

SENATE CS FOR HOUSE BILL NO. 312(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/8/18

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVES CLAMAN, Kopp, Millett, Grenn, Kawasaki, Tuck, Johnston, Saddler, Birch, Sullivan-Leonard, Josephson

SENATORS Giessel, Bishop, MacKinnon, Micciche, Stevens, Hughes, Coghill, Wilson, Egan, von Imhof, Shower, Costello, Olson, Kelly

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to scheduled substances; relating to the Controlled Substances**
2 **Advisory Committee; authorizing the attorney general to schedule substances by**
3 **emergency regulation or repeal an emergency regulation that scheduled a substance;**
4 **relating to arrest without a warrant for assault in the fourth degree at a health care**
5 **facility; relating to detaining a person for up to 48 hours for the prosecuting authority to**
6 **demonstrate that release of the person would not reasonably ensure the appearance of**
7 **the person or will pose a danger to the victim, other persons, or the community if the**
8 **person has a criminal conviction or charge outside the state; relating to conditions of**
9 **release for a person who is represented by an attorney or has a criminal conviction or**
10 **charge outside the state; relating to factors the court is required to consider when**
11 **determining the conditions of release before trial; relating to the surcharge imposed for**
12 **violation of state or municipal law; relating to an aggravating factor at sentencing for a**
13 **felony offense against a medical professional at a health care facility; amending the**

1 authority of pretrial services officers to make a warrantless arrest or request the court
 2 to issue a warrant for arrest; providing that pretrial services, probation, and parole
 3 officers may perform duties relating to pretrial services, probation, and parole;
 4 amending Rule 41, Alaska Rules of Criminal Procedure; and providing for an effective
 5 date."

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

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

9 LEGISLATIVE INTENT. It is the intent of the legislature that, if a person's criminal
 10 conviction or charge outside the state is included in a pretrial risk assessment conducted under
 11 AS 33.07, the result of that assessment will control the release decision and the section of this
 12 bill allowing a defendant to be detained for 48 hours and directing presumptive release on a
 13 person's own recognizance or on an unsecured bond when the person has a criminal
 14 conviction or charge outside the state will no longer apply.

15 * **Sec. 2.** AS 11.71.100(c) is amended to read:

16 (c) The president of the Board of Pharmacy or the president's designee
 17 [ATTORNEY GENERAL] is the chair [CHAIRMAN] of the committee.

18 * **Sec. 3.** AS 11.71.100(d) is amended to read:

19 (d) The committee meets at the call of the chair of the committee
 20 [ATTORNEY GENERAL].

21 * **Sec. 4.** AS 11.71.110 is amended to read:

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

23 (1) advise the governor of the need to add, delete, or reschedule
 24 substances in the schedules in AS 11.71.140 - 11.71.190;

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

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

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

5 (5) review and evaluate enforcement policies and practices of the
 6 Department of Public Safety and the Department of Law with regard to crimes
 7 involving controlled substances, and recommend modifications of those policies and
 8 practices consistent with the committee's assessment of the probable danger of
 9 particular controlled substances; [AND]

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

12 (A) enforcing criminal laws pertaining to controlled
 13 substances;

14 (B) providing treatment and counseling of persons who abuse
 15 controlled substances; and

16 (C) regulating the legitimate handling of controlled substances;

17 **and**

18 **(7) advise the attorney general of the need to schedule substances**
 19 **by emergency regulation.**

20 * **Sec. 5.** AS 11.71 is amended by adding a new section to read:

21 **Sec. 11.71.125. Emergency substance scheduling.** (a) The attorney general
 22 may, by regulation, schedule a substance under this chapter regardless of whether the
 23 substance is substantially similar to a controlled substance listed in AS 11.71.140 -
 24 11.71.180, if the attorney general finds that scheduling the substance on an emergency
 25 basis is necessary to avoid an immediate hazard to public safety.

