

HOUSE CS FOR CS FOR SENATE BILL NO. 110(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/9/10

Referred: Finance

Sponsor(s): SENATORS FRENCH, Wagoner, Dyson, Ellis, Paskvan, Menard, Wielechowski, Egan, Meyer, McGuire, Huggins, Stedman, Thomas, Stevens

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to post-conviction DNA testing, to the preservation of certain evidence,**
2 **and to the DNA identification registration system; relating to post-conviction relief**
3 **procedures; relating to representation by the public defender; amending Rule 35.1,**
4 **Alaska Rules of Criminal Procedure; and providing for an effective date."**

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

6 * **Section 1.** AS 12.36.020(a) is amended to read:

7 (a) A law enforcement agency may

8 (1) not return property in its custody to the owner or the agent of the
9 owner, **except as provided in AS 12.36.200,** if

10 (A) the property is in custody in connection with a children's
11 court proceeding, a criminal proceeding, or an official investigation of a crime;
12 or

13 (B) the property in custody is subject to forfeiture under the
14 laws of the

- 1 (i) state; or
- 2 (ii) United States, and the United States has commenced
- 3 forfeiture proceedings against the property or has requested the transfer
- 4 of the property for the commencement of forfeiture proceedings; and
- 5 (2) with the approval of the court, transfer the property to another state
- 6 or federal law enforcement agency for forfeiture proceedings by that agency; the court
- 7 having jurisdiction shall grant the approval under this paragraph if the property
- 8 (A) will be retained within the jurisdiction of the court by the
- 9 agency to which the property is being transferred; or
- 10 (B) is
- 11 (i) not needed as evidence; or
- 12 (ii) needed as evidence, and the property is fungible or
- 13 the property's evidentiary value can otherwise be preserved without
- 14 retaining the property within the jurisdiction of the court.

15 * **Sec. 2.** AS 12.36.090 is amended to read:

16 **Sec. 12.36.090. Definitions.** In AS 12.36.010 - 12.36.090 [THIS CHAPTER],

- 17 (1) "final disposition of a case" means the time when all appeals have
- 18 been exhausted or the time when all appeals that could have been taken has expired;
- 19 (2) "law enforcement agency" means a public agency that performs as
- 20 one of its principal functions an activity relating to crime prevention, control, or
- 21 reduction or relating to the enforcement of the criminal law; "law enforcement
- 22 agency" does not include a court.

23 * **Sec. 3.** AS 12.36 is amended by adding a new section to read:

24 **Article 2. Preservation of Evidence.**

25 **Sec. 12.36.200. Preservation of evidence.** (a) Notwithstanding AS 12.36.010 -

26 12.36.090, the Department of Law, the Department of Public Safety, the Alaska Court

27 System, or a municipal law enforcement agency shall preserve

- 28 (1) all evidence that is obtained in relation to an investigation or
- 29 prosecution of a crime under AS 11.41.100 - 11.41.130, 11.41.410, or 11.41.434 for
- 30 the period of time that the crime remains unsolved or 50 years whichever ends first;
- 31 (2) biological evidence in an amount and manner that is sufficient to

1 develop a DNA profile from any material contained in or included on the evidence
2 that was obtained in relation to the prosecution of a person convicted of, or
3 adjudicated a delinquent for, a crime under AS 11.41.100 - 11.41.130, a person
4 convicted of a crime after being indicted under AS 11.41.410 or 11.41.434 while the
5 person remains a prisoner in the custody of the Department of Corrections or subject
6 to registration as a sex offender, or a person adjudicated a delinquent for a crime after
7 the filing of a petition alleging a violation of AS 11.41.410 or 11.41.434 while the
8 person remains committed to a juvenile facility or subject to registration as a sex
9 offender.

10 (b) Under (a) of this section, an agency is not required to preserve physical
11 evidence of a crime that is of a size, bulk, quantity, or physical character that renders
12 preservation impracticable. When preservation of evidence of a crime is impracticable,
13 the agency shall, before returning or disposing of the evidence, remove and preserve
14 portions of the material likely to contain relevant evidence related to the crime in a
15 quantity sufficient to permit future DNA testing. In making decisions under this
16 section, an agency shall follow written policies on evidence retention.

