

HOUSE CS FOR CS FOR SENATE BILL NO. 265(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/9/08

Referred: Rules

Sponsor(s): SENATORS MCGUIRE, Dyson, Therriault, Bunde, Thomas, Stedman, Wielechowski, Ellis, Elton

REPRESENTATIVE Samuels

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to furnishing or delivering alcoholic beverages to persons under 21**
2 **years of age; relating to shipping, sending, transporting, or bringing alcohol to a local**
3 **option area and providing alcohol to others in the local option area, including penalties**
4 **for violations; relating to reports of alcohol violations by minors; relating to the**
5 **payment of permanent fund dividends to certain individuals required to register as sex**
6 **offenders or child kidnappers; relating to public notice requirements relating to**
7 **amounts that would have been paid as dividends to certain individuals required to**
8 **register as sex offenders or child kidnappers; relating to certain persons who lend**
9 **money on secondhand articles; relating to arson and criminally negligent burning;**
10 **relating to defenses for the detention of persons suspected of committing concealment of**
11 **merchandise or theft; relating to the determination of time of a conviction; relating to**
12 **issuance of search warrants; relating to persons found incompetent to stand trial**

1 concerning criminal conduct; relating to probation for certain offenses; relating to
 2 restitution for fish and game violations; relating to aggravating factors at sentencing;
 3 relating to post-conviction relief proceedings; relating to criminal extradition authority
 4 of the governor; removing the statutory bar to prosecution of certain crimes; relating to
 5 the reporting of suspected child pornography by certain persons; amending Rule 37(b),
 6 Alaska Rules of Criminal Procedure, relating to execution of warrants, and Rule 35.1,
 7 Alaska Rules of Criminal Procedure; and providing for an effective date."

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

9 * **Section 1.** AS 04.16.051(a) is amended to read:

10 (a) A person may not furnish or deliver an alcoholic beverage to a person
 11 under the age of 21 years. **This subsection does not apply to a licensee or an agent**
 12 **or employee of a licensee while working on licensed premises.**

13 * **Sec. 2.** AS 04.16.052 is amended to read:

14 **Sec. 04.16.052. Furnishing of alcoholic beverages to persons under the age**
 15 **of 21 by licensees.** A licensee or an agent or employee of the licensee may not with
 16 criminal negligence

17 (1) allow another person to sell, barter, or give an alcoholic beverage
 18 to a person under the age of 21 years within licensed premises;

19 (2) allow a person under the age of 21 years to enter and remain within
 20 licensed premises except as provided in AS 04.16.049;

21 (3) allow a person under the age of 21 years to consume an alcoholic
 22 beverage within licensed premises;

23 (4) allow a person under the age of 21 years to sell or serve alcoholic
 24 beverages;

25 **(5) while working on licensed premises, furnish or deliver alcoholic**
 26 **beverages to a person under the age of 21 years.**

27 * **Sec. 3.** AS 04.16.200(e) is amended to read:

28 (e) A person who sends, transports, or brings alcoholic beverages into a

1 municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

2 (1) **except as provided in (3) of this subsection,** guilty of a class A
3 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters
4 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

5 (2) guilty of a class C felony if the quantity of alcoholic beverages is
6 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12
7 gallons or more of malt beverages; **or**

8 **(3) guilty of a class C felony if the quantity of alcoholic beverages**
9 **is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons**
10 **of malt beverages and the person has been previously convicted under this**
11 **subsection or (b) of this section two or more times within 15 years of the date of**
12 **the present offense.**

13 * **Sec. 4.** AS 04.16.200 is amended by adding new subsections to read:

14 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the
15 court

16 (1) shall impose a minimum sentence of imprisonment of

17 (A) not less than 72 consecutive hours and a fine of not less
18 than \$1,500 if the person has not been previously convicted;

19 (B) not less than 20 days and a fine of not less than \$3,000 if
20 the person has been previously convicted once;

21 (C) not less than 60 days and a fine of not less than \$4,000 if
22 the person has been previously convicted twice and is not subject to
23 punishment under (h) of this section;

