

AMENDMENT # 1

OFFERED IN THE SENATE
TO: CSSB 30(FIN)

BY SENATOR WIELECHOWSKI

1 Page 1, line 1, following "**marijuana;**":

2 Insert "**deleting marijuana, hashish, and hashish oil from the controlled substance**
3 **schedules and making conforming and related amendments; relating to driving a**
4 **commercial motor vehicle or motor vehicle while under the influence of an alcoholic**
5 **beverage, marijuana, inhalant, or controlled substance; relating to conditions of release;**
6 **relating to probation and parole; relating to sentencing; relating to illicit synthetic**
7 **drugs; relating to protective orders; relating to employer alcohol, marijuana, and drug**
8 **testing;**"

9

10 Page 1, line 8:

11 Delete "SEC. 30"

12 Insert "SEC. 53"

13 Delete "sec. 30"

14 Insert "sec. 53"

15

16 Page 2, line 2:

17 Delete "sec. 32"

18 Insert "sec. 55"

19

20 Page 2, line 6:

21 Delete "SEC. 30"

22 Insert "SEC. 53"

23

1 Page 3, following line 29:

2 Insert new bill sections to read:

3 **"* Sec. 3.** AS 02.30.030(b) is amended to read:

4 (b) A person may not operate an aircraft occupied by a crew member or
5 passenger who is obviously under the influence of intoxicating liquor, marijuana, or a
6 controlled substance.

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

8 (e) The court shall place a person sentenced under (b)(2), (c), or (d) of this
9 section on probation for the appropriate period. The person may not refuse probation.
10 The court may require the person to pay for and enroll in a juvenile alcohol safety
11 action program, if one is available. The court shall impose the following conditions of
12 probation:

13 (1) the person shall pay for and successfully complete any education or
14 treatment recommended;

15 (2) the person may not consume inhalants or possess or consume
16 controlled substances, marijuana, or alcoholic beverages, except as provided in
17 AS 04.16.051(b);

18 (3) the person shall timely complete any community work ordered, as
19 provided in (f) of this section; and

20 (4) other conditions the court considers appropriate.

21 *** Sec. 5.** AS 05.45.100(c) is amended to read:

22 (c) A skier may not

23 (1) ski on a ski slope or trail that has been posted as "closed" under
24 AS 05.45.060(b)(5) and (d);

25 (2) use a ski unless the ski is equipped with a strap or other device
26 capable of stopping the ski should the ski become unattached from the skier;

27 (3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow
28 except at locations designated by the operator, or place an object in an uphill track;

29 (4) move uphill on a tramway or use a ski slope or trail while the skier's
30 ability is impaired by the influence of alcohol, marijuana, or a controlled substance as
31 defined in AS 11.71.900 or other drug;

1 (5) knowingly enter upon public or private land from an adjoining ski
 2 area when the land has been closed by an owner and is posted by the owner or by the
 3 ski area operator under AS 05.45.060(e)(3).

4 * **Sec. 6.** AS 08.68.270 is amended to read:

5 **Sec. 08.68.270. Grounds for denial, suspension, or revocation.** The board
 6 may deny, suspend, or revoke the license of a person who

7 (1) has obtained or attempted to obtain a license to practice nursing by
 8 fraud or deceit;

9 (2) has been convicted of a felony or other crime if the felony or other
 10 crime is substantially related to the qualifications, functions, or duties of the licensee;

11 (3) habitually abuses alcoholic beverages or marijuana, or illegally
 12 uses controlled substances;

13 (4) has impersonated a registered or practical nurse;

14 (5) has intentionally or negligently engaged in conduct that has resulted
 15 in a significant risk to the health or safety of a client or in injury to a client;

16 (6) practices or attempts to practice nursing while afflicted with
 17 physical or mental illness, deterioration, or disability that interferes with the
 18 individual's performance of nursing functions;

19 (7) is guilty of unprofessional conduct as defined by regulations
 20 adopted by the board;

21 (8) has wilfully or repeatedly violated a provision of this chapter or
 22 regulations adopted under this chapter or AS 08.01;

23 (9) is professionally incompetent;

24 (10) denies care or treatment to a patient or person seeking assistance if
 25 the sole reason for the denial is the failure or refusal of the patient or person seeking
 26 assistance to agree to arbitrate as provided in AS 09.55.535(a).

27 * **Sec. 7.** AS 08.72.272(a) is amended to read:

28 (a) A licensee may prescribe and use a pharmaceutical agent, including a
 29 controlled substance, in the practice of optometry if

30 (1) the pharmaceutical agent

31 (A) is prescribed and used for the treatment of ocular disease or

1 conditions, ocular adnexal disease or conditions, or emergency anaphylaxis;

2 (B) is not a schedule IA or [,] IIA [, OR VIA] controlled
3 substance; however, notwithstanding this subparagraph, a licensee may
4 prescribe and use a pharmaceutical agent containing hydrocodone;

5 (C) is prescribed in a quantity that does not exceed four days of
6 prescribed use if it is a controlled substance;

7 (D) is not injected into the ocular globe of the eye; and

8 (E) is not a derivative of clostridium botulinum; and

9 (2) the licensee

10 (A) has a physician-patient relationship, as defined by the board
11 in regulations adopted under this chapter, with the person to whom the
12 pharmaceutical agent is prescribed; and

13 (B) has on file with the department the licensee's current federal
14 Drug Enforcement Administration registration number that is valid for the
15 controlled substance prescribed or used.

16 * **Sec. 8.** AS 08.76.170(a) is amended to read:

17 (a) A pawnbroker may not knowingly enter into a pawnbroker transaction with
18 a person who is

19 (1) under 18 years of age;

20 (2) under the influence of alcohol, marijuana, or a controlled
21 substance when the influence is apparent; or

22 (3) using the name of another person.

23 * **Sec. 9.** AS 09.60.070(c) is amended to read:

24 (c) In this section, "serious criminal offense" means the following offenses:

25 (1) murder in any degree;

26 (2) manslaughter;

27 (3) criminally negligent homicide;

28 (4) assault in any degree;

29 (5) kidnapping;

30 (6) sexual assault in any degree;

31 (7) sexual abuse of a minor in any degree;

- 1 (8) robbery in any degree;
 2 (9) coercion;
 3 (10) extortion;
 4 (11) arson in any degree;
 5 (12) burglary in any degree;
 6 (13) criminal mischief in the first, second, third, or fourth degree;
 7 (14) driving while under the influence of an alcoholic beverage,
 8 inhalant, or controlled substance or another crime resulting from the operation of a
 9 motor vehicle, boat, or airplane when the offender is under the influence of an
 10 alcoholic beverage, marijuana, an inhalant, or a controlled substance;
 11 (15) a crime involving domestic violence, as defined in AS 18.66.990.

12 * **Sec. 10.** AS 09.65.210 is amended to read:

13 **Sec. 09.65.210. Damages resulting from commission of a felony or while**
 14 **under the influence of alcohol, marijuana, or drugs.** A person who suffers personal
 15 injury or death or the person's personal representative under AS 09.55.570 or
 16 09.55.580 may not recover damages for the personal injury or death if the injury or
 17 death occurred while the person was

18 (1) engaged in the commission of a felony, the person has been
 19 convicted of the felony, including conviction based on a guilty plea or plea of nolo
 20 contendere, and the party defending against the claim proves by clear and convincing
 21 evidence that the felony substantially contributed to the personal injury or death;

22 (2) engaged in conduct that would constitute the commission of an
 23 unclassified felony, a class A felony, or a class B felony for which the person was not
 24 convicted and the party defending against the claim proves by clear and convincing
 25 evidence

26 (A) the felonious conduct; and

27 (B) that the felonious conduct substantially contributed to the
 28 personal injury or death;

29 (3) fleeing after the commission, by that person, of conduct that would
 30 constitute an unclassified felony, a class A felony, or a class B felony or being
 31 apprehended for conduct that would constitute an unclassified felony, a class A felony,

1 or a class B felony if the party defending against the claim proves by clear and
2 convincing evidence

3 (A) the felonious conduct; and

4 (B) that the conduct during the flight or apprehension
5 substantially contributed to the injury or death;

6 (4) operating a vehicle, aircraft, or watercraft while under the influence
7 of intoxicating liquor, marijuana, or any controlled substance in violation of
8 AS 28.35.030, was convicted, including conviction based on a guilty plea or plea of
9 nolo contendere, and the party defending against the claim proves by clear and
10 convincing evidence that the conduct substantially contributed to the personal injury
11 or death; or

12 (5) engaged in conduct that would constitute a violation of
13 AS 28.35.030 for which the person was not convicted if the party defending against
14 the claim proves by clear and convincing evidence

15 (A) the violation of AS 28.35.030; and

16 (B) that the conduct substantially contributed to the personal
17 injury or death.

18 * Sec. 11. AS 09.65.315(a) is amended to read:

19 (a) A person is not liable beyond the limits of any applicable insurance policy
20 purchased by or on behalf of the owner of the vehicle, or the taxicab or limousine
21 company or the company's owner, agents, or employees, for damages resulting from a
22 motor vehicle accident if the person was driving a vehicle involved in the accident and

23 (1) before the accident, started driving the vehicle involved in the
24 accident from or near licensed premises;

25 (2) is, at the time of the accident, a person employed in the course and
26 scope of employment to or under contract to drive a taxicab or limousine, a taxicab or
27 limousine owner, a holder of a taxicab or limousine permit issued by a municipality,
28 or an owner or employee of a company that dispatches taxicabs or limousines;

29 (3) was not under the influence of an alcoholic beverage, marijuana,
30 inhalant, or controlled substance at the time of the accident;

31 (4) was driving the vehicle to the motor vehicle owner's residence or

1 designated residential location at the request of the motor vehicle owner or operator or
2 a law enforcement officer; and

3 (5) was driving the vehicle because the motor vehicle owner or operator
4 was under the influence of an alcoholic beverage or marijuana or reasonably
5 believed to be under the influence of an alcoholic beverage or marijuana.

6 * Sec. 12. AS 09.65.315(e) is amended by adding a new paragraph to read:

7 (4) "marijuana" has the meaning given in AS 17.38.900.

8 * Sec. 13. AS 09.65.320(b) is amended to read:

9 (b) The prohibition against the recovery of noneconomic losses in (a) of this
10 section does not apply if the person who is liable for the personal injury or wrongful
11 death

12 (1) was driving while under the influence of an alcoholic beverage,
13 marijuana, an inhalant, or a controlled substance;

14 (2) acted intentionally, recklessly, or with gross negligence;

15 (3) fled from the scene of the accident; or

16 (4) was acting in furtherance of an offense or in immediate flight from
17 an offense that constitutes a felony as defined in AS 11.81.900 at the time of the
18 accident."
19

20 Renumber the following bill sections accordingly.

21
22 Page 5, lines 20 - 26:

23 Delete all material.
24

25 Renumber the following bill sections accordingly.
26

27 Page 6, line 5:

28 Delete "a schedule VIA controlled substance"

29 Insert "marijuana"
30

31 Page 6, following line 5:

1 Insert new bill sections to read:

2 **** Sec. 17.** AS 11.61.200(a) is amended to read:

3 (a) A person commits the crime of misconduct involving weapons in the third
4 degree if the person

5 (1) knowingly possesses a firearm capable of being concealed on one's
6 person after having been convicted of a felony or adjudicated a delinquent minor for
7 conduct that would constitute a felony if committed by an adult by a court of this state,
8 a court of the United States, or a court of another state or territory;

9 (2) knowingly sells or transfers a firearm capable of being concealed on
10 one's person to a person who has been convicted of a felony by a court of this state, a
11 court of the United States, or a court of another state or territory;

12 (3) manufactures, possesses, transports, sells, or transfers a prohibited
13 weapon;

14 (4) knowingly sells or transfers a firearm to another whose physical or
15 mental condition is substantially impaired as a result of the introduction of an
16 intoxicating liquor, marijuana, or controlled substance into that other person's body;

17 (5) removes, covers, alters, or destroys the manufacturer's serial
18 number on a firearm with intent to render the firearm untraceable;

19 (6) possesses a firearm on which the manufacturer's serial number has
20 been removed, covered, altered, or destroyed, knowing that the serial number has been
21 removed, covered, altered, or destroyed with the intent of rendering the firearm
22 untraceable;

23 (7) violates AS 11.46.320 and, during the violation, possesses on the
24 person a firearm when the person's physical or mental condition is impaired as a result
25 of the introduction of an intoxicating liquor, marijuana, or controlled substance into
26 the person's body;

27 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining
28 unlawfully on premises or in a propelled vehicle in violation of a provision of an order
29 issued or filed under AS 18.66.100 - 18.66.180 or issued under former
30 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a
31 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

1 (9) communicates in person with another in violation of AS 11.56.740
 2 and, during the communication, possesses on the person a defensive weapon or a
 3 deadly weapon, other than an ordinary pocketknife;

4 (10) resides in a dwelling knowing that there is a firearm capable of
 5 being concealed on one's person or a prohibited weapon in the dwelling if the person
 6 has been convicted of a felony by a court of this state, a court of the United States, or a
 7 court of another state or territory, unless the person has written authorization to live in
 8 a dwelling in which there is a concealable weapon described in this paragraph from a
 9 court of competent jurisdiction or from the head of the law enforcement agency of the
 10 community in which the dwelling is located; or

11 (11) discharges a firearm from a propelled vehicle while the vehicle is
 12 being operated in circumstances other than described in AS 11.61.190(a)(2).

13 (12) [REPEALED.]

14 * **Sec. 18.** AS 11.61.210(a) is amended to read:

15 (a) A person commits the crime of misconduct involving weapons in the fourth
 16 degree if the person

17 (1) possesses on the person, or in the interior of a vehicle in which the
 18 person is present, a firearm when the person's physical or mental condition is impaired
 19 as a result of the introduction of an intoxicating liquor, marijuana, or a controlled
 20 substance into the person's body in circumstances other than described in
 21 AS 11.61.200(a)(7);

22 (2) discharges a firearm from, on, or across a highway;

23 (3) discharges a firearm with reckless disregard for a risk of damage to
 24 property or a risk of physical injury to a person under circumstances other than those
 25 described in AS 11.61.195(a)(3)(A);

26 (4) manufactures, possesses, transports, sells, or transfers metal
 27 knuckles;

28 (5) sells or transfers a switchblade or a gravity knife to a person under
 29 18 years of age without the prior written consent of the person's parent or guardian;

30 (6) knowingly sells a firearm or a defensive weapon to a person under
 31 18 years of age;

1 (7) other than a preschool, elementary, junior high, or secondary school
2 student, knowingly possesses a deadly weapon or a defensive weapon, without the
3 permission of the chief administrative officer of the school or district or the designee
4 of the chief administrative officer, within the buildings of, on the grounds of, or on the
5 school parking lot of a public or private preschool, elementary, junior high, or
6 secondary school, on a school bus while being transported to or from school or a
7 school-sponsored event, or while participating in a school-sponsored event, except that
8 a person 21 years of age or older may possess

9 (A) a deadly weapon, other than a loaded firearm, in the trunk
10 of a motor vehicle or encased in a closed container in a motor vehicle;

11 (B) a defensive weapon;

12 (C) an unloaded firearm if the person is traversing school
13 premises in a rural area for the purpose of entering public or private land that is
14 open to hunting and the school board with jurisdiction over the school
15 premises has elected to have this exemption apply to the school premises; in
16 this subparagraph, "rural" means a community with a population of 5,500 or
17 less that is not connected by road or rail to Anchorage or Fairbanks or with a
18 population of 1,500 or less that is connected by road or rail to Anchorage or
19 Fairbanks; or