26 (b) In determining whether to schedule a substance on an emergency basis, or
 27 repeal an emergency regulation that scheduled a substance, the attorney general shall

28 (1) assess the degree of danger or probable danger of the substance by
 29 considering

30 (A) the actual or probable abuse of the substance including the

31 (i) history and current pattern of abuse;

1 (ii) scope, duration, and significance of abuse of the
2 substance; and

3 (iii) degree of actual or possible detriment that may
4 result from abuse of the substance; and

5 (B) the risk to public health;

6 (2) consider whether the substance has been scheduled on a temporary
7 basis under federal law and may consider clandestine importation, manufacture, or
8 distribution of the substance;

9 (3) consult with the Controlled Substances Advisory Committee
10 established under AS 11.71.100; and

11 (4) consult with the chief medical officer in the Department of Health
12 and Social Services.

13 (c) The attorney general may schedule a substance by emergency regulation
14 under this section only if the substance is currently listed on a federal controlled
15 substance schedule.

16 (d) The attorney general shall clearly indicate in an emergency regulation that
17 schedules a substance the appropriate schedule under this chapter that applies to the
18 substance.

19 (e) The attorney general shall post a notice on the Alaska Online Public Notice
20 System (AS 44.62.175) 60 days before the effective date of an emergency regulation
21 that schedules a substance. The notice must include

22 (1) a summary of the attorney general's findings under (b) of this
23 section; and

24 (2) the finding required for an emergency regulation under
25 AS 44.62.250(b).

26 (f) The attorney general may not adopt an emergency regulation under this
27 section that schedules an alcoholic beverage as defined in AS 04.21.080, marijuana as
28 defined in AS 17.38.900, or tobacco.

29 (g) An emergency regulation adopted under this section is subject to the
30 requirements in AS 44.62.260(c).

31 * **Sec. 6.** AS 11.71.900(4) is amended to read:

1 (4) "controlled substance" means a drug, substance, or immediate
 2 precursor included in the schedules set out in AS 11.71.140 - 11.71.190 **or included**
 3 **in those schedules by an emergency regulation adopted under AS 11.71.125;**

4 * **Sec. 7.** AS 11.71.900 is amended by adding a new paragraph to read:

5 (31) "substance" means a drug, controlled substance, or immediate
 6 precursor included in the schedules set out in AS 11.71.140 - 11.71.190 or in an
 7 emergency regulation adopted under AS 11.71.125, AS 44.62.250, and 44.62.260.

8 * **Sec. 8.** AS 12.25.030(b) is amended to read:

9 (b) In addition to the authority granted by (a) of this section, a peace officer

10 (1) shall make an arrest under the circumstances described in
 11 AS 18.65.530;

12 (2) without a warrant may arrest a person if the officer has probable
 13 cause to believe the person has, either in or outside the presence of the officer,

14 (A) committed a crime involving domestic violence, whether
 15 the crime is a felony or a misdemeanor; in this subparagraph, "crime involving
 16 domestic violence" has the meaning given in AS 18.66.990;

17 (B) committed the crime of violating a protective order in
 18 violation of AS 11.56.740; or

19 (C) violated a condition of release imposed under
 20 AS 12.30.016(e) or 12.30.027;

21 (3) without a warrant may arrest a person when the peace officer has
 22 probable cause for believing that the person has

23 (A) committed a crime under or violated conditions imposed as
 24 part of the person's release before trial on misdemeanor charges brought under
 25 AS 11.41.270;

26 (B) violated AS 04.16.050 or an ordinance with similar
 27 elements; however, unless there is a lawful reason for further detention, a
 28 person who is under 18 years of age and who has been arrested for violating
 29 AS 04.16.050 or an ordinance with similar elements shall be cited for the
 30 offense and released to the person's parent, guardian, or legal custodian; [OR]

31 (C) violated conditions imposed as part of the person's release

1 under the provisions of AS 12.30; or

2 **(D) violated AS 11.41.230 at a health care facility, and the**
 3 **person**

4 **(i) was not seeking medical treatment at the facility;**

5 **or**

6 **(ii) was stable for discharge.**

7 * **Sec. 9.** AS 12.25.030 is amended by adding a new subsection to read:

8 (e) In this section, "health care facility" has the meaning given in
 9 AS 18.07.111.