24 (D) not less than 120 days and a fine of not less than \$5,000 if
25 the person has been previously convicted three times and is not subject to
26 punishment under (h) of this section;

27 (E) not less than 240 days and a fine of not less than \$6,000 if
28 the person has been previously convicted four times and is not subject to
29 punishment under (h) of this section;

30 (F) not less than 360 days and a fine of not less than \$7,000 if
31 the person has been previously convicted more than four times and is not

1 subject to punishment under (h) of this section;

2 (2) may not

3 (A) suspend execution of sentence or grant probation except on
4 the condition that the person

5 (i) serve the minimum imprisonment under (1) of this
6 subsection; and

7 (ii) pay the minimum fine required under (1) of this
8 subsection; or

9 (B) suspend imposition of sentence.

10 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this
11 section, the court

12 (1) shall impose a fine of not less than \$10,000 and a minimum
13 sentence of imprisonment of

14 (A) 120 days if the person has been previously convicted once;

15 (B) 240 days if the person has been previously convicted two
16 times;

17 (C) 360 days if the person has been previously convicted three
18 or more times;

19 (2) may not

20 (A) suspend execution of sentence or grant probation except on
21 the condition that the person

22 (i) serve the minimum imprisonment under (1) of this
23 subsection; and

24 (ii) pay the minimum fine required under (1) of this
25 subsection; or

26 (B) suspend imposition of sentence.

27 (i) In (g) of this section, "previously convicted" means having been convicted,
28 within the 15 years preceding the date of the present offense, of an offense under (b)
29 or (e) of this section or a law or ordinance of another jurisdiction having elements
30 similar to those offenses.

31 (j) In (h) of this section, "previously convicted" means having been convicted,

1 within the 15 years preceding the date of the present offense, of a felony offense under
 2 (b) or (e) of this section or a law or ordinance of another jurisdiction having elements
 3 similar to those felony offenses.

4 (k) The court shall consider the date of a previous conviction as occurring on
 5 the date that sentence is imposed for the prior offense.

6 * **Sec. 5.** AS 08.76.010 is amended by adding a new subsection to read:

7 (b) A person who lends money on secondhand articles under (a) of this section
 8 and is located in a municipality that has a population of over 5,000 shall also maintain
 9 an electronic record that provides the information required by (a)(1) and (4) of this
 10 section for the secondhand articles on which the person lends money. The person shall
 11 submit the electronic record as required by the municipal law enforcement agency.

12 * **Sec. 6.** AS 08.76.020 is amended to read:

13 **Sec. 08.76.020. Manner of recording entry.** The entries **in the book and the**
 14 **electronic record required by AS 08.76.010** shall appear in chronological order **and,**
 15 **when made in a book,** in ink or indelible pencil. Blank lines may not be left between
 16 entries. Obliterations, alterations, or erasures may not be made. Corrections shall be
 17 made by drawing a line [IN INK] through the entry without destroying its legibility,
 18 **and, when made in a book, the line shall be drawn in ink.** The book shall be open
 19 to the inspection of a peace officer at reasonable times.

20 * **Sec. 7.** AS 11.46.230(a) is amended to read:

21 (a) In a civil or criminal action upon the complaint of a person who has been
 22 detained in or in the immediate vicinity of a commercial establishment for the purpose
 23 of investigation or questioning as to the ownership of merchandise, it is a defense that

24 (1) the person was detained in a reasonable manner and for not more
 25 than a reasonable time to permit investigation or questioning by a peace officer or by
 26 the owner of the commercial establishment or the owner's agent; and

27 (2) the peace officer, owner, or owner's agent had probable cause to
 28 believe that the person detained was committing or attempting to commit concealment
 29 of merchandise **or theft from the commercial establishment.**

30 * **Sec. 8.** AS 11.46.295 is amended to read:

31 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior

1 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or
 2 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under
 3 AS 11.46.220(c), a conviction for an offense under another law or ordinance with
 4 similar elements is a conviction of an offense having elements similar to those of an
 5 offense defined as such under Alaska law at the time the offense was committed. **The**
 6 **court shall consider the date of a prior conviction as occurring on the date that**
 7 **sentence is imposed for the prior offense.**

8 * **Sec. 9.** AS 11.46.410(a) is amended to read:

9 (a) A person commits the crime of arson in the second degree if the person
 10 **knowingly** [INTENTIONALLY] damages a building by starting a fire or causing an
 11 explosion.

