

AMENDMENT #2

OFFERED IN THE HOUSE
TO: CSHB 49(FIN)

BY REPRESENTATIVE EASTMAN

1 Page 1, lines 1 - 10: (title amendment)

2 Delete all material and insert:

3 **""An Act relating to criminal law and procedure; relating to controlled**
4 **substances; relating to probation; relating to sentencing; amending Rule 6(r)(6), Alaska**
5 **Rules of Criminal Procedure; and providing for an effective date.""**

6

7 Page 1, line 12, through page 74, line 12:

8 Delete all material and insert:

9 *** Section 1.** AS 11.41.110(a) is amended to read:

10 (a) A person commits the crime of murder in the second degree if

11 (1) with intent to cause serious physical injury to another person or
12 knowing that the conduct is substantially certain to cause death or serious physical
13 injury to another person, the person causes the death of any person;

14 (2) the person knowingly engages in conduct that results in the death
15 of another person under circumstances manifesting an extreme indifference to the
16 value of human life;

17 (3) under circumstances not amounting to murder in the first degree
18 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
19 person commits or attempts to commit arson in the first degree, kidnapping, sexual
20 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
21 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
22 degree, escape in the first or second degree, robbery in any degree, or misconduct
23 involving a controlled substance under AS 11.71.010(a), 11.71.021(a),

1 **11.71.030(a)(2) or (9)** [11.71.030(a)(1), (2), OR (4) - (8)], or 11.71.040(a)(1) or (2)
 2 and, in the course of or in furtherance of that crime or in immediate flight from that
 3 crime, any person causes the death of a person other than one of the participants;

4 (4) acting with a criminal street gang, the person commits or attempts
 5 to commit a crime that is a felony and, in the course of or in furtherance of that crime
 6 or in immediate flight from that crime, any person causes the death of a person other
 7 than one of the participants; or

8 (5) the person with criminal negligence causes the death of a child
 9 under the age of 16, and the person has been previously convicted of a crime involving
 10 a child under the age of 16 that was

11 (A) a felony violation of AS 11.41;

12 (B) in violation of a law or ordinance in another jurisdiction
 13 with elements similar to a felony under AS 11.41; or

14 (C) an attempt, a solicitation, or a conspiracy to commit a
 15 crime listed in (A) or (B) of this paragraph.

16 * **Sec. 2.** AS 11.41.150(a) is amended to read:

17 (a) A person commits the crime of murder of an unborn child if the person

18 (1) with intent to cause the death of an unborn child or of another
 19 person, causes the death of an unborn child;

20 (2) with intent to cause serious physical injury to an unborn child or to
 21 another person or knowing that the conduct is substantially certain to cause death or
 22 serious physical injury to an unborn child or to another person, causes the death of an
 23 unborn child;

24 (3) while acting alone or with one or more persons, commits or
 25 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
 26 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
 27 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
 28 first or second degree, robbery in any degree, or misconduct involving a controlled
 29 substance under AS 11.71.010(a), **11.71.021(a), 11.71.030(a)(2) or (9)**
 30 [11.71.030(a)(1), (2), OR (4) - (8)], or 11.71.040(a)(1) or (2), and, in the course of or
 31 in furtherance of that crime or in immediate flight from that crime, any person causes

1 the death of an unborn child;

2 (4) knowingly engages in conduct that results in the death of an unborn
3 child under circumstances manifesting an extreme indifference to the value of human
4 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
5 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
6 does not constitute conduct manifesting an extreme indifference to the value of human
7 life.

8 * Sec. 3. AS 11.46.130(a) is amended to read:

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

11 (1) the value of the property or services [, ADJUSTED FOR
12 INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than
13 \$25,000;

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

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

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

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

20 (6) the value of the property [, ADJUSTED FOR INFLATION AS
21 PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750 and, within the
22 preceding five years, the person has been convicted and sentenced on two or more
23 separate occasions in this or another jurisdiction of

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

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

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

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

1 (7) the property is an access device.

2 * **Sec. 4.** AS 11.46.140(a) is amended to read:

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

5 (1) the value of the property or services [, ADJUSTED FOR
6 INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;
7 or

8 (2) [REPEALED]

9 (3) [REPEALED]

10 (4) the value of the property is less than \$250 and, within the preceding
11 five years, the person has been convicted and sentenced on three or more separate
12 occasions in this or another jurisdiction of theft or concealment of merchandise, or an
13 offense under another law or ordinance with similar elements.

14 * **Sec. 5.** AS 11.46.150(a) is amended to read:

15 (a) A person commits the crime of theft in the fourth degree if the person
16 commits theft as defined in AS 11.46.100 and the value of the property or services [,
17 ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

18 * **Sec. 6.** AS 11.46.220(c) is amended to read:

19 (c) Concealment of merchandise is

20 (1) a class C felony if

21 (A) the merchandise is a firearm;

22 (B) the value of the merchandise [, ADJUSTED FOR
23 INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more; or

24 (C) the value of the merchandise [, ADJUSTED FOR
25 INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than
26 \$750 and, within the preceding five years, the person has been convicted and
27 sentenced on two or more separate occasions in this or another jurisdiction of

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

31 (ii) an offense under AS 11.46.120, 11.46.130, or

1 11.46.140(a)(1), or an offense under another law or ordinance with
2 similar elements;

3 (2) a class A misdemeanor if

4 (A) the value of the merchandise [, ADJUSTED FOR
5 INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than
6 \$750; or

7 (B) [REPEALED]

8 (C) the value of the merchandise is less than \$250 and, within
9 the preceding five years, the person has been convicted and sentenced on three
10 or more separate occasions of the offense of concealment of merchandise or
11 theft in any degree, or an offense under another law or ordinance with similar
12 elements;

13 (3) a class B misdemeanor if the value of the merchandise [,
14 ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

15 * **Sec. 7.** AS 11.46.260(b) is amended to read:

16 (b) Removal of identification marks is

17 (1) a class C felony if the value of the property on which the serial
18 number or identification mark appeared [, ADJUSTED FOR INFLATION AS
19 PROVIDED IN AS 11.46.982,] is \$750 or more;

20 (2) a class A misdemeanor if the value of the property on which the
21 serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS
22 PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;

23 (3) a class B misdemeanor if the value of the property on which the
24 serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS
25 PROVIDED IN AS 11.46.982,] is less than \$250.

26 * **Sec. 8.** AS 11.46.270(b) is amended to read:

27 (b) Unlawful possession is

28 (1) a class C felony if the value of the property on which the serial
29 number or identification mark appeared [, ADJUSTED FOR INFLATION AS
30 PROVIDED IN AS 11.46.982,] is \$750 or more;

31 (2) a class A misdemeanor if the value of the property on which the

1 serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS
2 PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;

3 (3) a class B misdemeanor if the value of the property on which the
4 serial number or identification mark appeared [, ADJUSTED FOR INFLATION AS
5 PROVIDED IN AS 11.46.982,] is less than \$250.

