

SENATE CS FOR CS FOR HOUSE BILL NO. 90(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/11/07

Referred: Finance

Sponsor(s): REPRESENTATIVES SAMUELS AND STOLTZE, Hawker, Dahlstrom, Lynn, Ramras, Johnson, Neuman, Johansen

SENATORS Green, Therriault, McGuire, Dyson, Bunde

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the purchase of alcoholic beverages and to access to licensed
2 premises; relating to civil liability for certain persons accessing licensed premises;
3 requiring driver's licenses and identification cards to be marked if a person is restricted
4 from consuming alcoholic beverages as a result of a conviction or condition of probation
5 or parole and relating to fees for the marked license or card; relating to the information
6 contained on driver's licenses; requiring the surrender and cancellation of driver's
7 licenses and identification cards under certain circumstances; relating to the reporting
8 of certain crimes; relating to prostitution; relating to the DNA registration system;
9 relating to credit toward service of a sentence of imprisonment; relating to violation of
10 probation and parole conditions by sex offenders; relating to bail; relating to
11 distribution of certain materials to minors; relating to time limitations for prosecution of
12 certain crimes; relating to sex offender registration; relating to the maximum time for

1 **probation; relating to certain post-conviction relief applications; relating to good time;**
2 **and providing for an effective date."**

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

4 * **Section 1.** AS 04.16 is amended by adding a new section to read:

5 **Sec. 04.16.047. Access of persons with restriction on purchasing alcohol.**

6 (a) A person who is restricted from purchasing alcohol under AS 04.16.160 may not
7 knowingly enter or remain in premises licensed under this title to obtain or consume
8 alcohol.

9 (b) A licensee may bring a civil action against a person who violates this
10 section if the violation occurs on the premises of that licensee. If judgment is entered
11 in favor of the licensee, the court shall award civil damages in the amount of \$1,000
12 and award reasonable costs and reasonable attorney fees allowed under the Alaska
13 Rules of Civil Procedure.

14 (c) Nothing in this section or AS 04.16.160 creates a duty or imposes an
15 obligation on a licensee to physically check the identification of any person entering
16 licensed premises.

17 * **Sec. 2.** AS 04.16 is amended by adding a new section to read:

18 **Sec. 04.16.160. Restriction on purchasing alcoholic beverages.** (a) Except as
19 otherwise provided by law, a person who is 21 years of age or older may not purchase
20 alcoholic beverages if the person has been ordered to refrain from consuming
21 alcoholic beverages as part of a sentence for conviction of a crime under
22 AS 28.35.030, 28.35.032, or a similar municipal ordinance or as a condition of
23 probation or parole from a conviction under AS 28.35.030, 28.35.032, or a similar
24 municipal ordinance. The restriction on purchasing alcoholic beverages applies during
25 the period that the person is required to refrain from consuming alcoholic beverages
26 under the sentence or condition of probation or parole.

27 (b) A court imposing a restriction on a person under (a) of this section, and the
28 Department of Corrections, shall notify the person that an identification card issued
29 under AS 18.65.310 must list the restriction imposed for the period of the person's
30 probation or parole.

1 * **Sec. 3.** AS 04.21.050 is amended to read:

2 **Sec. 04.21.050. Proof of age and of not being restricted from purchasing**
 3 **alcoholic beverages.** (a) If a licensee or an agent or employee of the licensee
 4 questions or has reason to question whether a person entering licensed premises, or
 5 ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to
 6 procure alcoholic beverages,

7 (1) has attained the age of 21 years or is entering without consent in
 8 violation of AS 04.16.049(a)(3) and has not attained the age of 16 years, that licensee,
 9 agent, or employee shall require the person to furnish proof of age acceptable under
 10 (b) of this section or proof of consent in a form determined by the board; **if** [. IF] the
 11 person questioned does not furnish proof of age acceptable under (b) of this section, or
 12 if a licensee, agent, or employee questions or has reason to question the validity of the
 13 proof of age furnished, the licensee, employee, or agent shall require the person to sign
 14 a statement that the person is over the age of 21 or 16 years, as appropriate; **this** [.
 15 THIS] statement shall be made on a form prepared by and furnished to the licensee by
 16 the board;

17 (2) **is restricted from purchasing alcoholic beverages under**
 18 **AS 04.16.160, the licensee, agent, or employee may, but has no duty or obligation**
 19 **to, require the person to furnish proof acceptable under (b) of this section that**
 20 **the person is not restricted from purchasing alcoholic beverages or require the**
 21 **person to sign a statement that the person is not restricted from purchasing**
 22 **alcoholic beverages under AS 04.16.160; this statement shall be made on a form**
 23 **prepared by and furnished to the licensee by the board.**