20 (8) being a preschool, elementary, junior high, or secondary school
21 student, knowingly possesses a deadly weapon or a defensive weapon, within the
22 buildings of, on the grounds of, or on the school parking lot of a public or private
23 preschool, elementary, junior high, or secondary school, on a school bus while being
24 transported to or from school or a school-sponsored event, or while participating in a
25 school-sponsored event, except that a student may possess a deadly weapon, other
26 than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student
27 has obtained the prior permission of the chief administrative officer of the school or
28 district or the designee of the chief administrative officer for the possession."
29

30 Renumber the following bill sections accordingly.
31

1 Page 6, line 22, through page 14, line 1:

2 Delete all material and insert:

3 **** Sec. 20.** AS 11.71.040(a) is amended to read:

4 (a) Except as authorized in AS 17.30, a person commits the crime of
5 misconduct involving a controlled substance in the fourth degree if the person

6 (1) manufactures or delivers any amount of a schedule IVA or VA
7 controlled substance or possesses any amount of a schedule IVA or VA controlled
8 substance with intent to manufacture or deliver;

9 (2) manufactures or delivers, or possesses with the intent to
10 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
11 of an aggregate weight of one ounce or more containing a schedule VIA controlled
12 substance;

13 (3) possesses

14 (A) any amount of a

15 (i) schedule IA controlled substance; or

16 (ii) IIA controlled substance except a controlled
17 substance listed in AS 11.71.150(e)(11) - (15);

18 (B) 25 or more tablets, ampules, or syrettes containing a
19 schedule IIIA or IVA controlled substance;

20 (C) one or more preparations, compounds, mixtures, or
21 substances of an aggregate weight of

22 (i) three grams or more containing a schedule IIIA or
23 IVA controlled substance except a controlled substance in a form listed
24 in (ii) of this subparagraph;

25 (ii) 12 grams or more containing a schedule IIIA
26 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been
27 sprayed on or otherwise applied to tobacco, an herb, or another organic
28 material; or

29 (iii) 500 milligrams or more of a schedule IIA controlled
30 substance listed in AS 11.71.150(e)(11) - (15);

31 (D) 50 or more tablets, ampules, or syrettes containing a

1 schedule VA controlled substance;

2 (E) one or more preparations, compounds, mixtures, or
3 substances of an aggregate weight of six grams or more containing a schedule
4 VA controlled substance;

5 (F) one or more preparations, compounds, mixtures, or
6 substances of an aggregate weight of four ounces or more containing a
7 schedule VIA controlled substance; or

8 (G) 25 or more plants of the genus cannabis;

9 (4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled
10 substance

11 (A) with reckless disregard that the possession occurs

12 (i) on or within 500 feet of school grounds; or

13 (ii) at or within 500 feet of a recreation or youth center;

14 or

15 (B) on a school bus;

16 (5) knowingly keeps or maintains any store, shop, warehouse, dwelling,
17 building, vehicle, boat, aircraft, or other structure or place that is used for keeping or
18 distributing controlled substances in violation of a felony offense under this chapter or
19 AS 17.30;

20 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
21 thing that prints, imprints, or reproduces a trademark, trade name, or other identifying
22 mark, imprint, or device of another or any likeness of any of these upon a drug, drug
23 container, or labeling so as to render the drug a counterfeit substance;

24 (7) knowingly uses in the course of the manufacture or distribution of a
25 controlled substance a registration number that is fictitious, revoked, suspended, or
26 issued to another person;

27 (8) knowingly furnishes false or fraudulent information in or omits
28 material information from any application, report, record, or other document required
29 to be kept or filed under AS 17.30;

30 (9) obtains possession of a controlled substance by misrepresentation,
31 fraud, forgery, deception, or subterfuge; or

1 (10) affixes a false or forged label to a package or other container
 2 containing any controlled substance.

3 * **Sec. 21.** AS 11.71.110 is amended to read:

4 **Sec. 11.71.110. Duties of committee.** The committee shall

5 (1) advise the governor of the need to add, delete, or reschedule
 6 substances in the schedules in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190];

7 (2) recommend regulations for adoption by the Board of Pharmacy to
 8 prevent excessive prescription of controlled substances and the diversion of
 9 prescription drugs into illicit channels;

10 (3) evaluate the effectiveness of programs in the state providing
 11 treatment and counseling for persons who abuse controlled substances;

12 (4) recommend programs to the Alaska Court System to be instituted as
 13 alternatives to the prosecution or imprisonment of offenders who have no prior
 14 criminal record involving controlled substance offenses and who are charged with
 15 crimes involving controlled substances;

16 (5) review and evaluate enforcement policies and practices of the
 17 Department of Public Safety and the Department of Law with regard to crimes
 18 involving controlled substances, and recommend modifications of those policies and
 19 practices consistent with the committee's assessment of the probable danger of
 20 particular controlled substances; and

21 (6) review budget requests and recommend amounts for appropriations
 22 to the governor and the legislature for departments and agencies responsible for

23 (A) enforcing criminal laws pertaining to controlled substances;

24 (B) providing treatment and counseling of persons who abuse
 25 controlled substances; and

26 (C) regulating the legitimate handling of controlled substances.

27 * **Sec. 22.** AS 11.71.120(a) is amended to read:

28 (a) If, after considering the factors set out in (c) of this section, the committee
 29 decides to recommend that a substance should be added to, deleted from, or
 30 rescheduled in a schedule of controlled substances under AS 11.71.140 - 11.71.180
 31 [AS 11.71.140 - 11.71.190], the governor shall introduce legislation in accordance

1 with the recommendation of the committee.

2 * **Sec. 23.** AS 11.71.180(a) is amended to read:

3 (a) A substance shall be placed in schedule VA if it is found under
4 AS 11.71.120(c) to have a degree of danger or probable danger to a person or the
5 public **that** [WHICH] is less than substances listed in schedule IVA [, BUT HIGHER
6 THAN SUBSTANCES LISTED IN SCHEDULE VIA]."

7
8 Renumber the following bill sections accordingly.

9
10 Page 14, line 8:

11 Delete "**or significant adverse marijuana reaction**"

12
13 Page 14, lines 17 - 18:

14 Delete "**or significant adverse marijuana reaction**"

15
16 Page 14, line 21:

17 Delete "**or significant adverse marijuana reaction**"

18
19 Page 14, line 23, through page 15, line 24:

20 Delete all material and insert:

21 "* **Sec. 25.** AS 11.71.900(4) is amended to read:

22 (4) "controlled substance" means a drug, substance, or immediate
23 precursor included in the schedules set out in **AS 11.71.140 - 11.71.180** [AS 11.71.140
24 - 11.71.190];

25 * **Sec. 26.** AS 11.71.900(13) is amended to read:

26 (13) "manufacture"

27 (A) means the production, preparation, propagation,
28 compounding, conversion, growing, or processing of a controlled substance,
29 either directly or indirectly by extraction from substances of natural origin, or
30 independently by means of chemical synthesis, or by a combination of
31 extraction and chemical synthesis [; HOWEVER, THE GROWING OF

MARIJUANA FOR PERSONAL USE IS NOT MANUFACTURING];

(B) includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance or its container unless done in conformity with applicable federal law

(i) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

* Sec. 27. AS 11.81.900(b)(34) is amended to read:

(34) "intoxicated" means intoxicated from the use of a drug, marijuana, or alcohol;

* Sec. 28. AS 12.30.011(b) is amended to read:

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

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

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

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

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

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

(6) require the person to maintain employment or, if unemployed,

1 actively seek employment;

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

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

6 (9) require the person to refrain from the consumption and possession
7 of alcoholic beverages or marijuana;

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

11 (11) require the person to be physically inside the person's residence, or
12 in the residence of the person's third-party custodian, at time periods set by the court;

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

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

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

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

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

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

26 (18) require the person to comply with a program established under
27 AS 47.38.020 if the person has been charged with an alcohol-related, marijuana-
28 related, or substance-abuse-related offense that is an unclassified felony, a class A
29 felony, a sexual felony, or a crime involving domestic violence;

30 (19) order the person to refrain from entering or remaining in
31 premises registered under AS 17.38.

1 * **Sec. 29.** AS 12.30.016 is amended by adding a new subsection to read:

2 (g) In a prosecution charging a violation of AS 17.38.160 or 17.38.170, a
3 judicial officer may order the person to

4 (1) refrain from

5 (A) consuming marijuana; or

6 (B) possessing on the person, in the person's residence, or in
7 any vehicle or other property over which the person has control, marijuana,
8 marijuana products, or marijuana accessories;

9 (2) submit to a search without a warrant of the person, the person's
10 personal property, the person's residence, or any vehicle or other property over which
11 the person has control, for the presence of marijuana, marijuana products, or marijuana
12 accessories by a peace officer who has reasonable suspicion that the person is
13 violating the terms of the person's release by possessing marijuana, marijuana
14 products, or marijuana accessories;

15 (3) provide a sample for a urinalysis or blood test when requested by a
16 law enforcement officer;

17 (4) refrain from entering or remaining in a place where marijuana is
18 being used, manufactured, grown, or distributed;

19 (5) comply with a program established under AS 47.38.020.

20 * **Sec. 30.** AS 12.30.080 is amended by adding a new paragraph to read:

21 (8) "marijuana," "marijuana accessories," and "marijuana products"
22 have the meanings given in AS 17.38.900.

23 * **Sec. 31.** AS 12.45.084(a) is amended to read:

24 (a) In a prosecution under AS 11.71.010 - 11.71.060 or AS 17.38.160 -
25 17.38.190, a complete copy of an official laboratory report from the Department of
26 Public Safety or a laboratory operated by another law enforcement agency is prima
27 facie evidence of the content, identity, and weight of a controlled substance,
28 marijuana, or usable marijuana. The report must be signed by the person
29 performing the analysis and must state that the substance that [WHICH] is the basis of
30 the alleged offense has been weighed and analyzed. In the report, the author shall state
31 with specificity findings as to the content, weight, and identity of the substance. In

1 this subsection, "marijuana" and "usable marijuana" have the meanings given
2 in AS 17.38.900.

3 * Sec. 32. AS 12.55.015(a) is amended to read:

4 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
5 sentence on a defendant convicted of an offense, may singly or in combination

6 (1) impose a fine when authorized by law and as provided in
7 AS 12.55.035;

8 (2) order the defendant to be placed on probation under conditions
9 specified by the court that may include provision for active supervision;

10 (3) impose a definite term of periodic imprisonment, but only if an
11 employment obligation of the defendant preexisted sentencing and the defendant
12 receives a composite sentence of not more than two years to serve;

13 (4) impose a definite term of continuous imprisonment;

14 (5) order the defendant to make restitution under AS 12.55.045;

15 (6) order the defendant to carry out a continuous or periodic program of
16 community work under AS 12.55.055;

17 (7) suspend execution of all or a portion of the sentence imposed under
18 AS 12.55.080;

19 (8) suspend imposition of sentence under AS 12.55.085;

20 (9) order the forfeiture to the commissioner of public safety or a
21 municipal law enforcement agency of a deadly weapon that was in the actual
22 possession of or used by the defendant during the commission of an offense described
23 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

24 (10) order the defendant, while incarcerated, to participate in or comply
25 with the treatment plan of a rehabilitation program that is related to the defendant's
26 offense or to the defendant's rehabilitation if the program is made available to the
27 defendant by the Department of Corrections;

28 (11) order the forfeiture to the state of a motor vehicle, weapon,
29 electronic communication device, or money or other valuables, used in or obtained
30 through an offense that was committed for the benefit of, at the direction of, or in
31 association with a criminal street gang;

1 (12) order the defendant to have no contact, either directly or indirectly,
 2 with a victim or witness of the offense until the defendant is unconditionally
 3 discharged;

4 (13) order the defendant to refrain from consuming alcoholic beverages
 5 or using marijuana for a period of time.

6 * **Sec. 33.** AS 12.55.015(j) is amended to read:

7 (j) Nothing in (a)(13) of this section limits or restricts the authority of a court
 8 to order a person to refrain from the consumption of alcohol or use of marijuana as a
 9 condition of sentence or probation.

10 * **Sec. 34.** AS 12.55.155(c)(5) is amended to read:

11 (5) the defendant knew or reasonably should have known that the
 12 victim of the offense was particularly vulnerable or incapable of resistance due to
 13 advanced age, disability, ill health, homelessness, consumption of alcohol, marijuana,
 14 or drugs, or extreme youth or was for any other reason substantially incapable of
 15 exercising normal physical or mental powers of resistance;

16 * **Sec. 35.** AS 12.55.155(c)(30) is amended to read:

17 (30) the defendant is convicted of an offense specified in AS 11.41.410
 18 - 11.41.455, and the defendant knowingly supplied alcohol, marijuana, or a
 19 controlled substance to the victim in furtherance of the offense with the intent to make
 20 the victim incapacitated; in this paragraph, "incapacitated" has the meaning given in
 21 AS 11.41.470;

22 * **Sec. 36.** AS 12.55.155(g) is amended to read:

23 (g) Voluntary alcohol, marijuana, or other drug intoxication or chronic
 24 alcoholism or other drug or marijuana addiction may not be considered an
 25 aggravating or mitigating factor.

26 * **Sec. 37.** AS 12.55.185 is amended by adding a new paragraph to read:

27 (20) "marijuana" has the meaning given in AS 17.38.900.

28 * **Sec. 38.** AS 17.21.010(b) is amended to read:

29 (b) A synthetic drug is illicit if

30 (1) the label

31 (A) is false or misleading;

1 (B) does not specify the identity of the substances contained in
2 the synthetic drug; or

3 (C) does not specify the name and place of business of the
4 manufacturer, packer, or distributor; and

5 (2) the synthetic drug has one or more of the following characteristics:

6 (A) the packaging or labeling of the synthetic drug suggests that
7 the user will achieve euphoria, a hallucination, mood enhancement, relaxation,
8 stimulation, or another effect on the body;

9 (B) the name or packaging of the synthetic drug uses images or
10 labels suggesting that it is a controlled substance or marijuana or has the
11 effect of a controlled substance or marijuana;

12 (C) the synthetic drug resembles a controlled substance or
13 marijuana in appearance, in chemical structure, or composition;

14 (D) the synthetic drug is marketed or advertised for a particular
15 use or purpose and the cost of the synthetic drug is disproportionately higher
16 than other products marketed or advertised for the same or similar use or
17 purpose;

18 (E) the synthetic drug contains a warning label stating or
19 suggesting that the synthetic drug is in compliance with state laws regulating
20 controlled substances or marijuana;

21 (F) the synthetic drug is a product to which has been added a
22 synthetic chemical or synthetic chemical compound that does not have a
23 legitimate relationship to the advertised use of the product.

24 * **Sec. 39.** AS 17.21.090(3) is amended to read:

25 (3) "synthetic drug" means a substance that is

26 (A) a chemical or chemical compound intended, when
27 introduced into the human body, to mimic or simulate the effect of a drug,
28 [OR] controlled substance, or marijuana;

29 (B) in the form of

30 (i) a crystalline or powder product in crystalline, loose
31 powder, block, tablet, or capsule form; or

1 (ii) plant material in granular, loose leaf, powder, or
 2 liquid form or used as a food additive; and

3 (C) not a controlled substance or marijuana.

4 * **Sec. 40.** AS 17.30.070(c) is amended to read:

5 (c) If the classification of a controlled substance in a schedule set out in
 6 AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190] is different from its
 7 corresponding classification under federal law, the requirements of (a) and (b) of this
 8 section are determined by the classification of the substance under federal law.

9 * **Sec. 41.** AS 17.30.080(a) is amended to read:

10 (a) A controlled substance classified under federal law, other than marijuana,
 11 or in a schedule set out in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190] may
 12 not be administered, prescribed, dispensed, or distributed other than for a medical
 13 purpose.