10 * **Sec. 10.** AS 12.30.006(b) is amended to read:

11 (b) At the first appearance before a judicial officer, a person may be detained
 12 up to 48 hours for the prosecuting authority to demonstrate that release of the person
 13 under AS 12.30.011 would not reasonably ensure the appearance of the person or will
 14 pose a danger to the victim, other persons, or the community, if the person has [BEEN
 15 CHARGED WITH THE FOLLOWING CRIMES:]

16 (1) **been charged with** an unclassified, class A, [OR] class B, **or class**
 17 **C felony; or**

18 **(2) a criminal conviction or charge outside the state that has not**
 19 **been used in determining the person's risk level in the pretrial risk assessment**
 20 **under AS 33.07**

21 [(2) A CLASS C FELONY

22 (A) UNDER AS 11.41, AS 11.56.730, AS 28.35.030, OR
 23 28.35.032;

24 (B) THAT IS A SEX OFFENSE; IN THIS
 25 SUBPARAGRAPH, "SEX OFFENSE" HAS THE MEANING GIVEN IN
 26 AS 12.63.100; OR

27 (C) THAT IS A CRIME INVOLVING DOMESTIC
 28 VIOLENCE; IN THIS SUBPARAGRAPH, "CRIME INVOLVING
 29 DOMESTIC VIOLENCE" HAS THE MEANING GIVEN IN AS 18.66.990;
 30 OR

31 (3) A CLASS C FELONY, OTHER THAN A CLASS C FELONY

1 LISTED IN (2) OF THIS SUBSECTION, AND THE PERSON HAS BEEN
 2 ASSESSED AS MODERATE TO HIGH RISK UNDER AS 12.30.011(c)(2)].

3 * **Sec. 11.** AS 12.30.011(a) is amended to read:

4 (a) **Except as otherwise provided in this chapter, a** [A] judicial officer may
 5 order that a person charged with an offense, in addition to other conditions imposed
 6 under this section, be released

7 (1) on the person's own recognizance;

8 (2) upon execution of an unsecured appearance bond; or

9 (3) upon execution of an unsecured performance bond.

10 * **Sec. 12.** AS 12.30.011(b) is amended to read:

11 (b) A person charged with a misdemeanor that does not include an offense
 12 under AS 11.41, AS 11.56.730, 11.56.757, AS 28.35.030, or 28.35.032, a sex offense
 13 as defined in AS 12.63.100, or a crime involving domestic violence as defined in
 14 AS 18.66.990 and who is assessed by a pretrial services officer as

15 (1) low to moderate risk shall, **except as provided in (m) of this**
 16 **section,** be released on the person's own recognizance or upon execution of an
 17 unsecured appearance bond or unsecured performance bond; or

18 (2) high risk shall be released on the person's own recognizance or
 19 upon execution of an unsecured appearance bond or unsecured performance bond
 20 unless the judicial officer finds on the record that there is clear and convincing
 21 evidence that no nonmonetary conditions of release in combination with the release of
 22 the person on the person's own recognizance or upon execution of an unsecured bond
 23 can reasonably ensure the appearance of the person in court and the safety of the
 24 victim, other persons, and the community.

25 * **Sec. 13.** AS 12.30.011(c) is amended to read:

26 (c) A person charged with a class C felony that does not include an offense
 27 under AS 11.41, AS 11.56.730, AS 28.35.030, or 28.35.032, a sex offense as defined
 28 in AS 12.63.100, or a crime involving domestic violence as defined in AS 18.66.990
 29 and who is assessed by a pretrial services officer as **low,**

30 [(1) LOW RISK SHALL BE RELEASED ON THE PERSON'S OWN
 31 RECOGNIZANCE OR UPON EXECUTION OF AN UNSECURED APPEARANCE

1 BOND OR UNSECURED PERFORMANCE BOND; OR

2 (2)] moderate, or [TO] high risk shall be released on the person's own
 3 recognizance or upon execution of an unsecured appearance bond or unsecured
 4 performance bond unless the judicial officer finds on the record that there is clear and
 5 convincing evidence that no nonmonetary conditions of release in combination with
 6 the release of the person on the person's own recognizance or upon execution of an
 7 unsecured bond can reasonably ensure the appearance of the person in court and the
 8 safety of the victim, other persons, and the community.