24 (b) **Except as provided in AS 04.16.160, a** [A] valid driver's license or a
 25 valid identification card is acceptable as proof of age **or that the person is not**
 26 **restricted from purchasing alcoholic beverages** when used for identification in the
 27 purchase of alcoholic beverages and for securing entry to and remaining on premises
 28 where alcoholic beverages are sold if the license or identification card is made of or
 29 encased in plastic and contains a photograph of the **licensee** [LICENSE] or card holder
 30 and a statement of age or date of birth. **A licensee, agent, or employee may elect to**
 31 **not accept a passport, military identification card, or other identification as proof**

1 **that the person is not restricted from purchasing alcoholic beverages and may**
 2 **require the person to furnish a valid driver's license or state identification card**
 3 **or otherwise furnish proof that the person is not a resident of this state.**

4 (c) A licensee, or an agent or employee of the licensee, may not be charged for
 5 a violation of **AS 04.16.047 - 04.16.052** [AS 04.16.051 - 04.16.052] if a signed
 6 statement as provided in (a) of this section is secured in good faith, or a valid driver's
 7 license or identification card is presented indicating that the owner and possessor of
 8 the presented driver's license or identification card is 21 or 16 years of age or over **or**
 9 **is not restricted from purchasing alcoholic beverages**, as appropriate.

10 * **Sec. 4.** AS 11.56 is amended by adding a new section to read:

11 **Sec. 11.56.759. Violation by sex offender of condition of probation or**
 12 **parole.** (a) A person commits the crime of violation by sex offender of condition of
 13 probation or parole if the person

14 (1) is on probation or parole for conviction of a sex offense;

15 (2) has served the entire term of incarceration imposed for conviction
 16 of the sex offense; and

17 (3) either

18 (A) violates a condition of probation imposed under
 19 AS 12.55.100(a)(5), (a)(6), or (e), 12.55.101(a)(1), or any other condition
 20 imposed by the court that the court finds to be specifically related to the
 21 defendant's offense; or

22 (B) violates a condition of parole imposed under
 23 AS 33.16.150(a)(3), (a)(4), (a)(6), (a)(13), (b)(4), (b)(11), or (f).

24 (b) In this section, "sex offense" has the meaning given in AS 12.63.100.

25 (c) Violation by sex offender of condition of probation or parole is a class A
 26 misdemeanor.

27 * **Sec. 5.** AS 11.56.765(a) is amended to read:

28 (a) A person, other than the victim, commits the crime of failure to report a
 29 violent crime [COMMITTED AGAINST A CHILD] if the person

30 (1) witnesses what the person knows or reasonably should know is

31 (A) the murder or attempted murder of a **person** [CHILD] by

1 another;

2 (B) the kidnapping or attempted kidnapping of a **person**
3 [CHILD] by another;

4 (C) the sexual penetration or attempted sexual penetration by
5 another

6 (i) of a **person** [CHILD] without consent of the **person**
7 [CHILD];

8 (ii) of a **person** [CHILD] that is mentally incapable;

9 (iii) of a **person** [CHILD] that is incapacitated; or

10 (iv) of a **person** [CHILD] that is unaware that a sexual
11 act is being committed; or

12 (D) the assault of a **person under 16 years of age** [CHILD] by
13 another causing serious physical injury to the **person** [CHILD]; **and**

14 (2) [KNOWS OR REASONABLY SHOULD KNOW THAT THE
15 CHILD IS UNDER 16 YEARS OF AGE; AND

16 (3)] does not **as soon as reasonably practicable** [IN A TIMELY
17 MANNER] report that crime to a peace officer or law enforcement agency.

18 * **Sec. 6.** AS 11.56.765(b) is amended to read:

19 (b) In a prosecution under this section, it is an affirmative defense that the
20 defendant

21 (1) did not report in a timely manner because the defendant reasonably
22 believed that

23 **(A)** doing so would have exposed the defendant or others to a
24 substantial risk of physical injury; **or**

25 **(B) effective assistance was already being provided by**
26 **another person;** or

27 (2) acted to stop the commission of the crime and stopped

28 (A) the commission of the crime; or

29 (B) the completion of the crime being attempted.

30 * **Sec. 7.** AS 11.53.765(d) is amended to read:

31 (d) Failure to report a violent crime [COMMITTED AGAINST A CHILD] is

1 a

2 (1) class **C felony if the crime not reported is an unclassified**
 3 **felony; or**

4 (2) class A misdemeanor **if the crime not reported is other than an**
 5 **unclassified felony.**

6 * **Sec. 8.** AS 11.56.765 is amended by adding a new subsection to read:

7 (e) Nothing in this section requires a person to incriminate the person in
 8 violation of the constitutional right against self-incrimination.

9 * **Sec. 9.** AS 11.56.765 is repealed and reenacted to read:

10 **Sec. 11.56.765. Failure to report a violent crime committed against a child.**

11 (a) A person, other than the victim, commits the crime of failure to report a violent
 12 crime committed against a child if the person

13 (1) witnesses what the person knows or reasonably should know is

14 (A) the murder or attempted murder of a child by another;

15 (B) the kidnapping or attempted kidnapping of a child by
 16 another;

17 (C) the sexual penetration or attempted sexual penetration by
 18 another

19 (i) of a child without consent of the child;

20 (ii) of a child that is mentally incapable;

21 (iii) of a child that is incapacitated; or

22 (iv) of a child that is unaware that a sexual act is being
 23 committed; or

24 (D) the assault of a child by another causing serious physical
 25 injury to the child;

26 (2) knows or reasonably should know that the child is under 16 years
 27 of age; and

28 (3) does not in a timely manner report that crime to a peace officer or
 29 law enforcement agency.

