

SB

91

<TARGET><BILL>SB 91</BILL><SUBJECT>SB
91</SUBJECT><COMM>SJUD29</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 3/9/16

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/25/16

Judiciary Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91

SB 91-OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

"An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; establishing a pretrial services program with pretrial services officers in the Department of Corrections; relating to permanent fund dividends; relating to electronic monitoring; relating to penalties for violations of municipal ordinances; relating to parole; relating to correctional restitution centers; relating to community work service; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to the duties of the commissioner of corrections; amending Rules 6, 32, 32.1, 38, 41, and 43, Alaska Rules of Criminal Procedure, and repealing Rules 41(d) and (e), Alaska Rules of Criminal Procedure; and providing for an effective date."

and recommends:

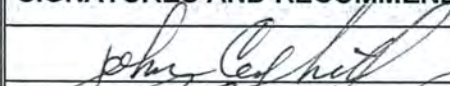
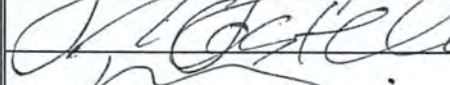
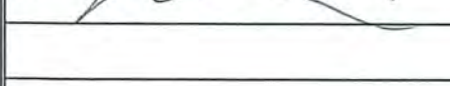
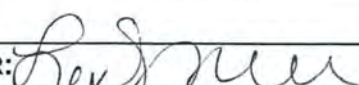
- be replaced with CS 55 5891 () Same Title New Title
- adopt previous CS _____ () Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
FORTHCOMING FISCAL INFO				

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	LOGAN	✓			
	COSTELLO	✓			
	WIELICHOWSKI			✓	
CHAIR: 	McGUIRE	✓			

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/9/16

Referred: Judiciary, Finance

Sponsor(s): SENATORS COGHILL, Ellis, McGuire, Costello, Bishop, Micciche, Egan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal law and procedure; relating to controlled substances;
2 relating to probation; relating to sentencing; establishing a pretrial services program
3 with pretrial services officers in the Department of Corrections; relating to permanent
4 fund dividends; relating to electronic monitoring; relating to penalties for violations of
5 municipal ordinances; relating to parole; relating to correctional restitution centers;
6 relating to community work service; relating to revocation, termination, suspension,
7 cancellation, or restoration of a driver's license; relating to the disqualification of
8 persons convicted of certain felony drug offenses from participation in the food stamp
9 and temporary assistance programs; relating to the disqualification of persons convicted
10 of specified drug offenses from receiving public assistance; relating to the duties of the
11 commissioner of corrections; amending Rules 6, 32, 32.1, 38, 41, and 43, Alaska Rules of
12 Criminal Procedure, and repealing Rules 41(d) and (e), Alaska Rules of Criminal

1 **Procedure; and providing for an effective date."**

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

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

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

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

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

11 (3) under circumstances not amounting to murder in the first degree
12 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
13 person commits or attempts to commit arson in the first degree, kidnapping, sexual
14 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
15 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
16 degree, escape in the first or second degree, robbery in any degree, or misconduct
17 involving a controlled substance under AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) -
18 (8) [11.71.020(a), 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1) or (2) and, in the course
19 of or in furtherance of that crime or in immediate flight from that crime, any person
20 causes the death of a person other than one of the participants;

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

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

28 (A) a felony violation of AS 11.41;

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

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

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

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

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

7 (2) with intent to cause serious physical injury to an unborn child or to
8 another person or knowing that the conduct is substantially certain to cause death or
9 serious physical injury to an unborn child or to another person, causes the death of an
10 unborn child;

11 (3) while acting alone or with one or more persons, commits or
12 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
13 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
14 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
15 first or second degree, robbery in any degree, or misconduct involving a controlled
16 substance under AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) - (8) [11.71.020(a),
17 11.71.030(a)(1) OR (2)], or 11.71.040(a)(1) or (2), and, in the course of or in
18 furtherance of that crime or in immediate flight from that crime, any person causes the
19 death of an unborn child;

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

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

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

29 (1) the value of the property or services is \$2,000 [\$750] or more but
30 less than \$25,000;

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

- 1 (3) the property is taken from the person of another;
- 2 (4) the property is taken from a vessel and is vessel safety or survival
3 equipment;
- 4 (5) the property is taken from an aircraft and the property is aircraft
5 safety or survival equipment;
- 6 (6) the value of the property is \$250 or more but less than \$2,000
7 [\$750] and, within the preceding five years, the person has been convicted and
8 sentenced on two or more separate occasions in this or another jurisdiction of
- 9 (A) an offense under AS 11.46.120, or an offense under
10 another law or ordinance with similar elements;
- 11 (B) a crime set out in this subsection or an offense under
12 another law or ordinance with similar elements;
- 13 (C) an offense under AS 11.46.140(a)(1), or an offense under
14 another law or ordinance with similar elements; or
- 15 (D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an
16 offense under another law or ordinance with similar elements; or
- 17 (7) the property is an access device.

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

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

21 (1) the value of the property or services is \$250 or more but less than
22 \$2,000 [\$750]; or

23 (2) [REPEALED]

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

28 * **Sec. 5.** AS 11.46.220(c) is amended to read:

29 (c) Concealment of merchandise is

30 (1) a class C felony if

31 (A) the merchandise is a firearm;

1 (B) the value of the merchandise is \$2,000 [\$750] or more; or

2 (C) the value of the merchandise is \$250 or more but less than
3 \$2,000 [\$750] and, within the preceding five years, the person has been
4 convicted and sentenced on two or more separate occasions in this or another
5 jurisdiction of

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

9 (ii) an offense under AS 11.46.120, 11.46.130, or
10 11.46.140(a)(1), or an offense under another law or ordinance with
11 similar elements;

12 (2) a class A misdemeanor if

13 (A) the value of the merchandise is \$250 or more but less than
14 \$2,000 [\$750]; or

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

20 (3) a class B misdemeanor if the value of the merchandise is less than
21 \$250.