12 * **Sec. 10.** AS 11.46 is amended by adding a new section to read:

13 **Sec. 11.46.427. Criminally negligent burning in the first degree.** (a) A
 14 person commits the crime of criminally negligent burning in the first degree if the
 15 person

16 (1) violates AS 11.46.430; and

17 (2) within the preceding 10 years, has been convicted on two separate
 18 occasions of violating AS 11.46.400 - 11.46.430 or AS 41.15.150 or a law or
 19 ordinance of this or another jurisdiction with elements similar to those offenses.

20 (b) Criminally negligent burning in the first degree is a class C felony.

21 * **Sec. 11.** AS 11.46.430 is amended to read:

22 **Sec. 11.46.430. Criminally negligent burning in the second degree.** (a) A
 23 person commits the crime of criminally negligent burning **in the second degree** if
 24 with criminal negligence the person damages property of another by fire or explosion.

25 (b) Criminally negligent burning **in the second degree** is a class A
 26 misdemeanor.

27 * **Sec. 12.** AS 12.35.010(a) is amended to read:

28 (a) A judicial officer may issue a search warrant upon a showing of probable
 29 cause, supported by oath or affirmation, and particularly describing the place to be
 30 searched and the thing to be seized. **The court may issue a search warrant for a**
 31 **place or property located either in the state or outside the state.**

1 * **Sec. 13.** AS 12.35.015(a) is amended to read:

2 (a) A judicial officer may issue a search warrant upon the sworn oral
3 testimony of a person communicated by telephone or other appropriate means, or
4 sworn affidavit transmitted by facsimile machine [, IF THE JUDICIAL OFFICER
5 FINDS THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT

6 (1) THE PRESENTATION OF THE APPLICANT'S AFFIDAVIT OR
7 TESTIMONY PERSONALLY BEFORE THE JUDICIAL OFFICER WOULD
8 RESULT IN A DELAY IN OBTAINING OR EXECUTING A SEARCH
9 WARRANT; AND

10 (2) THE DELAY MIGHT RESULT IN LOSS OR DESTRUCTION
11 OF THE EVIDENCE SUBJECT TO SEIZURE OR MIGHT INTERFERE WITH AN
12 ONGOING INVESTIGATION].

13 * **Sec. 14.** AS 12.47.110(a) is amended to read:

14 (a) When the trial court determines by a preponderance of the evidence, in
15 accordance with AS 12.47.100, that a defendant is so incompetent that the defendant is
16 unable to understand the proceedings against the defendant or to assist in the
17 defendant's own defense, the court shall order the proceedings stayed, except as
18 provided in (d) of this section shall, [AND MAY] commit a [THE] defendant
19 **charged with a felony and may commit a defendant charged with any other crime**
20 to the custody of the commissioner of health and social services or the commissioner's
21 authorized representative for further evaluation and treatment until the defendant is
22 mentally competent to stand trial, or until the pending charges against the defendant
23 are disposed of according to law, but in no event longer than 90 days.

