals proscribed under
28 AS 11.61.140(a)(1) and (3) - (5); in this paragraph, "aggravated assaultive behavior"
29 means assault that is a felony under AS 11.41, or a similar provision in another
30 jurisdiction;

31 (9) the defendant knew that the offense involved more than one victim;

1 (10) the conduct constituting the offense was among the most serious
2 conduct included in the definition of the offense;

3 (11) the defendant committed the offense under an agreement that the
4 defendant either pay or be paid for the commission of the offense, and the pecuniary
5 incentive was beyond that inherent in the offense itself;

6 (12) the defendant was on release under AS 12.30 for another felony
7 charge or conviction or for a misdemeanor charge or conviction having assault as a
8 necessary element;

9 (13) the defendant knowingly directed the conduct constituting the
10 offense at an active officer of the court or at an active or former judicial officer,
11 prosecuting attorney, law enforcement officer, correctional employee, firefighter,
12 emergency medical technician, paramedic, ambulance attendant, or other emergency
13 responder during or because of the exercise of official duties;

14 (14) the defendant was a member of an organized group of five or
15 more persons, and the offense was committed to further the criminal objectives of the
16 group;

17 (15) the defendant has three or more prior felony convictions;

18 (16) the defendant's criminal conduct was designed to obtain
19 substantial pecuniary gain and the risk of prosecution and punishment for the conduct
20 is slight;

21 (17) the offense was one of a continuing series of criminal offenses
22 committed in furtherance of illegal business activities from which the defendant
23 derives a major portion of the defendant's income;

24 (18) the offense was a felony

25 (A) specified in AS 11.41 and was committed against a spouse,
26 a former spouse, or a member of the social unit made up of those living
27 together in the same dwelling as the defendant;

28 (B) specified in AS 11.41.410 - 11.41.458 and the defendant
29 has engaged in the same or other conduct prohibited by a provision of
30 AS 11.41.410 - 11.41.460 involving the same or another victim;

31 (C) specified in AS 11.41 that is a crime involving domestic

1 violence and was committed in the physical presence or hearing of a child
2 under 16 years of age who was, at the time of the offense, living within the
3 residence of the victim, the residence of the perpetrator, or the residence where
4 the crime involving domestic violence occurred;

5 (D) specified in AS 11.41 and was committed against a person
6 with whom the defendant has a dating relationship or with whom the defendant
7 has engaged in a sexual relationship; or

8 (E) specified in AS 11.41.434 - 11.41.458 or AS 11.61.128 and
9 the defendant was 10 or more years older than the victim;

10 (19) the defendant's prior criminal history includes an adjudication as a
11 delinquent for conduct that would have been a felony if committed by an adult;

12 (20) the defendant was on furlough under AS 33.30 or on parole or
13 probation for another felony charge or conviction that would be considered a prior
14 felony conviction under AS 12.55.145(a)(1)(B);

15 (21) the defendant has a criminal history of repeated instances of
16 conduct violative of criminal laws, whether punishable as felonies or misdemeanors,
17 similar in nature to the offense for which the defendant is being sentenced under this
18 section;

19 (22) the defendant knowingly directed the conduct constituting the
20 offense at a victim because of that person's race, sex, color, creed, physical or mental
21 disability, ancestry, or national origin;

22 (23) the defendant is convicted of an offense specified in AS 11.71 and

23 (A) the offense involved the delivery of a controlled substance
24 under circumstances manifesting an intent to distribute the substance as part of
25 a commercial enterprise; or

26 (B) at the time of the conduct resulting in the conviction, the
27 defendant was caring for or assisting in the care of a child under 10 years of
28 age;

29 (24) the defendant is convicted of an offense specified in AS 11.71 and
30 the offense involved the transportation of controlled substances into the state;

31 (25) the defendant is convicted of an offense specified in AS 11.71 and

1 the offense involved large quantities of a controlled substance;

2 (26) the defendant is convicted of an offense specified in AS 11.71 and
3 the offense involved the distribution of a controlled substance that had been
4 adulterated with a toxic substance;

5 (27) the defendant, being 18 years of age or older,

6 (A) is legally accountable under AS 11.16.110(2) for the
7 conduct of a person who, at the time the offense was committed, was under 18
8 years of age and at least three years younger than the defendant; or