30 (b) In a prosecution under this section, it is an affirmative defense that the
 31 defendant

1 (1) did not report in a timely manner because the defendant reasonably
2 believed that doing so would have exposed the defendant or others to a substantial risk
3 of physical injury; or

4 (2) acted to stop the commission of the crime and stopped

5 (A) the commission of the crime; or

6 (B) the completion of the crime being attempted.

7 (c) In this section,

8 (1) "incapacitated" has the meaning given in AS 11.41.470;

9 (2) "mentally incapable" has the meaning given in AS 11.41.470;

10 (3) "sexual act" has the meaning given in AS 11.41.470;

11 (4) "without consent" has the meaning given in AS 11.41.470.

12 (d) Failure to report a violent crime committed against a child is a class A
13 misdemeanor.

14 * **Sec. 10.** AS 11.61.128(a) is amended to read:

15 (a) A person commits the crime of electronic distribution of indecent material
16 to minors if

17 (1) the person, being 18 years of age or older, knowingly distributes to
18 another person by computer any material that depicts **the following actual or**
19 **simulated conduct:**

20 (A) **sexual penetration;**

21 (B) **the lewd touching of a person's genitals, anus, or female**

22 **breast;**

23 (C) **masturbation;**

24 (D) **bestiality;**

25 (E) **the lewd exhibition of a person's genitals, anus, or**

26 **female breast; or**

27 (F) **sexual masochism or sadism;** [AN ACT DESCRIBED IN

28 AS 11.41.455(a)(1) - (7)] and

29 (2) **either** [1]

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

31 (B) [(2)] the person believes that the other person is a child

1 under 16 years of age.

2 * **Sec. 11.** AS 11.61.129(a) is amended to read:

3 (a) Property used to aid a violation of **AS 11.61.123 - 11.61.128**
 4 [AS 11.61.123 - 11.61.127] or to aid the solicitation of, attempt to commit, or
 5 conspiracy to commit a violation of **AS 11.61.123 - 11.61.128** [AS 11.61.123 -
 6 11.61.127] may be forfeited to the state upon the conviction of the offender.

7 * **Sec. 12.** AS 11.66.100(a) is amended to read:

8 (a) A person commits the crime of prostitution if the person
 9 **(1) engages in or agrees or offers to engage in sexual conduct in return**
 10 **for a fee; or**
 11 **(2) offers a fee in return for sexual conduct.**

12 * **Sec. 13.** AS 11.66.110(a) is amended to read:

13 (a) A person commits the crime of promoting prostitution in the first degree if
 14 the person

15 (1) induces or causes a person to engage in prostitution through the use
 16 of force;

17 (2) as other than a patron of a prostitute, induces or causes a person
 18 under **18** [16] years of age to engage in prostitution; or

19 (3) induces or causes a person in that person's legal custody to engage
 20 in prostitution.

21 * **Sec. 14.** AS 11.66.110(b) is amended to read:

22 (b) In a prosecution under (a)(2) of this section, it is not a defense that the
 23 defendant reasonably believed that the person induced or caused to engage in
 24 prostitution was **18** [16] years of age or older.

25 * **Sec. 15.** AS 11.66.110(c) is amended to read:

26 (c) Except as provided in (d) of this section, promoting prostitution in the first
 27 degree is a class **A** [B] felony.

28 * **Sec. 16.** AS 11.66.110(d) is amended to read:

29 (d) A person convicted under (a)(2) of this section is guilty of **an unclassified**
 30 [A CLASS A] felony.

31 * **Sec. 17.** AS 11.66.120(b) is amended to read:

1 (b) Promoting prostitution in the second degree is a class B [C] felony.

2 * **Sec. 18.** AS 11.66.130 is amended to read:

3 **Sec. 11.66.130. Promoting prostitution in the third degree.** (a) A person
4 commits the crime of promoting prostitution in the third degree if, with intent to
5 promote prostitution, the person

6 (1) manages, supervises, controls, or owns, either alone or in
7 association with others, a place of prostitution;

8 (2) as other than a patron of a prostitute, induces or causes a person 18
9 [16] years of age or older to engage in prostitution;

10 (3) as other than a prostitute receiving compensation for personally
11 rendered prostitution services, receives or agrees to receive money or other property
12 pursuant to an agreement or understanding that the money or other property is derived
13 from prostitution; or

14 (4) engages in conduct that institutes, aids, or facilitates a prostitution
15 enterprise.

16 (b) Promoting prostitution in the third degree is a class C felony [A
17 MISDEMEANOR].