24 * **Sec. 15.** AS 12.47.110(b) is amended to read:

25 (b) On or before the expiration of the initial 90-day period of commitment, the
26 court shall conduct a hearing to determine whether or not the defendant remains
27 incompetent. If the court finds by a preponderance of the evidence that the defendant
28 remains incompetent, the court may recommit the defendant for a second period of 90
29 days. The court shall determine at the expiration of the second 90-day period whether
30 the defendant has become competent. If, at the expiration of the second 90-day period,
31 the court determines that the defendant continues to be incompetent to stand trial, the

1 charges against the defendant shall be dismissed without prejudice, and continued
 2 commitment of the defendant shall be governed by the provisions relating to civil
 3 commitments under AS 47.30.700 - 47.30.915 unless the defendant is charged with a
 4 crime involving force against a person and the court finds that the defendant presents a
 5 substantial danger of physical injury to other persons and that there is a substantial
 6 probability that the defendant will regain competency within a reasonable period of
 7 time, in which case the court may extend the period of commitment for an additional
 8 six months. If the defendant remains incompetent at the expiration of the additional
 9 six-month period, the charges shall be dismissed without prejudice, and **continued**
 10 **[EITHER CIVIL] commitment proceedings shall be governed by the provisions**
 11 **relating to civil commitment under AS 47.30.700 - 47.30.915** [INSTITUTED OR
 12 THE COURT SHALL ORDER THE RELEASE OF THE DEFENDANT]. If the
 13 defendant remains incompetent for five years after the charges have been dismissed
 14 under this subsection, the defendant may not be charged again for an offense arising
 15 out of the facts alleged in the original charges, except if the original charge is a class A
 16 felony or unclassified felony.

17 * **Sec. 16.** AS 12.47.110 is amended by adding a new subsection to read:

18 (e) A defendant charged with a felony and found to be incompetent to proceed
 19 under this section is rebuttably presumed to be mentally ill and to present a likelihood
 20 of serious harm to self or others in proceedings under AS 47.30.700 - 47.30.915. In
 21 evaluating whether a defendant is likely to cause serious harm, the court may consider
 22 as recent behavior the conduct with which the defendant was originally charged.

23 * **Sec. 17.** AS 12.55.090(a) is amended to read:

24 (a) Probation may be granted whether the **offense under AS 11 or AS 16 or**
 25 **the** crime is punishable by fine or imprisonment or both. If **an offense under AS 11**
 26 **or AS 16 or** a crime is punishable by both fine and imprisonment, the court may
 27 impose a fine and place the defendant on probation as to imprisonment. Probation may
 28 be limited to one or more counts or indictments, but, in the absence of express
 29 limitation, shall extend to the entire sentence and judgment.

30 * **Sec. 18.** AS 12.55.155(c)(8) is amended to read:

31 (8) the defendant's prior criminal history includes conduct involving

1 aggravated **assaultive behavior** or repeated instances of assaultive behavior; **in this**
 2 **paragraph, "aggravated assaultive behavior" means assault that is a felony**
 3 **under AS 11.41, or a similar provision in another jurisdiction;**

4 * **Sec. 19.** AS 12.55.155(f) is amended to read:

5 (f) If the state seeks to establish a factor in aggravation at sentencing

6 (1) under (c)(7), (8), (12), (15), **(18)(B)**, (19), (20), (21), or (31) of this
 7 section, or if the defendant seeks to establish a factor in mitigation at sentencing,
 8 written notice must be served on the opposing party and filed with the court not later
 9 than 10 days before the date set for imposition of sentence; the factors in aggravation
 10 listed in this paragraph and factors in mitigation must be established by clear and
 11 convincing evidence before the court sitting without a jury; all findings must be set out
 12 with specificity;

13 (2) other than one listed in (1) of this subsection, the factor shall be
 14 presented to a trial jury under procedures set by the court, unless the defendant waives
 15 trial by jury, stipulates to the existence of the factor, or consents to have the factor
 16 proven under procedures set out in (1) of this subsection; a factor in aggravation
 17 presented to a jury is established if proved beyond a reasonable doubt; written notice
 18 of the intent to establish a factor in aggravation must be served on the defendant and
 19 filed with the court

20 (A) 20 days before trial, or at another time specified by the
 21 court;

22 (B) within 48 hours, or at a time specified by the court, if the
 23 court instructs the jury about the option to return a verdict for a lesser included
 24 offense; or

25 (C) five days before entering a plea that results in a finding of
 26 guilt, or at another time specified by the court.