14 * **Sec. 42.** AS 17.30.080(b) is amended to read:

15 (b) A person who violates (a) of this section, or who otherwise manufactures,
 16 distributes, dispenses, or conducts research with a controlled substance in the state
 17 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act),
 18 except as to marijuana, and regulations adopted under those sections, except as to
 19 marijuana, is guilty of misconduct involving a controlled substance under
 20 AS 11.71.010 - 11.71.060 in the degree appropriate to the circumstances as described
 21 in those sections. Upon filing a complaint, information, presentment, or indictment
 22 charging a medical assistance provider with misconduct involving a controlled
 23 substance under AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190], the attorney
 24 general shall, in writing, notify the commissioner of health and social services of the
 25 filing.

26 * **Sec. 43.** AS 17.37.030(a) is amended to read:

27 (a) A patient, primary caregiver, or alternate caregiver registered with the
 28 department under this chapter has an affirmative defense to a criminal prosecution
 29 related to marijuana to the extent provided in AS 17.38.330 [AS 11.71.090].

30 * **Sec. 44.** AS 17.37.330(8) is amended to read:

31 (8) "medical use" means the acquisition, possession, cultivation, use or

1 transportation of marijuana or paraphernalia related to the administration of marijuana
 2 to alleviate a debilitating medical condition under the provisions of this chapter and
 3 AS 17.38.330 [AS 11.71.090];"

4
 5 Renumber the following bill sections accordingly.

6
 7 Page 16, lines 6 - 7:

8 Delete "except that nothing in this chapter permits the growing of marijuana as
 9 proscribed in AS 11.71.071(a)(3)"

10
 11 Page 19, following line 27:

12 Insert new material to read:

13 "Sec. 17.38.160. Misconduct involving marijuana in the first degree. (a)

14 Except as authorized in AS 17.38.020, a person commits the crime of misconduct
 15 involving marijuana in the first degree if the person knowingly

16 (1) possesses 25 or more marijuana plants;

17 (2) manufactures more than six marijuana plants, not more than three of
 18 which are mature, flowering plants;

19 (3) delivers or transports more than one ounce of usable marijuana or
 20 more than six marijuana plants;

21 (4) delivers any amount of marijuana to a person under 21 years of age;

22 (5) manufactures a marijuana concentrate or extract using a volatile or
 23 explosive gas;

24 (6) delivers or transports one ounce or less of usable marijuana for
 25 remuneration; or

26 (7) delivers or transports up to six immature plants for remuneration.

27 (b) The provisions of (a) of this section do not apply to a marijuana
 28 establishment registered under this chapter, or an officer, agent, or employee of the
 29 registered marijuana establishment acting in compliance with the terms of the
 30 registration issued under this chapter.

31 (c) Misconduct involving marijuana in the first degree is a class A

1 misdemeanor.

2 **Sec. 17.38.170. Misconduct involving marijuana in the second degree.** (a)

3 Except as authorized in AS 17.38.020, a person commits the crime of misconduct
4 involving marijuana in the second degree if the person knowingly

5 (1) possesses more than six but less than 25 marijuana plants; or

6 (2) possesses, purchases, displays, delivers, or transports

7 (A) more than one ounce of usable marijuana in a public place
8 except when authorized by the terms of registration issued under this chapter;

9 or

10 (B) more than six marijuana plants except when authorized by
11 the terms of registration issued under this chapter; or

12 (3) sells any amount of marijuana

13 (b) The provisions of (a) of this section do not apply to a marijuana
14 establishment registered under this chapter, or an officer, agent, or employee of the
15 registered marijuana establishment acting in compliance with the terms of the
16 registration issued under this chapter.

17 (c) Misconduct involving marijuana in the second degree is a class B
18 misdemeanor.

19 **Sec. 17.38.180. Misconduct involving marijuana in the third degree.** (a) A

20 person commits the crime of misconduct involving marijuana in the third degree if the
21 person

22 (1) manufactures marijuana

23 (A) in a location where the plants are subject to public view
24 without the use of binoculars, aircraft, or other optical aids;

25 (B) in a location that is not secure from unauthorized access; or

26 (C) on property not lawfully in the possession of the person or
27 on property without the consent of the person in lawful possession of the
28 property;

29 (2) is under 18 years of age and possesses, uses, or displays any amount
30 of marijuana.

31 (b) Misconduct involving marijuana in the third degree is a violation and is

1 punishable by a fine of \$300; the court may reduce the fine to \$50 for a defendant
2 under 18 years of age who violates (a)(2) of this section if the defendant supplies to
3 the court, within six months, proof of completion of a community diversion panel or a
4 state-approved marijuana education or treatment program; in this subsection,
5 "community diversion panel" means a youth court or other group selected by the court
6 to serve as a sentencing option for a person convicted under (a)(2) of this section.

7 **Sec. 17.38.190. Misconduct involving marijuana in the fourth degree.** (a) A
8 person commits the crime of misconduct involving marijuana in the fourth degree if
9 the person

10 (1) is 21 years of age or older and uses any amount of marijuana in a
11 public place; or

12 (2) is under 21 years of age but at least 18 years of age and uses,
13 displays, or possesses any amount of marijuana.

14 (b) Misconduct involving marijuana in the fourth degree is a violation and is
15 punishable by a fine of \$100."

16
17 Page 20, line 1, following "premises":

18 Insert "who

19 (A) is not a patient registered under AS 17.37; and

20 (B) is at least 18 years of age"

21
22 Page 20, line 3, following "premises":

23 Insert "who

24 (A) is not a patient registered under AS 17.37; and

25 (B) is at least 18 years of age"

26
27 Page 20, line 8, following "age":

28 Insert "who

29 (A) is not a patient registered under AS 17.37; and

30 (B) is at least 18 years of age"

1 Page 21, lines 17 - 18:

2 Delete "AS 11.71.071, AS 17.38.200"

3 Insert "AS 17.38.180, 17.38.190, 17.38.200"

4

5 Page 21, line 20:

6 Delete "AS 11.71.071(a)(2)(A)"

7 Insert "AS 17.38.180(a)(2)"

8

9 Page 21, line 23:

10 Delete "AS 11.71.071(a)(2)(A) or AS 17.38.210"

11 Insert "AS 17.38.180(a)(2), 17.38.190(a)(2), or 17.38.210"

12

13 Page 24, lines 5 - 7:

14 Delete "and the provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA
15 controlled substance"

16

17 Page 24, lines 10 - 12:

18 Delete "the provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA
19 controlled substance,"

20

21 Page 24, following line 13:

22 Insert new material to read:

23 **"Sec. 17.38.320. Restriction on prosecution for certain persons in**
24 **connection with a significant adverse marijuana reaction.** A person may not be
25 prosecuted for a violation of AS 17.38.160(a)(1) or 17.38.190 if that person

26 (1) sought, in good faith, medical or law enforcement assistance for
27 another person who the person reasonably believed was experiencing a significant
28 adverse marijuana reaction and

29 (A) the evidence supporting the prosecution for an offense
30 under AS 17.38.160(a)(1) or 17.38.190 was obtained or discovered as a result
31 of the person's seeking medical or law enforcement assistance;

1 (B) the person remained at the scene with the other person until
2 medical or law enforcement assistance arrived; and

3 (C) the person cooperated with medical or law enforcement
4 personnel, including by providing identification;

5 (2) was experiencing a significant adverse marijuana reaction and
6 sought medical assistance, and the evidence supporting a prosecution for an offense
7 under AS 17.38.160(a)(1) or 17.38.190 was obtained as a result of the significant
8 adverse reaction and the need for medical assistance.

9 **Sec. 17.38.330. Affirmative defense to a prosecution under AS 17.38.160 -**
10 **17.38.190; medical use of marijuana.** (a) In a prosecution under AS 17.38.160 -
11 17.38.190 charging the manufacture, delivery, possession, possession with intent to
12 manufacture or deliver, use, or display of marijuana, it is an affirmative defense that
13 the defendant is a patient, or the primary caregiver or alternate caregiver for a patient,
14 and

15 (1) at the time of the manufacture, delivery, possession, possession with
16 intent to manufacture or deliver, use, or display, the patient was registered under
17 AS 17.37;

18 (2) the manufacture, delivery, possession, possession with intent to
19 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

20 (3) if the defendant is the

21 (A) primary caregiver of the patient, the defendant was in
22 physical possession of the caregiver registry identification card at the time of
23 the manufacture, delivery, possession, possession with intent to manufacture or
24 deliver, use, or display; or

25 (B) alternate caregiver of the patient, the defendant was in
26 physical possession of the caregiver registry identification card at the time of
27 the manufacture, delivery, possession, possession with intent to manufacture or
28 deliver, use, or display.

29 (b) In this section,

30 (1) "alternate caregiver" has the meaning given in AS 17.37.070;

31 (2) "patient" has the meaning given in AS 17.37.070;

1 (3) "primary caregiver" has the meaning given in AS 17.37.070."
2

3 Page 25, line 1:

4 Delete all material and insert:

5 "(18) "manufacture" means the production, preparation, propagation,
6 compounding, conversion, growing, or processing of marijuana, either directly or
7 indirectly by extraction from substances of natural origin, or independently by means
8 of chemical synthesis, or by a combination of extraction and chemical synthesis, and
9 includes the preparation, compounding, packaging, repackaging, labeling, or
10 relabeling of marijuana or its container; however, the growing of marijuana for
11 personal use is not manufacturing;"
12

13 Page 25, line 5:

14 Delete all material and insert:

15 "(21) "usable marijuana" means the seeds, leaves, buds, and flowers of
16 the plant genus cannabis, hashish, hash oil, tetrahydrocannabinols, and marijuana
17 concentrates, but does not include the stalks or roots of the plant genus cannabis.
18

19 Page 25, following line 5:

20 Insert new bill sections to read:

21 **** Sec. 58.** AS 18.66.100(c) is amended to read:

22 (c) A protective order under this section may

23 (1) prohibit the respondent from threatening to commit or committing
24 domestic violence, stalking, or harassment;

25 (2) prohibit the respondent from telephoning, contacting, or otherwise
26 communicating directly or indirectly with the petitioner;

27 (3) remove and exclude the respondent from the residence of the
28 petitioner, regardless of ownership of the residence;

29 (4) direct the respondent to stay away from the residence, school, or
30 place of employment of the petitioner or any specified place frequented by the
31 petitioner or any designated household member;

1 (5) prohibit the respondent from entering a propelled vehicle in the
2 possession of or occupied by the petitioner;

3 (6) prohibit the respondent from using or possessing a deadly weapon if
4 the court finds the respondent was in the actual possession of or used a weapon during
5 the commission of domestic violence;

6 (7) direct the respondent to surrender any firearm owned or possessed
7 by the respondent if the court finds that the respondent was in the actual possession of
8 or used a firearm during the commission of the domestic violence;

9 (8) request a peace officer to accompany the petitioner to the
10 petitioner's residence to ensure that the petitioner

11 (A) safely obtains possession of the petitioner's residence,
12 vehicle, or personal items; and

13 (B) is able to safely remove a vehicle or personal items from the
14 petitioner's residence;

15 (9) award temporary custody of a minor child to the petitioner and may
16 arrange for visitation with a minor child if the safety of the child and the petitioner can
17 be protected; if visitation is allowed, the court may order visitation under the
18 conditions provided in AS 25.20.061;

19 (10) give the petitioner possession and use of a vehicle and other
20 essential personal items, regardless of ownership of the items;

21 (11) prohibit the respondent from consuming controlled substances or
22 marijuana;

23 (12) require the respondent to pay support for the petitioner or a minor
24 child in the care of the petitioner if there is an independent legal obligation of the
25 respondent to support the petitioner or child;

26 (13) require the respondent to reimburse the petitioner or other person
27 for expenses associated with the domestic violence, including medical expenses,
28 counseling, shelter, and repair or replacement of damaged property;

29 (14) require the respondent to pay costs and fees incurred by the
30 petitioner in bringing the action under this chapter;

31 (15) order the respondent, at the respondent's expense, to participate in

1 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the
 2 standards set by, and that is approved by, the Department of Corrections under
 3 AS 44.28.020(b), or (B) treatment for the abuse of alcohol, marijuana, or controlled
 4 substances, or a combination of them [BOTH]; a protective order under this section
 5 may not require a respondent to participate in a program for the rehabilitation of
 6 perpetrators of domestic violence unless the program meets the standards set by, and
 7 that is approved by, the Department of Corrections under AS 44.28.020(b);

8 (16) order other relief the court determines necessary to protect the
 9 petitioner or any household member.

10 * **Sec. 59.** AS 18.67.080(c) is amended to read:

11 (c) In determining whether to make an order under this section, the board shall
 12 consider all circumstances determined to be relevant, including provocation, consent,
 13 or any other behavior of the victim that directly or indirectly contributed to the
 14 victim's injury or death, the prior case or social history, if any, of the victim, the
 15 victim's need for financial aid, and any other relevant matters. In applying this
 16 subsection,

17 (1) the board may not deny an order based on the factors in this
 18 subsection, unless those factors relate significantly to the occurrence that caused the
 19 victimization and are of such a nature and quality that a reasonable or prudent person
 20 would know that the factors or actions could lead to the crime and the victimization;

21 (2) with regard to circumstances in which the victim consented to,
 22 provoked, or incited the criminal act, the board may consider those circumstances only
 23 if the board finds that it is more probable than not that those circumstances occurred
 24 and were the cause of the crime and the victimization;

25 (3) the board may deny an order based on the victim's involvement with
 26 illegal drugs, only if

27 (A) the victim was involved in the manufacture or delivery of a
 28 controlled substance at the time of the crime or the crime and victimization
 29 was a direct result of the prior manufacture or delivery of a controlled
 30 substance; the evidence of this manufacture or delivery must be corroborated
 31 by law enforcement or other credible sources; and

(B) the evidence shows a direct correlation linking the illegal activity and the crime and victimization; or

(4) if a claim is based on a crime involving domestic violence or on a crime of sexual abuse of a minor or sexual assault and the offender is

(A) convicted of one of those crimes, notwithstanding (1) - (3) of this subsection, the board may not deny an order based on considerations of provocation, the use of alcohol, marijuana, or drugs by the victim, or the prior social history of the victim; or

(B) not convicted of one of those crimes, the board may not deny an order based on the involvement or behavior of the victim.

* Sec. 60. AS 18.67.101 is amended to read:

Sec. 18.67.101. Incidents and offenses to which this chapter applies. The board may order the payment of compensation in accordance with the provisions of this chapter for personal injury or death that resulted from

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of crime; or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses:

(A) murder in any degree;

(B) manslaughter;

(C) criminally negligent homicide;

(D) assault in any degree;

(E) kidnapping;

(F) sexual assault in any degree;

(G) sexual abuse of a minor;

(H) robbery in any degree;

(I) threats to do bodily harm;

(J) driving while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender is under

1 the influence of an alcoholic beverage, marijuana, inhalant, or controlled
2 substance;

3 (K) arson in the first degree;

4 (L) sex trafficking in violation of AS 11.66.110 or
5 11.66.130(a)(2);

6 (M) human trafficking in any degree; or

7 (N) unlawful exploitation of a minor.

8 * **Sec. 61.** AS 21.42.365(b) is amended to read:

9 (b) In this section, "alcoholism or drug abuse" means an illness characterized
10 by

11 (1) a physiological or psychological dependency, or both, on alcoholic
12 beverages, marijuana, or controlled substances as defined in AS 11.71.900; or

13 (2) habitual lack of self-control in using alcoholic beverages,
14 marijuana, or controlled substances to the extent that the person's health is
15 substantially impaired or the person's social or economic function is substantially
16 disrupted.

17 * **Sec. 62.** AS 23.10.600(a) is amended to read:

18 (a) If an employer has established a drug, marijuana, and alcohol testing
19 policy and initiated a testing program under AS 23.10.600 - 23.10.699, a person may
20 not bring an action for damages against the employer for

21 (1) actions in good faith based on the results of a positive drug test,
22 positive marijuana impairment test, or alcohol impairment test;

23 (2) failure to test for drugs, marijuana impairment, or alcohol
24 impairment or failure to test for a specific drug or another controlled substance;

25 (3) failure to test or, if tested, failure to detect a specific drug or other
26 substance, a medical condition, or a mental, emotional, or psychological disorder or
27 condition; or

28 (4) termination or suspension of a drug, marijuana, or alcohol
29 prevention or testing program or policy.