18 * **Sec. 19.** AS 11.66 is amended by adding a new section to read:

19 **Sec. 11.66.135. Promoting prostitution in the fourth degree.** (a) A person
20 commits the crime of promoting prostitution in the fourth degree if the person engages
21 in conduct that institutes, aids, or facilitates prostitution under circumstances not
22 proscribed under AS 11.66.130(a)(4).

23 (b) Promoting prostitution in the fourth degree is a class A misdemeanor.

24 * **Sec. 20.** AS 11.66 is amended by adding a new section to read:

25 **Sec. 11.66.145. Forfeiture.** Property used to institute, aid, or facilitate, or
26 received or derived from, a violation of AS 11.66.110 - 11.66.135 shall be forfeited.

27 * **Sec. 21.** AS 11.81.250(a) is amended to read:

28 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
29 title, except murder in the first and second degree, attempted murder in the first
30 degree, solicitation to commit murder in the first degree, conspiracy to commit murder
31 in the first degree, murder of an unborn child, sexual assault in the first degree, sexual

1 abuse of a minor in the first degree, misconduct involving a controlled substance in the
 2 first degree, promoting prostitution in the first degree under AS 11.66.110(a)(2),
 3 and kidnapping, are classified on the basis of their seriousness, according to the type
 4 of injury characteristically caused or risked by commission of the offense and the
 5 culpability of the offender. Except for murder in the first and second degree, attempted
 6 murder in the first degree, solicitation to commit murder in the first degree, conspiracy
 7 to commit murder in the first degree, murder of an unborn child, sexual assault in the
 8 first degree, sexual abuse of a minor in the first degree, misconduct involving a
 9 controlled substance in the first degree, promoting prostitution in the first degree
 10 under AS 11.66.110(a)(2), and kidnapping, the offenses in this title are classified into
 11 the following categories:

12 (1) class A felonies, which characteristically involve conduct resulting
 13 in serious physical injury or a substantial risk of serious physical injury to a person;

14 (2) class B felonies, which characteristically involve conduct resulting
 15 in less severe violence against a person than class A felonies, aggravated offenses
 16 against property interests, or aggravated offenses against public administration or
 17 order;

18 (3) class C felonies, which characteristically involve conduct serious
 19 enough to deserve felony classification but not serious enough to be classified as A or
 20 B felonies;

21 (4) class A misdemeanors, which characteristically involve less severe
 22 violence against a person, less serious offenses against property interests, less serious
 23 offenses against public administration or order, or less serious offenses against public
 24 health and decency than felonies;

25 (5) class B misdemeanors, which characteristically involve a minor
 26 risk of physical injury to a person, minor offenses against property interests, minor
 27 offenses against public administration or order, or minor offenses against public health
 28 and decency;

29 (6) violations, which characteristically involve conduct inappropriate
 30 to an orderly society but which do not denote criminality in their commission.

31 * **Sec. 22.** AS 12.10.010(a) is amended to read:

1 (a) Prosecution for the following offenses may be commenced at any time:

2 (1) murder;

3 (2) **attempt, solicitation, or conspiracy to commit murder or**
 4 **hindering the prosecution of murder;**

5 (3) felony sexual abuse of a minor;

6 (4) [(3)] sexual assault that is an unclassified, class A, or class B
 7 felony or a violation of AS 11.41.425(a)(2) or (3);

8 (5) [(4)] a violation of AS 11.41.425, 11.41.427, 11.41.450 -
 9 11.41.458, AS 11.66.110 - 11.66.130, or former AS 11.41.430, when committed
 10 against a person who, at the time of the offense, was under 18 years of age;

11 (6) **kidnapping.**

12 * **Sec. 23.** AS 12.30.020(j) is amended to read:

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

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

25 (2) the prosecuting authority has at least 48 hours' notice before the
 26 time set for the review requested under this subsection; and

27 (3) at least **seven days** [48 HOURS] have elapsed between the
 28 previous review and the time set for the review requested under this subsection.

29 * **Sec. 24.** AS 12.55 is amended by adding a new section to read:

30 **Sec. 12.55.027. Credit for time spent toward service of a sentence of**
 31 **imprisonment.** (a) A court may grant a defendant credit toward a sentence of

1 imprisonment for time spent in a treatment program only as provided in this section.

2 (b) A court may grant a defendant one day of credit toward a sentence of
3 imprisonment for each full day the defendant resided in the facility of a treatment
4 program and observed the rules of the treatment program and the facility if

5 (1) the court finds that the treatment program meets the standards
6 described in (c) of this section;

7 (2) before the defendant entered the treatment program, the court
8 ordered the defendant to reside in the facility of the treatment program and participate
9 in the treatment program as a condition of bail release or a condition of probation; and

10 (3) the court has received a written report from the director of the
11 program that

12 (A) states that the defendant has participated in the treatment
13 plan prescribed for the defendant and has complied with the requirements of
14 the plan; and

15 (B) sets out the number of full days the defendant resided in the
16 facility of the treatment program and observed the rules of the treatment
17 program and facility.