9 * **Sec. 14.** AS 12.30.011(g) is amended to read:

10 (g) A person released under this **chapter** [SECTION] shall be released on the
 11 condition that the person

12 (1) obey all court orders;

13 (2) obey all laws;

14 (3) make all court appearances;

15 (4) maintain contact with the person's pretrial services officer, if one is
 16 appointed by the court, and follow the pretrial services officer's instructions;

17 (5) maintain contact with the person's attorney **if the person is**
 18 **represented by an attorney**;

19 (6) notify the person's attorney or, if the person is not represented by
 20 an attorney, the pretrial services officer or the court within 24 hours after a change in
 21 the person's residence.

22 * **Sec. 15.** AS 12.30.011(i) is amended to read:

23 (i) In determining the conditions of release under this chapter, the court shall
 24 consider the following:

25 (1) the nature and circumstances of the offense charged;

26 (2) the weight of the evidence against the person;

27 (3) the nature and extent of the person's family ties and relationships;

28 (4) the person's employment status and history;

29 (5) the length and character of the person's past and present residence;

30 (6) the person's record of convictions, **including convictions outside**
 31 **the state**;

- 1 (7) the person's record of appearance at court proceedings;
 2 (8) assets available to the person to meet monetary conditions of
 3 release;
 4 (9) the person's reputation, character, and mental condition;
 5 (10) the effect of the offense on the victim, any threats made to the
 6 victim, and the danger that the person poses to the victim;
 7 (11) the conditions of release recommended by the pretrial services
 8 officer;
 9 (12) the person's pretrial risk assessment score; and
 10 (13) any other facts that are relevant to the person's appearance or the
 11 person's danger to the victim, other persons, or the community.

12 * **Sec. 16.** AS 12.30.011 is amended by adding a new subsection to read:

13 (m) A person charged with an offense who would otherwise be released under
 14 AS 12.30.011(b)(1) and who has a criminal conviction or charge outside the state that
 15 has not been used in determining the person's risk level in the pretrial risk assessment
 16 under AS 33.07 shall be released on the person's own recognizance or upon execution
 17 of an unsecured appearance bond or unsecured performance bond unless the judicial
 18 officer finds on the record that there is clear and convincing evidence that no
 19 nonmonetary conditions of release, in combination with the release of the person on
 20 the person's own recognizance or upon execution of an unsecured bond, can
 21 reasonably ensure the appearance of the person in court and the safety of the victim,
 22 other persons, and the community.

23 * **Sec. 17.** AS 12.55.039(a) is amended to read:

24 (a) In addition to any fine or other penalty prescribed by law, a defendant who
 25 pleads guilty or nolo contendere to, forfeits bail for, or is convicted of a

- 26 (1) felony shall be assessed a surcharge of **\$200** [\$100];
 27 (2) violation of a misdemeanor offense under AS 28.33.030,
 28 28.33.031, AS 28.35.030, or 28.35.032, or a violation of a municipal ordinance
 29 comparable to a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030,
 30 or 28.35.032 and adopted under AS 28.01.010, shall be assessed a surcharge of **\$150**
 31 [\$75];

1 (3) misdemeanor or a violation of a municipal ordinance if a sentence
 2 of incarceration may be imposed for the misdemeanor or ordinance violation, other
 3 than a provision identified in (2) of this subsection, shall be assessed a surcharge of
 4 **\$100** [\$50];

5 (4) misdemeanor for which a sentence of incarceration may not be
 6 imposed, a violation or an infraction under state law, or a violation of a municipal
 7 ordinance imposing a penalty authorized by AS 29.25.070(a) if a sentence of
 8 incarceration may not be imposed for the ordinance violation, shall be assessed a
 9 surcharge of **\$20** [\$10] if the fine or bail forfeiture amount for the offense is \$30 or
 10 more.