27 * **Sec. 20.** AS 12.70.280(2) is amended to read:

28 (2) "governor" includes

29 **(A)** a person performing the functions of governor by authority
 30 of the law of this state; **and**

31 **(B) the lieutenant governor or the head of a principal**

1 department in the executive branch appointed by the governor to act on
 2 behalf of the governor in performing extradition duties under this
 3 chapter; the appointment shall be in writing and filed with the lieutenant
 4 governor;

5 * **Sec. 21.** AS 12.72.020(a) is amended to read:

6 (a) A claim may not be brought under AS 12.72.010 or the Alaska Rules of
 7 Criminal Procedure if

8 (1) the claim is based on the admission or exclusion of evidence at trial
 9 or on the ground that the sentence is excessive;

10 (2) the claim was, or could have been but was not, raised in a direct
 11 appeal from the proceeding that resulted in the conviction;

12 (3) the later of the following dates has passed, except that if the
 13 applicant claims that the sentence was illegal there is no time limit on the claim:

14 (A) if the claim relates to a conviction, **18 months** [TWO
 15 YEARS] after the entry of the judgment of the conviction or, if the conviction
 16 was appealed, one year after the court's decision is final under the Alaska
 17 Rules of Appellate Procedure;

18 (B) if the claim relates to a court revocation of probation, **18**
 19 months [TWO YEARS] after the entry of the court order revoking probation
 20 or, if the order revoking probation was appealed, one year after the court's
 21 decision is final under the Alaska Rules of Appellate Procedure;

22 (4) one year or more has elapsed from the final administrative decision
 23 of the Board of Parole or the Department of Corrections that is being collaterally
 24 attacked;

25 (5) the claim was decided on its merits or on procedural grounds in any
 26 previous proceeding; or

27 (6) a previous application for post-conviction relief has been filed
 28 under this chapter or under the Alaska Rules of Criminal Procedure.

29 * **Sec. 22.** AS 12.72.020(b) is amended to read:

30 (b) Notwithstanding (a)(3) and (4) of this section, a court may hear a claim

31 (1) if the applicant establishes due diligence in presenting the claim

1 and sets out facts supported by admissible evidence establishing that the applicant

2 (A) suffered from a physical disability or from a mental disease
3 or defect that precluded the timely assertion of the claim; or

4 (B) was physically prevented by an agent of the state from
5 filing a timely claim;

6 (2) based on newly discovered evidence if the applicant establishes due
7 diligence in presenting the claim and sets out facts supported by evidence that is
8 admissible and

9 (A) was not known within

10 (i) 18 months [TWO YEARS] after entry of the
11 judgment of conviction if the claim relates to a conviction;

12 (ii) 18 months [TWO YEARS] after entry of a court
13 order revoking probation if the claim relates to a court's revocation of
14 probation; or

15 (iii) one year after an administrative decision of the
16 Board of Parole or the Department of Corrections is final if the claim
17 relates to the administrative decision;

18 (B) is not cumulative to the evidence presented at trial;

19 (C) is not impeachment evidence; and

20 (D) establishes by clear and convincing evidence that the
21 applicant is innocent.

22 * **Sec. 23.** AS 12.72.020 is amended by adding a new subsection to read:

23 (d) The court may not consider a substantive claim in an application brought
24 under AS 12.72.010 or the Alaska Rules of Criminal Procedure until the court has first
25 determined that

26 (1) the application is timely; and

27 (2) except for an application described in AS 12.72.025 or allowed
28 under (c) of this section, no previous application has been filed.

