

HOUSE CS FOR CS FOR SENATE BILL NO. 64(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/10/14
Referred: Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to theft and property offenses; relating to the definition of 'prior**
2 **convictions' for certain theft offenses; establishing the Alaska Criminal Justice**
3 **Commission and providing an expiration date; relating to electronic monitoring for**
4 **certain persons convicted of driving while under the influence; allowing a reduction of**
5 **penalties for offenders successfully completing court-ordered treatment programs for**
6 **persons convicted of driving while under the influence; relating to termination of a**
7 **revocation of a person's driver's license; relating to limitation of drivers' licenses;**
8 **relating to restoration of a driver's license; relating to the crime of custodial**
9 **interference; relating to the duties of the Alaska Judicial Council; relating to jail-time**
10 **credit for offenders in court-ordered treatment programs; relating to conditions of**
11 **release, probation, and parole; relating to a mitigating factor for a person suffering from**
12 **combat-related post-traumatic stress disorder or combat-related traumatic brain**

1 **injury; relating to duties of the commissioner of corrections and board of parole;**
 2 **establishing a fund for reducing recidivism in the Department of Health and Social**
 3 **Services; requiring the commissioner of health and social services to establish programs**
 4 **for persons on conditions of release or probation that require testing for controlled**
 5 **substances and alcoholic beverages; requiring the board of parole to establish programs**
 6 **for persons on parole that require testing for controlled substances and alcoholic**
 7 **beverages; relating to the duties of the Department of Health and Social Services;**
 8 **relating to the confidentiality of certain records of criminal cases; and providing for an**
 9 **effective date."**

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

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

13 LEGISLATIVE INTENT FOR SEC. 28 OF THIS ACT. It is the intent of the
 14 legislature in sec. 28 of this Act that, to the extent practicable, the Alaska Court System hold
 15 confidential records of criminal cases that were disposed of before the effective date of sec.
 16 28 of this Act by acquittal of all charges, by dismissal of all charges, or by acquittal of some
 17 charges and dismissal of the remaining charges, to the same extent that records are held
 18 confidential under AS 22.35.030, enacted by sec. 28 of this Act.

19 * **Sec. 2.** AS 11.41.320(a) is amended to read:

20 (a) A person commits the crime of custodial interference in the first degree if
 21 the person violates AS 11.41.330(a)(1) [AS 11.41.330] and causes the child or
 22 incompetent person to be

23 (1) removed from the state; or

24 (2) kept outside the state.

25 * **Sec. 3.** AS 11.41.330(a) is amended to read:

26 (a) A person commits the crime of custodial interference in the second degree
 27 if

28 (1) [,] being a relative of a child under 18 years of age or a relative of

1 an incompetent person and knowing that the person has no legal right to do so, the
 2 person takes, entices, or keeps that child or incompetent person from a lawful
 3 custodian with intent to hold the child or incompetent person for a protracted period;

4 **or**

5 **(2) not being a relative of a child under 18 years of age or a**
 6 **relative of an incompetent person, knowing that the person has no right to do so**
 7 **and with the intent to take or keep the child or incompetent person, the person**
 8 **represents to the lawful custodian that the person has a right to take or keep the**
 9 **child or incompetent person.**

10 * **Sec. 4.** AS 11.41.330(b) is amended to read:

11 (b) The affirmative defense of necessity under AS 11.81.320 does not apply to
 12 a prosecution for custodial interference under **(a)(1)** [(a)] of this section if the
 13 protracted period for which the person held the child or incompetent person exceeded
 14 the shorter of the following:

15 (1) 24 hours; or

16 (2) the time necessary to report to a peace officer or social service
 17 agency that the child or incompetent person has been abused, neglected, or is in
 18 imminent physical danger.

19 * **Sec. 5.** AS 11.46.130(a) is amended to read:

20 (a) A person commits the crime of theft in the second degree if the person
 21 commits theft as defined in AS 11.46.100 and

22 (1) the value of the property or services is **\$750** [\$500] or more but less
 23 than \$25,000;

24 (2) the property is a firearm or explosive;

25 (3) the property is taken from the person of another;

26 (4) the property is taken from a vessel and is vessel safety or survival
 27 equipment;

28 (5) the property is taken from an aircraft and the property is aircraft
 29 safety or survival equipment;

30 (6) the value of the property is **\$250** [\$50] or more but less than **\$750**
 31 [\$500] and, within the preceding five years, the person has been convicted and

1 sentenced on two or more separate occasions in this or another jurisdiction of

2 (A) an offense under AS 11.46.120, or an offense under
3 another law or ordinance with similar elements;

4 (B) a crime set out in this subsection or an offense under
5 another law or ordinance with similar elements;

6 (C) an offense under AS 11.46.140(a)(1), or an offense under
7 another law or ordinance with similar elements; or

8 (D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an
9 offense under another law or ordinance with similar elements; or

10 (7) the property is an access device.

11 * **Sec. 6.** AS 11.46.140(a) is amended to read:

12 (a) A person commits the crime of theft in the third degree if the person
13 commits theft as defined in AS 11.46.100 and

14 (1) the value of the property or services is \$250 [\$50] or more but less
15 than \$750 [\$500]; **or**

16 (2) [REPEALED]

17 (3) the value of the property is less than \$250 [\$50] and, within the
18 past five years, the person has been convicted and sentenced on two or more separate
19 occasions in this or another jurisdiction of theft or concealment of merchandise, or an
20 offense under another law or ordinance with similar elements.

21 * **Sec. 7.** AS 11.46.150(a) is amended to read:

22 (a) A person commits the crime of theft in the fourth degree if the person
23 commits theft as defined in AS 11.46.100 and the value of the property or services is
24 less than \$250 [\$50].

25 * **Sec. 8.** AS 11.46.220(c) is amended to read:

26 (c) Concealment of merchandise is

27 (1) a class C felony if

28 (A) the merchandise is a firearm;

29 (B) the value of the merchandise is \$750 [\$500] or more; or

30 (C) the value of the merchandise is \$250 [\$50] or more but less
31 than \$750 [\$500] and, within the preceding five years, the person has been

1 convicted and sentenced on two or more separate occasions in this or another
2 jurisdiction of

3 (i) the offense of concealment of merchandise under
4 this paragraph or (2)(A) of this subsection, or an offense under another
5 law or ordinance with similar elements; or

6 (ii) an offense under AS 11.46.120, 11.46.130, or
7 11.46.140(a)(1), or an offense under another law or ordinance with
8 similar elements;

9 (2) a class A misdemeanor if

10 (A) the value of the merchandise is \$250 [\$50] or more but less
11 than \$750 [\$500]; or

12 (B) the value of the merchandise is less than \$250 [\$50] and,
13 within the preceding five years, the person has been convicted and sentenced
14 on two or more separate occasions of the offense of concealment of
15 merchandise or theft in any degree, or an offense under another law or
16 ordinance with similar elements;

17 (3) a class B misdemeanor if the value of the merchandise is less than
18 \$250 [\$50].

19 * **Sec. 9.** AS 11.46.260(b) is amended to read:

20 (b) Removal of identification marks is

21 (1) a class C felony if the value of the property on which the serial
22 number or identification mark appeared is \$750 [\$500] or more;

23 (2) a class A misdemeanor if the value of the property on which the
24 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750
25 [\$500];

26 (3) a class B misdemeanor if the value of the property on which the
27 serial number or identification mark appeared is less than \$250 [\$50].