6 * **Sec. 9.** AS 11.46.280(d) is amended to read:

7 (d) Issuing a bad check is

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

9 (2) a class C felony if the face amount of the check [, ADJUSTED
10 FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than
11 \$25,000;

12 (3) a class A misdemeanor if the face amount of the check [,
13 ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more
14 but less than \$750;

15 (4) a class B misdemeanor if the face amount of the check [,
16 ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$250.

17 * **Sec. 10.** AS 11.46.285(b) is amended to read:

18 (b) Fraudulent use of an access device is

19 (1) a class B felony if the value of the property or services obtained is
20 \$25,000 or more;

21 (2) a class C felony if the value of the property or services obtained [,
22 ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more
23 but less than \$25,000;

24 (3) a class A misdemeanor if the value of the property or services
25 obtained [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less
26 than \$750.

27 * **Sec. 11.** AS 11.46.295 is amended to read:

28 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior
29 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or
30 11.46.140(a)(4) or in prosecuting the crime of concealment of merchandise under
31 AS 11.46.220(c),

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

4 (2) a conviction for an offense under Alaska law where the value of the
 5 property or services for the offense was lower than the value of property or services
 6 for the offense under current Alaska law is a prior conviction for that offense; and

7 (3) the court shall consider the date of a prior conviction as occurring
 8 on the date that sentence is imposed for the prior offense.

9 * **Sec. 12.** AS 11.46.360(a) is amended to read:

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

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

15 (2) the propelled vehicle of another and

16 (A) the vehicle or any other property of another is damaged in a
 17 total amount [, ADJUSTED FOR INFLATION AS PROVIDED IN
 18 AS 11.46.982,] of \$750 or more;

19 (B) the owner incurs reasonable expenses as a result of the loss
 20 of use of the vehicle, in a total amount [, ADJUSTED FOR INFLATION AS
 21 PROVIDED IN AS 11.46.982,] of \$750 or more; or

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

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

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

28 (A) this section or AS 11.46.365;

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

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

31 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft

1 of a propelled vehicle; or

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

5 * **Sec. 13.** AS 11.46.482(a) is amended to read:

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

9 (1) with intent to damage property of another, the person damages
10 property of another in an amount [, ADJUSTED FOR INFLATION AS PROVIDED
11 IN AS 11.46.982,] of \$750 or more;

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

14 (3) the person knowingly

15 (A) defaces, damages, or desecrates a cemetery or the contents
16 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,
17 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or
18 memorial appears to be abandoned, lost, or neglected;

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

22 * **Sec. 14.** AS 11.46.484(a) is amended to read:

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

26 (1) with intent to damage property of another, the person damages
27 property of another in an amount [, ADJUSTED FOR INFLATION AS PROVIDED
28 IN AS 11.46.982,] of \$250 or more but less than \$750;

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

31 (3) the person knowingly accesses a computer, computer system,

1 computer program, computer network, or part of a computer system or network;

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

6 (5) the person knowingly removes, relocates, defaces, alters, obscures,
7 shoots at, destroys, or otherwise tampers with an official traffic control device or
8 damages the work on a highway under construction.

9 * **Sec. 15.** AS 11.46.486(a) is amended to read:

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

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

16 (2) with intent to damage property of another, the person damages
17 property of another in an amount [, ADJUSTED FOR INFLATION AS PROVIDED
18 IN AS 11.46.982,] less than \$250; or

19 (3) the person rides in a propelled vehicle and, with criminal
20 negligence, disregards the fact that it has been stolen or that it is being used in
21 violation of AS 11.46.360 or 11.46.365(a)(1).

22 * **Sec. 16.** AS 11.46.530(b) is amended to read:

23 (b) Criminal simulation is

24 (1) a class C felony if the value of what the object purports to represent
25 [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or
26 more;

27 (2) a class A misdemeanor if the value of what the object purports to
28 represent [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is
29 \$250 or more but less than \$750;

30 (3) a class B misdemeanor if the value of what the object purports to
31 represent [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less

1 than \$250.

2 * **Sec. 17.** AS 11.46.620(d) is amended to read:

3 (d) Misapplication of property is

4 (1) a class C felony if the value of the property misapplied [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more;

5 (2) a class A misdemeanor if the value of the property misapplied [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less than \$750.

6 * **Sec. 18.** AS 11.46.730(c) is amended to read:

7 (c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] of \$750 or more as a result of the defendant's conduct, in which case defrauding secured creditors is

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

9 (2) a class C felony if the loss [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than \$25,000.

10 * **Sec. 19.** AS 11.56.310(a) is amended to read:

11 (a) One commits the crime of escape in the second degree if, without lawful authority, one

12 (1) removes oneself from

13 (A) a secure correctional facility while under official detention for a misdemeanor;

14 (B) official detention for a felony or for extradition; or

15 (C) official detention and, during the escape or at any time before being restored to official detention, one possesses on or about oneself a firearm;

16 (2) violates AS 11.56.335 or 11.56.340 and, during the time of the unlawful evasion or at any time before being restored to official detention, one possesses on or about oneself a firearm; or

17 (3) **while under official detention for a felony,**

18 (A) removes, tampers with, or disables the electronic monitoring equipment; [,] or

1 **(B) without prior authorization,** leaves one's residence or
 2 other place designated by the commissioner of corrections **or the**
 3 **commissioner of health and social services** for [THE] service by electronic
 4 monitoring [OF OFFICIAL DETENTION FOR A FELONY].

5 * **Sec. 20.** AS 11.56.320(a) is amended to read:

6 (a) One commits the crime of escape in the third degree if one

7 (1) removes oneself from official detention during any lawful
 8 movement or activity incident to confinement within a correctional facility for a
 9 misdemeanor; [OR]

10 (2) violates AS 11.56.335 or 11.56.340 and leaves or attempts to leave
 11 the state;

12 **(3) while under official detention for a misdemeanor,**

13 **(A) removes, tampers with, or disables the electronic**
 14 **monitoring equipment; or**

15 **(B) without prior authorization, leaves one's residence or**
 16 **other place designated by the commissioner of corrections or the**
 17 **commissioner of health and social services for service by electronic**
 18 **monitoring; or**

19 **(4) while on release under AS 12.30,**

20 **(A) removes, tampers with, or disables the electronic**
 21 **monitoring equipment; or**

22 **(B) without prior authorization, leaves one's residence or**
 23 **other place designated by a judicial officer as a condition of release.**

24 * **Sec. 21.** AS 11.56.730(a) is amended to read:

25 (a) A person commits the **crime** [OFFENSE] of failure to appear if the person

26 (1) is released under the provisions of AS 12.30;

27 (2) knows that the person is required to appear before a court or
 28 judicial officer at the time and place of a scheduled hearing; and

29 (3) with criminal negligence does not appear before the court or
 30 judicial officer at the time and place of the scheduled hearing.