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

12 (c) The following factors shall be considered by the sentencing court if proven
 13 in accordance with this section, and may allow imposition of a sentence above the
 14 presumptive range set out in AS 12.55.125:

15 (1) a person, other than an accomplice, sustained physical injury as a
 16 direct result of the defendant's conduct;

17 (2) the defendant's conduct during the commission of the offense
 18 manifested deliberate cruelty to another person;

19 (3) the defendant was the leader of a group of three or more persons
 20 who participated in the offense;

21 (4) the defendant employed a dangerous instrument in furtherance of
 22 the offense;

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

28 (6) the defendant's conduct created a risk of imminent physical injury
 29 to three or more persons, other than accomplices;

30 (7) a prior felony conviction considered for the purpose of invoking a
 31 presumptive range under this chapter was of a more serious class of offense than the

1 present offense;

2 (8) the defendant's prior criminal history includes conduct involving
3 aggravated assaultive behavior, repeated instances of assaultive behavior, repeated
4 instances of cruelty to animals proscribed under AS 11.61.140(a)(1) and (3) - (5), or a
5 combination of assaultive behavior and cruelty to animals proscribed under
6 AS 11.61.140(a)(1) and (3) - (5); in this paragraph, "aggravated assaultive behavior"
7 means assault that is a felony under AS 11.41, or a similar provision in another
8 jurisdiction;

9 (9) the defendant knew that the offense involved more than one victim;

10 (10) the conduct constituting the offense was among the most serious
11 conduct included in the definition of the offense;

12 (11) the defendant committed the offense under an agreement that the
13 defendant either pay or be paid for the commission of the offense, and the pecuniary
14 incentive was beyond that inherent in the offense itself;

15 (12) the defendant was on release under AS 12.30 for another felony
16 charge or conviction or for a misdemeanor charge or conviction having assault as a
17 necessary element;

18 (13) the defendant knowingly directed the conduct constituting the
19 offense at an active officer of the court or at an active or former judicial officer,
20 prosecuting attorney, law enforcement officer, correctional employee, firefighter,
21 emergency medical technician, paramedic, ambulance attendant, or other emergency
22 responder during or because of the exercise of official duties;

23 (14) the defendant was a member of an organized group of five or
24 more persons, and the offense was committed to further the criminal objectives of the
25 group;

26 (15) the defendant has three or more prior felony convictions;

27 (16) the defendant's criminal conduct was designed to obtain
28 substantial pecuniary gain and the risk of prosecution and punishment for the conduct
29 is slight;

30 (17) the offense was one of a continuing series of criminal offenses
31 committed in furtherance of illegal business activities from which the defendant

1 derives a major portion of the defendant's income;

2 (18) the offense was a felony

3 (A) specified in AS 11.41 and was committed against a spouse,
4 a former spouse, or a member of the social unit made up of those living
5 together in the same dwelling as the defendant;

6 (B) specified in AS 11.41.410 - 11.41.458 and the defendant
7 has engaged in the same or other conduct prohibited by a provision of
8 AS 11.41.410 - 11.41.460 involving the same or another victim;

9 (C) specified in AS 11.41 that is a crime involving domestic
10 violence and was committed in the physical presence or hearing of a child
11 under 16 years of age who was, at the time of the offense, living within the
12 residence of the victim, the residence of the perpetrator, or the residence where
13 the crime involving domestic violence occurred;

14 (D) specified in AS 11.41 and was committed against a person
15 with whom the defendant has a dating relationship or with whom the defendant
16 has engaged in a sexual relationship; or

17 (E) specified in AS 11.41.434 - 11.41.458 or AS 11.61.128 and
18 the defendant was 10 or more years older than the victim;

19 (19) the defendant's prior criminal history includes an adjudication as a
20 delinquent for conduct that would have been a felony if committed by an adult;

21 (20) the defendant was on furlough under AS 33.30 or on parole or
22 probation for another felony charge or conviction that would be considered a prior
23 felony conviction under AS 12.55.145(a)(1)(B);

24 (21) the defendant has a criminal history of repeated instances of
25 conduct violative of criminal laws, whether punishable as felonies or misdemeanors,
26 similar in nature to the offense for which the defendant is being sentenced under this
27 section;

28 (22) the defendant knowingly directed the conduct constituting the
29 offense at a victim because of that person's race, sex, color, creed, physical or mental
30 disability, ancestry, or national origin;

31 (23) the defendant is convicted of an offense specified in AS 11.71 and

1 (A) the offense involved the delivery of a controlled substance
2 under circumstances manifesting an intent to distribute the substance as part of
3 a commercial enterprise; or

4 (B) at the time of the conduct resulting in the conviction, the
5 defendant was caring for or assisting in the care of a child under 10 years of
6 age;