30 * **Sec. 63.** AS 23.10.600(b) is amended to read:

31 (b) A person may not bring an action for damages based on test results against

1 an employer who has established and implemented a drug, marijuana, and alcohol
 2 testing program under AS 23.10.600 - 23.10.699 unless the employer's action was
 3 based on a false positive test result and the employer knew or clearly should have
 4 known that the result was in error and ignored the true test result because of reckless
 5 or malicious disregard for the truth or the wilful intent to deceive or be deceived.

6 * **Sec. 64.** AS 23.10.600(d) is amended to read:

7 (d) A person may not bring an action for damages against an employer for an
 8 action taken related to a false negative drug test, marijuana impairment test, or
 9 alcohol impairment test.

10 * **Sec. 65.** AS 23.10.600(e) is amended to read:

11 (e) A person may not bring an action against an employer based on failure of
 12 the employer to establish a program or policy on substance abuse prevention or to
 13 implement drug testing, marijuana impairment testing, or alcohol impairment
 14 testing.

15 * **Sec. 66.** AS 23.10.610 is amended to read:

16 **Sec. 23.10.610. Limits on causes of action for disclosures.** A person may not
 17 bring an action for defamation of character, libel, slander, or damage to reputation
 18 against an employer who has established a program of drug testing, marijuana
 19 impairment testing, or alcohol impairment testing under AS 23.10.600 - 23.10.699 if
 20 the action is based on drug, marijuana, or alcohol testing unless

21 (1) the results of the test were disclosed to a person other than the
 22 employer, an authorized employee, agent or representative of the employer, the tested
 23 employee, the tested prospective employee, or another person authorized or privileged
 24 by law to receive the information;

25 (2) the information disclosed was a false positive test result;

26 (3) the false positive test result was disclosed negligently; and

27 (4) all elements of an action for defamation of character, libel, slander,
 28 or damage to reputation as established by law are satisfied.

29 * **Sec. 67.** AS 23.10.620(a) is amended to read:

30 (a) Under AS 23.10.600 - 23.10.699, an employer may only carry out the
 31 testing or retesting for the presence or evidence of use of drugs, marijuana, or alcohol

1 after adopting a written policy for the testing and retesting and informing employees
2 of the policy. The employer may inform employees by distributing a copy of the
3 policy to each employee subject to testing or making the policy available to employees
4 in the same manner as the employer informs its employees of other personnel
5 practices, including inclusion in a personnel handbook or manual or posting in a place
6 accessible to employees. The employer shall inform prospective employees that they
7 must undergo drug testing.

8 * **Sec. 68.** AS 23.10.620(b) is amended to read:

9 (b) The written policy on drug, marijuana, and alcohol testing must include, at
10 a minimum,

11 (1) a statement of the employer's policy respecting drug, marijuana,
12 and alcohol use by employees;

13 (2) a description of those employees or prospective employees who are
14 subject to testing;

15 (3) the circumstances under which testing may be required;

16 (4) the substances as to which testing may be required;

17 (5) a description of the testing methods and collection procedures to be
18 used, including an employee's right to a confirmatory drug test to be reviewed by a
19 licensed physician or doctor of osteopathy after an initial positive drug test result in
20 accordance with AS 23.10.640(d);

21 (6) the consequences of a refusal to participate in the testing;

22 (7) any adverse personnel action that may be taken based on the testing
23 procedure or results;

24 (8) the right of an employee, on the employee's request, to obtain the
25 written test results and the obligation of the employer to provide written test results to
26 the employee within five working days after a written request to do so, so long as the
27 written request is made within six months after the date of the test;

28 (9) the right of an employee, on the employee's request, to explain in a
29 confidential setting, a positive test result; if the employee requests in writing an
30 opportunity to explain the positive test result within 10 working days after the
31 employee is notified of the test result, the employer must provide an opportunity, in a

1 confidential setting, within 72 hours after receiving the employee's written notice, or
2 before taking adverse employment action;

3 (10) a statement of the employer's policy regarding the confidentiality
4 of the test results.

5 * **Sec. 69.** AS 23.10.620(c) is amended to read:

6 (c) An employer may require the collection and testing of a sample of an
7 employee's or prospective employee's urine or breath for any job-related purpose
8 consistent with business necessity and the terms of the employer's policy, including

9 (1) investigation of possible individual employee impairment;

10 (2) investigation of accidents in the workplace; an employee may be
11 required to undergo drug testing, marijuana impairment testing, or alcohol
12 impairment testing for an accident if the test is taken as soon as practicable after an
13 accident and the test is administered to employees who the employer reasonably
14 believes may have contributed to the accident;

15 (3) maintenance of safety for employees, customers, clients, or the
16 public at large;

17 (4) maintenance of productivity, the quality of products or services, or
18 security of property or information;

19 (5) reasonable suspicion that an employee may be affected by the use
20 of drugs, marijuana, or alcohol and that the use may adversely affect the job
21 performance or the work environment.

22 * **Sec. 70.** AS 23.10.620(e) is amended to read:

23 (e) If an employer institutes a policy of drug testing, marijuana impairment
24 testing, or alcohol impairment testing under AS 23.10.600 - 23.10.699, the policy
25 must identify which employees or positions are subject to testing. An employer must
26 test all or part of the work force based on consideration of safety for employees,
27 customers, clients, or the public at large. An employer may not initiate a testing
28 program under AS 23.10.600 - 23.10.699 until at least 30 days after the employer
29 notifies employees of the employer's intent to implement the program and makes
30 written copies of the policy available as required by (a) of this section.

31 * **Sec. 71.** AS 23.10.620(f) is amended to read:

1 (f) The provisions of AS 23.10.600 - 23.10.699 may not be construed to
2 discourage, restrict, limit, prohibit, or require on-site drug testing, marijuana
3 impairment testing, or alcohol impairment testing.

4 * **Sec. 72.** AS 23.10.630(a) is amended to read:

5 (a) An employer may test an employee for the presence of drugs or for
6 marijuana or alcohol impairment. An employer may test a prospective employee for
7 the presence of drugs.

8 * **Sec. 73.** AS 23.10.630(c) is amended to read:

9 (c) An employer shall normally schedule a drug test, marijuana impairment
10 test, or an alcohol impairment test of employees during, or immediately before or
11 after, a regular work period. Alcohol impairment, marijuana impairment, or drug
12 testing required by an employer is considered to be work time for the purposes of
13 compensation and benefits for current employees. Sample collection shall be
14 performed in a manner that guarantees the individual's privacy to the maximum extent
15 consistent with ensuring that the sample is not contaminated, adulterated, or
16 misidentified.

17 * **Sec. 74.** AS 23.10.630(d) is amended to read:

18 (d) An employer shall pay the entire actual costs for drug testing, marijuana
19 impairment testing, and alcohol impairment testing required of employees and
20 prospective employees. An employer shall also pay reasonable transportation costs to
21 an employee if the required test is conducted at a location other than the employee's
22 normal work site.

23 * **Sec. 75.** AS 23.10.640(a) is amended to read:

24 (a) Sample collection and testing for alcohol impairment, marijuana
25 impairment, and drugs under AS 23.10.600 - 23.10.699 shall be performed under
26 reasonable and sanitary conditions. The person collecting samples shall document the
27 sample, including labeling the sample to preclude to the extent reasonable the
28 possibility of misidentification of the person tested in relation to the test result
29 provided, and shall provide the person to be tested with an opportunity to provide
30 medical information that may be relevant to the test, including identifying current or
31 recently used prescription and nonprescription drugs.

1 * **Sec. 76.** AS 23.10.645(a) is amended to read:

2 (a) An employer may include on-site drug, marijuana, and alcohol tests of
3 employees and prospective employees as part of the employer's drug, marijuana, and
4 alcohol testing policy under AS 23.10.600 - 23.10.699. In on-site testing under this
5 section, an employer may only use products approved by the Food and Drug
6 Administration for employee testing and shall use the products in accordance with the
7 manufacturer's instructions. On-site testing under this section may only be conducted
8 by a test administrator who is certified under AS 23.10.650(b).

9 * **Sec. 77.** AS 23.10.650 is amended to read:

10 **Sec. 23.10.650. Training of test administrators.** (a) Each employer shall
11 ensure that at least one designated employee receives at least 60 minutes of training on
12 alcohol and marijuana misuse and at least an additional 60 minutes of training on the
13 use of controlled substances. The training will be used by the designee to determine
14 whether reasonable suspicion exists to require an employee to undergo testing under
15 AS 23.10.630.

16 (b) If an employer administers on-site drug, marijuana, or alcohol tests to test
17 employees or prospective employees under AS 23.10.645, the employer shall ensure
18 that each person who will be administering the on-site test receives training and meets
19 the qualifications of this subsection. An on-site test administrator must

20 (1) have been trained by the manufacturer of the test or the
21 manufacturer's representative on the proper procedure for administering the test and
22 accurate evaluation of on-site test results; training must be conducted in person by a
23 trainer from the manufacturer or the manufacturer's representative;

24 (2) be certified in writing by the manufacturer or the manufacturer's
25 representative as competent to administer and evaluate the on-site test;

26 (3) have been trained to recognize adulteration of a sample to be used
27 in on-site testing; and

28 (4) sign a statement that clearly states that the on-site test administrator
29 will hold all information related to any phase of a drug test confidential.

30 * **Sec. 78.** AS 23.10.655 is amended to read:

31 **Sec. 23.10.655. Disciplinary procedures.** (a) An employer may take adverse

1 employment action based on

2 (1) a positive drug test, marijuana impairment test, or alcohol
3 impairment test result that indicates a violation of the employer's written policy;

4 (2) the refusal of an employee or prospective employee to provide a
5 drug testing sample; or

6 (3) the refusal of an employee to provide a marijuana impairment
7 testing sample or an alcohol impairment testing sample.

8 (b) Adverse employment action under (a) of this section may include

9 (1) a requirement that the employee enroll in an employer provided or
10 employer approved rehabilitation, treatment, or counseling program; the program may
11 include additional drug testing, marijuana impairment testing, and alcohol
12 impairment testing; the employer may require participation in the program as a
13 condition of employment; costs of participating in the program may or may not be
14 covered by the employer's health plan or policies;

15 (2) suspension of the employee, with or without pay, for a designated
16 period of time;

17 (3) termination of employment;

18 (4) in case of drug testing, refusal to hire a prospective employee; and

19 (5) other adverse employment action.

20 * **Sec. 79.** AS 23.10.660 is amended to read:

21 **Sec. 23.10.660. Confidentiality of results; access to records.** A
22 communication received by an employer relevant to drug test, marijuana
23 impairment test, or alcohol impairment test results and received through the
24 employer's testing program is a confidential and privileged communication and may
25 not be disclosed except

26 (1) to the tested employee or prospective employee or another person
27 designated in writing by the employee or prospective employee;

28 (2) to individuals designated by an employer to receive and evaluate
29 test results or hear the explanation of the employee or prospective employee; or

30 (3) as ordered by a court or governmental agency.

31 * **Sec. 80.** AS 23.10.670 is amended to read:

1 **Sec. 23.10.670. Effect of mandatory testing obligations.** An employer who is
2 obligated by state or federal requirements to have a drug testing, marijuana
3 impairment testing, or alcohol impairment testing policy or program shall receive the
4 full benefits of AS 23.10.600 - 23.10.699 even if the required policy or program is not
5 consistent with AS 23.10.600 - 23.10.699, so long as the employer complies with the
6 state or federal requirements applicable to the employer's operations.

7 * **Sec. 81.** AS 23.10.699 is amended by adding a new paragraph to read:

8 (10) "marijuana" has the meaning given in AS 17.38.900.

9 * **Sec. 82.** AS 25.20.061 is amended to read:

10 **Sec. 25.20.061. Visitation in proceedings involving domestic violence.** If
11 visitation is awarded to a parent who has committed a crime involving domestic
12 violence, against the other parent or a child of the two parents, within the five years
13 preceding the award of visitation, the court may set conditions for the visitation,
14 including

15 (1) the transfer of the child for visitation must occur in a protected
16 setting;

17 (2) visitation shall be supervised by another person or agency and under
18 specified conditions as ordered by the court;

19 (3) the perpetrator shall attend and complete, to the satisfaction of the
20 court, a program for the rehabilitation of perpetrators of domestic violence that meets
21 the standards set by the Department of Corrections under AS 44.28.020(b), or other
22 counseling; the perpetrator shall be required to pay the costs of the program or other
23 counseling;

24 (4) the perpetrator shall abstain from possession or consumption of
25 alcohol, marijuana, or controlled substances during the visitation and for 24 hours
26 before visitation;

27 (5) the perpetrator shall pay costs of supervised visitation as set by the
28 court;

29 (6) the prohibition of overnight visitation;

30 (7) the perpetrator shall post a bond to the court for the return and
31 safety of the child; and

1 (8) any other condition necessary for the safety of the child, the other
2 parent, or other household member.

3 * **Sec. 83.** AS 28.01.010(j) is amended to read:

4 (j) A court may not enforce a municipal ordinance prescribing a penalty for
5 driving while under the influence of an alcoholic beverage, marijuana, inhalant, or
6 controlled substance or refusal to submit to a chemical test unless that ordinance
7 imposes ignition interlock device requirements under this title.

8 * **Sec. 84.** AS 28.15.031(b) is amended to read:

9 (b) The department may not issue an original or duplicate driver's license to,
10 nor renew or reinstate the driver's license of, a person

11 (1) whose license is suspended, revoked, canceled, or withdrawn in this
12 or any other jurisdiction except as otherwise provided in this chapter;

13 (2) who fails to appear in court for the adjudication of a certain vehicle,
14 driver, or traffic offense when the person's appearance is required by statute,
15 regulation, or court rule;

16 (3) who is an habitual user of alcohol, marijuana, or another drug to
17 such a degree that the person is incapable of safely driving a motor vehicle;

18 (4) when the department, based upon medical evidence, has determined
19 that because of the person's physical or mental disability the person is not able to drive
20 a motor vehicle safely;

21 (5) who is unable to understand official traffic control devices as
22 displayed in this state or who does not have a fair knowledge of traffic laws and
23 regulations, as demonstrated by an examination;

24 (6) who has knowingly made a false statement in the person's
25 application for a license or has committed fraud in connection with the person's
26 application for, or in obtaining or attempting to obtain, a license, or who has not
27 applied under oath on the form provided for the purpose of obtaining or attempting to
28 obtain a license or permit; or

29 (7) who is required under AS 28.20 to furnish proof of financial
30 responsibility and who has not done so.

31 * **Sec. 85.** AS 28.15.046(d) is amended to read:

1 (d) The department may not issue a license under this section if, at the time of
2 application

3 (1) and under circumstances other than those described in (2) of this
4 subsection, less than two years have elapsed from the date of the applicant's first
5 conviction of either driving while under the influence of an alcoholic beverage,
6 marijuana, inhalant, or controlled substance under AS 28.35.030 or refusal to submit
7 to a chemical test under AS 28.35.032;

8 (2) less than 10 years have elapsed from the date of the applicant's
9 conviction for

10 (A) refusal to submit to a chemical test under AS 28.35.032 if
11 the offense occurred while driving a commercial motor vehicle; or

12 (B) an offense described in AS 28.33.140(a)(1), (4), (5), or (10);

13 (3) the applicant has been convicted two or more times of misdemeanor
14 driving while under the influence of an alcoholic beverage, marijuana, inhalant, or
15 controlled substance under AS 28.35.030 or misdemeanor refusal to submit to a
16 chemical test under AS 28.35.032, or a combination of those offenses.