31 * **Sec. 22.** AS 11.56.730(d) is amended to read:

1 (d) Failure to appear is a

2 (1) class C felony if the person was released in connection with a
3 charge of a felony or while awaiting sentence or appeal after conviction of a felony
4 [AND THE PERSON

5 (A) DOES NOT MAKE CONTACT WITH THE COURT OR
6 A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES
7 NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED
8 HEARING; OR

9 (B) DOES NOT APPEAR AT THE TIME AND PLACE OF A
10 SCHEDULED HEARING TO AVOID PROSECUTION];

11 (2) class A misdemeanor if the person was released in connection with

12 a

13 (A) charge of a misdemeanor, while awaiting sentence or
14 appeal after conviction of a misdemeanor; or

15 (B) [, OR IN CONNECTION WITH A] requirement to appear
16 as a material witness in a criminal proceeding [, AND THE PERSON

17 (A) DOES NOT MAKE CONTACT WITH THE COURT OR
18 A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES
19 NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED
20 HEARING; OR

21 (B) DOES NOT APPEAR AT THE TIME AND PLACE OF A
22 SCHEDULED HEARING TO AVOID PROSECUTION; OR

23 (3) VIOLATION PUNISHABLE BY A FINE OF UP TO \$1,000].

24 * Sec. 23. AS 11.56.757(b) is amended to read:

25 (b) Violation of condition of release is a

26 (1) class A misdemeanor if the person is released from a charge or
27 conviction of a felony;

28 (2) class B misdemeanor if the person is released from a charge or
29 conviction of a misdemeanor.

30 * Sec. 24. AS 11.56.760(a) is amended to read:

31 (a) A person commits the crime of violating an order to submit to DNA testing

1 if, when requested by a health care professional acting on behalf of the state to provide
 2 a blood sample, oral sample, or both, or when requested by a juvenile or adult
 3 correctional, probation, or parole officer or a peace officer to provide an oral sample,
 4 the person refuses to provide the sample or samples and the person

5 (1) has been ordered to submit to DNA testing as part of a sentence
 6 imposed under AS 12.55.015;

7 (2) has been convicted of an offense that requires DNA testing under
 8 the provisions of AS 44.41.035(b)(1) and (2); [AS 44.41.035; OR]

9 (3) is required to register as a sex offender or child kidnapper under
 10 AS 12.63; or

11 (4) has been arrested for an offense that requires DNA testing
 12 under the provisions of AS 44.41.035(b)(6).

13 * **Sec. 25.** AS 11.56.760(c) is amended to read:

14 (c) Violating an order to submit to DNA testing under

15 (1) (a)(1) - (3) of this section is a class C felony;

16 (2) (a)(4) of this section is a class A misdemeanor.

17 * **Sec. 26.** AS 11.56.810(a) is amended to read:

18 (a) A person commits the crime of terroristic threatening in the second degree
 19 if the person communicates a threat [KNOWINGLY MAKES A FALSE REPORT
 20 THAT A CIRCUMSTANCE]

21 (1) to commit a crime against a person or property with reckless
 22 disregard of the risk of [DANGEROUS TO HUMAN LIFE EXISTS OR IS ABOUT
 23 TO EXIST AND]

24 (A) placing a person [IS PLACED] in reasonable fear of
 25 serious physical injury to a [ANY] person;

26 (B) causing the [CAUSES] evacuation of a building, public
 27 place or area, business premises, or mode of public transportation;

28 (C) causing a [CAUSES] serious public inconvenience; or

29 (D) placing the public or a substantial group of the public
 30 in fear of serious physical injury [THE REPORT CLAIMS THAT A
 31 BACTERIOLOGICAL, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL

1 SUBSTANCE THAT IS CAPABLE OF CAUSING SERIOUS PHYSICAL
 2 INJURY HAS BEEN SENT OR IS PRESENT IN A BUILDING, PUBLIC
 3 PLACE OR AREA, BUSINESS PREMISES, OR MODE OF PUBLIC
 4 TRANSPORTATION]; or

5 (2) **that a circumstance** exists or is about to exist that is dangerous to
 6 the proper or safe functioning of an oil or gas pipeline or supporting facility, utility, or
 7 transportation or cargo facility; in this paragraph, "oil or gas pipeline or supporting
 8 facility" and "utility" have the meanings given in AS 11.46.495.

9 * **Sec. 27.** AS 11.61.110(c) is amended to read:

10 (c) Disorderly conduct is a class B misdemeanor **and is punishable as**
 11 **authorized in AS 12.55 except that a sentence of imprisonment, if imposed, shall**
 12 **be for a definite term of not more than 10 days.**

13 * **Sec. 28.** AS 11.71 is amended by adding a new section to read:

14 **Sec. 11.71.021. Misconduct involving a controlled substance in the second**
 15 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
 16 misconduct involving a controlled substance in the second degree if the person

17 (1) manufactures or delivers any amount of a schedule IA controlled
 18 substance or possesses any amount of a schedule IA controlled substance with intent
 19 to manufacture or deliver;

20 (2) manufactures any material, compound, mixture, or preparation that
 21 contains

22 (A) methamphetamine, or its salts, isomers, or salts of isomers;

23 or

24 (B) an immediate precursor of methamphetamine, or its salts,
 25 isomers, or salts of isomers;

26 (3) possesses an immediate precursor of methamphetamine, or the
 27 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
 28 with the intent to manufacture any material, compound, mixture, or preparation that
 29 contains methamphetamine, or its salts, isomers, or salts of isomers;

30 (4) possesses a listed chemical with intent to manufacture any material,
 31 compound, mixture, or preparation that contains

1 (A) methamphetamine, or its salts, isomers, or salts of isomers;

2 or

3 (B) an immediate precursor of methamphetamine, or its salts,
4 isomers, or salts of isomers;

5 (5) possesses methamphetamine in an organic solution with intent to
6 extract from it methamphetamine or its salts, isomers, or salts of isomers; or

7 (6) under circumstances not proscribed under AS 11.71.010(a)(2),
8 delivers

9 (A) an immediate precursor of methamphetamine, or the salts,
10 isomers, or salts of isomers of the immediate precursor of methamphetamine,
11 to another person with reckless disregard that the precursor will be used to
12 manufacture any material, compound, mixture, or preparation that contains
13 methamphetamine, or its salts, isomers, or salts of isomers; or

14 (B) a listed chemical to another person with reckless disregard
15 that the listed chemical will be used to manufacture any material, compound,
16 mixture, or preparation that contains

17 (i) methamphetamine, or its salts, isomers, or salts of
18 isomers;

19 (ii) an immediate precursor of methamphetamine, or its
20 salts, isomers, or salts of isomers; or

21 (iii) methamphetamine or its salts, isomers, or salts of
22 isomers in an organic solution.