28 * **Sec. 10.** AS 11.46.270(b) is amended to read:

29 (b) Unlawful possession is

30 (1) a class C felony if the value of the property on which the serial
31 number or identification mark appeared is \$750 [\$500] or more;

1 (2) a class A misdemeanor if the value of the property on which the
 2 serial number or identification mark appeared is \$250 [\$50] or more but less than \$750
 3 [\$500];

4 (3) a class B misdemeanor if the value of the property on which the
 5 serial number or identification mark appeared is less than \$250 [\$50].

6 * **Sec. 11.** AS 11.46.280(d) is amended to read:

7 (d) Issuing a bad check is

8 (1) a class B felony if the face amount of the check is \$25,000 or more;

9 (2) a class C felony if the face amount of the check is \$750 [\$500] or
 10 more but less than \$25,000;

11 (3) a class A misdemeanor if the face amount of the check is \$250
 12 [\$50] or more but less than \$750 [\$500];

13 (4) a class B misdemeanor if the face amount of the check is less than
 14 \$250 [\$50].

15 * **Sec. 12.** AS 11.46.285(b) is amended to read:

16 (b) Fraudulent use of an access device is

17 (1) a class B felony if the value of the property or services obtained is
 18 \$25,000 or more;

19 (2) a class C felony if the value of the property or services obtained is
 20 \$750 [\$50] or more but less than \$25,000;

21 (3) a class A misdemeanor if the value of the property or services
 22 obtained is less than \$750 [\$50].

23 * **Sec. 13.** AS 11.46.295 is amended to read:

24 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior
 25 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or
 26 11.46.140(a)(3), or in prosecuting the crime of concealment of merchandise under
 27 AS 11.46.220(c),

28 (1) a conviction for an offense under another law or ordinance with
 29 similar elements is a conviction of an offense having elements similar to those of an
 30 offense defined as such under Alaska law at the time the offense was committed;

31 (2) a conviction for an offense under Alaska law where the value of

1 **the property or services for the offense was lower than the value of property or**
 2 **services for the offense under current Alaska law, is a prior conviction for that**
 3 **offense; and**

4 **(3) the** [. THE] court shall consider the date of a prior conviction as
 5 occurring on the date that sentence is imposed for the prior offense.

6 * **Sec. 14.** AS 11.46.360(a) is amended to read:

7 (a) A person commits the crime of vehicle theft in the first degree if, having
 8 no right to do so or any reasonable ground to believe the person has such a right, the
 9 person drives, tows away, or takes

10 (1) the car, truck, motorcycle, motor home, bus, aircraft, or watercraft
 11 of another;

12 (2) the propelled vehicle of another and

13 (A) the vehicle or any other property of another is damaged in a
 14 total amount of **\$750** [\$500] or more;

15 (B) the owner incurs reasonable expenses as a result of the loss
 16 of use of the vehicle, in a total amount of **\$750** [\$500] or more; or

17 (C) the owner is deprived of the use of the vehicle for seven
 18 days or more;

19 (3) the propelled vehicle of another and the vehicle is marked as a
 20 police or emergency vehicle; or

21 (4) the propelled vehicle of another and, within the preceding seven
 22 years, the person was convicted under

23 (A) this section or AS 11.46.365;

24 (B) former AS 11.46.482(a)(4) or (5);

25 (C) former AS 11.46.484(a)(2);

26 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft
 27 of a propelled vehicle; or

28 (E) a law or ordinance of this or another jurisdiction with
 29 elements substantially similar to those of an offense described in (A) - (D) of
 30 this paragraph.

31 * **Sec. 15.** AS 11.46.482(a) is amended to read:

1 (a) A person commits the crime of criminal mischief in the third degree if,
 2 having no right to do so or any reasonable ground to believe the person has such a
 3 right,

4 (1) with intent to damage property of another, the person damages
 5 property of another in an amount of \$750 [\$500] or more;

6 (2) the person recklessly creates a risk of damage in an amount
 7 exceeding \$100,000 to property of another by the use of widely dangerous means; or

8 (3) the person knowingly

9 (A) defaces, damages, or desecrates a cemetery or the contents
 10 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,
 11 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or
 12 memorial appears to be abandoned, lost, or neglected;

13 (B) removes human remains or associated burial artifacts from
 14 a cemetery, tomb, grave, or memorial regardless of whether the cemetery,
 15 tomb, grave, or memorial appears to be abandoned, lost, or neglected.

16 * **Sec. 16.** AS 11.46.484(a) is amended to read:

17 (a) A person commits the crime of criminal mischief in the fourth degree if,
 18 having no right to do so or any reasonable ground to believe the person has such a
 19 right

20 (1) with intent to damage property of another, the person damages
 21 property of another in an amount of \$250 [\$50] or more but less than \$750 [\$500];

22 (2) the person tampers with a fire protection device in a building that is
 23 a public place;

24 (3) the person knowingly accesses a computer, computer system,
 25 computer program, computer network, or part of a computer system or network;

26 (4) the person uses a device to descramble an electronic signal that has
 27 been scrambled to prevent unauthorized receipt or viewing of the signal unless the
 28 device is used only to descramble signals received directly from a satellite or unless
 29 the person owned the device before September 18, 1984; or

30 (5) the person knowingly removes, relocates, defaces, alters, obscures,
 31 shoots at, destroys, or otherwise tampers with an official traffic control device or

1 damages the work upon a highway under construction.

2 * **Sec. 17.** AS 11.46.486(a) is amended to read:

3 (a) A person commits the crime of criminal mischief in the fifth degree if,
4 having no right to do so or any reasonable ground to believe the person has such a
5 right,

6 (1) with reckless disregard for the risk of harm to or loss of the
7 property or with intent to cause substantial inconvenience to another, the person
8 tampers with property of another;

9 (2) with intent to damage property of another, the person damages
10 property of another in an amount less than \$250 [\$50]; or

11 (3) the person rides in a propelled vehicle knowing it has been stolen
12 or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

13 * **Sec. 18.** AS 11.46.530(b) is amended to read:

14 (b) Criminal simulation is

15 (1) a class C felony if the value of what the object purports to represent
16 is \$750 [\$500] or more;

17 (2) a class A misdemeanor if the value of what the object purports to
18 represent is \$250 [\$50] or more but less than \$750 [\$500];

19 (3) a class B misdemeanor if the value of what the object purports to
20 represent is less than \$250 [\$50].

21 * **Sec. 19.** AS 11.46.620(d) is amended to read:

22 (d) Misapplication of property is

23 (1) a class C felony if the value of the property misapplied is \$750
24 [\$500] or more;

25 (2) a class A misdemeanor if the value of the property misapplied is
26 less than \$750 [\$500].

27 * **Sec. 20.** AS 11.46.730(c) is amended to read:

28 (c) Defrauding creditors is a class A misdemeanor unless that secured party,
29 judgment creditor, or creditor incurs a pecuniary loss of \$750 [\$500] or more as a
30 result to the defendant's conduct, in which case defrauding secured creditors is

31 (1) a class B felony if the loss is \$25,000 or more;

1 (2) a class C felony if the loss is \$750 [\$500] or more but less than
 2 \$25,000.