17 * **Sec. 86.** AS 28.15.046(k) is amended to read:

18 (k) Notwithstanding (c) or (d) of this section, the department may, under
19 standards set by regulation, issue a license to a person who

20 (1) may otherwise not be issued a license under (d)(3) of this section if,
21 in the 10-year period immediately preceding the application under this subsection, the
22 person has not been convicted of a violation of driving while under the influence of an
23 alcoholic beverage, marijuana, inhalant, or controlled substance under AS 28.35.030
24 or refusal to submit to a chemical test under AS 28.35.032;

25 (2) has been convicted of an offense listed under (c)(2)(A) - (D) of this
26 section if less than two years have elapsed since the date of conviction and the offense
27 was not against a child.

28 * **Sec. 87.** AS 28.15.081(a) is amended to read:

29 (a) The department shall examine every applicant for a driver's license. The
30 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
31 understand official traffic control devices, (3) knowledge of safe driving practices, (4)

1 knowledge of the effects of alcohol, marijuana, and drugs on drivers and the dangers
2 of driving under the influence of alcohol, marijuana, or drugs, (5) knowledge of the
3 laws on driving while under the influence of an alcoholic beverage, marijuana,
4 inhalant, or controlled substance, (6) knowledge of the laws on financial responsibility
5 and mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws
6 and regulations of the state. The examination may include a demonstration of ability to
7 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
8 and general class of vehicles for which the applicant seeks a license. However, an
9 applicant who has not been previously issued a driver's license by this or another
10 jurisdiction shall demonstrate ability and shall present medical information that the
11 department reasonably requires to determine fitness to safely drive a motor vehicle of
12 the type and general class of vehicles for which the applicant seeks a license.

13 * **Sec. 88.** AS 28.15.085 is amended to read:

14 **Sec. 28.15.085. Alcohol, marijuana, and drug awareness and safety**
15 **examination of applicants.** Notwithstanding another provision of this chapter and in
16 addition to other requirements, a person applying for a new license after expiration of
17 the person's license on reaching 21 years of age under AS 28.15.099 must pass a test
18 developed and administered by the department regarding alcohol, marijuana, and
19 drug awareness and safety and the laws relating to alcohol, marijuana, drugs, and
20 driving before the license may be issued or renewed.

21 * **Sec. 89.** AS 28.15.165(c) is amended to read:

22 (c) Unless the person has obtained a temporary permit or stay of a
23 departmental action under AS 28.15.166, if the chemical test administered under
24 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
25 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
26 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
27 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
28 original license, and, if the chemical test administered under AS 28.33.031(a)
29 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
30 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
31 department's action takes effect seven days after delivery to the person of the notice

1 required under (a) of this section, and after receipt of a sworn report of a law
2 enforcement officer

3 (1) that a chemical test administered under AS 28.33.031(a) or
4 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
5 chemical test administered under AS 28.33.031(a) produced a result described in
6 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
7 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

8 (2) that notice under (a) of this section was provided to the person; and

9 (3) describing the

10 (A) circumstances surrounding the arrest and the grounds for
11 the officer's belief that the person operated a motor vehicle, commercial motor
12 vehicle, or aircraft while under the influence of an alcoholic beverage,
13 marijuana, inhalant, or controlled substance in violation of AS 28.33.030 or
14 AS 28.35.030; or

15 (B) grounds for the officer's belief that the person operated a
16 motor vehicle or commercial motor vehicle that was involved in an accident
17 causing death or serious physical injury to another person.

18 * **Sec. 90.** AS 28.15.166(g) is amended to read:

19 (g) The hearing for review of action by the department under AS 28.15.165
20 shall be limited to the issues of whether the law enforcement officer had probable
21 cause to believe that the person was operating a motor vehicle or commercial motor
22 vehicle that was involved in an accident causing death or serious physical injury to
23 another, or that the person was operating a motor vehicle, commercial motor vehicle,
24 or aircraft while under the influence of an alcoholic beverage, marijuana, inhalant, or
25 controlled substance in violation of AS 28.33.030 or AS 28.35.030 and whether

26 (1) the person refused to submit to a chemical test authorized under
27 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
28 result in disqualification or the suspension, revocation, or denial of the person's
29 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
30 misdemeanor;

31 (2) the chemical test administered under AS 28.33.031(a) or

1 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or
 2 (3) the chemical test administered under AS 28.33.031(a) produced a
 3 result described in AS 28.33.030(a)(2).

4 * **Sec. 91.** AS 28.15.181(a) is amended to read:

5 (a) Conviction of any of the following offenses is grounds for the immediate
 6 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

7 (1) manslaughter or negligent homicide resulting from driving a motor
 8 vehicle;

9 (2) a felony in the commission of which a motor vehicle is used;

10 (3) failure to stop and give aid as required by law when a motor vehicle
 11 accident results in the death or personal injury of another;

12 (4) perjury or making a false affidavit or statement under oath to the
 13 department under a law relating to motor vehicles;

14 (5) operating a motor vehicle or aircraft while under the influence of an
 15 alcoholic beverage, marijuana, inhalant, or controlled substance;

16 (6) reckless driving;

17 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
 18 officer;

19 (8) refusal to submit to a chemical test authorized under
 20 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
 21 commercial motor vehicle, or aircraft while under the influence of an alcoholic
 22 beverage, marijuana, inhalant, or controlled substance, or authorized under
 23 AS 28.35.031(g);

24 (9) driving while license, privilege to drive, or privilege to obtain a
 25 license, canceled, suspended, or revoked, or in violation of a limitation;

26 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
 27 vehicle theft in the second degree in violation of AS 11.46.365.

28 * **Sec. 92.** AS 28.15.183(a) is amended to read:

29 (a) If a peace officer has probable cause to believe that a person who is at least
 30 14 years of age but not yet 21 years of age has operated a vehicle after consuming
 31 alcohol or marijuana in violation of AS 28.35.280, or refused to submit to a chemical

1 test under AS 28.35.285, and the peace officer has cited the person or arrested the
 2 person for the offense, the peace officer shall read a notice and deliver a copy to the
 3 person. The notice must advise that

4 (1) the department intends to revoke the person's driver's license or
 5 permit, privilege to drive, or privilege to obtain a license or permit;

6 (2) the person has the right to administrative review of the revocation;

7 (3) if the person has a driver's license or permit, the notice itself is a
 8 temporary driver's license or permit that expires 10 days after it is delivered to the
 9 person;

10 (4) revocation of the person's driver's license or permit, privilege to
 11 drive, or privilege to obtain a license or permit, takes effect 10 days after delivery of
 12 the notice to the person unless the person, within 10 days, requests an administrative
 13 review;

14 (5) if the person has been cited under AS 28.35.280 or under
 15 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,
 16 aircraft, or watercraft during the 24 hours following issuance of the citation.

17 * **Sec. 93.** AS 28.15.183(h) is amended to read:

18 (h) The department may waive the provisions of (g) of this section if a person
 19 who is required to obtain drug, marijuana, or alcoholism treatment resides in an area
 20 where drug rehabilitation, marijuana abuse treatment, or alcoholism treatment is
 21 unavailable.

22 * **Sec. 94.** AS 28.15.184(g) is amended to read:

23 (g) The hearing for review of a revocation by the department under
 24 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years
 25 of age but not yet 21 years of age and whether the person operated a vehicle after
 26 consuming alcohol or marijuana in violation of AS 28.35.280 or refused to submit to
 27 a chemical test of breath in violation of AS 28.35.285.

28 * **Sec. 95.** AS 28.15.191(e) is amended to read:

29 (e) A court shall report to the department every change of name authorized by
 30 it, and the name, address, age, description, and driver's license number if available, of
 31 every person adjudged to be afflicted with or suffering from a mental disability or

1 disease, or to be an habitual user of alcohol, marijuana, or another drug. The
2 department shall prescribe and furnish the forms for making these reports.

3 * **Sec. 96.** AS 28.15.191(g) is amended to read:

4 (g) A court that has ordered a person to refrain from consuming alcoholic
5 beverages or marijuana as part of a sentence for conviction of a crime under
6 AS 28.35.030, 28.35.032, or a similar municipal ordinance or as a condition of
7 probation or parole following a conviction under those sections or a similar municipal
8 ordinance shall

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

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

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

17 * **Sec. 97.** AS 28.15.191(h) is amended to read:

18 (h) The board of parole shall notify the department within two days whenever a
19 person has been ordered to refrain from consuming alcoholic beverages or marijuana
20 as a condition of parole, shall require the person to surrender the person's license and
21 identification card, and shall inform the person that the person's license and
22 identification card are subject to cancellation under AS 28.15.161 and AS 18.65.310,
23 and that, if the person is otherwise qualified to receive a license or identification card,
24 when the person obtains a new license or identification card, the license or
25 identification card must list the restriction imposed by AS 04.16.160.

26 * **Sec. 98.** AS 28.15.271(e) is amended to read:

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

30 * **Sec. 99.** AS 28.20.230(c) is amended to read:

31 (c) Notwithstanding any other provisions of this chapter, a person convicted of

1 driving under the influence of an alcoholic beverage, marijuana, inhalant, or
 2 controlled substance in violation of AS 28.35.030, or convicted of refusal to submit to
 3 a chemical test of breath under AS 28.35.032, shall maintain proof of financial
 4 responsibility for the future for (1) five years if the person has not been previously
 5 convicted; (2) 10 years if the person has been previously convicted once; (3) 20 years
 6 if the person has been previously convicted twice; (4) for as long as the person is
 7 licensed to drive under AS 28.15 if the person has been previously convicted three or
 8 more times. In this subsection, "previously convicted" has the meaning given in
 9 AS 28.35.030.

10 * **Sec. 100.** AS 28.33.030 is amended to read:

11 **Sec. 28.33.030. Operating a commercial motor vehicle while under the**
 12 **influence of an alcoholic beverage, marijuana, inhalant, or controlled substance.**

13 (a) A person commits the crime of operating a commercial motor vehicle while under
 14 the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance if
 15 the person operates a commercial motor vehicle

16 (1) while under the influence of an alcoholic beverage, marijuana,
 17 inhalant, or any controlled substance;

18 (2) when, as determined by a chemical test taken within four hours after
 19 the alleged offense was committed, there is 0.04 percent or more by weight of alcohol
 20 in the person's blood or 40 milligrams or more of alcohol for each [PER] 100
 21 milliliters of blood, or when there is 0.04 grams or more of alcohol for each [PER]
 22 210 liters of the person's breath; or

23 (3) while under the combined influence of an alcoholic beverage,
 24 marijuana, inhalant, and a controlled substance.

25 (b) Operating a commercial motor vehicle while under the influence of an
 26 alcoholic beverage, marijuana, inhalant, or controlled substance is a class A
 27 misdemeanor.

28 (c) The sentencing of a person convicted under this section shall be in
 29 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
 30 and other provisions of AS 28.35.030, as if the person had been convicted of a
 31 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a

1 commercial motor vehicle while under the influence of an alcoholic beverage,
2 marijuana, inhalant, or controlled substance under this section, and for refusal to
3 submit to a chemical test under AS 28.35.032, if arising out of a single transaction, are
4 considered one previous conviction.

5 * **Sec. 101.** AS 28.33.031(a) is amended to read:

6 (a) A person who operates a commercial motor vehicle in this state is
7 considered to have given consent to a chemical test or tests

8 (1) of the person's breath if lawfully arrested for an offense arising out
9 of acts alleged to have been committed when the person was operating the commercial
10 motor vehicle while under the influence of an alcoholic beverage, marijuana,
11 inhalant, or controlled substance; the test or tests may be administered at the direction
12 of a law enforcement officer who has probable cause to believe that the person was
13 operating a commercial motor vehicle while under the influence of an alcoholic
14 beverage, marijuana, inhalant, or controlled substance in violation of AS 28.33.030
15 or AS 28.35.030;

16 (2) of the person's breath and blood for the purpose of determining the
17 alcoholic content of the person's breath and blood and is considered to have given
18 consent to a chemical test or tests of the person's blood and urine for the purpose of
19 determining the presence of marijuana or controlled substances in the person's blood
20 and urine if the person is involved in a motor vehicle accident that causes death or
21 serious physical injury to another person; the test or tests may be administered at the
22 direction of a law enforcement officer who has probable cause to believe that the
23 person was operating a commercial motor vehicle that was involved in an accident
24 causing death or serious physical injury to another person.

25 * **Sec. 102.** AS 28.33.130(a) is amended to read:

26 (a) A person may not operate a commercial motor vehicle or be on duty

27 (1) if, within the preceding four hours, the person

28 (A) consumed or was under the influence of

29 (i) an alcoholic beverage;

30 (ii) a controlled substance not prescribed by a physician;

31 [OR]

1 (iii) a controlled substance prescribed by a physician
 2 that might impair a person's ability to operate a commercial motor
 3 vehicle; or

4 **(iv) marijuana; or**

5 (B) had any measurable alcohol concentration within the blood
 6 or breath or any detectable presence of alcohol;

7 (2) while in possession of an alcoholic beverage, **marijuana**, or a
 8 controlled substance not prescribed by a physician unless

9 (A) the alcoholic beverage, **marijuana**, or controlled substance
 10 is manifested and documented as part of an authorized shipment of cargo; or

11 (B) under AS 04, the alcoholic beverage may be legally served
 12 to passengers being carried for hire;

13 (3) after being placed out of service for violation of a regulation
 14 adopted under AS 19.10.060(c) or AS 28.05.011; or

15 (4) with an invalid operator's or commercial operator's license.

16 * **Sec. 103.** AS 28.33.140(a) is amended to read:

17 (a) In addition to any court action or administrative action in this or any other
 18 jurisdiction, conviction of a person who holds or is required to have a commercial
 19 driver's license or commercial instruction permit of any of the following offenses is
 20 grounds for immediate disqualification from driving a commercial motor vehicle for
 21 the periods set out in this section:

22 (1) operating a commercial motor vehicle while under the influence of
 23 an alcoholic beverage, **marijuana**, inhalant, or controlled substance in violation of
 24 AS 28.33.030;

25 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

26 (3) operating a motor vehicle while under the influence of an alcoholic
 27 beverage, **marijuana**, inhalant, or controlled substance in violation of AS 28.35.030;

28 (4) leaving the scene of an accident in violation of AS 28.35.060, or
 29 failing to file, or providing false information in, an accident report in violation of
 30 AS 28.35.110;

31 (5) a felony under state or federal law that was facilitated because the

1 person used a motor vehicle;

2 (6) a serious traffic violation;

3 (7) taking one of the following actions in violation of regulations
4 adopted under AS 19.10.060(c) or AS 28.05.011:

5 (A) driving after being placed out of service; or

6 (B) operating a commercial vehicle that has been placed out of
7 service;

8 (8) operating a commercial motor vehicle in violation of a federal or
9 state statute or regulation, or a local law or ordinance, relating to railroad-highway
10 grade crossings;

11 (9) operating a commercial motor vehicle while the driver's commercial
12 motor vehicle license is suspended, revoked, or canceled, or the driver is disqualified;

13 (10) causing a fatality through the negligent operation, or operation in
14 violation of a felony criminal law, of a commercial motor vehicle.

15 * **Sec. 104.** AS 28.33.190 is amended by adding a new paragraph to read:

16 (17) "marijuana," has the meaning given in AS 17.38.900.