29 * **Sec. 24.** AS 16.05.925(b) is amended to read:

30 (b) In addition to a penalty imposed under (a) of this section or any other
31 penalty for violation of this title or a regulation adopted under this title, a person

1 who is convicted of unlawfully taking an animal listed in this subsection may be
 2 ordered by the court to pay restitution to the state in the amount set out in this
 3 subsection for each animal unlawfully taken:

- 4 (1) Bear, black \$ 600
- 5 (2) Bear, brown or grizzly 1,300
- 6 (3) Bison 1,300
- 7 (4) Caribou 850
- 8 (5) Deer 400
- 9 (6) Elk 800
- 10 (7) Goat 800
- 11 (8) Moose 1,000
- 12 (9) Musk oxen 3,000
- 13 (10) Sheep 1,100
- 14 (11) Wolf 500
- 15 (12) Wolverine 500.

16 * **Sec. 25.** AS 28.15.191(a) is amended to read:

17 (a) A court that convicts a person of an offense under this title or a regulation
 18 adopted under this title, or another law or regulation of this state [,] or a municipal
 19 ordinance that regulates the driving of vehicles, **or a violation of AS 04.16.050** shall
 20 forward a record of the conviction to the department within five working days. A
 21 conviction of a standing or parking offense need not be reported.

22 * **Sec. 26.** AS 28.35.028(a) is amended to read:

23 (a) Notwithstanding another provision of law, with the consent of the state and
 24 the defendant, the court may elect to proceed in a criminal case under **AS 04.16.200(b)**
 25 **or (e)**, AS 28.35.030, or 28.35.032, including the case of a defendant charged with
 26 violating the terms of probation, under the procedure provided in this section and
 27 order the defendant to complete a court-ordered treatment program. The state may not
 28 consent to a referral under this subsection unless the state has consulted with the
 29 victim and explained the process and consequences of the referral to the victim. A
 30 court may not elect to proceed under this section if the defendant has previously
 31 participated in a court-ordered treatment program under this section two or more

1 times.

2 * **Sec. 27.** AS 43.23 is amended by adding a new section to read:

3 **Sec. 43.23.021. Delayed payment of certain dividends.** (a) Notwithstanding
4 other provisions regarding the payment of permanent fund dividends, if an individual
5 is required to register as a sex offender or child kidnapper under AS 12.63 and has not
6 registered or has not completed the required periodic verifications or notices required
7 under AS 12.63, payment of the dividend for that individual shall be delayed.

8 (b) If payment of a dividend is delayed, the department shall notify the
9 individual in writing of the delayed payment status, explain the requirements of this
10 section, and request proof of registration and compliance with the verifications and
11 notices required under AS 12.63. The dividend may not be paid unless, within one
12 year after the notification, the department determines that the individual has registered
13 and is in compliance with the verifications and notices required under AS 12.63.

14 (c) The permanent fund dividend of an individual for whom payment has been
15 delayed, but that remains payable under (b) of this section, is subject to levy,
16 execution, garnishment, attachment, or any other remedy for the collection of debt.
17 The department shall immediately pay that dividend, or the portion of it that has been
18 claimed by a debtor, as provided in AS 43.23.065 - 43.23.068.

19 (d) If an individual for whom payment of a permanent fund dividend has been
20 delayed but remains payable under (b) of this section dies before the dividend is paid
21 or payable, the department shall pay the dividend to a personal representative of the
22 individual's estate.

23 (e) The department shall include notice with the dividend application form of
24 the requirements of (a) and (b) of this section.

25 * **Sec. 28.** AS 43.23.025(a) is amended to read:

26 (a) By October 1 of each year, the commissioner shall determine the value of
27 each permanent fund dividend for that year by

28 (1) determining the total amount available for dividend payments,
29 which equals

30 (A) the amount of income of the Alaska permanent fund
31 transferred to the dividend fund under AS 37.13.145(b) during the current year;

1 (B) plus the unexpended and unobligated balances of prior
 2 fiscal year appropriations that lapse into the dividend fund under
 3 AS 43.23.045(d);

4 (C) less the amount necessary to pay prior year dividends from
 5 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
 6 43.23.055(3) and (7) [UNDER AS 43.23.055(3) AND (7)];

7 (D) less the amount necessary to pay dividends from the
 8 dividend fund due to eligible applicants who, as determined by the department,
 9 filed for a previous year's dividend by the filing deadline but who were not
 10 included in a previous year's dividend computation;

11 (E) less appropriations from the dividend fund during the
 12 current year, including amounts to pay costs of administering the dividend
 13 program and the hold harmless provisions of AS 43.23.075;

14 (2) determining the number of individuals eligible to receive a
 15 dividend payment for the current year and the number of estates and successors
 16 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

17 (3) dividing the amount determined under (1) of this subsection by the
 18 amount determined under (2) of this subsection.

