

CS FOR HOUSE BILL NO. 359(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/17/08

Referred: Rules

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the term of probation for persons convicted of minor consuming or**
2 **in possession or control of alcohol or repeat minor consuming or in possession or control**
3 **of alcohol; and relating to termination of probation for certain persons convicted of**
4 **minor consuming or in possession or control of alcohol or repeat minor consuming or in**
5 **possession or control of alcohol."**

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

7 *** Section 1.** AS 04.16.050(b) is amended to read:

8 (b) A person who violates (a) of this section and who has not been previously
9 convicted or received a suspended imposition of sentence under (1) of this subsection
10 is guilty of minor consuming or in possession or control. Upon conviction in the
11 district court, the court

12 (1) may grant a suspended imposition of sentence under AS 12.55.085
13 and place the person on probation for up to one year [OR UNTIL THE PERSON IS

1 21 YEARS OF AGE, WHICHEVER IS LATER,] if the person has not been convicted
 2 of a violation of this section previously; among the conditions of probation, the court
 3 shall, with the consent of a community diversion panel, refer the person to the panel,
 4 and require the person to comply with conditions set by the panel, including
 5 counseling, education, treatment, community work, and payment of fees; in this
 6 paragraph, "community diversion panel" means a youth court or other group selected
 7 by the court to serve as a sentencing option for a person convicted under this section;
 8 or

9 (2) shall impose a fine of at least \$200 but not more than \$600, shall
 10 require the person to attend alcohol information school if the school is available, and
 11 shall place the person on probation **for up to one year** under (e) of this section; the
 12 court may suspend a portion of the fine imposed under this paragraph that exceeds
 13 \$200 if the person is required to pay for education or treatment required under (e) of
 14 this section.

15 * **Sec. 2.** AS 04.16.050(c) is amended to read:

16 (c) A person is guilty of repeat minor consuming or in possession or control if
 17 the person was placed on probation under **(b)(1)** [(b)] of this section or has been
 18 previously convicted **once**, and the person violates (a) of this section. Upon conviction
 19 in the district court, the court shall

20 (1) impose a fine of \$1,000 and require at least 48 hours of community
 21 work;

22 (2) revoke the person's driver's license for three months;

23 (3) take possession of the person's driver's license; and

24 (4) suspend up to \$500 of the fine and place the person on probation
 25 **for up to one year** under (e) of this section.

26 * **Sec. 3.** AS 04.16.050(d) is amended to read:

27 (d) A person is guilty of habitual minor consuming or in possession or control
 28 if the person was placed on probation under (c) of this section, or has been previously
 29 convicted twice, and the person violates (a) of this section. Habitual minor consuming
 30 or in possession or control is a class B misdemeanor. Upon conviction, the court may
 31 impose an appropriate period of imprisonment and fine and place the person on

1 probation under (e) of this section **for one year, or until the person is 21 years of**
 2 **age, whichever is later,** and shall

- 3 (1) impose at least 96 hours of community work;
 4 (2) revoke the person's driver's license for six months;
 5 (3) within five working days, notify the agency responsible for the
 6 administration of motor vehicle laws of the revocation; and
 7 (4) take possession of the person's driver's license.

8 * **Sec. 4.** AS 04.16.050(e) is amended to read:

9 (e) The court shall place a person sentenced under **(b)(2)** [(b)], (c), or (d) of
 10 this section on probation for **the appropriate period** [ONE YEAR, OR UNTIL THE
 11 PERSON IS 21 YEARS OF AGE, WHICHEVER IS LATER]. The person may not
 12 refuse probation. The court may require the person to pay for and enroll in a juvenile
 13 alcohol safety action program, if one is available. The court shall impose the following
 14 conditions of probation:

- 15 (1) the person shall pay for and successfully complete any education or
 16 treatment recommended;
 17 (2) the person may not consume inhalants or possess or consume
 18 controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);
 19 (3) the person shall timely complete any community work ordered, as
 20 provided in (f) of this section; and
 21 (4) other conditions the court considers appropriate.

22 * **Sec. 5.** AS 04.16.050 is amended by adding a new subsection to read:

23 (l) Notwithstanding (b), (c), and (e) of this section, a person sentenced under
 24 (b) or (c) of this section may make a motion to the court to terminate probation of that
 25 person before the end of the probationary period required under those subsections. The
 26 court may grant the motion if the court finds, by clear and convincing evidence, that

- 27 (1) the person completed any community work ordered under (f) of
 28 this section;
 29 (2) the person has successfully completed any education or treatment
 30 program ordered by the court and, if required by the court, has either
 31 (A) paid for the programs; or

1 (B) made a good faith effort to pay for the programs, agreed to
2 have the debt reduced to a civil judgment, entered into a repayment plan with
3 the provider or the state, and agreed that the civil judgment may be enforced in
4 the manner provided for restitution and fines in AS 12.55.051;

5 (3) the person has either

6 (A) paid the fine; or

7 (B) made a good faith effort to pay the fine, agreed to have the
8 remaining fine amount reduced to a civil judgment, entered into a plan with the
9 state, and agreed that the civil judgment may be enforced in the manner
10 provided for restitution and fines in AS 12.55.051; and

11 (4) the person has substantially complied with the other conditions of
12 probation.