17 * **Sec. 105.** AS 28.35.028(h)(1) is amended to read:

18 (1) "court-ordered treatment program" or "treatment plan" means a
19 treatment program for a person who consumes alcohol, marijuana, or drugs and that

20 (A) requires participation for at least 18 consecutive months;

21 (B) includes planning and treatment for alcohol, marijuana, or
22 drug addiction;

23 (C) includes emphasis on personal responsibility;

24 (D) provides in-court recognition of progress and sanctions for
25 relapses;

26 (E) requires payment of restitution to victims and completion of
27 community work service;

28 (F) includes physician-approved treatment of physical addiction
29 and treatment of the psychological causes of addiction;

30 (G) includes a monitoring program and physical placement or
31 housing; and

1 (H) requires adherence to conditions of probation;"

2

3 Renumber the following bill sections accordingly.

4

5 Page 25, line 26:

6 Delete "AS 11.71.900"

7 Insert "AS 17.38.900"

8

9 Page 25, following line 29:

10 Insert new bill sections to read:

11 *** Sec. 109.** AS 28.35.030(a) is amended to read:

12 (a) A person commits the crime of driving while under the influence of an
13 alcoholic beverage, marijuana, inhalant, or controlled substance if the person
14 operates or drives a motor vehicle or operates an aircraft or a watercraft

15 (1) while under the influence of an alcoholic beverage, intoxicating
16 liquor, marijuana, inhalant, or any controlled substance, singly or in combination; or

17 (2) and if, as determined by a chemical test taken within four hours
18 after the alleged operating or driving, there is 0.08 percent or more by weight of
19 alcohol in the person's blood or 80 milligrams or more of alcohol for each [PER] 100
20 milliliters of blood, or if there is 0.08 grams or more of alcohol for each [PER] 210
21 liters of the person's breath.

22 *** Sec. 110.** AS 28.35.030(b) is amended to read:

23 (b) Except as provided under (n) of this section, driving while under the
24 influence of an alcoholic beverage, marijuana, inhalant, or controlled substance is a
25 class A misdemeanor. Upon conviction,

26 (1) the court shall impose a minimum sentence of imprisonment of

27 (A) not less than 72 consecutive hours, require the person to use
28 an ignition interlock device after the person regains the privilege, including
29 any limited privilege, to operate a motor vehicle for a minimum of six months,
30 and impose a fine of not less than \$1,500 if the person has not been previously
31 convicted;

1 (B) not less than 20 days, require the person to use an ignition
2 interlock device after the person regains the privilege, including any limited
3 privilege, to operate a motor vehicle for a minimum of 12 months, and impose
4 a fine of not less than \$3,000 if the person has been previously convicted once;

5 (C) not less than 60 days, require the person to use an ignition
6 interlock device after the person regains the privilege, including any limited
7 privilege, to operate a motor vehicle for a minimum of 18 months, and impose
8 a fine of not less than \$4,000 if the person has been previously convicted twice
9 and is not subject to punishment under (n) of this section;

10 (D) not less than 120 days, require the person to use an ignition
11 interlock device after the person regains the privilege, including any limited
12 privilege, to operate a motor vehicle for a minimum of 24 months, and impose
13 a fine of not less than \$5,000 if the person has been previously convicted three
14 times and is not subject to punishment under (n) of this section;

15 (E) not less than 240 days, require the person to use an ignition
16 interlock device after the person regains the privilege, including any limited
17 privilege, to operate a motor vehicle for a minimum of 30 months, and impose
18 a fine of not less than \$6,000 if the person has been previously convicted four
19 times and is not subject to punishment under (n) of this section;

20 (F) not less than 360 days, require the person to use an ignition
21 interlock device after the person regains the privilege, including any limited
22 privilege, to operate a motor vehicle for a minimum of 36 months, and impose
23 a fine of not less than \$7,000 if the person has been previously convicted more
24 than four times and is not subject to punishment under (n) of this section;

25 (2) the court may not

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

28 (i) serve the minimum imprisonment under (1) of this
29 subsection;

30 (ii) pay the minimum fine required under (1) of this
31 subsection;

1 (B) suspend imposition of sentence; or

2 (C) suspend the requirement for an ignition interlock device for
3 a violation of (a)(1) of this section involving an alcoholic beverage or
4 intoxicating liquor, singly or in combination, or a violation of (a)(2) of this
5 section;

6 (3) the court shall revoke the person's driver's license, privilege to
7 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
8 motor vehicle, aircraft, or watercraft that was used in commission of the offense be
9 forfeited under AS 28.35.036; and

10 (4) the court may order that the person, while incarcerated or as a
11 condition of probation or parole, take a drug or combination of drugs intended to
12 prevent the consumption of an alcoholic beverage; a condition of probation or parole
13 imposed under this paragraph is in addition to any other condition authorized under
14 another provision of law.

15 * **Sec. 111.** AS 28.35.031(a) is amended to read:

16 (a) A person who operates or drives a motor vehicle in this state or who
17 operates an aircraft as defined in AS 28.35.030(u) or who operates a watercraft as
18 defined in AS 28.35.030(u) shall be considered to have given consent to a chemical
19 test or tests of the person's breath for the purpose of determining the alcoholic content
20 of the person's blood or breath if lawfully arrested for an offense arising out of acts
21 alleged to have been committed while the person was operating or driving a motor
22 vehicle or operating an aircraft or a watercraft while under the influence of an
23 alcoholic beverage, marijuana, inhalant, or controlled substance or if lawfully
24 arrested under AS 28.35.280 for the offense of minor operating a vehicle after
25 consuming alcohol or marijuana. The test or tests shall be administered at the
26 direction of a law enforcement officer who has probable cause to believe that the
27 person was operating or driving a motor vehicle or operating an aircraft or a watercraft
28 in this state while under the influence of an alcoholic beverage, marijuana, inhalant,
29 or controlled substance or that the person was a minor operating a vehicle after
30 consuming alcohol.

31 * **Sec. 112.** AS 28.35.031(g) is amended to read:

1 (g) A person who operates or drives a motor vehicle in this state shall be
2 considered to have given consent to a chemical test or tests of the person's breath and
3 blood for the purpose of determining the alcoholic content of the person's breath and
4 blood and shall be considered to have given consent to a chemical test or tests of the
5 person's blood and urine for the purpose of determining the presence of marijuana or
6 controlled substances in the person's blood and urine if the person is involved in a
7 motor vehicle accident that causes death or serious physical injury to another person.
8 The test or tests may be administered at the direction of a law enforcement officer who
9 has probable cause to believe that the person was operating or driving a motor vehicle
10 in this state that was involved in an accident causing death or serious physical injury to
11 another person.

12 * **Sec. 113.** AS 28.35.032(a) is amended to read:

13 (a) If a person under arrest for operating a motor vehicle or aircraft while under
14 the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance
15 refuses the request of a law enforcement officer to submit to a chemical test authorized
16 under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person involved in a motor
17 vehicle accident that causes death or serious physical injury to another person refuses
18 the request of a law enforcement officer to submit to a chemical test authorized under
19 AS 28.33.031(a)(2) or AS 28.35.031(g), after being advised by the officer that the
20 refusal will result in the denial or revocation of the driver's license, privilege to drive,
21 or privilege to obtain a license, that the refusal may be used against the person in a
22 civil or criminal action or proceeding arising out of an act alleged to have been
23 committed by the person while operating a motor vehicle or aircraft while under the
24 influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, and
25 that the refusal is a crime, a chemical test may not be given, except as provided by
26 AS 28.35.035. If a person under arrest for operating a watercraft while under the
27 influence of an alcoholic beverage, marijuana, inhalant, or controlled substance
28 refuses the request of a law enforcement officer to submit to a chemical test authorized
29 under AS 28.35.031(a), after being advised by the officer that the refusal may be used
30 against the person in a civil or criminal action or proceeding arising out of an act
31 alleged to have been committed by the person while operating a watercraft while

1 under the influence of an alcoholic beverage, marijuana, inhalant, or controlled
2 substance, and that the refusal is a crime, a chemical test may not be given, except as
3 provided by AS 28.35.035.

4 * **Sec. 114.** AS 28.35.032(e) is amended to read:

5 (e) The refusal of a person to submit to a chemical test authorized under
6 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
7 action or proceeding arising out of an act alleged to have been committed by the
8 person while operating or driving a motor vehicle or operating an aircraft or watercraft
9 while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled
10 substance.

11 * **Sec. 115.** AS 28.35.033(a) is amended to read:

12 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
13 alleged to have been committed by a person while operating or driving a motor vehicle
14 or operating an aircraft or a watercraft while under the influence of an alcoholic
15 beverage, marijuana, inhalant, or controlled substance, the amount of alcohol in the
16 person's blood or breath at the time alleged shall give rise to the following
17 presumptions:

18 (1) If there was 0.04 percent or less by weight of alcohol in the person's
19 blood, or 40 milligrams or less of alcohol for each [PER] 100 milliliters of the
20 person's blood, or 0.04 grams or less of alcohol for each [PER] 210 liters of the
21 person's breath, it shall be presumed that the person was not under the influence of an
22 alcoholic beverage.

23 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
24 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
25 of alcohol for each [PER] 100 milliliters of the person's blood, or in excess of 0.04
26 grams but less than 0.08 grams of alcohol for each [PER] 210 liters of the person's
27 breath, that fact does not give rise to any presumption that the person was or was not
28 under the influence of an alcoholic beverage, but that fact may be considered with
29 other competent evidence in determining whether the person was under the influence
30 of an alcoholic beverage.

31 (3) If there was 0.08 percent or more by weight of alcohol in the

1 person's blood, or 80 milligrams or more of alcohol for each [PER] 100 milliliters of
2 the person's blood, or 0.08 grams or more of alcohol for each [PER] 210 liters of the
3 person's breath, it shall be presumed that the person was under the influence of an
4 alcoholic beverage.

5 * **Sec. 116.** AS 28.35.035(a) is amended to read:

6 (a) If a person is under arrest for an offense arising out of acts alleged to have
7 been committed while the person was operating a motor vehicle, aircraft, or watercraft
8 while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled
9 substance, and that arrest results from an accident that causes death or physical injury
10 to another person, a chemical test may be administered without the consent of the
11 person arrested to determine the amount of alcohol in that person's breath or blood or
12 to determine the presence of marijuana or controlled substances in that person's
13 blood and urine.

14 * **Sec. 117.** AS 28.35.035(b) is amended to read:

15 (b) A person who is unconscious or otherwise in a condition rendering that
16 person incapable of refusal is considered not to have withdrawn the consent provided
17 under AS 28.33.031(a) or AS 28.35.031(a) or (g) and a chemical test may be
18 administered to determine the amount of alcohol in that person's breath or blood or to
19 determine the presence of marijuana or controlled substances in that person's blood
20 and urine. A person who is unconscious or otherwise incapable of refusal need not be
21 placed under arrest before a chemical test may be administered.

22 * **Sec. 118.** AS 28.35.039(1) is amended to read:

23 (1) "alcohol safety action program" means a program for alcohol,
24 marijuana, and substance abuse screening, referral, and monitoring developed and
25 implemented or approved by the Department of Health and Social Services under
26 AS 47.37;

27 * **Sec. 119.** AS 28.35.039 is amended by adding a new paragraph to read:

28 (3) "marijuana" has the meaning given in AS 17.38.900.

29 * **Sec. 120.** AS 28.35.280(a) is amended to read:

30 (a) A person who is at least 14 years of age but not yet 21 years of age
31 commits the offense of minor operating a vehicle after consuming alcohol or

1 marijuana if the person operates or drives a motor vehicle or operates an aircraft or a
 2 watercraft after having consumed any quantity of alcohol or marijuana. A peace
 3 officer who has probable cause to believe that a person has committed the offense of
 4 minor operating a vehicle after consuming alcohol or marijuana may

5 (1) place the person under arrest;

6 (2) request that the person submit to a chemical test or tests of the
 7 person's breath for the purpose of determining the alcoholic content of the person's
 8 blood or breath; and

9 (3) transport the person to a location at which a chemical or other test
 10 authorized under (2) of this subsection may be administered.

11 * **Sec. 121.** AS 28.35.280(b) is amended to read:

12 (b) If a chemical test under this section reveals any alcohol or marijuana
 13 concentration within the person's blood or breath, the person shall be cited for
 14 violating this section and then released unless there is a lawful reason for further
 15 detention. A person who is 18 years of age or older shall be released on the person's
 16 own recognizance. A person who is under the age of 18 shall be released to a parent,
 17 guardian, or legal custodian.

18 * **Sec. 122.** AS 28.35.280(d) is amended to read:

19 (d) The offense of a minor operating a vehicle after consuming alcohol or
 20 marijuana is an infraction, and, if the minor

21 (1) has not been previously convicted under this section, AS 28.35.285,
 22 or 28.35.290, upon conviction, the court shall impose a

23 (A) fine of \$500; and

24 (B) period of community work service of not less than 20 hours
 25 nor more than 40 hours; the community work service under this subparagraph
 26 must be related to education about or prevention or treatment of misuse of
 27 alcohol or marijuana if opportunities are available for that type of work
 28 service in the community; if those [SUCH] opportunities are not available, the
 29 court shall make other provisions for the work service;

30 (2) has been previously convicted once under this section,
 31 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

1 (A) fine of \$1,000; and

2 (B) period of community work service of not less than 40 hours
3 nor more than 60 hours; the community work service under this subparagraph
4 must be related to education about or prevention or treatment of misuse of
5 alcohol or marijuana if opportunities are available for that type of work
6 service in the community; if those [SUCH] opportunities are not available, the
7 court shall make other provisions for the work service;

8 (3) has been previously convicted two or more times under this section,
9 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

10 (A) fine of \$1,500; and

11 (B) period of community work service of not less than 60 hours
12 nor more than 80 hours; the community work service under this subparagraph
13 must be related to education about or prevention or treatment of misuse of
14 alcohol or marijuana if opportunities are available for that type of work
15 service in the community; if those [SUCH] opportunities are not available, the
16 court shall make other provisions for the work service.

17 * **Sec. 123.** AS 28.35.285(a) is amended to read:

18 (a) If a person under arrest for minor operating a vehicle after consuming
19 alcohol or marijuana refuses the request of a peace officer to submit to a chemical
20 test or tests of the person's breath authorized under AS 28.35.031(a) and 28.35.280(a),
21 after being advised by the officer that the refusal will result in the denial or revocation
22 of the driver's license, privilege to drive, or privilege to obtain a license, that the
23 refusal may be used against the person in a civil or criminal action or proceeding
24 arising out of an act alleged to have been committed by the person while operating a
25 vehicle after consuming alcohol or marijuana, and that the refusal is a violation, a
26 chemical test may not be given.

27 * **Sec. 124.** AS 28.35.285(c) is amended to read:

28 (c) The refusal of a minor to submit to a chemical test authorized under
29 AS 28.35.031(a) and 28.35.280(a) is admissible evidence in a civil or criminal action
30 or proceeding arising out of an act alleged to have been committed by the person while
31 operating a vehicle after consuming alcohol or marijuana.

1 * **Sec. 125.** AS 28.35.285(d) is amended to read:

2 (d) Refusal to submit to a chemical test or tests of the person's breath requested
3 under AS 28.35.280 is an infraction, and, if the minor

4 (1) has not been previously convicted under this section, AS 28.35.280,
5 or 28.35.290, upon conviction, the court shall impose a

6 (A) fine of \$500; and

7 (B) period of community work service of not less than 20 hours
8 nor more than 40 hours; the community work service under this subparagraph
9 must be related to education about or prevention or treatment of misuse of
10 alcohol or marijuana if opportunities are available for that type of work
11 service in the community; if those [SUCH] opportunities are not available, the
12 court shall make other provisions for the work service;

13 (2) has been previously convicted once under this section,
14 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

15 (A) fine of \$1,000; and

16 (B) period of community work service of not less than 40 hours
17 nor more than 60 hours; the community work service under this subparagraph
18 must be related to education about or prevention or treatment of misuse of
19 alcohol or marijuana if opportunities are available for that type of work
20 service in the community; if those [SUCH] opportunities are not available, the
21 court shall make other provisions for the work service;

22 (3) has been previously convicted two or more times under this section,
23 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

24 (A) fine of \$1,500; and

25 (B) period of community work service of not less than 60 hours
26 nor more than 80 hours; the community work service under this subparagraph
27 must be related to education about or prevention or treatment of misuse of
28 alcohol or marijuana if opportunities are available for that type of work
29 service in the community; if those [SUCH] opportunities are not available, the
30 court shall make other provisions for the work service.