23 (b) In a prosecution under (a) of this section, possession of more than six
24 grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or
25 the salts, isomers, or salts of isomers of those chemicals is prima facie evidence that
26 the person intended to use the listed chemicals to manufacture, to aid or abet another
27 person to manufacture, or to deliver to another person who intends to manufacture
28 methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers
29 of methamphetamine or its immediate precursors. The prima facie evidence described
30 in this subsection does not apply to a person who possesses

31 (1) the listed chemicals ephedrine, pseudoephedrine,

1 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

2 (A) and the listed chemical was dispensed to the person under a
3 valid prescription; or

4 (B) in the ordinary course of a legitimate business, or an
5 employee of a legitimate business, as a

6 (i) retailer or as a wholesaler;

7 (ii) wholesale drug distributor licensed by the Board of
8 Pharmacy;

9 (iii) manufacturer of drug products licensed by the
10 Board of Pharmacy;

11 (iv) pharmacist licensed by the Board of Pharmacy; or

12 (v) health care professional licensed by the state; or

13 (2) less than 24 grams of ephedrine, pseudoephedrine,
14 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals,
15 kept in a locked storage area on the premises of a legitimate business or nonprofit
16 organization operating a camp, lodge, school, day care center, treatment center, or
17 other organized group activity, and the location or nature of the activity, or the age of
18 the participants, makes it impractical for the participants in the activity to obtain
19 medicinal products.

20 (c) In this section, "listed chemical" means a chemical described under
21 AS 11.71.200.

22 (d) Misconduct involving a controlled substance in the second degree is a
23 class A felony.

24 * **Sec. 29.** AS 11.71.030(a) is amended to read:

25 (a) Except as authorized in AS 17.30, a person commits the crime of
26 misconduct involving a controlled substance in the **third** [SECOND] degree if the
27 person

28 (1) manufactures or delivers, or possesses with intent to manufacture
29 or deliver,

30 (A) one or more preparations, compounds, mixtures, or
31 substances of an aggregate weight of one gram or more containing a schedule

- 1 IA controlled substance;
- 2 (B) 25 or more tablets, ampules, or syrettes containing a
3 schedule IA controlled substance;
- 4 (C) one or more preparations, compounds, mixtures, or
5 substances of an aggregate weight of 2.5 grams or more containing a schedule
6 IIA or IIIA controlled substance; or
- 7 (D) 50 or more tablets, ampules, or syrettes containing a
8 schedule IIA or IIIA controlled substance;
- 9 (2) delivers any amount of a schedule IVA, VA, or VIA controlled
10 substance to a person under 19 years of age who is at least three years younger than
11 the person delivering the substance;
- 12 (3) possesses any amount of a schedule IA or IIA controlled substance
13 (A) with reckless disregard that the possession occurs
14 (i) on or within 500 feet of school grounds; or
15 (ii) at or within 500 feet of a recreation or youth center;
16 or
17 (B) on a school bus;
- 18 (4) manufactures any material, compound, mixture, or preparation that
19 contains
20 (A) methamphetamine, or its salts, isomers, or salts of isomers;
21 or
22 (B) an immediate precursor of methamphetamine, or its salts,
23 isomers, or salts of isomers;
- 24 (5) possesses an immediate precursor of methamphetamine, or the
25 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
26 with the intent to manufacture any material, compound, mixture, or preparation that
27 contains methamphetamine, or its salts, isomers, or salts of isomers;
- 28 (6) possesses a listed chemical with intent to manufacture any material,
29 compound, mixture, or preparation that contains
30 (A) methamphetamine, or its salts, isomers, or salts of isomers;
31 or

1 (B) an immediate precursor of methamphetamine, or its salts,
2 isomers, or salts of isomers;

3 (7) possesses methamphetamine in an organic solution with intent to
4 extract from it methamphetamine or its salts, isomers, or salts of isomers; [OR]

5 (8) under circumstances not proscribed under AS 11.71.010(a)(2),
6 delivers

7 (A) an immediate precursor of methamphetamine, or the salts,
8 isomers, or salts of isomers of the immediate precursor of methamphetamine,
9 to another person with reckless disregard that the precursor will be used to
10 manufacture any material, compound, mixture, or preparation that contains
11 methamphetamine, or its salts, isomers, or salts of isomers; or

12 (B) a listed chemical to another person with reckless disregard
13 that the listed chemical will be used to manufacture any material, compound,
14 mixture, or preparation that contains

15 (i) methamphetamine, or its salts, isomers, or salts of
16 isomers;

17 (ii) an immediate precursor of methamphetamine, or its
18 salts, isomers, or salts of isomers; or

19 (iii) methamphetamine or its salts, isomers, or salts of
20 isomers in an organic solution; or

21 **(9) under circumstances not proscribed under AS 11.71.021(a)(2) -**
22 **(6), manufactures or delivers any amount of a schedule IIA or IIIA controlled**
23 **substance or possesses any amount of a schedule IIA or IIIA controlled substance**
24 **with intent to manufacture or deliver.**

25 * Sec. 30. AS 11.71.030(d) is amended to read:

26 (d) Misconduct involving a controlled substance in the **third** [SECOND]
27 degree is a class B felony.

28 * Sec. 31. AS 11.71.040(a) is amended to read:

29 (a) Except as authorized in AS 17.30, a person commits the crime of
30 misconduct involving a controlled substance in the **fourth** [THIRD] degree if the
31 person

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

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

8 (3) possesses

9 (A) any amount of a

10 (i) schedule IA controlled substance [LISTED IN
11 AS 11.71.140(e)];

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

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

16 (C) one or more preparations, compounds, mixtures, or
17 substances of an aggregate weight of

18 (i) three grams or more containing a schedule IIIA
19 or IVA controlled substance except a controlled substance in a
20 form listed in (ii) of this subparagraph;

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

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

27 (D) 50 or more tablets, ampules, or syrettes containing a
28 schedule VA controlled substance;

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

1 **(F) one or more preparations, compounds, mixtures, or**
2 **substances of an aggregate weight of four ounces or more containing a**
3 **schedule VIA controlled substance; or**

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

5 (4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

6 (A) with reckless disregard that the possession occurs

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

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

9 or

10 (B) on a school bus;

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

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

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

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

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

27 (10) affixes a false or forged label to a package or other container
28 containing any controlled substance; or

29 (11) manufactures or delivers, or possesses with the intent to
30 manufacture or deliver,

31 (A) one or more preparations, compounds, mixtures, or

1 substances of an aggregate weight of less than one gram containing a schedule
2 IA controlled substance;

3 (B) less than 25 tablets, ampules, or syrettes containing a
4 schedule IA controlled substance;

5 (C) one or more preparations, compounds, mixtures, or
6 substances of an aggregate weight of less than 2.5 grams containing a schedule
7 IIA or IIIA controlled substance; or

8 (D) less than 50 tablets, ampules, or syrettes containing a
9 schedule IIA or IIIA controlled substance.

10 * **Sec. 32.** AS 11.71.040(d) is amended to read:

11 (d) Misconduct involving a controlled substance in the **fourth** [THIRD]
12 degree is a class C felony.