7 (24) the defendant is convicted of an offense specified in AS 11.71 and
8 the offense involved the transportation of controlled substances into the state;

9 (25) the defendant is convicted of an offense specified in AS 11.71 and
10 the offense involved large quantities of a controlled substance;

11 (26) the defendant is convicted of an offense specified in AS 11.71 and
12 the offense involved the distribution of a controlled substance that had been
13 adulterated with a toxic substance;

14 (27) the defendant, being 18 years of age or older,

15 (A) is legally accountable under AS 11.16.110(2) for the
16 conduct of a person who, at the time the offense was committed, was under 18
17 years of age and at least three years younger than the defendant; or

18 (B) is aided or abetted in planning or committing the offense by
19 a person who, at the time the offense was committed, was under 18 years of
20 age and at least three years younger than the defendant;

21 (28) the victim of the offense is a person who provided testimony or
22 evidence related to a prior offense committed by the defendant;

23 (29) the defendant committed the offense for the benefit of, at the
24 direction of, or in association with a criminal street gang;

25 (30) the defendant is convicted of an offense specified in AS 11.41.410
26 - 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to
27 the victim in furtherance of the offense with the intent to make the victim
28 incapacitated; in this paragraph, "incapacitated" has the meaning given in
29 AS 11.41.470;

30 (31) the defendant's prior criminal history includes convictions for five
31 or more crimes in this or another jurisdiction that are class A misdemeanors under the

1 law of this state, or having elements similar to a class A misdemeanor; two or more
 2 convictions arising out of a single continuous episode are considered a single
 3 conviction; however, an offense is not a part of a continuous episode if committed
 4 while attempting to escape or resist arrest or if it is an assault on a uniformed or
 5 otherwise clearly identified peace officer or correctional employee; notice and denial
 6 of convictions are governed by AS 12.55.145(b) - (d);

7 (32) the offense is a violation of AS 11.41 or AS 11.46.400 and the
 8 offense occurred on school grounds, on a school bus, at a school-sponsored event, or
 9 in the administrative offices of a school district if students are educated at that office;
 10 in this paragraph,

11 (A) "school bus" has the meaning given in AS 11.71.900;

12 (B) "school district" has the meaning given in AS 47.07.063;

13 (C) "school grounds" has the meaning given in AS 11.71.900;

14 (33) the offense was a felony specified in AS 11.41.410 - 11.41.455,
 15 the defendant had been previously diagnosed as having or having tested positive for
 16 HIV or AIDS, and the offense either (A) involved penetration, or (B) exposed the
 17 victim to a risk or a fear that the offense could result in the transmission of HIV or
 18 AIDS; in this paragraph, "HIV" and "AIDS" have the meanings given in
 19 AS 18.15.310;

20 (34) the defendant committed the offense on, or to affect persons or
 21 property on, the premises of a recognized shelter or facility providing services to
 22 victims of domestic violence or sexual assault;

23 (35) the defendant knowingly directed the conduct constituting the
 24 offense at a victim because that person was 65 years of age or older;

25 **(36) the defendant committed the offense at a health care facility**
 26 **and knowingly directed the conduct constituting the offense at a medical**
 27 **professional during or because of the medical professional's exercise of**
 28 **professional duties; in this paragraph**

29 **(A) "health care facility" has the meaning given in**
 30 **AS 18.07.111;**

31 **(B) "medical professional" has the meaning given in**

AS 12.55.135(k).

* **Sec. 19.** AS 33.07.030(g) is amended by to read:

(g) A pretrial services officer may

(1) recommend pretrial diversion to the court and parties before adjudication in accordance with the guidelines established by the commissioner under AS 33.07.020(6);

(2) [ARREST, WITHOUT A WARRANT, A DEFENDANT WHO HAS BEEN RELEASED WHILE AWAITING TRIAL] if the officer has probable cause to believe the defendant has committed an offense under AS 11.56.730 or 11.56.757 or has violated the defendant's release conditions, **file a complaint with the court and**

(A) arrest, with or without a warrant, a defendant who has been released while awaiting trial; or

(B) request the court to issue warrants related to any violation of the defendant's release conditions;

(3) refer interested defendants for substance abuse screening, assessment, and treatment on a voluntary basis and assist any defendant whose offense or criminal history identified a dependency on, abuse of, or addiction to alcohol or controlled substances with accessing and obtaining appropriate treatment in the community to address those needs;

(4) recommend that a defendant charged with an offense involving the use of alcohol or controlled substances comply with a program established under AS 47.38.020; and

(5) coordinate with community-based organizations and tribal courts and councils to develop and expand pretrial diversion options.