31 * **Sec. 126.** AS 28.35.290(a) is amended to read:

1 (a) A person who has been cited for minor operating a vehicle after consuming
 2 alcohol or marijuana under AS 28.35.280 or for refusal to submit to a chemical test
 3 of breath under AS 28.35.285 may not operate a motor vehicle, aircraft, or watercraft
 4 during the 24 hours following issuance of the citation.

5 * Sec. 127. AS 28.35.290(b) is amended to read:

6 (b) Operating a motor vehicle during the 24 hours after being cited for minor
 7 operating a vehicle after consuming alcohol or marijuana or for minor's refusal to
 8 submit to a chemical test is an infraction, and, if the minor

9 (1) has not been previously convicted under this section, AS 28.35.280,
 10 or 28.35.285, upon conviction, the court shall impose a

11 (A) fine of \$500; and

12 (B) period of community work service of not less than 20 hours
 13 nor more than 40 hours; the community work service under this subparagraph
 14 must be related to education about or prevention or treatment of misuse of
 15 alcohol or marijuana if opportunities are available for that type of work
 16 service in the community; if those [SUCH] opportunities are not available, the
 17 court shall make other provisions for the work service;

18 (2) has been previously convicted once under this section,
 19 AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

20 (A) fine of \$1,000; and

21 (B) period of community work service of not less than 40 hours
 22 nor more than 60 hours; the community work service under this subparagraph
 23 must be related to education about or prevention or treatment of misuse of
 24 alcohol or marijuana if opportunities are available for that type of work
 25 service in the community; if those [SUCH] opportunities are not available, the
 26 court shall make other provisions for the work service;

27 (3) has been previously convicted two or more times under this section,
 28 AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

29 (A) fine of \$1,500; and

30 (B) period of community work service of not less than 60 hours
 31 nor more than 80 hours; the community work service under this subparagraph

1 must be related to education about or prevention or treatment of misuse of
 2 alcohol or marijuana if opportunities are available for that type of work
 3 service in the community; if those [SUCH] opportunities are not available, the
 4 court shall make other provisions for the work service.

5 * **Sec. 128.** AS 28.37.140(a) is amended to read:

6 (a) The licensing authority in the home state, for the purposes of suspending,
 7 revoking, or limiting the license to operate a motor vehicle, shall give the same effect
 8 to the conduct reported under AS 28.37.130 as it would if the conduct had occurred in
 9 the home state, in the case of a conviction for

10 (1) manslaughter or negligent homicide resulting from the operation of
 11 a motor vehicle;

12 (2) driving a motor vehicle while under the influence of intoxicating
 13 liquor, marijuana, or a narcotic drug, or under the influence of any other drug to a
 14 degree that renders the driver incapable of safely driving a motor vehicle;

15 (3) any felony in the commission of which a motor vehicle is used;

16 (4) failure to stop and render aid in the event of a motor vehicle
 17 accident resulting in the death or personal injury of another.

18 * **Sec. 129.** AS 33.16.060(c) is amended to read:

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

23 (1) include random testing for controlled substance, marijuana, and
 24 alcoholic beverage use;

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

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

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

31 (3) include a means to notify the board by the close of the next business

1 day that a parole violation report has been filed on a parolee placed in the program by
2 the board.

3 * **Sec. 130.** AS 33.16.150(b) is amended to read:

4 (b) The board may require as a condition of special medical, discretionary, or
5 mandatory parole, or a member of the board acting for the board under (e) of this
6 section may require as a condition of mandatory parole, that a prisoner released on
7 parole

8 (1) not possess or control a defensive weapon, a deadly weapon other
9 than an ordinary pocket knife with a blade three inches or less in length, or
10 ammunition for a firearm, or reside in a residence where there is a firearm capable of
11 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
12 weapon," "defensive weapon," and "firearm" have the meanings given in
13 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

14 (2) refrain from possessing or consuming alcoholic beverages **or**
15 **marijuana**;

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

18 (4) submit to appropriate medical, mental health, or controlled
19 substance, **marijuana**, or alcohol examination, treatment, or counseling;

20 (5) submit to periodic examinations designed to detect the use of
21 alcohol, **marijuana**, or controlled substances; the periodic examinations may include
22 testing under the program established under AS 33.16.060(c);

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

25 (7) refrain from opening, maintaining, or using a checking account or
26 charge account;

27 (8) refrain from entering into a contract other than a prenuptial contract
28 or a marriage contract;

29 (9) refrain from operating a motor vehicle;

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

1 (11) refrain from entering an establishment where marijuana is
2 sold or otherwise dispensed;

3 (12) refrain from participating in any other activity or conduct
4 reasonably related to the parolee's offense, prior record, behavior or prior behavior,
5 current circumstances, or perceived risk to the community, or from associating with
6 any other person that the board determines is reasonably likely to diminish the
7 rehabilitative goals of parole, or that may endanger the public; in the case of special
8 medical parole, for a prisoner diagnosed with a communicable disease, comply with
9 conditions set by the board designed to prevent the transmission of the disease.

10 * **Sec. 131.** AS 33.16.900(3) is amended to read:

11 (3) "controlled substance" means a drug, substance, or immediate
12 precursor included in the schedules set out in AS 11.71.140 - 11.71.180 [AS 11.71.140
13 - 11.71.190];

14 * **Sec. 132.** AS 33.30.015(a) is amended to read:

15 (a) The commissioner may not

16 (1) make per capita expenditures for food for prisoners in a state
17 correctional facility operated by the state that exceed 90 percent of per capita
18 expenditures for food that is available to enlisted personnel in the United States Army
19 stationed in the state;

20 (2) provide, in a state correctional facility operated by the state,

21 (A) living quarters for a prisoner into which the view is
22 obstructed; however, the commissioner is not required to renovate a facility to
23 comply with this subparagraph if the facility is being used as a correctional
24 facility on August 27, 1997, or if the facility was already built before being
25 acquired by the department;

26 (B) equipment or facilities for publishing or broadcasting
27 material the content of which is not subject to prior approval by the department
28 as consistent with keeping order in the institution and prisoner discipline;

29 (C) cable television service other than a level of basic cable
30 television service that is available as a substitute for services that are broadcast
31 to the public in the community in which a correctional facility is located;

1 (3) allow a prisoner held in a state correctional facility operated by the
2 state to

3 (A) possess in the prisoner's cell a cassette tape player or
4 recorder, a video cassette recorder (VCR), or a computer or modem of any
5 kind;

6 (B) view movies rated "R," "X," or "NC-17";

7 (C) possess printed or photographic material that

8 (i) is obscene as defined by the commissioner in
9 regulation;

10 (ii) could reasonably be expected to incite racial, ethnic,
11 or religious hatred that is detrimental to the security, good order, or
12 discipline of the institution or violence;

13 (iii) could reasonably be expected to aid in an escape or
14 in the theft or destruction of property;

15 (iv) describes procedures for brewing alcoholic
16 beverages or for manufacturing controlled substances, marijuana,
17 weapons, or explosives; or

18 (v) could reasonably be expected to facilitate criminal
19 activity or a violation of institution rules;

20 (D) receive instruction in person, or by broadcast medium, or
21 engage in boxing, wrestling, judo, karate, or other martial art or in any activity
22 that, in the commissioner's discretion, would facilitate violent behavior;

23 (E) possess or have access to equipment for use in the activities
24 listed in (D) of this paragraph;

25 (F) possess or have access to free weights;

26 (G) possess in the prisoner's cell a coffee pot, hot plate,
27 appliance or heating element for food preparation, or more than three electrical
28 appliances of any kind;

29 (H) possess or appear in a state of dress, hygiene, grooming, or
30 appearance other than as permitted as uniform or standard in the correctional
31 facility;

1 (I) use a computer other than those approved by the correctional
 2 facility; the use of a computer under this subparagraph may be approved only
 3 as part of the prisoner's employment, education, or vocational training and may
 4 not be used for any other purpose;

5 (J) smoke or use tobacco products of any kind;

6 (K) use, possess, or consume marijuana or marijuana
 7 products.

8 * **Sec. 133.** AS 33.30.065(b) is amended to read:

9 (b) In determining whether to designate a prisoner to serve a term of
 10 imprisonment or period of temporary commitment by electronic monitoring, the
 11 commissioner shall consider

12 (1) safeguards to the public;

13 (2) the prospects for the prisoner's rehabilitation;

14 (3) the availability of program and facility space;

15 (4) the nature and circumstances of the offense for which the prisoner
 16 was sentenced or for which the prisoner is serving a period of temporary commitment;

17 (5) the needs of the prisoner as determined by a classification
 18 committee and any recommendations made by the sentencing court;

19 (6) the record of convictions of the prisoner, with particular emphasis
 20 on crimes specified in AS 11.41 or crimes involving domestic violence;

21 (7) the use of drugs, marijuana, or alcohol by the prisoner; and

22 (8) other criteria considered appropriate by the commissioner."
 23

24 Renumber the following bill sections accordingly.

25
 26 Page 26, following line 2:

27 Insert new bill sections to read:

28 ** **Sec. 135.** AS 44.19.645(a) is amended to read:

29 (a) The commission shall evaluate the effect of sentencing laws and criminal
 30 justice practices on the criminal justice system to evaluate whether those sentencing
 31 laws and criminal justice practices provide for protection of the public, community

1 condemnation of the offender, the rights of victims of crimes, the rights of the accused
 2 and the person convicted, restitution from the offender, and the principle of
 3 reformation. The commission shall make recommendations for improving criminal
 4 sentencing practices and criminal justice practices, including rehabilitation and
 5 restitution. In formulating its recommendations, the commission shall consider

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

8 (2) sentencing practices of the judiciary, including use of presumptive
 9 sentences;

10 (3) means of promoting uniformity, proportionality, and accountability
 11 in sentencing;

12 (4) alternatives to traditional forms of incarceration;

13 (5) the efficacy of parole and probation in ensuring public safety,
 14 achieving rehabilitation, and reducing recidivism;

15 (6) the adequacy, availability, and effectiveness of treatment and
 16 rehabilitation programs;

17 (7) crime and incarceration rates, including the rate of violent crime
 18 and the abuse of controlled substances, in this state compared to other states, and best
 19 practices adopted by other states that have proven to be successful in reducing
 20 recidivism;

21 (8) the relationship between sentencing priorities and correctional
 22 resources;

23 (9) the effectiveness of the state's current methodologies for the
 24 collection and dissemination of criminal justice data; and

25 (10) whether the schedules for controlled substances in AS 11.71.140 -
 26 11.71.180 [AS 11.71.140 - 11.71.190] are reasonable and appropriate, considering the
 27 criteria established in AS 11.71.120(c).

28 * **Sec. 136.** AS 47.10.990(17) is amended to read:

29 (17) "intoxicant" means a substance that temporarily diminishes a
 30 person's control over mental or physical powers, including alcohol, marijuana,
 31 controlled substances under AS 11.71, and a hazardous volatile material or substance

1 misused by inhaling its vapors;"

2

3 Renumber the following bill sections accordingly.

4

5 Page 27, lines 1 - 2:

6 Delete all material and insert:

7 **"(7) AS 17.38.180(a)(2), relating to the possession, use, or display of**
 8 **marijuana; and"**

9

10 Page 27, lines 4 - 14:

11 Delete all material and insert:

12 **"* Sec. 138.** AS 47.17.024(a) is amended to read:

13 (a) A practitioner of the healing arts involved in the delivery or care of an
 14 infant who the practitioner determines has been adversely affected by, or is
 15 withdrawing from exposure to, a controlled substance, marijuana, or alcohol shall
 16 immediately notify the nearest office of the department of the infant's condition.

17 *** Sec. 139.** AS 47.37.010 is amended to read:

18 **Sec. 47.37.010. Declaration of policy.** It is the policy of the state to recognize,
 19 appreciate, and reinforce the example set by its citizens who lead, believe in, and
 20 support a life of sobriety. It is also the policy of the state that alcoholics and
 21 intoxicated persons should not be criminally prosecuted for their consumption of
 22 alcoholic beverages or marijuana and that they should be afforded a continuum of
 23 treatment that can introduce them to, and help them learn, new life skills and social
 24 skills that would be useful to them in attaining and maintaining normal lives as
 25 productive members of society.

26 *** Sec. 140.** AS 47.37.030 is amended to read:

27 **Sec. 47.37.030. Powers of department.** The department may

28 (1) plan, establish, and maintain programs for the prevention and
 29 treatment of alcoholism, marijuana abuse, drug abuse, and misuse of hazardous
 30 volatile materials and substances by inhalant abusers;

31 (2) make contracts and award grants necessary or incidental to the

1 performance of its duties and the execution of its powers, including contracts with the
2 grants to public and private agencies, organizations, and individuals, to pay them for
3 services rendered or furnished to alcoholics, intoxicated persons, marijuana abusers,
4 drug abusers, or inhalant abusers; to the maximum extent possible, contracts and
5 grants must be for a period of two years; contracts under this paragraph are governed
6 by AS 36.30 (State Procurement Code);

7 (3) solicit and accept for use a gift of money or property or a grant of
8 money, services, or property from the federal government, the state or a political
9 subdivision of it, or a private source, and do all things necessary to cooperate with the
10 federal government or any of its agencies in making an application for a grant;

11 (4) administer or supervise the administration of the provisions relating
12 to alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant
13 abusers of state plans submitted for federal funding under federal health, welfare, or
14 treatment legislation;

15 (5) coordinate its activities and cooperate with alcoholism, marijuana
16 abuse, drug abuse, and inhalant abuse programs in this and other states, and make
17 contracts and other joint or cooperative arrangements with state, local, or private
18 agencies for the treatment of alcoholics, intoxicated persons, marijuana abusers,
19 drugs abusers, and inhalant abusers, and for the common advancement of alcoholism,
20 marijuana abuse, drug abuse, and inhalant abuse programs in this and other states;

21 (6) keep records and engage in research and the gathering of relevant
22 statistics;

23 (7) do other acts necessary to implement the authority expressly
24 granted to it;

25 (8) acquire, hold, or dispose of real property or any interest in it, and
26 construct, lease, or otherwise provide treatment facilities for alcoholics, intoxicated
27 persons, marijuana abusers, drug abusers, and inhalant abusers; however, the
28 department shall encourage local initiative, involvement, and financial participation
29 under grants-in-aid whenever possible in preference to the construction or operation of
30 facilities directly by the department; contracting and construction under this paragraph
31 are governed by AS 36.30 (State Procurement Code);

1 (9) strengthen and enhance the process for identifying people who have
2 co-occurring substance abuse and mental health disorders;

3 (10) establish a secure enhanced detoxification and treatment center for
4 persons involuntarily detained because they are likely to inflict physical harm to self
5 or others; in this paragraph, "enhanced" means the ability to treat co-occurring
6 substance abuse and mental health disorders;

7 (11) develop and implement a substance abuse treatment system using
8 evidence-based best practices or, if evidence-based best practices do not exist,
9 research-based practices, that includes a procedure for adapting the practices to new
10 situations and for collaboration with consumer-based programs; if research-based
11 practices are not known or available, the department may include consensus-based or,
12 if funds are available, promising practices; a practice must promote independence,
13 recovery, employment, education, ongoing community-based treatment, housing, and
14 other aspects of harm reduction.