13 * **Sec. 33.** AS 11.71.050 is amended to read:

14 **Sec. 11.71.050. Misconduct involving a controlled substance in the fifth**
15 **[FOURTH] degree.** (a) Except as authorized in AS 17.30, a person commits the
16 crime of misconduct involving a controlled substance in the **fifth** [FOURTH] degree if
17 the person

18 (1) manufactures or delivers, or possesses with the intent to
19 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
20 of an aggregate weight of less than one ounce containing a schedule VIA controlled
21 substance;

22 (2) [REPEALED]

23 (3) fails to make, keep, or furnish any record, notification, order form,
24 statement, invoice, or information required under AS 17.30; [OR]

25 (4) under circumstances not proscribed under AS 11.71.030(a)(3),
26 11.71.040(a)(3), 11.71.040(a)(4), or 11.71.060(a)(2), possesses any amount of a
27 schedule IA, IIA, IIIA, IVA, VA, or VIA controlled substance; or

28 **(5) possesses**

29 **(A) less than 25 tablets, ampules, or syrettes containing a**
30 **schedule IIIA or IVA controlled substance;**

31 **(B) one or more preparations, compounds, mixtures, or**

1 **substances of an aggregate weight of less than**

2 **(i) three grams containing a schedule IIIA or IVA**
 3 **controlled substance except a controlled substance in a form listed**
 4 **in (ii) of this subparagraph;**

5 **(ii) 12 grams but more than six grams containing a**
 6 **schedule IIIA controlled substance listed in AS 11.71.160(f)(7) -**
 7 **(16) that has been sprayed on or otherwise applied to tobacco, an**
 8 **herb, or another organic material; or**

9 **(iii) 500 milligrams containing a schedule IIA**
 10 **controlled substance listed in AS 11.71.150(e)(11) - (15);**

11 **(C) less than 50 tablets, ampules, or syrettes containing a**
 12 **schedule VA controlled substance;**

13 **(D) one or more preparations, compounds, mixtures, or**
 14 **substances of an aggregate weight of less than six grams containing a**
 15 **schedule VA controlled substance; or**

16 **(E) one or more preparations, compounds, mixtures, or**
 17 **substances of an aggregate weight of one ounce or more containing a**
 18 **schedule VIA controlled substance.**

19 (b) Misconduct involving a controlled substance in the **fifth** [FOURTH]
 20 degree is a class A misdemeanor.

21 * **Sec. 34.** AS 11.71.060 is amended to read:

22 **Sec. 11.71.060. Misconduct involving a controlled substance in the sixth**
 23 **[FIFTH] degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
 24 misconduct involving a controlled substance in the **sixth** [FIFTH] degree if the person

25 (1) uses or displays any amount of a schedule VIA controlled
 26 substance;

27 (2) possesses one or more preparations, compounds, mixtures, or
 28 substances of an aggregate weight of

29 (A) less than one ounce containing a schedule VIA controlled
 30 substance;

31 (B) six grams or less containing a schedule IIIA controlled

1 substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or
2 otherwise applied to tobacco, an herb, or another organic material; or

3 (3) refuses entry into a premise for an inspection authorized under
4 AS 17.30.

5 (b) Misconduct involving a controlled substance in the sixth [FIFTH] degree
6 is a class B misdemeanor.

7 * **Sec. 35.** AS 11.71.311(a) is amended to read:

8 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
9 11.71.040(a)(3) or (4), 11.71.050(a)(5) [11.71.050(a)(4)], or 11.71.060(a)(1) or (2) if
10 that person

11 (1) sought, in good faith, medical or law enforcement assistance for
12 another person who the person reasonably believed was experiencing a drug overdose
13 and

14 (A) the evidence supporting the prosecution for an offense
15 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(5)
16 [11.71.050(a)(4)], or 11.71.060(a)(1) or (2) was obtained or discovered as a
17 result of the person seeking medical or law enforcement assistance;

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

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

22 (2) was experiencing a drug overdose and sought medical assistance,
23 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),
24 11.71.040(a)(3) or (4), 11.71.050(a)(5) [11.71.050(a)(4)], or 11.71.060(a)(1) or (2)
25 was obtained as a result of the overdose and the need for medical assistance.

26 * **Sec. 36.** AS 12.55.090(c) is amended to read:

27 (c) The period of probation, together with any extension, may not exceed

28 (1) 25 [15] years for a felony sex offense; or

29 (2) 10 years for any other offense [AN UNCLASSIFIED FELONY
30 UNDER AS 11 NOT LISTED IN (1) OF THIS SUBSECTION;

31 (3) FIVE YEARS FOR A FELONY OFFENSE NOT LISTED IN (1)

1 OR (2) OF THIS SUBSECTION;

2 (4) THREE YEARS FOR A MISDEMEANOR OFFENSE

3 (A) UNDER AS 11.41;

4 (B) THAT IS A CRIME INVOLVING DOMESTIC
5 VIOLENCE; OR

6 (C) THAT IS A SEX OFFENSE, AS THAT TERM IS
7 DEFINED IN AS 12.63.100;

8 (5) TWO YEARS FOR A MISDEMEANOR OFFENSE UNDER
9 AS 28.35.030 OR 28.35.032, IF THE PERSON HAS PREVIOUSLY BEEN
10 CONVICTED OF AN OFFENSE UNDER AS 28.35.030 OR 28.35.032, OR A
11 SIMILAR LAW OR ORDINANCE OF THIS OR ANOTHER JURISDICTION; OR

12 (6) ONE YEAR FOR AN OFFENSE NOT LISTED IN (1) - (5) OF
13 THIS SUBSECTION].

14 * **Sec. 37.** AS 12.55.125(c) is amended to read:

15 (c) Except as provided in (i) of this section, a defendant convicted of a class A
16 felony may be sentenced to a definite term of imprisonment of not more than 20 years,
17 and shall be sentenced to a definite term within the following presumptive ranges,
18 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

19 (1) if the offense is a first felony conviction and does not involve
20 circumstances described in (2) of this subsection, **five** [THREE] to **eight** [SIX] years;

21 (2) if the offense is a first felony conviction

22 **(A)** and the defendant

23 [(A)] possessed a firearm, used a dangerous instrument, or
24 caused serious physical injury or death during the commission of the offense,
25 [FIVE TO NINE YEARS;] or

26 [(B)] knowingly directed the conduct constituting the offense at
27 a uniformed or otherwise clearly identified peace officer, firefighter,
28 correctional employee, emergency medical technician, paramedic, ambulance
29 attendant, or other emergency responder who was engaged in the performance
30 of official duties at the time of the offense, seven to 11 years;

31 **(B) and the conviction is for manufacturing related to**

1 methamphetamine under AS 11.71.021(a)(2)(A) or (B), seven to 11 years if

2 (i) the manufacturing occurred in a building with
 3 reckless disregard that the building was used as a permanent or
 4 temporary home or place of lodging for one or more children
 5 under 18 years of age or the building was a place frequented by
 6 children; or

7 (ii) in the course of manufacturing or in preparation
 8 for manufacturing, the defendant obtained the assistance of one or
 9 more children under 18 years of age or one or more children were
 10 present;

11 (3) if the offense is a second felony conviction, 10 [EIGHT] to 14 [12]

12 years;

13 (4) if the offense is a third felony conviction and the defendant is not
 14 subject to sentencing under (j) of this section, 15 [13] to 20 years.