9 (B) is aided or abetted in planning or committing the offense by
10 a person who, at the time the offense was committed, was under 18 years of
11 age and at least three years younger than the defendant;

12 (28) the victim of the offense is a person who provided testimony or
13 evidence related to a prior offense committed by the defendant;

14 (29) the defendant committed the offense for the benefit of, at the
15 direction of, or in association with a criminal street gang;

16 (30) the defendant is convicted of an offense specified in AS 11.41.410
17 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to
18 the victim in furtherance of the offense with the intent to make the victim
19 incapacitated; in this paragraph, "incapacitated" has the meaning given in
20 AS 11.41.470;

21 (31) the defendant's prior criminal history includes convictions for five
22 or more crimes in this or another jurisdiction that are class A misdemeanors under the
23 law of this state, or having elements similar to a class A misdemeanor; two or more
24 convictions arising out of a single continuous episode are considered a single
25 conviction; however, an offense is not a part of a continuous episode if committed
26 while attempting to escape or resist arrest or if it is an assault on a uniformed or
27 otherwise clearly identified peace officer or correctional employee; notice and denial
28 of convictions are governed by AS 12.55.145(b) - (d);

29 (32) the offense is a violation of AS 11.41 or AS 11.46.400 and the
30 offense occurred on school grounds, on a school bus, at a school-sponsored event, or
31 in the administrative offices of a school district if students are educated at that office;

1 in this paragraph,

2 (A) "school bus" has the meaning given in AS 11.71.900;

3 (B) "school district" has the meaning given in AS 47.07.063;

4 (C) "school grounds" has the meaning given in AS 11.71.900;

5 (33) the offense was a felony specified in AS 11.41.410 - 11.41.455,
6 the defendant had been previously diagnosed as having or having tested positive for
7 HIV or AIDS, and the offense either (A) involved penetration, or (B) exposed the
8 victim to a risk or a fear that the offense could result in the transmission of HIV or
9 AIDS; in this paragraph, "HIV" and "AIDS" have the meanings given in
10 AS 18.15.310;

11 (34) the defendant committed the offense on, or to affect persons or
12 property on, the premises of a recognized shelter or facility providing services to
13 victims of domestic violence or sexual assault;

14 (35) the defendant knowingly directed the conduct constituting the
15 offense at a victim because that person was 65 years of age or older;

16 **(36) the defendant committed the offense at a health care facility**
17 **and knowingly directed the conduct constituting the offense at a medical**
18 **professional during or because of the medical professional's exercise of**
19 **professional duties; in this paragraph,**

20 **(A) "health care facility" has the meaning given in**
21 **AS 18.07.111;**

22 **(B) "medical professional" has the meaning given in**
23 **AS 12.55.135(k).**

24 * **Sec. 18.** AS 33.07.030(g) is amended to read:

25 (g) A pretrial services officer may

26 (1) recommend pretrial diversion to the court and parties before
27 adjudication in accordance with the guidelines established by the commissioner under
28 AS 33.07.020(6);

29 (2) [ARREST, WITHOUT A WARRANT, A DEFENDANT WHO
30 HAS BEEN RELEASED WHILE AWAITING TRIAL] if the officer has probable
31 cause to believe the defendant has committed an offense under AS 11.56.730 or

1 11.56.757 or has violated the defendant's release conditions, **file a complaint with the**
2 **court and**

3 **(A) arrest, with or without a warrant, a defendant who has**
4 **been released while awaiting trial; or**

5 **(B) request the court to issue warrants related to any**
6 **violation of the defendant's release conditions;**

7 (3) refer interested defendants for substance abuse screening,
8 assessment, and treatment on a voluntary basis and assist any defendant whose offense
9 or criminal history identified a dependency on, abuse of, or addiction to alcohol or
10 controlled substances with accessing and obtaining appropriate treatment in the
11 community to address those needs;

12 (4) recommend that a defendant charged with an offense involving the
13 use of alcohol or controlled substances comply with a program established under
14 AS 47.38.020; and

15 (5) coordinate with community-based organizations and tribal courts
16 and councils to develop and expand pretrial diversion options.