18 (c) To qualify for credit against a sentence of imprisonment for time spent in a
19 treatment program, the treatment program and the facility of the treatment program
20 must impose substantial restrictions on a person's liberty that are equivalent to
21 incarceration, including the requirement that a participant in the program

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

23 (2) must be confined at all times to the grounds of the facility or be in
24 the physical custody of an employee of the facility, except for court appearances,
25 meetings with counsel, and work required by the treatment program and approved in
26 advance by the court;

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

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

1 (d) A court may not grant credit against a sentence of imprisonment for time
2 spent in a private residence or under electronic monitoring.

3 * **Sec. 25.** AS 12.55.035(b) is amended to read:

4 (b) Except as provided in AS 12.55.036, upon conviction of an offense, a
5 defendant who is not an organization may be sentenced to pay, unless otherwise
6 specified in the provision of law defining the offense, a fine of no more than

7 (1) \$500,000 for murder in the first or second degree, attempted
8 murder in the first degree, murder of an unborn child, sexual assault in the first degree,
9 sexual abuse of a minor in the first degree, kidnapping, **promoting prostitution in the**
10 **first degree under AS 11.66.110(a)(2)**, or misconduct involving a controlled
11 substance in the first degree;

12 (2) \$250,000 for a class A felony;

13 (3) \$100,000 for a class B felony;

14 (4) \$50,000 for a class C felony;

15 (5) \$10,000 for a class A misdemeanor;

16 (6) \$2,000 for a class B misdemeanor;

17 (7) \$500 for a violation.

18 * **Sec. 26.** AS 12.55.090(c) is amended to read:

19 (c) The period of probation, together with any extension, may not exceed

20 **(1) 25 years for a felony sex offense; or**

21 **(2) 10 years for any other offense.**

22 * **Sec. 27.** AS 12.55.125(i) is amended to read:

23 (i) A defendant convicted of

24 (1) sexual assault in the first degree, [OR] sexual abuse of a minor in
25 the first degree, **or promoting prostitution in the first degree under**
26 **AS 11.66.110(a)(2)** may be sentenced to a definite term of imprisonment of not more
27 than 99 years and shall be sentenced to a definite term within the following
28 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

29 (A) if the offense is a first felony conviction, the offense does
30 not involve circumstances described in (B) of this paragraph, and the victim
31 was

1 (i) less than 13 years of age, 25 to 35 years;

2 (ii) 13 years of age or older, 20 to 30 years;

3 (B) if the offense is a first felony conviction and the defendant
4 possessed a firearm, used a dangerous instrument, or caused serious physical
5 injury during the commission of the offense, 25 to 35 years;

6 (C) if the offense is a second felony conviction and does not
7 involve circumstances described in (D) of this paragraph, 30 to 40 years;

8 (D) if the offense is a second felony conviction and the
9 defendant has a prior conviction for a sexual felony, 35 to 45 years;

10 (E) if the offense is a third felony conviction and the defendant
11 is not subject to sentencing under (F) of this paragraph or (I) of this section, 40
12 to 60 years;

13 (F) if the offense is a third felony conviction, the defendant is
14 not subject to sentencing under (I) of this section, and the defendant has two
15 prior convictions for sexual felonies, 99 years;

16 (2) attempt, conspiracy, or solicitation to commit sexual assault in the
17 first degree, [OR] sexual abuse of a minor in the first degree, **or promoting**
18 **prostitution in the first degree under AS 11.66.110(a)(2)** may be sentenced to a
19 definite term of imprisonment of not more than 99 years and shall be sentenced to a
20 definite term within the following presumptive ranges, subject to adjustment as
21 provided in AS 12.55.155 - 12.55.175:

22 (A) if the offense is a first felony conviction, the offense does
23 not involve circumstances described in (B) of this paragraph, and the victim
24 was

25 (i) under 13 years of age, 20 to 30 years;

26 (ii) 13 years of age or older, 15 to 30 years;

27 (B) if the offense is a first felony conviction and the defendant
28 possessed a firearm, used a dangerous instrument, or caused serious physical
29 injury during the commission of the offense, 25 to 35 years;

30 (C) if the offense is a second felony conviction and does not
31 involve circumstances described in (D) of this paragraph, 25 to 35 years;

1 (D) if the offense is a second felony conviction and the
2 defendant has a prior conviction for a sexual felony, 30 to 40 years;

3 (E) if the offense is a third felony conviction, the offense does
4 not involve circumstances described in (F) of this paragraph, and the defendant
5 is not subject to sentencing under (I) of this section, 35 to 50 years;

6 (F) if the offense is a third felony conviction, the defendant is
7 not subject to sentencing under (I) of this section, and the defendant has two
8 prior convictions for sexual felonies, 99 years;