15 * Sec. 38. AS 12.55.125(d) is amended to read:

16 (d) Except as provided in (i) of this section, a defendant convicted of a class B
 17 felony may be sentenced to a definite term of imprisonment of not more than 10 years,
 18 and shall be sentenced to a definite term within the following presumptive ranges,
 19 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

20 (1) if the offense is a first felony conviction and does not involve
 21 circumstances described in (2) of this subsection, one [ZERO] to three [TWO] years;
 22 a defendant sentenced under this paragraph may, if the court finds it appropriate, be
 23 granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of
 24 probation under AS 12.55.086, the defendant is required to serve an active term
 25 of imprisonment within the range specified in this paragraph, unless the court
 26 finds that a mitigation factor under AS 12.55.155 applies;

27 (2) if the offense is a first felony conviction,

28 (A) the defendant violated AS 11.41.130, and the victim was

29 [(A)] a child under 16 years of age, two to four years; [OR]

30 (B) two to four years if the conviction is for attempt,
 31 solicitation, or conspiracy to manufacture related to methamphetamine

1 under AS 11.31 and AS 11.71.021(a)(2)(A) or (B), and

2 (i) the attempted manufacturing occurred, or the
 3 solicited or conspired offense was to have occurred, in a building
 4 with reckless disregard that the building was used as a permanent
 5 or temporary home or place of lodging for one or more children
 6 under 18 years of age or the building was a place frequented by
 7 children; or

8 (ii) in the course of an attempt to manufacture, the
 9 defendant obtained the assistance of one or more children under 18
 10 years of age or one or more children were present [WAS 16 YEARS
 11 OF AGE OR OLDER, ONE TO THREE YEARS];

12 (3) if the offense is a second felony conviction, four [TWO] to seven
 13 [FIVE] years;

14 (4) if the offense is a third felony conviction, six [FOUR] to 10 years.

15 * **Sec. 39.** AS 12.55.125(e) is amended to read:

16 (e) Except as provided in (i) of this section, a defendant convicted of a class C
 17 felony may be sentenced to a definite term of imprisonment of not more than five
 18 years, and shall be sentenced to a definite term within the following presumptive
 19 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

20 (1) if the offense is a first felony conviction and does not involve
 21 circumstances described in (4) of this subsection, zero to two years; a defendant
 22 sentenced under this paragraph may, if the court finds it appropriate, be granted a
 23 suspended imposition of sentence under AS 12.55.085, and the court may, as a
 24 condition of probation under AS 12.55.086, require the defendant to serve an active
 25 term of imprisonment within the range specified in this paragraph;

26 (2) if the offense is a second felony conviction, two [ONE] to four
 27 years;

28 (3) if the offense is a third felony conviction, three [TWO] to five
 29 years;

30 (4) if the offense is a first felony conviction, and the defendant violated
 31 AS 08.54.720(a)(15), one to two years.

1 * **Sec. 40.** AS 12.55.125(q) is amended to read:

2 (q) Other than for convictions subject to a mandatory 99-year sentence, the
 3 court shall impose, in addition to an active term of imprisonment imposed under (i) of
 4 this section, a minimum period of (1) suspended imprisonment of five years and a
 5 minimum period of probation supervision of 15 years for conviction of an unclassified
 6 felony, (2) suspended imprisonment of three years and a minimum period of probation
 7 supervision of 10 years for conviction of a class A or class B felony, or (3) suspended
 8 imprisonment of two years and a minimum period of probation supervision of five
 9 years for conviction of a class C felony. The period of probation is in addition to any
 10 sentence received under (i) of this section **and may not be suspended or reduced.**
 11 **Upon a defendant's release from confinement in a correctional facility, the**
 12 **defendant is subject to the probation requirement under this subsection and shall**
 13 **submit and comply with the terms and requirements of the probation.**

14 * **Sec. 41.** AS 12.55.135(a) is amended to read:

15 (a) A defendant convicted of a class A misdemeanor may be sentenced to a
 16 definite term of imprisonment of not more than

17 [(1)] one year [, IF THE

18 (A) CONVICTION IS FOR A CRIME WITH A
 19 MANDATORY MINIMUM TERM OF 30 DAYS OR MORE OF ACTIVE
 20 IMPRISONMENT;

21 (B) TRIER OF FACT FINDS THE AGGRAVATING
 22 FACTOR THAT THE CONDUCT CONSTITUTING THE OFFENSE WAS
 23 AMONG THE MOST SERIOUS CONDUCT INCLUDED IN THE
 24 DEFINITION OF THE OFFENSE;

25 (C) DEFENDANT HAS PAST CRIMINAL CONVICTIONS
 26 FOR CONDUCT VIOLATIVE OF CRIMINAL LAWS, PUNISHABLE AS
 27 FELONIES OR MISDEMEANORS, SIMILAR IN NATURE TO THE
 28 OFFENSE FOR WHICH THE DEFENDANT IS BEING SENTENCED;

29 (D) CONVICTION IS FOR AN ASSAULT IN THE FOURTH
 30 DEGREE UNDER AS 11.41.230; OR

31 (E) CONVICTION IS FOR A VIOLATION OF

- 1 (i) AS 11.41.427;
- 2 (ii) AS 11.41.440;
- 3 (iii) AS 11.41.460, IF THE INDECENT EXPOSURE
- 4 IS BEFORE A PERSON UNDER 16 YEARS OF AGE;
- 5 (iv) AS 11.61.116(c)(2); OR
- 6 (v) AS 11.61.118(a)(2);
- 7 (2) 30 DAYS].

8 * **Sec. 42.** AS 12.55.135(b) is amended to read:

9 (b) A defendant convicted of a class B misdemeanor may be sentenced to a
10 definite term of imprisonment of not more than 90

11 [(1) 10] days unless otherwise specified in the provision of law
12 defining the offense [OR IN THIS SECTION;

13 (2) 90 DAYS IF THE CONVICTION IS FOR A VIOLATION OF

14 (A) AS 11.61.116(c)(1) AND THE PERSON IS 21 YEARS
15 OF AGE OR OLDER; OR

16 (B) AS 11.61.120(a)(6) AND THE PERSON IS 21 YEARS OF
17 AGE OR OLDER; OR

18 (3) FIVE DAYS IF THE CONVICTION IS FOR A VIOLATION OF
19 AS 11.56.757].