19 * **Sec. 29.** AS 43.23.028(b) is amended to read:

20 (b) To the extent that amounts appropriated for a fiscal year do not exceed the
 21 total amount that would have been paid during the previous fiscal year to individuals
 22 who were ineligible to receive dividends under AS 43.23.005(d) or under
 23 AS 43.23.021(b) if they had been eligible, the notice requirements of (a)(3) of this
 24 section do not apply to appropriations from the dividend fund to

25 (1) the crime victim compensation fund established under
 26 AS 18.67.162 for payments to crime victims;

27 (2) the council on domestic violence and sexual assault established
 28 under AS 18.66.010 for grants for the operation of domestic violence and sexual
 29 assault programs;

30 (3) the Department of Corrections for incarceration and probation
 31 programs;

1 (4) the office of victims' rights; or

2 (5) nonprofit victims' rights organizations for grants for services to
3 crime victims.

4 * **Sec. 30.** AS 47.17.023 is repealed and reenacted to read

5 **Sec. 47.17.023. Reports from certain persons regarding child**
6 **pornography.** A person providing, either privately or commercially, film, photo, or
7 visual or printed matter processing, production, or finishing services or computer
8 installation, repair, or other services, or Internet or cellular telephone services who, in
9 the process of providing those services, observes a film, photo, picture, computer file,
10 image, or other matter and has reasonable cause to suspect that the film, photo,
11 picture, computer file, image, or other matter visually depicts a child engaged in
12 conduct described in AS 11.41.455(a) shall immediately report the observation to the
13 nearest law enforcement agency and provide the law enforcement agency with all
14 information known about the nature and origin of the film, photo, picture, computer
15 file, image, or other matter.

16 * **Sec. 31.** AS 47.30.780 is amended to read:

17 **Sec. 47.30.780. Early discharge. Except as provided in (b) of this section,**
18 **the** [THE] professional person in charge shall at any time discharge a respondent on
19 the ground that the respondent is no longer gravely disabled or likely to cause serious
20 harm as a result of mental illness. A certificate to this effect shall be sent to the court,
21 which shall enter an order officially terminating the involuntary commitment.

22 * **Sec. 32.** AS 47.30.780 is amended to add a new subsection to read:

23 (b) The professional person in charge shall give the prosecuting authority 10
24 days' notice before discharging a respondent who was committed after having been
25 found incompetent to proceed under AS 12.47.110.

26 * **Sec. 33.** The uncodified law of the State of Alaska enacted in sec. 36(c), ch. 24, SLA
27 2007, is amended to read:

28 (c) AS 12.72.025, enacted by sec. 25, **ch. 24, SLA 2007** [OF THIS ACT],
29 applies to offenses committed before, on, or after the effective date of sec. 25, **ch. 24,**
30 **SLA 2007** [OF THIS ACT]. A person whose application for post-conviction relief was
31 denied before the effective date of sec. 25, **ch. 24, SLA 2007** [OF THIS ACT] has

1 until July 1, 2008, to file a claim described in AS 12.72.025. **This subsection does not**
 2 **authorize filing a claim under AS 12.72 or the Alaska Rules of Criminal**
 3 **Procedure that is not otherwise available under AS 12.72, the Alaska Rules of**
 4 **Criminal Procedure, or other provision of law.**

5 * **Sec. 34.** AS 12.35.015(f) is repealed.

6 * **Sec. 35.** AS 11.71.310 and AS 12.20.010 are repealed.