17 (c) Upon written request of a person convicted of a crime and a prisoner,
18 adjudicated delinquent for a crime and committed, or subject to registration as a sex
19 offender, an agency shall prepare or provide an inventory of biological evidence that
20 has been preserved under (a)(2) of this section in connection with the person's criminal
21 case.

22 (d) An agency required to preserve biological evidence under (a) of this
23 section may destroy biological evidence before the expiration of the time period in
24 (a)(2) of this section if

25 (1) the agency is not required to maintain the evidence under another
26 provision of state or federal law;

27 (2) the agency sends, by certified mail with proof of delivery, notice of
28 its intent to destroy evidence to

29 (A) each person who remains a prisoner or committed or
30 subject to registration as a sex offender for the crime for which the evidence
31 was preserved under (a)(2) of this section;

1 (B) the attorneys of record, if known, for each person listed in
 2 (A) of this paragraph;

3 (C) the Public Defender Agency;

4 (D) the district attorney responsible for prosecuting the crime;

5 and

6 (3) no person who is notified under (2) of this subsection, within 120
 7 days after receiving the notice,

8 (A) files a motion for testing of the evidence; or

9 (B) submits a written request for continued preservation of the
 10 evidence.

11 (e) Upon receipt of a request for continued preservation of biological evidence
 12 under (d)(3)(B) of this section, an agency may petition the court for permission to
 13 destroy the evidence. The court may grant the petition if the court finds that the
 14 request is without merit or that the evidence has no significant value for biological
 15 material.

16 (f) When an agency is required to produce biological evidence required to be
 17 preserved under this section and the agency is unable to locate the evidence, the chief
 18 evidence custodian of that agency shall submit an affidavit, executed under penalty of
 19 perjury, describing the evidence that could not be located and detailing the efforts
 20 taken to locate the evidence.

21 (g) If a court finds that evidence was destroyed in violation of the provisions
 22 of this section, the court may order remedies the court determines to be appropriate.

23 (h) A person may not bring a civil action for damages against the state or
 24 political subdivision of the state, their officers, agents, or employees, or a law
 25 enforcement agency, its officers, or employees for any unintentional failure to comply
 26 with the provisions of this section.

27 (i) In this section,

28 (1) "agency" means the Department of Law, the Department of Public
 29 Safety, the Alaska Court System, or a municipal law enforcement agency;

30 (2) "biological evidence" means

31 (A) the contents of a sexual assault forensic examination kit;

1 (B) semen, blood, hair, saliva, skin tissue, fingernail scrapings,
2 bone, bodily fluids, or other identifiable human bodily material, collected as
3 part of a criminal investigation;

4 (C) a slide, swab, or test tube containing material described in
5 (B) of this paragraph; and

6 (D) swabs or cuttings from items that contain material
7 described in (B) of this section;

8 (3) "DNA" means deoxyribonucleic acid;

9 (4) "prisoner" has the meaning given in AS 33.30.901.

10 * **Sec. 4.** AS 12.72.010 is amended to read:

11 **Sec. 12.72.010. Scope of post-conviction relief.** A person who has been
12 convicted of, or sentenced for, a crime may institute a proceeding for post-conviction
13 relief if the person claims

14 (1) that the conviction or the sentence was in violation of the
15 Constitution of the United States or the constitution or laws of this state;

16 (2) that the court was without jurisdiction to impose sentence;

17 (3) that a prior conviction has been set aside and the prior conviction
18 was used as a statutorily required enhancement of the sentence imposed;

19 (4) that there exists evidence of material facts, not previously
20 presented and heard by the court, that requires vacation of the conviction or sentence
21 in the interest of justice; **if the person seeks post-conviction DNA testing to support**
22 **a claim under this paragraph, the person's exclusive method for obtaining that**
23 **testing is an application under AS 12.73;**