9 (3) sexual assault in the second degree, sexual abuse of a minor in the
10 second degree, unlawful exploitation of a minor, or distribution of child pornography
11 may be sentenced to a definite term of imprisonment of not more than 99 years and
12 shall be sentenced to a definite term within the following presumptive ranges, subject
13 to adjustment as provided in AS 12.55.155 - 12.55.175:

14 (A) if the offense is a first felony conviction, five to 15 years;

15 (B) if the offense is a second felony conviction and does not
16 involve circumstances described in (C) of this paragraph, 10 to 25 years;

17 (C) if the offense is a second felony conviction and the
18 defendant has a prior conviction for a sexual felony, 15 to 30 years;

19 (D) if the offense is a third felony conviction and does not
20 involve circumstances described in (E) of this paragraph, 20 to 35 years;

21 (E) if the offense is a third felony conviction and the defendant
22 has two prior convictions for sexual felonies, 99 years;

23 (4) sexual assault in the third degree, incest, indecent exposure in the
24 first degree, possession of child pornography, or attempt, conspiracy, or solicitation to
25 commit sexual assault in the second degree, sexual abuse of a minor in the second
26 degree, unlawful exploitation of a minor, or distribution of child pornography, may be
27 sentenced to a definite term of imprisonment of not more than 99 years and shall be
28 sentenced to a definite term within the following presumptive ranges, subject to
29 adjustment as provided in AS 12.55.155 - 12.55.175:

30 (A) if the offense is a first felony conviction, two to 12 years;

31 (B) if the offense is a second felony conviction and does not

1 involve circumstances described in (C) of this paragraph, eight to 15 years;

2 (C) if the offense is a second felony conviction and the
3 defendant has a prior conviction for a sexual felony, 12 to 20 years;

4 (D) if the offense is a third felony conviction and does not
5 involve circumstances described in (E) of this paragraph, 15 to 25 years;

6 (E) if the offense is a third felony conviction and the defendant
7 has two prior convictions for sexual felonies, 99 years.

8 * **Sec. 28.** AS 12.63.100(6) is amended to read:

9 (6) "sex offense" means

10 (A) a crime under AS 11.41.100(a)(3), or a similar law of
11 another jurisdiction, in which the person committed or attempted to commit a
12 sexual offense, or a similar offense under the laws of the other jurisdiction; in
13 this subparagraph, "sexual offense" has the meaning given in
14 AS 11.41.100(a)(3);

15 (B) a crime under AS 11.41.110(a)(3), or a similar law of
16 another jurisdiction, in which the person committed or attempted to commit
17 one of the following crimes, or a similar law of another jurisdiction:

18 (i) sexual assault in the first degree;

19 (ii) sexual assault in the second degree;

20 (iii) sexual abuse of a minor in the first degree; or

21 (iv) sexual abuse of a minor in the second degree;

22 (C) a crime, or an attempt, solicitation, or conspiracy to commit
23 a crime, under the following statutes or a similar law of another jurisdiction:

24 (i) AS 11.41.410 - 11.41.438;

25 (ii) AS 11.41.440(a)(2);

26 (iii) AS 11.41.450 - 11.41.458;

27 (iv) AS 11.41.460 if the indecent exposure is before a
28 person under 16 years of age and the offender has a previous conviction
29 for that offense;

30 (v) **AS 11.61.125 - 11.61.128** [AS 11.61.125 OR
31 11.61.127];

1 (vi) AS 11.66.110 or 11.66.130(a)(2) if the person who
 2 was induced or caused to engage in prostitution was 16 or 17 years of
 3 age at the time of the offense; or

4 (vii) former AS 11.15.120, former 11.15.134, or assault
 5 with the intent to commit rape under former AS 11.15.160, former
 6 AS 11.40.110, or former 11.40.200;

7 * **Sec. 29.** AS 12.72 is amended by adding a new section to read:

8 **Sec. 12.72.025. Applications based on claim of ineffective assistance of**
 9 **counsel.** An application may not be brought under AS 12.72.010 or the Alaska Rules
 10 of Criminal Procedure if it is based on a claim that the assistance the applicant's
 11 attorney provided in a prior application under AS 12.72.010 or the Alaska Rules of
 12 Criminal Procedure was ineffective, unless it is filed within one year after the court's
 13 decision on the prior application is final under the Alaska Rules of Appellate
 14 Procedure.

15 * **Sec. 30.** AS 18.65.310 is amended by adding new subsections to read:

16 (h) The department shall cancel the identification card of a person on whom a
 17 restriction has been imposed under AS 04.16.160 unless the person's identification
 18 card contains the information required by (i) of this section. A cancellation under this
 19 subsection remains in effect only during the period of time that the person is restricted
 20 from purchasing alcoholic beverages under AS 04.16.160.

21 (i) The department shall, to the extent it is able, mark the identification card of
 22 an applicant who is restricted from purchasing alcoholic beverages under
 23 AS 04.16.160 in the same manner required for a driver's license under AS 28.15.111.
 24 A person who has received a marked identification card under this subsection may
 25 apply for an unmarked card when the period of restriction under AS 04.16.160 has
 26 expired.