3 * **Sec. 21.** AS 12.30.011(b) is amended to read:

4 (b) If a judicial officer determines that the release under (a) of this section will
 5 not reasonably assure the appearance of the person or will pose a danger to the victim,
 6 other persons, or the community, the officer shall impose the least restrictive condition
 7 or conditions that will reasonably assure the person's appearance and protect the
 8 victim, other persons, and the community. In addition to conditions under (a) of this
 9 section, the judicial officer may, singly or in combination,

10 (1) require the execution of an appearance bond in a specified amount
 11 of cash to be deposited into the registry of the court, in a sum not to exceed 10 percent
 12 of the amount of the bond;

13 (2) require the execution of a bail bond with sufficient solvent sureties
 14 or the deposit of cash;

15 (3) require the execution of a performance bond in a specified amount
 16 of cash to be deposited in the registry of the court;

17 (4) place restrictions on the person's travel, association, or residence;

18 (5) order the person to refrain from possessing a deadly weapon on the
 19 person or in the person's vehicle or residence;

20 (6) require the person to maintain employment or, if unemployed,
 21 actively seek employment;

22 (7) require the person to notify the person's lawyer and the prosecuting
 23 authority within two business days after any change in employment;

24 (8) require the person to avoid all contact with a victim, a potential
 25 witness, or a codefendant;

26 (9) require the person to refrain from the consumption and possession
 27 of alcoholic beverages;

28 (10) require the person to refrain from the use of a controlled substance
 29 as defined by AS 11.71, unless prescribed by a licensed health care provider with
 30 prescriptive authority;

31 (11) require the person to be physically inside the person's residence,

1 or in the residence of the person's third-party custodian, at time periods set by the
2 court;

3 (12) require the person to keep regular contact with a law enforcement
4 officer or agency;

5 (13) order the person to refrain from entering or remaining in premises
6 licensed under AS 04;

7 (14) place the person in the custody of an individual who agrees to
8 serve as a third-party custodian of the person as provided in AS 12.30.021;

9 (15) if the person is under the treatment of a licensed health care
10 provider, order the person to follow the provider's treatment recommendations;

11 (16) order the person to take medication that has been prescribed for
12 the person by a licensed health care provider with prescriptive authority;

13 (17) order the person to comply with any other condition that is
14 reasonably necessary to assure the appearance of the person and to assure the safety of
15 the victim, other persons, and the community;

16 **(18) require the person to comply with a program established**
17 **under AS 47.38.020 if the person has been charged with an alcohol-related or**
18 **substance abuse-related offense that is an unclassified felony, a class A felony, a**
19 **sexual felony, or a crime involving domestic violence.**

20 * **Sec. 22.** AS 12.30.016(b) is amended to read:

21 (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499,
22 AS 28.35.030, or 28.35.032, a judicial officer may order the person

23 (1) to refrain from

24 (A) consuming alcoholic beverages; or

25 (B) possessing on the person, in the person's residence, or in
26 any vehicle or other property over which the person has control, alcoholic
27 beverages;

28 (2) to submit to a search without a warrant of the person, the person's
29 personal property, the person's residence, or any vehicle or other property over which
30 the person has control, for the presence of alcoholic beverages by a peace officer who
31 has reasonable suspicion that the person is violating the conditions of the person's

1 release by possessing alcoholic beverages;

2 (3) to submit to a breath test when requested by a law enforcement
3 officer;

4 (4) to provide a sample for a urinalysis or blood test when requested by
5 a law enforcement officer;

6 (5) to take a drug or combination of drugs intended to prevent
7 substance abuse;

8 (6) to follow any treatment plan imposed by the court under
9 AS 28.35.028;

10 **(7) to comply with a program established under AS 47.38.020.**

11 * **Sec. 23.** AS 12.30.016(c) is amended to read:

12 (c) In a prosecution charging a violation of AS 11.71 or AS 11.73, a judicial
13 officer may order the person

14 (1) to refrain from

15 (A) consuming a controlled substance; or

16 (B) possessing on the person, in the person's residence, or in
17 any vehicle or other property over which the person has control, a controlled
18 substance or drug paraphernalia;

19 (2) to submit to a search without a warrant of the person, the person's
20 personal property, the person's residence, or any vehicle or other property over which
21 the person has control, for the presence of a controlled substance or drug paraphernalia
22 by a peace officer who has reasonable suspicion that the person is violating the terms
23 of the person's release by possessing controlled substances or drug paraphernalia;

24 (3) to enroll in a random drug testing program, at the person's expense,
25 to detect the presence of a controlled substance, with testing to occur not less than
26 once a week, and with the results being submitted to the court and the prosecuting
27 authority;

28 (4) to refrain from entering or remaining in a place where a controlled
29 substance is being used, manufactured, grown, or distributed;

30 (5) to refrain from being physically present at, within a two-block area
31 of, or within a designated area near, the location where the alleged offense occurred or

1 at other designated places, unless the person actually resides within that area; or

2 (6) to refrain from the use or possession of an inhalant;

3 **(7) to comply with a program established under AS 47.38.020.**

4 * **Sec. 24.** AS 12.55.027(c) is amended to read:

5 (c) To qualify for credit against a sentence of imprisonment for **a day** [TIME]
6 spent in a treatment program, the treatment program and the facility of the treatment
7 program must impose substantial restrictions on a person's liberty **on that day** that are
8 equivalent to incarceration, including the requirement that a participant in the program

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

10 (2) must be confined at all times to the grounds of the facility or be in
11 the physical custody of an employee of the facility, except for

12 **(A) court appearances;**

13 **(B) [,] meetings with counsel;**

14 **(C) employment, vocational training, or community**
15 **volunteer** [, AND] work required by the treatment program [AND
16 APPROVED IN ADVANCE BY THE COURT]; **and**

17 **(D) periods during which the resident is permitted to leave**
18 **the facility for rehabilitative purposes directly related to the person's**
19 **treatment, so long as the periods during which the resident is permitted to**
20 **leave the facility are expressly limited as to both time and purpose by the**
21 **treatment program;**

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

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

27 * **Sec. 25.** AS 12.55.100(a) is amended to read:

28 (a) While on probation and among the conditions of probation, the defendant
29 may be required

30 (1) to pay a fine in one or several sums;

31 (2) to make restitution or reparation to aggrieved parties for actual

1 damages or loss caused by the crime for which conviction was had, including
 2 compensation to a victim that is a nonprofit organization for the value of labor or
 3 goods provided by volunteers if the labor or goods were necessary to alleviate or
 4 mitigate the effects of the defendant's crime;

5 (3) to provide for the support of any persons for whose support the
 6 defendant is legally responsible;

7 (4) to perform community work in accordance with AS 12.55.055;

8 (5) to participate in or comply with the treatment plan of an inpatient
 9 or outpatient rehabilitation program specified by either the court or the defendant's
 10 probation officer that is related to the defendant's offense or to the defendant's
 11 rehabilitation; and

12 (6) to satisfy the screening, evaluation, referral, and program
 13 requirements of an agency authorized by the court to make referrals for rehabilitative
 14 treatment or to provide rehabilitative treatment;

15 **(7) to comply with a program established under AS 47.38.020.**

16 * **Sec. 26.** AS 12.55.155(d) is amended to read:

17 (d) The following factors shall be considered by the sentencing court if proven
 18 in accordance with this section, and may allow imposition of a sentence below the
 19 presumptive range set out in AS 12.55.125:

20 (1) the offense was principally accomplished by another person, and
 21 the defendant manifested extreme caution or sincere concern for the safety or well-
 22 being of the victim;

23 (2) the defendant, although an accomplice, played only a minor role in
 24 the commission of the offense;

25 (3) the defendant committed the offense under some degree of duress,
 26 coercion, threat, or compulsion insufficient to constitute a complete defense, but that
 27 significantly affected the defendant's conduct;

28 (4) the conduct of a youthful defendant was substantially influenced by
 29 another person more mature than the defendant;

30 (5) the conduct of an aged defendant was substantially a product of
 31 physical or mental infirmities resulting from the defendant's age;

1 (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the
2 defendant acted with serious provocation from the victim;

3 (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,
4 the victim provoked the crime to a significant degree;

5 (8) before the defendant knew that the criminal conduct had been
6 discovered, the defendant fully compensated or made a good faith effort to fully
7 compensate the victim of the defendant's criminal conduct for any damage or injury
8 sustained;

9 (9) the conduct constituting the offense was among the least serious
10 conduct included in the definition of the offense;

11 (10) the defendant was motivated to commit the offense solely by an
12 overwhelming compulsion to provide for emergency necessities for the defendant's
13 immediate family;

14 (11) after commission of the offense for which the defendant is being
15 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other
16 persons who committed an offense;

17 (12) the facts surrounding the commission of the offense and any
18 previous offenses by the defendant establish that the harm caused by the defendant's
19 conduct is consistently minor and inconsistent with the imposition of a substantial
20 period of imprisonment;

21 (13) the defendant is convicted of an offense specified in AS 11.71 and
22 the offense involved small quantities of a controlled substance;

23 (14) the defendant is convicted of an offense specified in AS 11.71 and
24 the offense involved the distribution of a controlled substance, other than a schedule
25 IA controlled substance, to a personal acquaintance who is 19 years of age or older for
26 no profit;

27 (15) the defendant is convicted of an offense specified in AS 11.71 and
28 the offense involved the possession of a small amount of a controlled substance for
29 personal use in the defendant's home;

30 (16) in a conviction for assault or attempted assault or for homicide or
31 attempted homicide, the defendant acted in response to domestic violence perpetrated

1 by the victim against the defendant and the domestic violence consisted of aggravated
2 or repeated instances of assaultive behavior;

3 (17) except in the case of an offense defined by AS 11.41 or
4 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the
5 time of sentencing, has successfully completed a court-ordered treatment program as
6 defined in AS 28.35.028 that was begun after the offense was committed;

7 (18) except in the case of an offense defined under AS 11.41 or
8 AS 11.46.400 or a defendant who has previously been convicted of a felony, the
9 defendant committed the offense while suffering from a mental disease or defect as
10 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that
11 significantly affected the defendant's conduct;

12 (19) the defendant is convicted of an offense under AS 11.71, and the
13 defendant sought medical assistance for another person who was experiencing a drug
14 overdose contemporaneously with the commission of the offense;

15 (20) except in the case of an offense defined under AS 11.41 or
16 AS 11.46.400, the defendant committed the offense while suffering from a condition
17 diagnosed

18 (A) as a fetal alcohol spectrum disorder, the fetal alcohol
19 spectrum disorder substantially impaired the defendant's judgment, behavior,
20 capacity to recognize reality, or ability to cope with the ordinary demands of
21 life, and the fetal alcohol spectrum disorder, though insufficient to constitute a
22 complete defense, significantly affected the defendant's conduct; in this
23 paragraph, "fetal alcohol spectrum disorder" means a condition of impaired
24 brain function in the range of permanent birth defects caused by maternal
25 consumption of alcohol during pregnancy; or

26 (B) as combat-related post-traumatic stress disorder or
27 combat-related traumatic brain injury, the combat-related post-traumatic
28 stress disorder or combat-related traumatic brain injury substantially
29 impaired the defendant's judgment, behavior, capacity to recognize
30 reality, or ability to cope with the ordinary demands of life, and the
31 combat-related post-traumatic stress disorder or combat-related

1 traumatic brain injury, though insufficient to constitute a complete
 2 defense, significantly affected the defendant's conduct; in this paragraph,
 3 "combat-related post-traumatic stress disorder or combat-related
 4 traumatic brain injury" means post-traumatic stress disorder or
 5 traumatic brain injury resulting from combat with an enemy of the
 6 United States in the line of duty while on active duty as a member of the
 7 armed forces of the United States; nothing in this paragraph is intended to
 8 limit the application of (18) of this subsection.

9 * **Sec. 27.** AS 22.20 is amended by adding a new section to article 4 to read:

10 **Sec. 22.20.210. Alaska Criminal Justice Commission.** The judicial council
 11 shall provide staff and administrative support to the Alaska Criminal Justice
 12 Commission established in AS 44.19.641.

13 * **Sec. 28.** AS 22.35 is amended by adding a new section to read:

14 **Sec. 22.35.030. Records concerning criminal cases resulting in acquittal or**
 15 **dismissal confidential.** (a) A court record of a criminal case is confidential if 120
 16 days have elapsed from the date of acquittal or dismissal and

17 (1) the defendant was acquitted of all charges filed in the case;

18 (2) all criminal charges against the defendant in the case have been
 19 dismissed by the prosecuting authority; or

20 (3) the defendant was acquitted of some of the criminal charges in the
 21 case and the remaining charges were dismissed.

22 (b) Notwithstanding (a) of this section, the following persons may have access
 23 to records made confidential under this section:

24 (1) employees of the Department of Health and Social Services who
 25 are responsible for the health, safety, welfare, or placement of a child, a person with a
 26 physical or intellectual disability, or a person with a mental illness;

27 (2) the public guardian under AS 13.26.370 or a guardian ad litem
 28 supervised by the office of public advocacy;

29 (3) a person who is authorized to have access to the criminal justice
 30 information network maintained by the Department of Public Safety under AS 12.62.

31 (c) The Department of Health and Social Services shall adopt regulations to

1 administer (b)(1) of this section.

2 * **Sec. 29.** AS 28.15.181(f) is amended to read:

3 (f) The court may terminate a revocation for an offense described in (a)(5) or
4 (8) of this section if

5 (1) **either**

6 (A) the person's license, privilege to drive, or privilege to
7 obtain a license has been revoked for the minimum periods set out in (c) of this
8 section; **or**

9 (B) **the person**

10 (i) **has successfully completed a court-ordered**
11 **treatment program under AS 28.35.028;**

12 (ii) **has not been convicted of a violation of**
13 **AS 28.35.030 or 28.35.032, or a similar law or ordinance of this or**
14 **another jurisdiction since completing the program; and**

15 (iii) **has been granted limited license privileges under**
16 **AS 28.15.201(g) and has successfully driven for three years under**
17 **that limited license without having the limited license privileges**
18 **revoked;** and

19 (2) the person complies with the provisions of AS 28.15.211(d) and

20 (e).