24 (5) that the person's sentence has expired, or the person's probation,
25 parole, or conditional release has been unlawfully revoked, or the person is otherwise
26 unlawfully held in custody or other restraint;

27 (6) that the conviction or sentence is otherwise subject to collateral
28 attack upon any ground or alleged error previously available under the common law,
29 statutory law, or other writ, motion, petition, proceeding, or remedy;

30 (7) that

31 (A) there has been a significant change in law, whether

1 substantive or procedural, applied in the process leading to the person's
2 conviction or sentence;

3 (B) the change in the law was not reasonably foreseeable by a
4 judge or a competent attorney;

5 (C) it is appropriate to retroactively apply the change in law
6 because the change requires observance of procedures without which the
7 likelihood of an accurate conviction is seriously diminished; and

8 (D) the failure to retroactively apply the change in law would
9 result in a fundamental miscarriage of justice, which is established by
10 demonstrating that, had the changed law been in effect at the time of the
11 applicant's trial, a reasonable trier of fact would have a reasonable doubt as to
12 the guilt of the applicant;

13 (8) that, after the imposition of sentence, the applicant seeks to
14 withdraw a plea of guilty or nolo contendere in order to correct manifest injustice
15 under the Alaska Rules of Criminal Procedure; or

16 (9) that the applicant was not afforded effective assistance of counsel
17 at trial or on direct appeal.

18 * **Sec. 5.** AS 12.72.030 is amended by adding a new subsection to read:

19 (b) A person who files an application for post-conviction relief under this
20 chapter or the Alaska Rules of Criminal Procedure may not pursue discovery related to
21 the application unless the applicant first pleads a prima facie case for relief and the
22 court finds that a prima facie case for relief has been established under this chapter or
23 the Alaska Rules of Criminal Procedure.

24 * **Sec. 6.** AS 12 is amended by adding a new chapter to read:

25 **Chapter 73. Post-Conviction DNA Testing Procedures.**

26 **Sec. 12.73.010. Application for post-conviction DNA testing.** (a) A person
27 convicted of a felony against a person under AS 11.41 who has not been
28 unconditionally discharged may apply to the superior court for an order for DNA
29 testing of evidence. The application must be filed in the court that entered the
30 judgment of conviction, and a copy shall be served on the prosecuting authority
31 responsible for obtaining the conviction.

1 (b) An application filed under (a) of this section must specifically identify the
 2 evidence sought to be tested and must include facts from which the court can make the
 3 findings required under AS 12.73.020. The application must also include

4 (1) an affidavit by the applicant that attests to the following:

5 (A) the applicant did not commit the offense for which the
 6 applicant was convicted or a lesser included offense;

7 (B) the applicant did not solicit another person to commit, or
 8 aid or abet another person in planning or committing, that offense or a lesser
 9 included offense; and

10 (C) the applicant did not admit or concede guilt under oath in
 11 an official proceeding for the offense that was the basis of the conviction or a
 12 lesser included offense, except that the court, in the interest of justice, may
 13 waive this requirement; for the purposes of this subparagraph, the entry of a
 14 guilty or nolo contendere plea is not an admission or concession of guilt;

15 (2) an affidavit by the applicant or the applicant's attorney stating the
 16 results of each DNA test performed on the evidence in the prosecution that resulted in
 17 the applicant's conviction;

18 (3) an affidavit by the applicant or the applicant's attorney describing
 19 all previous efforts to obtain DNA testing and any previous application filed under
 20 AS 12.72 of this section.

21 (c) An attorney who represents an applicant under this section shall investigate
 22 and, if possible, confirm the accuracy of information provided by the applicant under
 23 (b)(2) and (3) of this section.

24 (d) If an applicant is indigent, filing fees must be paid under AS 09.19, and
 25 counsel shall be appointed under AS 18.85.100 to represent the applicant.