17 * **Sec. 19.** AS 33.16.190 is amended to read:

18 **Sec. 33.16.190. Authority of parole, pretrial services, and probation**
19 **officers.** An officer appointed by the commissioner under AS 33.05.020(a), **AS 33.07,**
20 or [UNDER] this chapter, may discharge duties under AS 33.05, **AS 33.07,** or this
21 chapter.

22 * **Sec. 20.** AS 44.23.020 is amended by adding a new subsection to read:

23 (j) The attorney general may by regulation schedule a substance on an
24 emergency basis as provided in AS 11.71.125 and AS 44.62 (Administrative
25 Procedure Act).

26 * **Sec. 21.** AS 44.62.175(a) is amended to read:

27 (a) The lieutenant governor shall develop and supervise the Alaska Online
28 Public Notice System, to be maintained on the state's site on the Internet. The
29 lieutenant governor shall prescribe the form of notices posted on the system by state
30 agencies. The Alaska Online Public Notice System must include

31 (1) notices of proposed actions given under AS 44.62.190(a);

1 (2) notices of state agency meetings required under AS 44.62.310(e),
2 even if the meeting has been held;

3 (3) notices of solicitations to bid issued under AS 36.30.130;

4 (4) notices of state agency requests for proposals issued under
5 AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; AS 38.05.120; and
6 AS 43.40.010;

7 (5) executive orders and administrative orders issued by the governor;

8 (6) written delegations of authority made by the governor or the head
9 of a principal department under AS 44.17.010;

10 (7) the text or a summary of the text of a regulation or order of repeal
11 of a regulation for which notice is given under AS 11.71.125 or AS 44.62.190(a),
12 including an emergency regulation or repeal regardless of whether it has taken effect;

13 (8) notices required by AS 44.62.245(b) regarding an amended version
14 of a document or other material incorporated by reference in a regulation;

15 (9) a summary of the text of recently issued published opinions of the
16 attorney general;

17 (10) a list of vacancies on boards, commissions, and other bodies
18 whose members are appointed by the governor;

19 (11) in accordance with AS 39.52.240(h), advisory opinions of the
20 attorney general; [AND]

21 (12) notices required by AS 26.30.010(d) and (e) regarding
22 applications for military facility zones; and

23 (13) notices of substances scheduled by an emergency regulation
24 under AS 11.71.125.

25 * **Sec. 22.** AS 44.62.200(a) is amended to read:

26 (a) The notice of proposed adoption, amendment, or repeal of a regulation
27 must include

28 (1) a statement of the time, place, and nature of proceedings for
29 adoption, amendment, or repeal of the regulation;

30 (2) reference to the authority under which the regulation is proposed
31 and a reference to the particular code section or other provisions of law that are being

1 implemented, interpreted, or made specific;

2 (3) an informative summary of the proposed subject of agency action;

3 (4) other matters prescribed by a statute applicable to the specific
4 agency or to the specific regulation or class of regulations;

5 (5) a summary of the fiscal information required to be prepared under
6 AS 44.62.195; **and**

7 **(6) for a regulation under AS 11.71.125, a summary of the attorney**
8 **general's compliance with the requirements of AS 11.71.125(b).**

9 * **Sec. 23.** AS 44.62.250 is amended to read:

10 **Sec. 44.62.250. Emergency regulations. Except for a regulation adopted**
11 **under AS 11.71.125, a** [A] regulation or order of repeal may be adopted as an
12 emergency regulation or order of repeal if a state agency makes a written finding,
13 including a statement of the facts that constitute the emergency, that the adoption of
14 the regulation or order of repeal is necessary for the immediate preservation of the
15 public peace, health, safety, or general welfare. The requirements of AS 44.62.040(c),
16 44.62.060, and 44.62.190 - 44.62.215 do not apply to the initial adoption of
17 emergency regulations; however, upon adoption of an emergency regulation, the
18 adopting agency shall immediately submit a copy of it to the lieutenant governor for
19 filing and for publication in the Alaska Administrative Register, and, within five days
20 after filing by the lieutenant governor, the agency shall give notice of the adoption in
21 accordance with AS 44.62.190(a). Failure to give the required notice by the end of the
22 10th day automatically repeals the regulation.