20 * **Sec. 43.** AS 12.55.135 is amended by adding a new subsection to read:

21 (q) A court may not impose a sentence of imprisonment or suspended
22 imprisonment for possession of marijuana in violation of AS 11.71.060 if the
23 defendant alleges, and the court finds, that the defendant was not under formal or
24 informal probation or parole conditions in this or another jurisdiction at the time of the
25 offense; that the defendant possessed the marijuana for the defendant's personal use
26 within the defendant's permanent or temporary residence; and that the defendant has
27 not been previously convicted more than once in this or another jurisdiction for
28 possession of marijuana. If the defendant has not been previously convicted as
29 described in this subsection, the maximum unsuspended fine that the court may
30 impose is \$500. If the defendant has been previously convicted once as described in
31 this subsection, the maximum unsuspended fine that the court may impose is \$1,000.

1 In this subsection,

2 (1) "permanent or temporary residence" means a permanent structure
3 adopted for overnight accommodation; "permanent or temporary residence" does not
4 include

5 (A) vehicles, tents, prisons or other correctional facilities,
6 residential treatment facilities, or shelters operated by a charitable organization
7 or a government agency;

8 (B) any place where the defendant's possession or use of
9 marijuana violated established rules for residents, such as a ban on smoking or
10 a ban on marijuana or other controlled substances;

11 (2) "previously convicted" means the defendant entered a plea of
12 guilty, no contest, or nolo contendere, or has been found guilty by a court or jury,
13 regardless of whether the conviction was set aside under AS 12.55.085 or a similar
14 procedure in another jurisdiction, of possession of marijuana; "previously convicted"
15 does not include a judgment that has been reversed or vacated by a court.

16 * **Sec. 44.** AS 28.35.030(k) is amended to read:

17 (k) Imprisonment required under (b)(1)(A) of this section shall be served **at a**
18 **community residential center or** by electronic monitoring at a private residence
19 under AS 33.30.065. If **a community residential center or** electronic monitoring **at a**
20 **private residence** is not available, imprisonment required under (b)(1)(A) of this
21 section **may** [SHALL] be served at **another appropriate place** [A PRIVATE
22 RESIDENCE BY OTHER MEANS] determined by the commissioner of corrections.
23 [A PERSON WHO IS SERVING A SENTENCE OF IMPRISONMENT REQUIRED
24 UNDER (b)(1)(A) OF THIS SECTION BY ELECTRONIC MONITORING AT A
25 PRIVATE RESIDENCE MAY NOT BE SUBJECT TO A SEARCH OF THE
26 PERSON'S DWELLING BY A PEACE OFFICER OR A PERSON REQUIRED TO
27 ADMINISTER THE ELECTRONIC MONITORING UNDER AS 33.30.065(a),
28 EXCEPT UPON PROBABLE CAUSE.] Imprisonment required under (b)(1)(B) - (F)
29 of this section may be served at a community residential center or at a private
30 residence if approved by the commissioner of corrections. Imprisonment served at a
31 private residence must include electronic monitoring under AS 33.30.065 [OR, IF

1 ELECTRONIC MONITORING IS NOT AVAILABLE, BY OTHER MEANS AS
 2 DETERMINED BY THE COMMISSIONER OF CORRECTIONS]. The cost of
 3 imprisonment resulting from the sentence imposed under (b)(1) of this section shall be
 4 paid to the state by the person being sentenced. The cost of imprisonment required to
 5 be paid under this subsection may not exceed \$2,000. Upon the person's conviction,
 6 the court shall include the costs of imprisonment as a part of the judgment of
 7 conviction. Except for reimbursement from a permanent fund dividend as provided in
 8 this subsection, payment of the cost of imprisonment is not required if the court
 9 determines the person is indigent. For costs of imprisonment that are not paid by the
 10 person as required by this subsection, the state shall seek reimbursement from the
 11 person's permanent fund dividend as provided under AS 43.23.140. A person
 12 sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
 13 community service work, as required by the director of the community residential
 14 center or other appropriate place, or as required by the commissioner of corrections if
 15 the sentence is being served at a private residence. In this subsection, "appropriate
 16 place" means a facility with 24-hour on-site staff supervision that is specifically
 17 adapted to provide a residence, and includes a correctional center, residential treatment
 18 facility, hospital, halfway house, group home, work farm, work camp, or other place
 19 that provides varying levels of restriction.

20 * **Sec. 45.** AS 28.35.032(o) is amended to read:

21 (o) Imprisonment required under (g)(1)(A) of this section shall be served at a
 22 community residential center, or if a community residential center [PRIVATE
 23 RESIDENCE BY ELECTRONIC MONITORING UNDER AS 33.30.065. IF
 24 ELECTRONIC MONITORING] is not available, at another appropriate place
 25 [IMPRISONMENT UNDER (g)(1)(A) OF THIS SECTION SHALL BE SERVED
 26 AT A PRIVATE RESIDENCE BY OTHER MEANS AS] determined by the
 27 commissioner of corrections. [A PERSON WHO IS SERVING A SENTENCE OF
 28 IMPRISONMENT REQUIRED UNDER (g)(1)(A) OF THIS SECTION BY
 29 ELECTRONIC MONITORING AT A PRIVATE RESIDENCE MAY NOT BE
 30 SUBJECT TO A SEARCH OF THE PERSON'S DWELLING BY A PEACE
 31 OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC

1 MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE.]
 2 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
 3 community residential center or at a private residence if approved by the
 4 commissioner of corrections. Imprisonment served at a private residence must include
 5 electronic monitoring under AS 33.30.065 [OR, IF ELECTRONIC MONITORING IS
 6 NOT AVAILABLE, SHALL BE SERVED BY OTHER MEANS AS DETERMINED
 7 BY THE COMMISSIONER OF CORRECTIONS]. The cost of imprisonment
 8 resulting from the sentence imposed under (g)(1) of this section shall be paid to the
 9 state by the person being sentenced. The cost of imprisonment required to be paid
 10 under this subsection may not exceed \$2,000. Upon the person's conviction, the court
 11 shall include the costs of imprisonment as a part of the judgment of conviction. Except
 12 for reimbursement from a permanent fund dividend as provided in this subsection,
 13 payment of the cost of imprisonment is not required if the court determines the person
 14 is indigent. For costs of imprisonment that are not paid by the person as required by
 15 this subsection, the state shall seek reimbursement from the person's permanent fund
 16 dividend as provided under AS 43.23.140. A person sentenced under (g)(1)(B) of this
 17 section shall perform at least 160 hours of community service work, as required by the
 18 director of the community residential center or other appropriate place, or as required
 19 by the commissioner of corrections if the sentence is being served at a private
 20 residence. In this subsection, "appropriate place" means a facility with 24-hour on-site
 21 staff supervision that is specifically adapted to provide a residence, and includes a
 22 correctional center, residential treatment facility, hospital, halfway house, group home,
 23 work farm, work camp, or other place that provides varying levels of restriction.