26 **Sec. 12.73.020. Findings required for post-conviction DNA testing orders.**

27 The court shall order post-conviction DNA testing of specific evidence if

28 (1) the applicant was convicted of a felony under AS 11.41;

29 (2) the applicant and, if represented, the applicant's attorney, have
 30 submitted the affidavits required by AS 12.73.010(b);

31 (3) the applicant did not admit or concede guilt under oath in an

1 official proceeding for the offense that was the basis of the conviction or a lesser
2 included offense, except that the court, in the interest of justice, may waive this
3 requirement; for the purposes of this paragraph the entry of a guilty or nolo contendere
4 plea is not an admission or concession of guilt;

5 (4) the evidence either

6 (A) was not subjected to DNA testing; or

7 (B) was previously subjected to DNA testing, and

8 (i) the applicant is requesting DNA testing using a
9 method or technology that is substantially more probative than the
10 previous DNA testing; or

11 (ii) the court determines that granting the application is
12 in the best interest of justice;

13 (5) the evidence to be tested has been subject to a chain of custody and
14 retained under conditions that ensure that the evidence has not been substituted,
15 contaminated, or altered in any manner material to the proposed DNA testing;

16 (6) the proposed DNA testing is reasonable in scope, uses scientifically
17 sound methods, and is consistent with accepted forensic practices;

18 (7) the applicant identifies a theory of defense that

19 (A) is not inconsistent with a defense presented at trial; and

20 (B) would establish the applicant's innocence;

21 (8) the applicant was convicted after a trial and the identity of the
22 perpetrator was a disputed issue in the trial;

23 (9) the proposed DNA testing of the specific evidence may produce
24 new material evidence that would

25 (A) support the theory of defense described in (7) of this
26 section; and

27 (B) raise a reasonable probability that the applicant did not
28 commit the offense;

29 (10) the applicant consents to provide a DNA sample for purposes of
30 comparison and to entry of the results into the DNA identification registration system
31 under AS 44.41.035 and into any other law enforcement database; and

1 (11) the application is timely as described in AS 12.73.040.

2 **Sec. 12.73.030. Summary dismissal and response.** (a) If an application under
3 AS 12.73.010(a) does not set out the specific facts necessary for the court to make the
4 findings required under AS 12.73.020 or does not comply with AS 12.73.010(b), the
5 court shall deny the application without further proceedings.

6 (b) If an application filed under AS 12.73.010(a) is not denied under (a) of this
7 section, the prosecuting authority shall file a response within 45 days after service of
8 the application. The court shall conduct an evidentiary hearing to resolve any disputed
9 facts.

10 **Sec. 12.73.040. Timeliness.** In determining whether an application is timely
11 under AS 12.73.020(11), there is a presumption of

12 (1) timeliness if the application is filed before three years after the date
13 of conviction; this presumption may be rebutted if the court finds that the application
14 is based solely upon information used in a previously denied application; and

15 (2) untimeliness if the application is filed three years or more after
16 conviction; this presumption may be rebutted if the court finds good cause for filing
17 three years or more after conviction.

18 **Sec. 12.73.050. Testing procedures.** (a) If the court grants the application and
19 DNA samples for comparison purposes are required, samples taken from the applicant
20 or a prisoner must be collected at a law enforcement or correctional facility. If the
21 DNA sample is being collected from a person other than the applicant or a prisoner,
22 the sample must be taken by a law enforcement officer or other authorized person at a
23 location that is convenient for the person from whom the sample is being collected and
24 the person collecting the sample.

25 (b) The court may not order that a person other than the applicant provide a
26 DNA sample for comparison purposes unless that person is first afforded notice and an
27 opportunity to be heard by the court. The results of DNA testing of a sample provided
28 by a person other than the applicant may not be made available to the DNA
29 identification registration system under AS 44.41.035 or to any other law enforcement
30 database unless specifically ordered by the court.

31 (c) DNA testing ordered under this section shall be performed at the state's

1 expense and at a laboratory operated or approved by the Department of Public Safety.
 2 If, after completion of the testing ordered under this section, an applicant requests
 3 additional testing, any additional testing ordered by the court at the applicant's request
 4 must be at the applicant's expense. If the court orders additional testing by another
 5 laboratory at the request of the applicant, the laboratory operated or approved by the
 6 Department of Public Safety shall preserve a portion of the evidence for later testing.
 7 A laboratory selected by the applicant to perform testing under this section must
 8 comply with the quality assurance standards for DNA adopted by the United States
 9 Department of Justice and be accredited by the American Society of Crime Laboratory
 10 Directors Laboratory Accreditation Board or the accepted as equivalent by the
 11 Department of Public Safety.