* **Sec. 20.** AS 33.16.190 is amended to read:

Sec. 33.16.190. Authority of parole, pretrial services, and probation officers. An officer appointed by the commissioner under AS 33.05.020(a), **AS 33.07**, or under this chapter, may discharge duties under AS 33.05, **AS 33.07**, or this chapter.

* **Sec. 21.** AS 44.23.020 is amended by adding a new subsection to read:

(j) The attorney general may by regulation schedule a substance on an

1 emergency basis as provided in AS 11.71.125 and AS 44.62 (Administrative
2 Procedure Act).

3 * **Sec. 22.** AS 44.62.175(a) is amended to read:

4 (a) The lieutenant governor shall develop and supervise the Alaska Online
5 Public Notice System, to be maintained on the state's site on the Internet. The
6 lieutenant governor shall prescribe the form of notices posted on the system by state
7 agencies. The Alaska Online Public Notice System must include

8 (1) notices of proposed actions given under AS 44.62.190(a);

9 (2) notices of state agency meetings required under AS 44.62.310(e),
10 even if the meeting has been held;

11 (3) notices of solicitations to bid issued under AS 36.30.130;

12 (4) notices of state agency requests for proposals issued under
13 AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; AS 38.05.120; and
14 AS 43.40.010;

15 (5) executive orders and administrative orders issued by the governor;

16 (6) written delegations of authority made by the governor or the head
17 of a principal department under AS 44.17.010;

18 (7) the text or a summary of the text of a regulation or order of repeal
19 of a regulation for which notice is given under **AS 11.71.125 or** AS 44.62.190(a),
20 including an emergency regulation or repeal regardless of whether it has taken effect;

21 (8) notices required by AS 44.62.245(b) regarding an amended version
22 of a document or other material incorporated by reference in a regulation;

23 (9) a summary of the text of recently issued published opinions of the
24 attorney general;

25 (10) a list of vacancies on boards, commissions, and other bodies
26 whose members are appointed by the governor;

27 (11) in accordance with AS 39.52.240(h), advisory opinions of the
28 attorney general; [AND]

29 (12) notices required by AS 26.30.010(d) and (e) regarding
30 applications for military facility zones; **and**

31 **(13) notices of substances scheduled by an emergency regulation**

1 **under AS 11.71.125.**

2 * **Sec. 23.** AS 44.62.200(a) is amended to read:

3 (a) The notice of proposed adoption, amendment, or repeal of a regulation
4 must include

5 (1) a statement of the time, place, and nature of proceedings for
6 adoption, amendment, or repeal of the regulation;

7 (2) reference to the authority under which the regulation is proposed
8 and a reference to the particular code section or other provisions of law that are being
9 implemented, interpreted, or made specific;

10 (3) an informative summary of the proposed subject of agency action;

11 (4) other matters prescribed by a statute applicable to the specific
12 agency or to the specific regulation or class of regulations;

13 (5) a summary of the fiscal information required to be prepared under
14 AS 44.62.195; **and**

15 **(6) for a regulation under AS 11.71.125, a summary of the attorney**
16 **general's compliance with the requirements of AS 11.71.125(b).**

17 * **Sec. 24.** AS 44.62.250 is amended to read:

18 **Sec. 44.62.250. Emergency regulations. Except for a regulation adopted**
19 **under AS 11.71.125, a** [A] regulation or order of repeal may be adopted as an
20 emergency regulation or order of repeal if a state agency makes a written finding,
21 including a statement of the facts that constitute the emergency, that the adoption of
22 the regulation or order of repeal is necessary for the immediate preservation of the
23 public peace, health, safety, or general welfare. The requirements of AS 44.62.040(c),
24 44.62.060, and 44.62.190 - 44.62.215 do not apply to the initial adoption of
25 emergency regulations; however, upon adoption of an emergency regulation, the
26 adopting agency shall immediately submit a copy of it to the lieutenant governor for
27 filing and for publication in the Alaska Administrative Register, and, within five days
28 after filing by the lieutenant governor, the agency shall give notice of the adoption in
29 accordance with AS 44.62.190(a). Failure to give the required notice by the end of the
30 10th day automatically repeals the regulation.