24 * **Sec. 46.** AS 34.03.360(7) is amended to read:

25 (7) "illegal activity involving a controlled substance" means a violation
 26 of AS 11.71.010(a), 11.71.021(a), 11.71.030(a)(2) or (9) [11.71.030(a)(1), (2), OR (4)
 27 - (8)], or 11.71.040(a)(1), (2), or (5);

28 * **Sec. 47.** AS 47.12.315(a) is amended to read:

29 (a) Notwithstanding AS 47.12.310 and except as otherwise provided in this
 30 section, the department shall disclose information to the public, on request, concerning
 31 a minor subject to this chapter who was at least 13 years of age at the time of

1 commission of

- 2 (1) a felony offense against a person under AS 11.41;
 3 (2) arson in the first or second degree;
 4 (3) burglary in the first degree;
 5 (4) distribution of child pornography;
 6 (5) sex trafficking in the first degree;
 7 (6) misconduct involving a controlled substance in the first, [OR]
 8 second, or third degrees involving distribution or possession with intent to deliver; or
 9 (7) misconduct involving weapons in the first through fourth degrees.

10 * **Sec. 48.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 DIRECT COURT RULE AMENDMENT. Rule 6(r)(6), Alaska Rules of
 13 Criminal Procedure, is amended to read:

14 (6) When a prior conviction is an element of an offense [IN A
 15 PROSECUTION FOR DRIVING WHILE INTOXICATED UNDER AS 28.35.030(n)
 16 OR FOR REFUSAL TO SUBMIT TO A CHEMICAL TEST UNDER
 17 AS 28.35.032(p)], hearsay evidence received through the Alaska Public Safety
 18 Information Network or from other government agencies of prior convictions [OF
 19 DRIVING WHILE INTOXICATED OR REFUSAL TO SUBMIT TO A CHEMICAL
 20 TEST] may be presented to the grand jury.

21 * **Sec. 49.** AS 11.46.980(d), 11.46.982; AS 11.56.330(a)(3); AS 11.71.030(a)(1),
 22 11.71.030(a)(4), 11.71.030(a)(5), 11.71.030(a)(6), 11.71.030(a)(7), 11.71.030(a)(8),
 23 11.71.030(c), 11.71.030(e), 11.71.040(a)(11), 11.71.050(a)(4); AS 12.25.180(b)(3);
 24 AS 12.55.135(l), 12.55.135(m), 12.55.135(n), 12.55.135(o), 12.55.135(p), and
 25 12.55.145(a)(5) are repealed.

26 * **Sec. 50.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 APPLICABILITY. (a) The following sections apply to offenses committed on or after
 29 the effective date of those sections:

- 30 (1) AS 11.41.110(a), as amended by sec. 1 of this Act;
 31 (2) AS 11.41.150(a), as amended by sec. 2 of this Act;

- 1 (3) AS 11.46.130(a), as amended by sec. 3 of this Act;
- 2 (4) AS 11.46.140(a), as amended by sec. 4 of this Act;
- 3 (5) AS 11.46.150(a), as amended by sec. 5 of this Act;
- 4 (6) AS 11.46.220(c), as amended by sec. 6 of this Act;
- 5 (7) AS 11.46.260(b), as amended by sec. 7 of this Act;
- 6 (8) AS 11.46.270(b), as amended by sec. 8 of this Act;
- 7 (9) AS 11.46.280(d), as amended by sec. 9 of this Act;
- 8 (10) AS 11.46.285(b), as amended by sec. 10 of this Act;
- 9 (11) AS 11.46.295, as amended by sec. 11 of this Act;
- 10 (12) AS 11.46.360(a), as amended by sec. 12 of this Act;
- 11 (13) AS 11.46.482(a), as amended by sec. 13 of this Act;
- 12 (14) AS 11.46.484(a), as amended by sec. 14 of this Act;
- 13 (15) AS 11.46.486(a), as amended by sec. 15 of this Act;
- 14 (16) AS 11.46.530(b), as amended by sec. 16 of this Act;
- 15 (17) AS 11.46.620(d), as amended by sec. 17 of this Act;
- 16 (18) AS 11.46.730(c), as amended by sec. 18 of this Act;
- 17 (19) AS 11.56.310(a), as amended by sec. 19 of this Act;
- 18 (20) AS 11.56.320(a), as amended by sec. 20 of this Act;
- 19 (21) AS 11.56.730(a), as amended by sec. 21 of this Act;
- 20 (22) AS 11.56.730(d), as amended by sec. 22 of this Act;
- 21 (23) AS 11.56.757(b), as amended by sec. 23 of this Act;
- 22 (24) AS 11.56.760(a), as amended by sec. 24 of this Act;
- 23 (25) AS 11.56.760(c), as amended by sec. 25 of this Act;
- 24 (26) AS 11.56.810(a), as repealed and reenacted by sec. 26 of this Act;
- 25 (27) AS 11.61.110(c), as amended by sec. 25 of this Act;
- 26 (28) AS 11.71.021, enacted by sec. 28 of this Act;
- 27 (29) AS 11.71.030(a), as amended by sec. 29 of this Act;
- 28 (30) AS 11.71.030(d), as amended by sec. 30 of this Act;
- 29 (31) AS 11.71.040(a), as amended by sec. 31 of this Act;
- 30 (32) AS 11.71.040(d), as amended by sec. 32 of this Act;
- 31 (33) AS 11.71.050, as amended by sec. 33 of this Act;

1 (34) AS 11.71.060, as amended by sec. 34 of this Act;

2 (35) AS 11.71.311(a), as amended by sec. 35 of this Act.

3 (b) The following sections apply to sentences imposed on or after the effective date of
4 those sections for conduct occurring on or after the effective date of those sections:

5 (1) AS 12.55.125(c), as amended by sec. 37 of this Act;

6 (2) AS 12.55.125(d), as amended by sec. 38 of this Act;

7 (3) AS 12.55.125(e), as amended by sec. 39 of this Act;

8 (4) AS 12.55.125(q), as amended by sec. 40 of this Act;

9 (5) AS 12.55.135(a), as amended by sec. 41 of this Act;

10 (6) AS 12.55.135(b), as amended by sec. 42 of this Act;

11 (7) AS 12.55.135(q), enacted by sec. 43 of this Act;

12 (8) AS 28.35.030(k), as amended by sec. 44 of this Act;

13 (9) AS 28.35.032(o), as amended by sec. 45 of this Act.

14 (c) AS 12.55.090(c), as amended by sec. 36 of this Act, applies to probation ordered
15 on or after the effective date of sec. 36 of this Act for conduct occurring on or after the
16 effective date of sec. 36 of this Act.

17 * **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **CONDITIONAL EFFECT.** Section 48 of this Act takes effect only if sec. 48 of this
20 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
21 Constitution of the State of Alaska.

22 * **Sec. 52.** This Act takes effect July 1, 2019."