12 (d) Except as provided in (b) of this section, the results of testing ordered
 13 under this section shall be entered into the DNA identification registration system
 14 under AS 44.41.035 and into any other law enforcement database available to the
 15 Department of Public Safety.

16 **Sec. 12.73.060. Post-conviction testing by stipulation.** The provisions of this
 17 chapter do not prohibit an applicant and the prosecuting authority from agreeing to
 18 conduct post-conviction DNA testing without the person's filing an application under
 19 this chapter. The parties may also stipulate to the payment of costs for the DNA
 20 testing and other costs associated with the terms of the agreement.

21 **Sec. 12.73.090. Definitions.** In this chapter, unless the context requires
 22 otherwise,

23 (1) "DNA" means deoxyribonucleic acid;

24 (2) "innocence" or "innocent" means that the applicant was not a
 25 perpetrator of or an accomplice to the offense or lesser included offense for which the
 26 applicant was convicted;

27 (3) "prisoner" has the meaning given in AS 33.30.901;

28 (4) "unconditionally discharged" means that a defendant is released
 29 from all disability arising under a sentence, including probation and parole.

30 * **Sec. 7.** AS 18.85.100 is amended by adding a new subsection to read:

31 (g) An indigent person is entitled to representation under (a) and (b) of this

1 section for purposes of bringing an application for post-conviction DNA testing under
2 AS 12.73.

3 * **Sec. 8.** AS 44.41.035(b) is amended to read:

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

27 * **Sec. 9.** AS 44.41.035(g) is amended to read:

28 (g) A person **or minor** from whom a sample has been collected under this
29 section

30 (1) may inspect and obtain a copy of the identification data regarding
31 the person **or minor** contained within the DNA identification registration system; **and**

1 **(2) may request the Department of Public Safety to destroy the**
 2 **material in the system regarding the person or minor under the provisions**
 3 **described in (i) of this section.**

4 * **Sec. 10.** AS 44.41.035(i) is amended to read:

5 (i) The Department of Public Safety shall [, UPON RECEIPT OF A COURT
 6 ORDER,] destroy the material in the system relating to a person **or minor on the**
 7 **written request of the person or minor, if the request is accompanied by a**
 8 **certified copy of a court order making the written findings required by this**
 9 **subsection.** The court shall issue **an** [THE] order **under this subsection** if the
 10 person's or minor's DNA was included in the system under

11 (1) (b)(1) or (2) of this section, and the court **order establishes**
 12 [DETERMINES] that

13 (A) the conviction or adjudication that subjected the person to
 14 having a sample taken under this section **was** [IS] reversed; and

15 (B) the person

16 (i) **was** [IS] not retried, readjudicated, or convicted or
 17 adjudicated for another crime that requires having a sample taken under
 18 this section; or

19 (ii) after retrial, **was** [IS] acquitted of the crime or, after
 20 readjudication for the crime, **was** [IS] not found to be a delinquent, and
 21 **was** [IS] not convicted or adjudicated for another crime that requires a
 22 sample under this section;

23 (2) (b)(6) of this section, and the court **order establishes**
 24 [DETERMINES] that

25 (A) the person arrested was released without being charged;

26 [OR]

27 (B) the criminal complaint, indictment, presentment, or
 28 information for the offense for which the person was arrested was dismissed,
 29 and a criminal complaint, indictment, presentment, or information for an
 30 offense requiring submission of a DNA sample **was** [IS] not refiled; **or**

31 **(C) the person was found by the trier of fact to be not guilty**

1 **of the offense for which the person was arrested and was not convicted of**
2 **another offense requiring submission of a DNA sample under (b)(1) or (2)**
3 **of this section.**

4 * **Sec. 11.** AS 44.41.035(k) is amended to read:

5 (k) The provisions of this section apply to a person **or a minor** from another
6 state that this state has accepted under any interstate corrections or probation
7 agreement or compact, regardless of whether the person **or minor** is confined or
8 released, if the person was convicted of **or the minor was adjudicated for** an offense
9 that is similar to an offense described in (b) of this section.