21 * **Sec. 30.** AS 28.15.201 is amended by adding new subsections to read:

22 (g) Notwithstanding (d) of this section, a court revoking a driver's license,
23 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the
24 department when revoking a driver's license, privilege to drive, or privilege to obtain a
25 license under AS 28.15.165(c), may grant limited license privileges if

26 (1) the revocation was for a felony conviction under AS 28.35.030;

27 (2) the person has successfully participated for at least six months in,
28 or has successfully completed, a court-ordered treatment program under
29 AS 28.35.028;

30 (3) the person provides proof of insurance as required by AS 28.20.230
31 and 28.20.240;

1 (4) the person is required to use an ignition interlock device during the
 2 period of the limited license whenever the person operates a motor vehicle in a
 3 community not included in the list published by the department under
 4 AS 28.22.011(b) and, when applicable,

5 (A) the person provides proof of installation of the ignition
 6 interlock device on every vehicle the person operates;

7 (B) the person signs an affidavit acknowledging that

8 (i) operation by the person of a vehicle that is not
 9 equipped with an ignition interlock device is subject to penalties for
 10 driving with a revoked license;

11 (ii) circumventing or tampering with the ignition
 12 interlock device is a class A misdemeanor; and

13 (iii) the person is required to maintain the ignition
 14 interlock device throughout the period of the limited license, to keep
 15 up-to-date records in each vehicle showing that any required service
 16 and calibration is current, and to produce those records immediately on
 17 request;

18 (5) the person is enrolled in and is in compliance with or has
 19 successfully completed the alcoholism screening, evaluation, referral, and program
 20 requirements of the Department of Health and Social Services under AS 28.35.030(h);

21 (6) the person has not previously been granted a limited license under
 22 this subsection and had the license revoked under (h) of this section;

23 (7) the person is participating in a program established under
 24 AS 47.38.020 for a minimum of 120 days from the date a limited license is granted
 25 under this section.

26 (h) The court or the department may immediately revoke a limited license
 27 granted under (g) of this section if the person is convicted of a violation of
 28 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction
 29 or if the person is not in compliance with a court-ordered treatment program under
 30 AS 28.35.028.

31 * **Sec. 31.** AS 28.35.028(b) is amended to read:

1 (b) Once the court elects to proceed under this section, the defendant shall
 2 enter a no contest or guilty plea to the offense or shall admit to a probation violation,
 3 as appropriate. The state and the defendant may enter into a plea agreement to
 4 determine the offense or offenses to which the defendant is required to plead. If the
 5 court accepts the agreement, the court shall enforce the terms of the agreement. The
 6 court shall enter a judgment of conviction for the offense or offenses for which the
 7 defendant has pleaded or an order finding that the defendant has violated probation, as
 8 appropriate. A judgment of conviction or an order finding a probation violation must
 9 set a schedule for payment of restitution owed by the defendant. In a judgment of
 10 conviction and on probation conditions that the court considers appropriate, the court
 11 may withhold pronouncement of a period of imprisonment or a fine to provide an
 12 incentive for the defendant to complete recommended treatment successfully.
 13 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any
 14 mandatory minimum or other sentencing provision applicable to the offense.
 15 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any
 16 other provision of law, the court, at any time after the period when a reduction of
 17 sentence is normally available, may consider and reduce the defendant's sentence,
 18 **including imprisonment, fine, or license revocation,** based on the defendant's
 19 compliance with the treatment plan; when reducing a sentence, the court (1) may not
 20 reduce the sentence below the mandatory minimum sentence for the offense unless the
 21 court finds that the defendant has successfully complied with and completed the
 22 treatment plan and that the treatment plan approximated the severity of the minimum
 23 period of imprisonment, and (2) may consider the defendant's compliance with the
 24 treatment plan as a mitigating factor allowing a reduction of a sentence under
 25 AS 12.55.155(a). A court entering an order finding the defendant has violated
 26 probation may withhold pronouncement of disposition to provide an incentive for the
 27 defendant to complete the recommended treatment successfully.

28 * **Sec. 32.** AS 28.35.030(k) is amended to read:

29 (k) Imprisonment required under (b)(1)(A) of this section shall be served **by**
 30 **electronic monitoring, or** at a community residential center. **If electronic**
 31 **monitoring or** [OR, IF] a community residential center is not available,

1 **imprisonment required under (b)(1)(A) of this section may be served** at another
 2 appropriate place determined by the commissioner of corrections. Imprisonment
 3 required under (b)(1)(B) - (F) of this section may be served at a community residential
 4 center or at a private residence if approved by the commissioner of corrections.
 5 Imprisonment served at a private residence must include electronic monitoring. The
 6 cost of imprisonment resulting from the sentence imposed under (b)(1) of this section
 7 shall be paid to the state by the person being sentenced provided, however, that the
 8 cost of imprisonment required to be paid under this subsection may not exceed \$2,000.
 9 Upon the person's conviction, the court shall include the costs of imprisonment as a
 10 part of the judgment of conviction. Except for reimbursement from a permanent fund
 11 dividend as provided in this subsection, payment of the cost of imprisonment is not
 12 required if the court determines the person is indigent. For costs of imprisonment that
 13 are not paid by the person as required by this subsection, the state shall seek
 14 reimbursement from the person's permanent fund dividend as provided under
 15 AS 43.23.065. While at the community residential center or other appropriate place, a
 16 person sentenced under (b)(1)(A) of this section shall perform at least 24 hours of
 17 community service work. A person sentenced under (b)(1)(B) of this section shall
 18 perform at least 160 hours of community service work, as required by the director of
 19 the community residential center or other appropriate place, or as required by the
 20 commissioner of corrections if the sentence is being served at a private residence. In
 21 this subsection, "appropriate place" means a facility with 24-hour on-site staff
 22 supervision that is specifically adapted to provide a residence, and includes a
 23 correctional center, residential treatment facility, hospital, halfway house, group home,
 24 work farm, work camp, or other place that provides varying levels of restriction.

25 * **Sec. 33.** AS 28.35.030(o) is amended to read:

26 (o) Upon request, the department shall review a driver's license revocation
 27 imposed under **(b) or** (n)(3) of this section and

28 **(1)** may restore the driver's license if

29 **(A)** [(1)] the license has been revoked for a period of at least 10

30 years;

31 **(B)** [(2)] the person has not been convicted of a criminal

1 offense since the license was revoked; and

2 (C) [(3)] the person provides proof of financial responsibility;

3 **(2) shall restore the driver's license if**

4 **(A) the person has been granted limited license privileges**
 5 **under AS 28.15.201(g) and has successfully driven under that limited**
 6 **license for three years without having the limited license privileges**
 7 **revoked;**

8 **(B) the person has successfully completed a court-ordered**
 9 **treatment program under AS 28.35.028;**

10 **(C) the court previously terminated the person's revocation**
 11 **as provided in AS 28.15.181(f)(1)(B);**

12 **(D) the person has not been convicted of a violation of**
 13 **AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another**
 14 **jurisdiction since the license was revoked;**

15 **(E) the person's privilege to drive may be restored as**
 16 **provided in AS 28.15.211; and**

17 **(F) the person provides proof of financial responsibility.**

18 * **Sec. 34.** AS 33.05.020 is amended by adding a new subsection to read:

19 (f) The commissioner shall establish a program for offenders on probation for
 20 a felony offense who have conditions of probation that include not consuming
 21 controlled substances or alcoholic beverages and who have been identified as being at
 22 moderate to high risk as identified by a risk-needs assessment. The commissioner shall
 23 adopt regulations to implement the program. The program shall

24 (1) include random testing for controlled substances and alcoholic
 25 beverage use;

26 (2) require that the probation officer file a petition with the court
 27 seeking appropriate sanctions by the close of the next business day if a probationer

28 (A) fails to appear for an appointment as directed by the
 29 probation officer; or

30 (B) tests positive for the use of controlled substances, inhalants,
 31 or alcoholic beverages; and

1 (3) include a means to notify the court, by the close of the next
 2 business day, that a petition to revoke probation has been filed on a probationer placed
 3 in the program by the commissioner so that the court may review the petition,
 4 schedule a prompt hearing, address a request for a warrant provided by the probation
 5 officer, or take other action the court considers appropriate.