27 (j) The department shall charge a fee of \$50 for issuance of a marked
 28 identification card under (i) of this section.

29 * **Sec. 31.** AS 28.15.111(a) is amended to read:

30 (a) Upon successful completion of the application and all required
 31 examinations, and upon payment of the required fee, the department shall issue to

1 every qualified applicant a driver's license indicating the type or general class of
 2 vehicles that the licensee may drive. The license must [DISPLAY] (1) **display** a
 3 distinguishing number assigned to the license; (2) **display** the licensee's full name,
 4 address, date of birth, brief physical description, and color photograph; (3) **display**
 5 either a facsimile of the signature of the licensee or a space upon which the licensee
 6 must write the licensee's usual signature with pen and ink; (4) **display** a holographic
 7 symbol intended to prevent illegal alteration or duplication; [AND] (5) **display**, for a
 8 qualified applicant who is under [AGE] 21 **years of age**, the words "UNDER 21"; **and**
 9 **(6) to the extent the department is able, be designed to allow the electronic**
 10 **reading and electronic display of the information described under (2) of this**
 11 **subsection and the electronic reading and display and a physical display on the**
 12 **license that the person is restricted from purchasing alcoholic beverages under**
 13 **AS 04.16.160**. A license may not display the licensee's social security number and is
 14 not valid until signed by the licensee. If facilities are not available for the taking of the
 15 photograph required under this section, the department shall endorse on the license,
 16 the words "valid without photograph."

17 * **Sec. 32.** AS 28.15.161(a) is amended to read:

18 (a) The department shall cancel a driver's license upon determination that

19 (1) the licensee is not medically or otherwise entitled to the issuance or
 20 retention of the license, or has been adjudged incompetent to drive a motor vehicle;

21 (2) there is an error or defect in the license;

22 (3) the licensee failed to give the required or correct information in the
 23 licensee's application; [OR]

24 (4) the license was obtained fraudulently; **or**

25 **(5) the licensee is restricted from purchasing alcoholic beverages**
 26 **under AS 04.16.160; if a license is cancelled under this paragraph, when a new**
 27 **license is issued, it must reflect that restriction and the requirements of**
 28 **AS 28.15.111 if the period of restriction under AS 04.16.160 is still in effect.**

29 * **Sec. 33.** AS 28.15.191 is amended by adding new subsections to read:

30 (g) A court that has ordered a person to refrain from consuming alcoholic
 31 beverages as part of a sentence for conviction of a crime under AS 28.35.030,

1 28.35.032, or a similar municipal ordinance or as a condition of probation or parole
 2 following a conviction under those sections or a similar municipal ordinance shall

3 (1) require the surrender of the person's license and identification card
 4 and forward the license and identification card to the department;

5 (2) report the order to the department within two days; and

6 (3) inform the person that the person's license and identification card
 7 are subject to cancellation under AS 28.15.161 and AS 18.65.310 and, if the person is
 8 otherwise qualified to receive a license or identification card, when the person obtains
 9 a new license or identification card, the license or identification card must list the
 10 restriction imposed by AS 04.16.160 for the period of probation or parole.

11 (h) The board of parole shall notify the department within two days whenever
 12 a person has been ordered to refrain from consuming alcoholic beverages as a
 13 condition of parole, shall require the person to surrender their license and
 14 identification card, and shall inform the person that the person's license and
 15 identification card are subject to cancellation under AS 28.15.161, and that, if the
 16 person is otherwise qualified to receive a license or identification card, when the
 17 person obtains a new license or identification card, the license or identification card
 18 must list the restriction imposed by AS 04.16.160.

19 * **Sec. 34.** AS 28.15.271 is amended by adding a new subsection to read:

20 (e) The department shall charge \$50 for issuance of a new license to replace a
 21 license cancelled under AS 28.15.161(a)(5) because the person is restricted from
 22 purchasing alcoholic beverages under AS 04.16.160.

23 * **Sec. 35.** AS 33.20.010 is amended by adding a new subsection to read:

24 (c) A prisoner may not be awarded a good time deduction under (a) of this
 25 section for any period spent in a treatment program, in a private residence, or while
 26 under electronic monitoring.

27 * **Sec. 36.** AS 44.41.035(b) is amended to read:

28 (b) The Department of Public Safety shall collect for inclusion into the DNA
 29 registration system a blood sample, oral sample, or both, from (1) a person convicted
 30 in this state of a crime against a person or a felony under AS 11 or AS 28.35 or a law
 31 or ordinance with elements similar to a crime against a person or a felony under AS 11