10 * **Sec. 12.** AS 44.41.035(o) is amended to read:

11 (o) A person **or minor** may not bring a civil action against the state or a
12 municipality, or their employees or agents, for actions arising out of DNA collection
13 in conformity with this section.

14 * **Sec. 13.** AS 44.41.035 is amended by adding subsections to read:

15 (r) A DNA sample collected or placed in the DNA identification registration
16 system that was taken or retained in good faith may be used as provided by law in a
17 criminal investigation. Evidence obtained from a match from a data collection system
18 may be used in a criminal prosecution or juvenile adjudication if the DNA sample was
19 taken or retained in good faith, even if the DNA sample is later removed from the
20 DNA identification registration system.

21 (s) If a sample collected under (b) of this section does not contain sufficient
22 material necessary to obtain an accurate DNA identification authorized under this
23 section, the Department of Public Safety or other agency authorized by the
24 Department of Public Safety may collect another sample.

25 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 INDIRECT COURT RULE CHANGE. AS 12.73, added by sec. 6 of this Act, has the
28 effect of amending Rule 35.1, Alaska Rules of Criminal Procedure, relating to post-conviction
29 relief procedure.

30 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TASK FORCE ON STANDARDS AND TRAINING OF EVIDENCE
2 TECHNICIANS. (a) The Task Force on Standards and Training of Evidence Technicians is
3 created in the Department of Law. The task force consists of the following persons appointed
4 by the governor:

- 5 (1) the attorney general;
- 6 (2) the public defender;
- 7 (3) the director of the office of public advocacy;
- 8 (4) a chief of a municipal police department not on the state's interconnected
9 road system;
- 10 (5) the commissioner of public safety;
- 11 (6) a chief of a municipal police department;
- 12 (7) a representative of the Alaska Innocence Project;
- 13 (8) a representative of the Alaska Native Justice Center; and
- 14 (9) a representative of the state crime lab.

15 (b) There shall be three ex officio members of the task force as follows:

- 16 (1) a member of the House Judiciary Committee selected by the speaker of the
17 house of representatives;
- 18 (2) a member of the Senate Judiciary Committee selected by the president of
19 the senate; and
- 20 (3) the victims' advocate.

21 (c) Persons appointed under (a) of this section or identified under (b) of this section
22 may select a designee from the same agency or organization to act on the person's behalf as a
23 member of the task force.

24 (d) Not later than December 31, 2012, the task force shall

- 25 (1) devise standards regarding the proper collection, retention, and cataloging
26 of evidence, for ongoing investigations and prosecutions;
- 27 (2) recommend practices, protocols, models, and resources for the cataloging
28 and accessibility of preserved evidence and return of property to owners.

29 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY.** (a) AS 12.36.200, enacted by sec. 3 of this Act, applies to all

1 evidence in the possession of an agency, as defined in AS 12.36.200(i), on or after January 1,
2 2011, for evidence collected before, on, or after the effective date of this Act.

3 (b) AS 12.73, enacted by sec. 6 of this Act, applies to offenses committed before, on,
4 or after the effective date of this Act.

5 (c) Notwithstanding any other provision of law, a person whose conviction was
6 entered before July 1, 2010, has until July 1, 2020, to file a claim under AS 12.73, enacted by
7 sec. 6 of this Act, or a later date if the court finds good cause for a later filing.

8 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **CONDITIONAL EFFECT.** AS 12.73, added by sec. 6 of this Act, takes effect only if
11 sec. 14 of this Act receives the two-thirds majority vote of each house required by art. IV, sec.
12 15, Constitution of the State of Alaska.

13 * **Sec. 18.** Section 15 of this Act is repealed January 1, 2013.

14 * **Sec. 19.** This Act takes effect July 1, 2010.