6 * **Sec. 35.** AS 33.16.060 is amended by adding a new subsection to read:

7 (c) The board shall establish a program for a parolee who has conditions of
 8 parole that include not consuming controlled substances or alcoholic beverages and
 9 who has been identified as being at moderate to high risk as identified by a risk-needs
 10 assessment. The program must

11 (1) include random testing for controlled substance and alcoholic
 12 beverage use;

13 (2) require that a parole officer file a parole violation report by the
 14 close of the next business day if a parolee

15 (A) fails to appear for an appointment as directed by the parole
 16 officer; or

17 (B) tests positive for the use of controlled substances or
 18 alcoholic beverages; and

19 (3) include a means to notify the board by the close of the next
 20 business day that a parole violation report has been filed on a parolee placed in the
 21 program by the board.

22 * **Sec. 36.** AS 33.16.150(b) is amended to read:

23 (b) The board may require as a condition of special medical, discretionary, or
 24 mandatory parole, or a member of the board acting for the board under (e) of this
 25 section may require as a condition of mandatory parole, that a prisoner released on
 26 parole

27 (1) not possess or control a defensive weapon, a deadly weapon other
 28 than an ordinary pocket knife with a blade three inches or less in length, or
 29 ammunition for a firearm, or reside in a residence where there is a firearm capable of
 30 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
 31 weapon," "defensive weapon," and "firearm" have the meanings given in

1 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

2 (2) refrain from possessing or consuming alcoholic beverages;

3 (3) submit to reasonable searches and seizures by a parole officer, or a
4 peace officer acting under the direction of a parole officer;

5 (4) submit to appropriate medical, mental health, or controlled
6 substance or alcohol examination, treatment, or counseling;

7 (5) submit to periodic examinations designed to detect the use of
8 alcohol or controlled substances; **the periodic examinations may include testing**
9 **under the program established under AS 33.16.060(c);**

10 (6) make restitution ordered by the court according to a schedule
11 established by the board;

12 (7) refrain from opening, maintaining, or using a checking account or
13 charge account;

14 (8) refrain from entering into a contract other than a prenuptial contract
15 or a marriage contract;

16 (9) refrain from operating a motor vehicle;

17 (10) refrain from entering an establishment where alcoholic beverages
18 are served, sold, or otherwise dispensed;

19 (11) refrain from participating in any other activity or conduct
20 reasonably related to the parolee's offense, prior record, behavior or prior behavior,
21 current circumstances, or perceived risk to the community, or from associating with
22 any other person that the board determines is reasonably likely to diminish the
23 rehabilitative goals of parole, or that may endanger the public; in the case of special
24 medical parole, for a prisoner diagnosed with a communicable disease, comply with
25 conditions set by the board designed to prevent the transmission of the disease.

26 * **Sec. 37.** AS 33.30.011 is amended to read:

27 **Sec. 33.30.011. Duties of commissioner.** The commissioner shall

28 (1) establish, maintain, operate, and control correctional facilities
29 suitable for the custody, care, and discipline of persons charged or convicted of
30 offenses against the state or held under authority of state law; each correctional facility
31 operated by the state shall be established, maintained, operated, and controlled in a

1 manner that is consistent with AS 33.30.015;

2 (2) classify prisoners;

3 (3) for persons committed to the custody of the commissioner,
4 establish programs, including furlough programs that are reasonably calculated to

5 (A) protect the public and the victims of crimes committed by
6 prisoners;

7 (B) maintain health;

8 (C) create or improve occupational skills;

9 (D) enhance educational qualifications;

10 (E) support court-ordered restitution; and

11 (F) otherwise provide for the rehabilitation and reformation of
12 prisoners, facilitating their reintegration into society;

13 (4) provide necessary

14 (A) medical services for prisoners in correctional facilities or
15 who are committed by a court to the custody of the commissioner, including
16 examinations for communicable and infectious diseases;

17 (B) psychological or psychiatric treatment if a physician or
18 other health care provider, exercising ordinary skill and care at the time of
19 observation, concludes that

20 (i) a prisoner exhibits symptoms of a serious disease or
21 injury that is curable or may be substantially alleviated; and

22 (ii) the potential for harm to the prisoner by reason of
23 delay or denial of care is substantial; **and**

24 **(C) assessment or screening of the risks and needs of**
25 **offenders who may be vulnerable to harm, exploitation, or recidivism as a**
26 **result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or**
27 **another brain-based disorder;**

28 (5) establish minimum standards for sex offender treatment programs
29 offered to persons who are committed to the custody of the commissioner; [AND]

30 (6) provide for fingerprinting in correctional facilities in accordance
31 with AS 12.80.060; **and**

1 **(7) establish a program to conduct assessments of the risks and**
 2 **needs of offenders sentenced to serve a term of incarceration of 30 days or more**
 3 **and provide to the legislature, by January 15, 2017, and thereafter by January 15**
 4 **of the first regular session of each legislature, a report summarizing the findings**
 5 **and results of the program.**

6 * **Sec. 38.** AS 44.19 is amended by adding new sections to read:

7 **Article 6. Alaska Criminal Justice Commission.**

8 **Sec. 44.19.641. Creation of commission.** The Alaska Criminal Justice
 9 Commission is established in the Office of the Governor.

10 **Sec. 44.19.642. Membership; staff.** (a) The commission consists of 11
 11 members as follows:

12 (1) the chief justice of the Alaska Supreme Court or another active or
 13 retired justice of the supreme court or an active or retired judge of the court of appeals
 14 designated by the chief justice;

15 (2) an active or retired superior court judge designated by the chief
 16 justice for a three-year term;

17 (3) an active or retired district court judge designated by the chief
 18 justice for a three-year term;

19 (4) a member of the Alaska Native community designated by the
 20 Alaska Native Justice Center for a three-year term;

21 (5) the attorney general or a designee of the attorney general;

22 (6) the public defender or a designee of the public defender;

23 (7) a private attorney appointed by the governor for a three-year term;

24 (8) a chief of a municipal law enforcement agency appointed by the
 25 governor for a three-year term;

26 (9) one victims' rights advocate appointed by the governor for a three-
 27 year term;

28 (10) one nonvoting member, serving ex officio, who is a member of
 29 the senate appointed by the president of the senate; and

30 (11) one nonvoting member, serving ex officio, who is a member of
 31 the house of representatives appointed by the speaker of the house of representatives.