1 or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a delinquent in this
 2 state for an act that would be a crime against a person or a felony under AS 11 or
 3 AS 28.35 if committed by an adult or for an act that would violate a law or ordinance
 4 with elements similar to a crime against a person or a felony under AS 11 or AS 28.35
 5 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA donor for use
 6 in forensic validation, forensic protocol development, quality control, or population or
 7 statistical data bases, [AND] (5) a person required to register as a sex offender or child
 8 kidnapper under AS 12.63, **and (6) a person arrested for a crime against a person**
 9 **or a felony under AS 11 or AS 28.35, or a law or ordinance with elements similar**
 10 **to a crime against a person or a felony under AS 11 or AS 28.35.** The department
 11 also may collect for inclusion into the DNA registration system a blood sample, oral
 12 sample, or tissue sample from crime scene evidence or from unidentified human
 13 remains. The DNA identification registration system consists of the blood, oral, or
 14 tissue samples drawn under this section, any DNA or other blood grouping tests done
 15 on those samples, and the identification data related to the samples or tests. Blood
 16 samples, oral samples, and tissue samples not subject to testing under this section, and
 17 test or identification data related to those samples, may not be entered into, or made a
 18 part of, the DNA identification registration system.

19 * **Sec. 37.** AS 44.41.035(i) is amended to read:

20 (i) The Department of Public Safety shall, upon receipt of a court order,
 21 destroy the material in the system relating to a person. The court shall issue the order
 22 if **the person's or minor's DNA was included in the system under**

23 **(1) (b)(1) or (2) of this section and the court** [IT] determines that

24 **(A)** [(1)] the conviction or adjudication that subjected the
 25 person to having a sample taken under this section is reversed; and

26 **(B)** [(2)] the person

27 **(i)** [(A)] is not retried, [OR] readjudicated, **or convicted**
 28 **or adjudicated for another crime that requires having a sample**
 29 **taken under this section** [FOR THE CRIME]; or

30 **(ii)** [(B)] after retrial, is acquitted of the crime or after
 31 readjudication for the crime, **and is not convicted or adjudicated for**

1 another crime that requires a sample under this section, is not
2 found to be a delinquent;

3 (2) (b)(6) of this section and the court determines that

4 (A) the person arrested was released without being
5 charged; or

6 (B) the criminal complaint, indictment, presentment or
7 information for the offense for which the person was arrested was
8 dismissed, and a criminal complaint, indictment, presentment or
9 information for an offense requiring submission of a DNA sample is not
10 refiled.

11 * **Sec. 38.** AS 44.41.035(l) is amended to read:

12 (l) The Department of Public Safety may not include in the DNA registration
13 system a blood sample, oral sample, or tissue sample of the victim of a crime, unless
14 that person would otherwise be included under (b)(1) - (6) [(b)(1) - (5)] of this section.

15 * **Sec. 39.** AS 44.41.035 is amended by adding a new subsection to read:

16 (q) The department shall make every reasonable effort to process each sample
17 collected from a person under (b)(1), (b)(2), (b)(5), and (b)(6) of this section and
18 include the identification data resulting from the testing of the sample in the
19 identification registration system within 90 days after receiving the sample.

20 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding new sections to
21 read:

22 **APPLICABILITY.** (a) AS 12.55.027, enacted by sec. 24 of this Act, applies to credit
23 for time served for a sentence imposed on or after the effective date of sec. 24 of this Act,
24 regardless of when the criminal act was committed.

25 (b) AS 11.56.759, enacted by sec. 4 of this Act, and the amendments to
26 AS 11.61.128(a) and AS 12.10.010(a) made by secs. 10 and 22 of this Act apply to acts
27 committed on or after the effective date of secs. 4, 10, and 22 of this Act.

28 (c) AS 12.72.025, enacted by sec. 29 of this Act, applies to offenses committed
29 before, on, or after the effective date of sec. 29 of this Act. A person whose application for
30 post-conviction relief was denied before the effective date of sec. 29 this Act, has until July 1,
31 2008, to file a claim described in AS 12.72.025.

1 (d) Sections 12 - 21, 25, and 27 of this Act apply to offenses committed on or after the
2 effective date of secs. 12 - 21, 25, and 27 of this Act.

3 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 PROVISIONS NOT SEVERABLE AND CONDITIONAL EFFECT; NOTICE. (a)
6 Notwithstanding AS 01.10.030, secs. 5 - 8 of this Act are not severable.

7 (b) Section 9 of this Act takes effect only if a provision of secs. 5 - 8 of this Act is
8 found to be unconstitutional by a final judgment of the Alaska Supreme Court or by the
9 Alaska Court of Appeals if the decision of the Court of Appeals is not accepted for review by
10 the Alaska Supreme Court.

11 (c) The attorney general shall notify the revisor of statutes of a final judgment
12 described in (b) of this section.

13 * **Sec. 42.** Sections 1 - 3 and 30 - 34 of this Act take effect January 1, 2008.

14 * **Sec. 43.** If sec. 9 of this Act takes effect, it takes effect 20 days after the date of the final
15 judgment described in sec. 41(b) of this Act.

16 * **Sec. 44.** Section 39 of this Act takes effect July 1, 2009.

17 * **Sec. 45.** Except as provided in secs. 42 - 44 of this Act, this Act takes effect July 1, 2007.