23 * **Sec. 24.** AS 44.62.250 is amended by adding a new subsection to read:

24 (b) A regulation or order of repeal may be adopted as an emergency regulation
25 under AS 11.71.125 if the attorney general makes a written finding that the
26 requirements of AS 11.71.125 are met. The requirements of AS 44.62.190 - 44.62.215
27 do not apply to the adoption or order of repeal by the attorney general of a regulation
28 to schedule a substance by emergency regulation under AS 11.71.125.

29 * **Sec. 25.** AS 44.62.260 is amended to read:

30 **Sec. 44.62.260. Limitation on effective period of emergency regulations. (a)**
31 **Except as provided in (c) of this section, a** [A] regulation adopted as an emergency

1 regulation does not remain in effect more than 120 days unless the adopting agency
2 complies with AS 44.62.040(c), 44.62.060, and 44.62.190 - 44.62.215 either before
3 submitting the regulation to the lieutenant governor or during the 120-day period.

4 (b) **Except as provided in (c) of this section, before** [BEFORE] the
5 expiration of the 120-day period, the agency shall transmit to the lieutenant governor
6 for filing a certification that AS 44.62.040(c), 44.62.060, and 44.62.190 - 44.62.215
7 were complied with before submitting the regulation to the lieutenant governor, or that
8 the agency complied with those sections within the 120-day period. Failure to so
9 certify repeals the emergency regulation; it may not be renewed or refiled as an
10 emergency regulation.

11 * **Sec. 26.** AS 44.62.260 is amended by adding a new subsection to read:

12 (c) A substance scheduled by the attorney general by emergency regulation
13 under AS 11.71.125 will remain on the schedule under the emergency regulation for a
14 period not to exceed 1,095 days unless the legislature schedules the substance by law
15 or annuls the regulation by law.

16 * **Sec. 27.** AS 44.62.270 is amended to read:

17 **Sec. 44.62.270. State policy.** It is the state policy that emergencies are held to
18 a minimum and are rarely found to exist. **Nothing in this section limits the attorney**
19 **general from scheduling a substance by emergency regulation under**
20 **AS 11.71.125.**

21 * **Sec. 28.** Section 77, ch. 1, 4SSLA 2017, is repealed.

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

24 **INDIRECT COURT RULE AMENDMENT.** AS 12.30.011(a) - (c), (g), and (i), as
25 amended by secs. 11 - 15 of this Act, have the effect of changing Rule 41, Alaska Rules of
26 Criminal Procedure, by changing the conditions of release for certain defendants.

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

29 **APPLICABILITY.** (a) AS 12.25.030(b), as amended by sec. 8 of this Act, applies to
30 offenses committed before, on, or after the effective date of sec. 8 of this Act for contacts with
31 peace officers occurring on or after the effective date of sec. 8 of this Act.

1 (b) AS 12.30.006(b), as amended by sec. 10 of this Act, and AS 12.30.011(a) - (c),
2 (g), and (i), as amended by secs. 11 - 15 of this Act, apply to offenses committed on or after
3 the effective date of secs. 10 - 15 of this Act.

4 (c) AS 12.55.039(a), as amended by sec. 16 of this Act, and AS 12.55.155(c), as
5 amended by sec. 17 of this Act, apply to offenses committed on or after the effective dates of
6 secs. 16 and 17 of this Act.

7 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 CONDITIONAL EFFECT. Sections 10 - 15 of this Act take effect only if sec. 29 of
10 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
11 Constitution of the State of Alaska.

12 * **Sec. 32.** Section 79, ch. 1, 4SSLA 2017, is amended to read:

13 Sec. 79. **Section 71 of this Act** [IF, UNDER SEC. 77 OF THIS ACT, SEC. 71
14 OF THIS ACT TAKES EFFECT, IT] takes effect July 1, 2018.

15 * **Sec. 33.** Sections 1, 10 - 15, 18, 19, 29, and 31 of this Act take effect immediately under
16 AS 01.10.070(c).

17 * **Sec. 34.** Section 16 of this Act takes effect January 1, 2019.