1 (b) A member appointed under (a)(7) - (9) of this section serves at the pleasure
2 of the governor and may be reappointed.

3 (c) The commission shall, by majority vote of the membership, elect a chair
4 and other officers it considers necessary from among its membership to serve on a
5 yearly basis.

6 (d) The Alaska Judicial Council shall provide staff and administrative support
7 to the commission.

8 **Sec. 44.19.643. Compensation.** Members of the commission serve without
9 compensation but are entitled to per diem and travel expenses authorized for boards
10 and commissions under AS 39.20.180.

11 **Sec. 44.19.644. Meetings.** A majority of the members constitutes a quorum for
12 conducting business and exercising the powers of the commission. The commission
13 shall meet at least quarterly, at the call of the chair, at the request of the majority of the
14 members, or at a regularly scheduled time as determined by a majority of the
15 members. The commission shall keep a record of its proceedings and make these
16 records available for public inspection.

17 **Sec. 44.19.645. Powers and duties of the commission.** (a) The commission
18 shall evaluate the effect of sentencing laws and criminal justice practices on the
19 criminal justice system to evaluate whether those sentencing laws and criminal justice
20 practices provide for protection of the public, community condemnation of the
21 offender, the rights of victims of crimes, the rights of the accused and the person
22 convicted, restitution from the offender, and the principle of reformation. The
23 commission shall make recommendations for improving criminal sentencing practices
24 and criminal justice practices, including rehabilitation and restitution. In formulating
25 its recommendations, the commission shall consider

26 (1) statutes, court rules, and court decisions relevant to sentencing of
27 criminal defendants in misdemeanor and felony cases;

28 (2) sentencing practices of the judiciary, including use of presumptive
29 sentences;

30 (3) means of promoting uniformity, proportionality, and accountability
31 in sentencing;

- 1 (4) alternatives to traditional forms of incarceration;
- 2 (5) the efficacy of parole and probation in reducing recidivism,
3 achieving rehabilitation, and ensuring public safety;
- 4 (6) the adequacy, availability, and effectiveness of treatment and
5 rehabilitation programs;
- 6 (7) crime and incarceration rates, including the rate of violent crime, in
7 this state compared to other states, and best practices adopted by other states that have
8 proven to be successful in reducing recidivism;
- 9 (8) the relationship between sentencing priorities and correctional
10 resources; and
- 11 (9) the effectiveness of the state's current methodologies for the
12 collection, dissemination, and extrapolation of criminal justice data.

13 (b) The commission may

- 14 (1) recommend legislative and administrative action on criminal justice
15 practices; and
- 16 (2) select and retain the services of consultants as necessary.

17 **Sec. 44.19.646. Methodology.** In making recommendations, the commission
18 shall

- 19 (1) solicit and consider information and views from a variety of
20 constituencies to represent the broad spectrum of views that exist with respect to
21 possible approaches to sentencing and administration of justice in the state; and
- 22 (2) base recommendations on the following factors:
- 23 (A) the seriousness of each offense in relation to other offenses;
- 24 (B) the effect of an offender's prior criminal history on
25 sentencing;
- 26 (C) the need to rehabilitate criminal offenders;
- 27 (D) the need to confine offenders to prevent harm to the public;
- 28 (E) the extent to which criminal offenses harm victims and
29 endanger the public safety and order;
- 30 (F) the effect of sentencing in deterring an offender or other
31 members of society from future criminal conduct;

1 (G) the effect of sentencing as a community condemnation of
2 criminal acts and as a reaffirmation of societal norms;

3 (H) the elimination of unjustified disparity in sentences;

4 (I) the sufficiency of state agency resources to administer the
5 criminal justice system of the state;

6 (J) the effect of criminal justice laws and practices on reducing
7 the rate of recidivism in the state;

8 (K) peer reviewed and data-driven research;

9 (L) the effect of over-classification of prisoners; and

10 (M) the effects of evidence-based restorative justice initiatives
11 on persons convicted of criminal violations and offenses, the victim, and the
12 community.

13 **Sec. 44.19.647. Annual report and recommendations.** The commission shall
14 submit to the governor and the legislature an annual report of its proceedings for the
15 previous calendar year and may submit recommendations for legislative and
16 administrative action. Reports and recommendations provided under this section shall
17 be submitted not later than February 1 of each year.

18 **Sec. 44.19.649. Definition.** In AS 44.19.641 - 44.19.649, "commission" means
19 the Alaska Criminal Justice Commission.

20 * **Sec. 39.** AS 44.66.010(a) is amended by adding a new paragraph to read:

21 (10) Alaska Criminal Justice Commission (AS 44.19.642) - January 1,
22 2018.

23 * **Sec. 40.** AS 47 is amended by adding a new chapter to read:

24 **Chapter 38. Alcohol and Substance Abuse Accountability.**

25 **Article 1. Alcohol and Substance Abuse Monitoring and Treatment for Persons Released**
26 **on Bail or on Probation.**

27 **Sec. 47.38.010. Cooperation with the Department of Corrections.** The
28 department shall cooperate with the Department of Corrections in establishing and
29 conducting programs to provide treatment for alcoholics, intoxicated persons, drug
30 abusers, and inhalant abusers who are on conditions of release as provided in
31 AS 12.30 or on probation.

1 **Sec. 47.38.020. Alcohol and substance abuse monitoring program.** (a) The
 2 commissioner, in cooperation with the commissioner of corrections, shall establish a
 3 program for certain persons with release conditions ordered as provided under
 4 AS 12.30, or offenders with conditions of probation, that include not consuming
 5 controlled substances or alcoholic beverages.

6 (b) The commissioner shall adopt regulations to implement the program.

7 (c) The commissioner shall include in the program

8 (1) a requirement for twice-a-day testing, in person if practicable, for
 9 alcoholic beverage use and random testing for controlled substances;

10 (2) a means to provide the probation officer, prosecutor's office, or
 11 local law enforcement agency with notice within 24 hours, so that a complaint may be
 12 filed alleging a violation of AS 11.56.757, a petition may be filed with the court
 13 seeking appropriate sanctions and may be scheduled by the court for a prompt hearing,
 14 or an arrest warrant may be issued for the person on release or offender with
 15 conditions of probation provided in this subsection, if the person or offender

16 (A) fails to appear for an appointment as required by the
 17 program requirements; or

18 (B) tests positive for the use of controlled substances or
 19 alcoholic beverages; and

20 (3) a requirement that the person or offender pay, based on the person's
 21 or offender's ability under financial guidelines established by the commissioner, for
 22 the cost of participating in the program.

23 (d) The department shall provide or conduct the testing required under (c) of
 24 this section.

25 **Article 2. Recidivism Reduction Grant Program.**

26 **Sec. 47.38.100. Recidivism reduction grant program and fund.** (a) The
 27 recidivism reduction fund is established in the general fund to promote the
 28 rehabilitation through transitional re-entry programs of persons incarcerated for
 29 offenses and recently released from correctional facilities. The fund consists of money
 30 appropriated to the fund.

31 (b) Appropriations to the fund do not lapse.