31 * **Sec. 25.** AS 44.62.250 is amended by adding a new subsection to read:

1 (b) A regulation or order of repeal may be adopted as an emergency regulation
 2 under AS 11.71.125 if the attorney general makes a written finding that the
 3 requirements of AS 11.71.125 are met. The requirements of AS 44.62.190 - 44.62.215
 4 do not apply to the adoption or order of repeal by the attorney general of a regulation
 5 to schedule a substance by emergency regulation under AS 11.71.125.

6 * **Sec. 26.** AS 44.62.260 is amended to read:

7 **Sec. 44.62.260. Limitation on effective period of emergency regulations.** (a)
 8 **Except as provided in (c) of this section, a** [A] regulation adopted as an emergency
 9 regulation does not remain in effect more than 120 days unless the adopting agency
 10 complies with AS 44.62.040(c), 44.62.060, and 44.62.190 - 44.62.215 either before
 11 submitting the regulation to the lieutenant governor or during the 120-day period.

12 (b) **Except as provided in (c) of this section, before** [BEFORE] the
 13 expiration of the 120-day period, the agency shall transmit to the lieutenant governor
 14 for filing a certification that AS 44.62.040(c), 44.62.060, and 44.62.190 - 44.62.215
 15 were complied with before submitting the regulation to the lieutenant governor, or that
 16 the agency complied with those sections within the 120-day period. Failure to so
 17 certify repeals the emergency regulation; it may not be renewed or refiled as an
 18 emergency regulation.

19 * **Sec. 27.** AS 44.62.260 is amended by adding a new subsection to read:

20 (c) A substance scheduled by the attorney general by emergency regulation
 21 under AS 11.71.125 will remain on the schedule under the emergency regulation for a
 22 period not to exceed 1,095 days unless the legislature schedules the substance by law
 23 or annuls the regulation by law.

24 * **Sec. 28.** AS 44.62.270 is amended to read:

25 **Sec. 44.62.270. State policy.** It is the state policy that emergencies are held to
 26 a minimum and are rarely found to exist. **Nothing in this section limits the attorney**
 27 **general from scheduling a substance by emergency regulation under**
 28 **AS 11.71.125.**

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

31 **INDIRECT COURT RULE AMENDMENT.** AS 12.30.011(a) - (c), (g), and (i), as

1 amended by secs. 11 - 15 of this Act, and AS 12.30.011(m), enacted by sec. 16 of this Act,
2 have the effect of changing Rule 41, Alaska Rules of Criminal Procedure, by changing the
3 conditions of release for certain defendants.

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

6 APPLICABILITY. (a) AS 12.25.030(b), as amended by sec. 8 of this Act, applies to
7 offenses committed before, on, or after the effective date of sec. 8 of this Act for contacts with
8 peace officers occurring on or after the effective date of sec. 8 of this Act.

9 (b) AS 12.30.006(b), as amended by sec. 10 of this Act, AS 12.30.011(a) - (c), (g),
10 and (i), as amended by secs. 11 - 15 of this Act, and AS 12.30.011(m), enacted by sec. 16 of
11 this Act, apply to offenses committed on or after the effective date of secs. 10 - 16 of this Act.

12 (c) AS 12.55.039(a), as amended by sec. 17 of this Act, and AS 12.55.155(c), as
13 amended by sec. 18 of this Act, apply to offenses committed on or after the effective date of
14 secs. 17 and 18 of this Act.

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

17 CONDITIONAL EFFECT. Sections 10 - 16 of this Act take effect only if sec. 29 of
18 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
19 Constitution of the State of Alaska.

20 * **Sec. 32.** Sections 1, 10 - 16, 19, 20, 29, and 31 of this Act take effect immediately under
21 AS 01.10.070(c).