7 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
 8 read:

9 DIRECT COURT RULE AMENDMENT. Rule 37(b), Alaska Rules of
 10 Criminal Procedure, is amended to read:

11 (b) **Execution and Return with Inventory.** The warrant shall be executed
 12 and returned within **30** [10] days after its date **of issuance**. However, upon sworn
 13 application made before the expiration of the initial **30** [10] day period or any
 14 subsequent extension, the court may for good cause extend the execution period for a
 15 reasonable time not to exceed **30** [10] days. **Good cause includes protecting the**
 16 **confidentiality of an ongoing investigation and protecting a person working with**
 17 **law enforcement authorities on an investigation.** The officer taking property under
 18 the warrant

19 (1) shall give to the person from whom or from whose premises the
 20 property was taken a copy of the warrant, a copy of the supporting affidavits, and
 21 receipt for the property taken, or

22 (2) shall leave the copies and the receipt at the place from which the
 23 property was taken.

24 The return shall be made promptly and shall be accompanied by a
 25 written inventory of any property taken as a result of the search pursuant to or in
 26 conjunction with the warrant. The inventory shall be made in the presence of the
 27 applicant for the warrant and the person from whose possession or premises the
 28 property was taken, if they are present, or in the presence of at least one credible
 29 person other than the applicant for the warrant or the person from whose possession or
 30 premises the property was taken, and shall be signed by the officer under the penalty
 31 of perjury pursuant to AS 09.63.020 or sworn to in front of a magistrate or judge, or a

1 notary public. The magistrate or judge or the court to which the return is made shall
2 upon request deliver a copy of the inventory to the person from whom or from whose
3 premises the property was taken and to the applicant for the warrant.

4 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 **INDIRECT COURT RULE AMENDMENT.** The provisions of AS 12.72.020(a) and
7 (b), as amended by secs. 21 and 22 of this Act, and the provisions of AS 12.72.020(d), as
8 added by sec. 23 of this Act, have the effect of amending Rule 35.1, Alaska Rule of Criminal
9 Procedure, by restricting the authority of a court to hear certain applications, claims, or
10 proceedings for post-conviction relief and by prescribing a procedure for a court to determine
11 if an application, claim, or proceeding may be considered.

12 * **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 **APPLICABILITY.** (a) Sections 1 - 4, 9 - 11, 17 - 19, 24 - 26, and 35 of this Act apply
15 to an offense occurring on or after the effective date of this section. References to previous
16 convictions in secs. 3 and 4 of this Act apply to convictions occurring before, on, or after the
17 effective date of those sections.

18 (b) Section 8 of this Act applies to an offense occurring before, on, or after the
19 effective date of this section.

20 (c) Sections 12, 13, 34, and 36 of this Act apply to search warrants applied for on or
21 after the effective date of this section, regardless of whether the offense occurred before, on,
22 or after the effective date of this section.

23 (d) Sections 14 - 16, 31, and 32 of this Act apply to procedures occurring after the
24 effective date of this section, regardless of whether the offense occurred before, on, or after
25 the effective date of this section.

26 (e) Section 20 of this Act applies to applications for criminal extraditions submitted
27 on or after the effective date of this section, regardless of whether the offense occurred before,
28 on, or after the effective date of this section.

29 (f) Section 7 of this Act applies to offenses occurring and actions arising on or after
30 the effective date of this section.

31 (g) Sections 21 - 23 and 37 of this Act apply to applications submitted on or after the

1 effective date of this section.

2 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application
5 of it to any person or circumstance, is held invalid, the remainder of this Act and the
6 application to other persons or circumstances are not affected.

7 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 RETROACTIVITY. Section 33 of this Act is retroactive to July 1, 2007.

10 * **Sec. 41.** Sections 33 and 39 of this Act take effect immediately under AS 01.10.070(c).

11 * **Sec. 42.** Sections 27 and 28 of this Act take effect January 1, 2009.

12 * **Sec. 43.** Except as provided in secs. 41 and 42 of this Act, this Act takes effect July 1,
13 2008.