1 (c) The commissioner, in cooperation with the commissioner of corrections,
 2 may make grants from the fund for programs that the commissioner of corrections
 3 determines have, as a primary focus, rehabilitation and reduction of recidivism
 4 through transitional re-entry for persons incarcerated for offenses and recently
 5 released from correctional facilities. To qualify for a grant under this section, a
 6 program shall

7 (1) include case management;

8 (2) require sober living;

9 (3) provide, on-site or by referral, treatment for substance abuse or
 10 mental health treatment;

11 (4) require employment, educational programming, vocational
 12 training, or community volunteer work as approved by the director of the treatment
 13 program; and

14 (5) limit residential placements in the program to a maximum of one
 15 year.

16 (d) The commissioner and the commissioner of corrections shall prepare a
 17 joint annual report on the fund and grant program, and notify the legislature on or
 18 before January 15 of each year that the report is available. The report must include the
 19 balance of the fund, a summary of the grants provided from the fund, and the effects
 20 on recidivism for program participants.

21 **Article 3. General Provisions.**

22 **Sec. 47.38.199. Definitions.** In this chapter,

23 (1) "commissioner" means the commissioner of health and social
 24 services;

25 (2) "department" means the Department of Health and Social Services.

26 * **Sec. 41.** AS 22.20.210 is repealed June 30, 2017.

27 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 **APPLICABILITY.** (a) AS 11.41.320(a), as amended by sec. 2 of this Act,
 30 AS 11.41.330(a), as amended by sec. 3 of this Act, AS 11.41.330(b), as amended by sec. 4 of
 31 this Act, AS 11.46.130(a), as amended by sec. 5 of this Act, AS 11.46.140(a), as amended by

1 sec. 6 of this Act, AS 11.46.150(a), as amended by sec. 7 of this Act, AS 11.46.220(c), as
 2 amended by sec. 8 of this Act, AS 11.46.260(b), as amended by sec. 9 of this Act,
 3 AS 11.46.270(b), as amended by sec. 10 of this Act, AS 11.46.280(d), as amended by sec. 11
 4 of this Act, AS 11.46.285(b), as amended by sec. 12 of this Act, AS 11.46.295, as amended
 5 by sec. 13 of this Act, AS 11.46.360(a), as amended by sec. 14 of this Act, AS 11.46.482(a),
 6 as amended by sec. 15 of this Act, AS 11.46.484(a), as amended by sec. 16 of this Act,
 7 AS 11.46.486(a), as amended by sec. 17 of this Act, AS 11.46.530(b), as amended by sec. 18
 8 of this Act, AS 11.46.620(d), as amended by sec. 19 of this Act, AS 11.46.730(c), as amended
 9 by sec. 20 of this Act, AS 12.30.011(b), as amended by sec. 21 of this Act, AS 12.30.016(b),
 10 as amended by sec. 22 of this Act, AS 12.30.016(c), as amended by sec. 23 of this Act,
 11 AS 12.55.027(c), as amended by sec. 24 of this Act, and AS 12.55.100(a), as amended by sec.
 12 25 of this Act, apply to offenses occurring on or after the effective date of secs. 1 - 27, 29 -
 13 36, and 38 - 44 of this Act.

14 (b) The changes made to AS 28.15.181(f), as amended by sec. 29 of this Act,
 15 AS 28.15.201(g) and (h), enacted by sec. 30 of this Act, AS 28.35.028(b), as amended by sec.
 16 31 of this Act, AS 28.35.030(k), as amended by sec. 32 of this Act, AS 28.35.030(o), as
 17 amended by sec. 33 of this Act, AS 33.05.020, as amended by sec. 34 of this Act,
 18 AS 33.16.060, as amended by sec. 35 of this Act, and AS 33.16.150(b), as amended by sec.
 19 36 of this Act, and AS 47.38.020, as enacted by sec. 40 of this Act, apply to convictions
 20 occurring before, on, or after the effective date of secs. 1 - 27, 29 - 36, and 38 - 44 of this Act
 21 for offenses occurring before, on, or after the effective date of secs. 1 - 27, 29 - 36, and 38 -
 22 44 of this Act.

23 (c) AS 12.55.155(d)(20), as amended by sec. 26 of this Act, applies to prosecutions
 24 occurring on or after the effective date of sec. 26 of this Act for offenses occurring before, on,
 25 or after the effective date of sec. 26 of this Act.

26 (d) AS 22.35.030, enacted by sec. 28 of this Act, applies to criminal charges
 27 concluded on or after the effective date of sec. 28 of this Act, by dismissal or by acquittal of
 28 the defendant.

29 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 SPECIAL REPORT OF ALASKA CRIMINAL JUSTICE COMMISSION. The

1 Alaska Criminal Justice Commission shall submit to the governor and the legislature a special
 2 report, not later than July 1, 2016, regarding alcohol-related offenses in AS 28. The report
 3 must include recommendations on

4 (1) whether a revision of the alcohol-related offenses in AS 28 is necessary;

5 (2) maintaining both the administrative and court license revocation processes;

6 (3) the effectiveness of ignition interlock devices in reducing the offenses of
 7 driving while under the influence of an alcoholic beverage, inhalant, or controlled substance
 8 and refusal to submit to a chemical test, and reducing recidivism;

9 (4) whether the punishment, fines, and associated driver's license revocation
 10 periods for the offenses of driving while under the influence of an alcoholic beverage,
 11 inhalant, or controlled substance and refusal to submit to a chemical test should be decreased
 12 or increased;

13 (5) the effectiveness of programs that promote offender accountability,
 14 emphasize swift and certain, yet measured, punishment, reduce recidivism, and maximize the
 15 offender's ability to remain productive in society;

16 (6) whether limited licenses should be available for persons charged with or
 17 convicted of the offenses of driving while under the influence of an alcoholic beverage,
 18 inhalant, or controlled substance or refusal to submit to a chemical test, while providing for
 19 public safety.

20 * **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **TRANSITIONAL PROVISIONS.** The initial designations and appointments to the
 23 Alaska Criminal Justice Commission under AS 44.19.642, added by sec. 38 of this Act, shall
 24 be made and the first meeting of the commission shall be held not later than June 30, 2014.
 25 Notwithstanding AS 44.19.647, added by sec. 38 of this Act, the commission shall submit its
 26 first report to the governor and the legislature not later than February 1, 2016.

27 * **Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 **TRANSITIONAL PROVISIONS: REGULATIONS.** (a) The Department of
 30 Corrections may adopt regulations necessary to implement AS 33.05.020(f), added by sec. 34
 31 of this Act.

1 (b) The board of parole may adopt regulations necessary to implement
2 AS 33.16.060(c), added by sec. 35 of this Act, and AS 33.16.150(b), as amended by sec. 36 of
3 this Act.

4 (c) The Department of Health and Social Services may adopt regulations necessary to
5 implement AS 47.38.010 - 47.38.199, added by sec. 40 of this Act.

6 (d) The regulations adopted under (a) - (c) of this section take effect under AS 44.62
7 (Administrative Procedure Act), but not before July 1, 2014.

8 * **Sec. 46.** Section 28 of this Act takes effect October 1, 2014.

9 * **Sec. 47.** Section 37 of this Act takes effect January 1, 2016.

10 * **Sec. 48.** Section 45 of this Act takes effect immediately under AS 01.10.070(c).

11 * **Sec. 49.** Sections 1 - 27, 29 - 36, and 38 - 44 of this Act take effect July 1, 2014.