15 * **Sec. 141.** AS 47.37.040 is amended to read:

16 **Sec. 47.37.040. Duties of department.** The department shall

17 (1) develop, encourage, and foster statewide, regional, and local plans
18 and programs for the prevention of alcoholism, marijuana abuse, and drug abuse and
19 treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and
20 inhalant abusers in cooperation with public and private agencies, organizations, and
21 individuals, and provide technical assistance and consultation services for these
22 purposes;

23 (2) coordinate the efforts and enlist the assistance of all public and
24 private agencies, organizations, and individuals interested in prevention of alcoholism,
25 marijuana abuse, drug abuse, and inhalant abuse, and treatment of alcoholics,
26 intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers;

27 (3) cooperate with the Department of Corrections in establishing and
28 conducting programs to provide treatment for alcoholics, intoxicated persons,
29 marijuana abusers, drug abusers, and inhalant abusers in or on parole from penal
30 institutions;

31 (4) cooperate with the Department of Education and Early

1 Development, school boards, schools, police departments, courts, and other public and
2 private agencies, organizations, and individuals in establishing programs for the
3 prevention of alcoholism, marijuana abuse, drug abuse, and inhalant abuse, and
4 treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and
5 inhalant abusers, and preparing curriculum materials for use at all levels of school
6 education;

7 (5) prepare, publish, evaluate, and disseminate educational material
8 dealing with the nature and effects of alcohol, marijuana, and drugs, and the misuse
9 of hazardous volatile substances;

10 (6) develop and implement, as an integral part of treatment programs,
11 an educational program for use in the treatment of alcoholics, intoxicated persons,
12 marijuana abusers, drug abusers, and inhalant abusers that includes the
13 dissemination of information concerning the nature and effects of alcohol, marijuana,
14 drugs, and hazardous volatile substances;

15 (7) organize and foster training programs for all persons engaged in
16 treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and
17 inhalant abusers, and establish standards for training paraprofessional alcoholism,
18 marijuana abuse, drug abuse, and inhalant abuse workers;

19 (8) sponsor and encourage research into the causes and nature of
20 alcoholism, marijuana abuse, drug abuse, and inhalant abuse, and the treatment of
21 alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant
22 abusers, and serve as a clearinghouse for information relating to alcoholism,
23 marijuana abuse, drug abuse, and inhalant abuse;

24 (9) specify uniform methods for keeping statistical information by
25 public and private agencies, organizations, and individuals, and collect and make
26 available relevant statistical information, including number of persons treated,
27 frequency of admission and readmission, and frequency and duration of treatment;

28 (10) conduct program planning activities approved by the Advisory
29 Board on Alcoholism and Drug Abuse;

30 (11) review all state health, welfare, and treatment plans to be
31 submitted for federal funding, and advise the commissioner on provisions to be

1 included relating to alcoholics, intoxicated persons, marijuana abusers, drug abusers,
2 and inhalant abusers;

3 (12) assist in the development of, and cooperate with, alcohol,
4 marijuana, drug abuse, and inhalant abuse education and treatment programs for
5 employees of state and local governments and businesses and industries in the state;

6 (13) use the support and assistance of interested persons in the
7 community, particularly recovered alcoholics, marijuana abusers, drug abusers, and
8 inhalant abusers, to encourage alcoholics, marijuana abusers, drug abusers, and
9 inhalant abusers to voluntarily undergo treatment;

10 (14) cooperate with the Department of Public Safety, the Department
11 of Administration, and the Department of Transportation and Public Facilities in
12 establishing and conducting programs designed to deal with the problem of persons
13 operating motor vehicles while under the influence of an alcoholic beverage,
14 marijuana, inhalant, or controlled substance, and develop and approve alcohol and
15 marijuana information courses required to be taken by drivers under AS 28.15 or
16 made available to drivers to reduce points assessed for violation of traffic laws;

17 (15) encourage hospitals and other appropriate health facilities to admit
18 without discrimination alcoholics, intoxicated persons, marijuana abusers, drug
19 abusers, and inhalant abusers and to provide them with adequate and appropriate
20 treatment;

21 (16) encourage all health insurance programs to include alcoholism,
22 marijuana abuse, and drug abuse as a covered illness;

23 (17) prepare an annual report covering the activities of the department
24 and notify the legislature that the report is available;

25 (18) develop and implement a training program on alcoholism,
26 marijuana, and drug abuse for employees of state and municipal governments, and
27 private institutions;

28 (19) develop curriculum materials on drug, marijuana, and alcohol
29 abuse and the misuse of hazardous volatile substances for use in grades kindergarten
30 through 12, as well as a course of instruction for teachers to be charged with
31 presenting the curriculum;

1 (20) develop and implement or designate, in cooperation with other
2 state or local agencies, a juvenile alcohol safety action program that provides alcohol,
3 marijuana, and substance abuse screening, referral, and monitoring of persons under
4 18 years of age who have been referred to it by

5 (A) a court in connection with a charge or conviction of a
6 violation or misdemeanor related to the use of alcohol, marijuana, or a
7 controlled substance;

8 (B) the agency responsible for the administration of motor
9 vehicle laws in connection with a license action related to the use of alcohol,
10 marijuana, or a controlled substance; or

11 (C) department staff after a delinquency adjudication that is
12 related to the use of alcohol, marijuana, or a controlled substance;

13 (21) develop and implement, or designate, in cooperation with other
14 state or local agencies, an alcohol safety action program that provides alcohol,
15 marijuana, and substance abuse screening, referral, and monitoring services to
16 persons who have been referred by a court in connection with a charge or conviction
17 of a misdemeanor involving the use of a motor vehicle, aircraft, or watercraft and
18 alcohol, marijuana, or a controlled substance, referred by a court under
19 AS 28.35.028, or referred by an agency of the state with the responsibility for
20 administering motor vehicle laws in connection with a driver's license action involving
21 the use of alcohol, marijuana, or a controlled substance;

22 (22) whenever possible, apply evidence-based, research-based, and
23 consensus-based substance abuse and co-occurring substance abuse and mental health
24 disorders treatment practices and remove barriers that prevent the use of those
25 practices;

26 (23) collaborate with first responders, hospitals, schools, primary care
27 providers, developmental disability treatment providers, law enforcement, corrections,
28 attorneys, the Alaska Court System, community behavioral treatment providers,
29 Alaska Native organizations, and federally funded programs in implementing
30 programs for co-occurring substance abuse and mental health disorders treatment.

31 * Sec. 142. AS 47.37.170(b) is amended to read:

1 (b) A person who appears to be incapacitated by alcohol, marijuana, or drugs
 2 in a public place shall be taken into protective custody by a peace officer or a member
 3 of the emergency service patrol and immediately brought to an approved public
 4 treatment facility, an approved private treatment facility, or another appropriate health
 5 facility or service for emergency medical treatment. If no treatment facility or
 6 emergency medical service is available, a person who appears to be incapacitated by
 7 alcohol, marijuana, or drugs in a public place shall be taken to a state or municipal
 8 detention facility in the area if that appears necessary for the protection of the person's
 9 health or safety. However, emergency protective custody under this subsection may
 10 not include placement of a minor in a jail or secure facility.

11 * **Sec. 143.** AS 47.37.170(d) is amended to read:

12 (d) A person who, after medical examination at an approved private treatment
 13 facility, or another appropriate health facility or service for emergency medical
 14 treatment, is found to be incapacitated by alcohol, marijuana, or drugs at the time of
 15 admission or to have become incapacitated by alcohol, marijuana, or drugs at any
 16 time after admission, may not be detained at a facility after the person is no longer
 17 incapacitated by alcohol, marijuana, or drugs. A person may not be detained at a
 18 facility if the person remains incapacitated by alcohol or marijuana for more than 48
 19 hours after admission as a patient. A person may consent to remain in the facility as
 20 long as the physician in charge considers it appropriate.

21 * **Sec. 144.** AS 47.37.170(f) is amended to read:

22 (f) If a patient is admitted to an approved public treatment facility, family or
 23 next of kin shall be promptly notified. If an adult patient who is not incapacitated by
 24 alcohol, marijuana, or drugs requests that there be no notification of next of kin, the
 25 request shall be granted.

26 * **Sec. 145.** AS 47.37.170(g) is amended to read:

27 (g) A person may not bring an action for damages based on the decision under
 28 this section to take or not to take an intoxicated person or a person incapacitated by
 29 alcohol, marijuana, or drugs into protective custody, unless the action is for damages
 30 caused by gross negligence or intentional misconduct.

31 * **Sec. 146.** AS 47.37.170(i) is amended to read:

1 (i) A person taken to a detention facility under (a) or (b) of this section may be
2 detained only (1) until a treatment facility or emergency medical service is made
3 available, (2) until the person is no longer intoxicated or incapacitated by alcohol,
4 marijuana, or drugs, or (3) for a maximum period of 12 hours, whichever occurs first.
5 A detaining officer or a detention facility official may release a person who is detained
6 under (a) or (b) of this section at any time to the custody of a responsible adult. A
7 peace officer or a member of the emergency service patrol, in detaining a person under
8 (a) or (b) of this section and in taking the person to a treatment facility, an emergency
9 medical service, or a detention facility, is taking the person into protective custody and
10 the officer or patrol member shall make reasonable efforts to provide for and protect
11 the health and safety of the detainee. In taking a person into protective custody under
12 (a) and (b) of this section, a detaining officer, a member of the emergency service
13 patrol, or a detention facility official may take reasonable steps for self-protection,
14 including a full protective search of the person of a detainee. Protective custody under
15 (a) and (b) of this section does not constitute an arrest and no entry or other record
16 may be made to indicate that the person detained has been arrested or charged with a
17 crime, except that a confidential record may be made that is necessary for the
18 administrative purposes of the facility to which the person has been taken or that is
19 necessary for statistical purposes where the person's name may not be disclosed.

20 * **Sec. 147.** AS 47.37.180(a) is amended to read:

21 (a) An intoxicated person who (1) has threatened, attempted to inflict, or
22 inflicted physical harm on another or is likely to inflict physical harm on another
23 unless committed, or (2) is incapacitated by alcohol, marijuana, or drugs, may be
24 committed to an approved public treatment facility for emergency treatment. A refusal
25 to undergo treatment does not constitute evidence of lack of judgment as to the need
26 for treatment.

27 * **Sec. 148.** AS 47.37.190(a) is amended to read:

28 (a) A spouse or guardian, a relative, the certifying physician, physician
29 assistant, advanced nurse practitioner, or the administrator in charge of an approved
30 public treatment facility may petition the court for a 30-day involuntary commitment
31 order. The petition must allege that the person is an alcoholic, marijuana abuser, or

1 drug abuser who (1) has threatened, attempted to inflict, or inflicted physical harm on
 2 another and that unless committed is likely to inflict physical harm on another; or (2)
 3 is incapacitated by alcohol, marijuana, or drugs. A refusal to undergo treatment does
 4 not constitute evidence of lack of judgment as to the need for treatment. The petition
 5 must be accompanied by a certificate of a licensed physician, physician assistant, or
 6 advanced nurse practitioner who has examined the person within two days before
 7 submission of the petition, unless the person whose commitment is sought has refused
 8 to submit to a medical examination, in which case the fact of refusal must be alleged
 9 in the petition. The certificate must set out the physician's, physician assistant's, or
 10 advanced nurse practitioner's findings of the examination in support of the allegations
 11 of the petition.

12 * **Sec. 149.** AS 47.37.205(a) is amended to read:

13 (a) At any time during a person's 30-day commitment, the director of an
 14 approved public facility or approved private facility may file with the court a petition
 15 for a 180-day commitment of that person. The petition must include all material
 16 required under AS 47.37.190(a) except that references to "30 days" shall be read as
 17 "180 days" and must allege that the person continues to be an alcoholic, marijuana
 18 abuser, or drug abuser who is incapacitated by alcohol, marijuana, or drugs, or who
 19 continues to be at risk of serious physical harm or illness.

20 * **Sec. 150.** AS 47.37.270(1) is amended to read:

21 (1) "alcoholic, marijuana abuser, or drug abuser" means a person who
 22 demonstrates increased tolerance to alcohol, marijuana, or drugs, who suffers from
 23 withdrawal when alcohol, marijuana, or drugs are not available, whose habitual lack
 24 of self-control concerning the use of alcohol, marijuana, or drugs causes significant
 25 hazard to the person's health, and who continues to use alcohol, marijuana, or drugs
 26 despite the adverse consequences;

27 * **Sec. 151.** AS 47.37.270(4) is amended to read:

28 (4) "drugs" means a drug that is included in the controlled substance
 29 schedules set out in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190];

30 * **Sec. 152.** AS 47.37.270(7) is amended to read:

31 (7) "incapacitated by alcohol, marijuana, or drugs" means a person

1 who, as a result of alcohol, marijuana, or drugs, is unconscious or whose judgment is
2 otherwise so impaired that the person (A) is incapable of realizing and making rational
3 decisions with respect to the need for treatment, and (B) is unable to take care of the
4 person's basic safety or personal needs, including food, clothing, shelter, or medical
5 care;

6 * **Sec. 153.** AS 47.37.270(10) is amended to read:

7 (10) "intoxicated person" means a person whose mental or physical
8 functioning is substantially impaired as a result of the use of alcohol, marijuana, or
9 drugs;

10 * **Sec. 154.** AS 47.38.020(a) is amended to read:

11 (a) The commissioner, in cooperation with the commissioner of corrections,
12 shall establish a program for certain persons with release conditions ordered as
13 provided under AS 12.30, or offenders with conditions of probation, that include not
14 consuming controlled substances, marijuana, or alcoholic beverages.

15 * **Sec. 155.** AS 47.38.020(c) is amended to read:

16 (c) The commissioner shall include in the program

17 (1) a requirement for twice-a-day testing, in person if practicable, for
18 alcoholic beverage or marijuana use and random testing for controlled substances;

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

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

27 (B) tests positive for the use of controlled substances,
28 marijuana, or alcoholic beverages; and

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

1 * **Sec. 156.** AS 11.71.040(a)(2), 11.71.040(a)(3)(F), 11.71.040(a)(3)(G), 11.71.050(a)(1),
 2 11.71.050(a)(2)(E), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.080, 11.71.090,
 3 11.71.160(f)(1), 11.71.160(f)(2), 11.71.160(f)(3), 11.71.190, 11.71.900(10), 11.71.900(11),
 4 11.71.900(14), 11.71.900(27); AS 11.81.900(b)(6); AS 17.38.030, 17.38.040, and 17.38.050
 5 are repealed.

6 * **Sec. 157.** The uncodified law of the State of Alaska is amended by adding a new section
 7 to read:

8 **APPLICABILITY.** (a) AS 09.60.070(c), as amended by sec. 9 of this Act,
 9 AS 09.65.210, as amended by sec. 10 of this Act, AS 09.65.315(a), as amended by sec. 11 of
 10 this Act, and AS 09.65.320(b), as amended by sec. 13 of this Act, apply to a cause of action
 11 that accrues on or after the effective date of this Act.

12 (b) AS 11.41.110(a), as amended by sec. 14 of this Act, AS 11.41.150(a), as amended
 13 by sec. 15 of this Act, AS 11.56.380(a), as amended by sec. 16 of this Act, AS 11.61.200(a),
 14 as amended by sec. 17 of this Act, AS 11.61.210(a), as amended by sec. 18 of this Act,
 15 AS 11.71.030(a), as amended by sec. 19 of this Act, AS 11.71.040(a), as amended by sec. 20
 16 of this Act, AS 11.71.311(a), as amended by sec. 24 of this Act, AS 28.33.030, as amended by
 17 sec. 100 of this Act, AS 28.35.029, as amended by secs. 106 - 108 of this Act, AS 28.35.030,
 18 as amended by secs. 109 and 110 of this Act, and AS 28.35.280, as amended by secs. 120 -
 19 122 of this Act, apply to an offense committed on or after the effective date of this Act.

20 (c) AS 12.55.015, as amended by secs. 32 and 33 of this Act, AS 12.55.155(c), as
 21 amended by secs. 34 and 35 of this Act, and AS 12.55.155(g), as amended by sec. 36 of this
 22 Act, apply to a sentence imposed on or after the effective date of this Act for an offense
 23 committed on or after the effective date of this Act.

24 (d) AS 33.16.060(c), as amended by sec. 129 of this Act, and AS 33.16.150(b), as
 25 amended by sec. 130 of this Act, apply to conditions of parole ordered on or after the effective
 26 date of this Act."

27
 28 Renumber the following bill section accordingly.