22 * **Sec. 6.** AS 11.46.260(b) is amended to read:

23 (b) Removal of identification marks is

24 (1) a class C felony if the value of the property on which the serial
25 number or identification mark appeared is \$2,000 [\$750] or more;

26 (2) a class A misdemeanor if the value of the property on which the
27 serial number or identification mark appeared is \$250 or more but less than \$2,000
28 [\$750];

29 (3) a class B misdemeanor if the value of the property on which the
30 serial number or identification mark appeared is less than \$250.

31 * **Sec. 7.** AS 11.46.270(b) is amended to read:

1 (b) Unlawful possession is

2 (1) a class C felony if the value of the property on which the serial
3 number or identification mark appeared is \$2,000 [\$750] or more;

4 (2) a class A misdemeanor if the value of the property on which the
5 serial number or identification mark appeared is \$250 or more but less than \$2,000
6 [\$750];

7 (3) a class B misdemeanor if the value of the property on which the
8 serial number or identification mark appeared is less than \$250.

9 * **Sec. 8.** AS 11.46.280(d) is amended to read:

10 (d) Issuing a bad check is

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

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

14 (3) a class A misdemeanor if the face amount of the check is \$250 or
15 more but less than \$2,000 [\$750];

16 (4) a class B misdemeanor if the face amount of the check is less than
17 \$250.

18 * **Sec. 9.** AS 11.46.285(b) is amended to read:

19 (b) Fraudulent use of an access device is

20 (1) a class B felony if the value of the property or services obtained is
21 \$25,000 or more;

22 (2) a class C felony if the value of the property or services obtained is
23 \$50 [\$750] or more but less than \$25,000;

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

26 * **Sec. 10.** AS 11.46.460 is amended to read:

27 **Sec. 11.46.460. Disregard of a highway obstruction.** (a) A person commits
28 the offense [CRIME] of disregard of a highway obstruction if, without the right to do
29 so or a reasonable ground to believe the person has the right, the person

30 (1) drives a vehicle through, over, or around an obstruction erected on
31 [UPON] a highway under authority of AS 19.10.100; or

1 (2) opens an obstruction erected on [UPON] a highway under authority
2 of AS 19.10.100.

3 (b) Violation of this section is a **violation punishable by a fine of not more**
4 **than \$1,000** [CLASS B MISDEMEANOR].

5 * **Sec. 11.** 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 of **\$2,000** [\$750] or more;

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

13 (3) the person knowingly

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

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

21 * **Sec. 12.** AS 11.46.484(a) is amended to read:

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

25 (1) with intent to damage property of another, the person damages
26 property of another in an amount of \$250 or more but less than **\$2,000** [\$750];

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

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

31 (4) the person uses a device to descramble an electronic signal that has

1 been scrambled to prevent unauthorized receipt or viewing of the signal unless the
2 device is used only to descramble signals received directly from a satellite or unless
3 the person owned the device before September 18, 1984; or

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

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

8 (b) Criminal simulation is

9 (1) a class C felony if the value of what the object purports to represent
10 is \$2,000 [\$750] or more;

11 (2) a class A misdemeanor if the value of what the object purports to
12 represent is \$250 or more but less than \$2,000 [\$750];

13 (3) a class B misdemeanor if the value of what the object purports to
14 represent is less than \$250.

15 * **Sec. 14.** AS 11.46.620(d) is amended to read:

16 (d) Misapplication of property is

17 (1) a class C felony if the value of the property misapplied is \$2,000
18 [\$750] or more;

19 (2) a class A misdemeanor if the value of the property misapplied is
20 less than \$2,000 [\$750].

21 * **Sec. 15.** AS 11.46.730(c) is amended to read:

22 (c) Defrauding creditors is a class A misdemeanor unless that secured party,
23 judgment creditor, or creditor incurs a pecuniary loss of \$2,000 [\$750] or more as a
24 result of [TO] the defendant's conduct, in which case defrauding secured creditors is

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

26 (2) a class C felony if the loss is \$2,000 [\$750] or more but less than
27 \$25,000.

28 * **Sec. 16.** AS 11.56.730 is amended by adding a new subsection to read:

29 (d) In a prosecution for failure to appear under (a) of this section, it is not a
30 defense that the defendant was not provided or did not receive a notice or reminder
31 notification from a court or judicial officer under Rule 38(d), Alaska Rules of

1 Criminal Procedure.

2 * **Sec. 17.** AS 11.56.757(a) is amended to read:

3 (a) A person commits the **offense** [CRIME] of violation of condition of
4 release if the person

5 (1) has been charged with a crime or convicted of a crime;

6 (2) has been released under AS 12.30; and

7 (3) violates a condition of release imposed by a judicial officer under
8 AS 12.30, other than the requirement to appear as ordered by a judicial officer.

9 * **Sec. 18.** AS 11.56.757(b) is amended to read:

10 (b) Violation of condition of release is **a violation punishable by a fine of up**
11 **to \$1,000** [(1) A CLASS A MISDEMEANOR IF THE PERSON IS RELEASED
12 FROM A CHARGE OR CONVICTION OF A FELONY;

13 (2) A CLASS B MISDEMEANOR IF THE PERSON IS RELEASED
14 FROM A CHARGE OR CONVICTION OF A MISDEMEANOR].

15 * **Sec. 19.** AS 11.56.759(a) is amended to read:

16 (a) A person commits the crime of violation by sex offender of condition of
17 probation if the person

18 (1) is on probation for conviction of a sex offense;

19 (2) has served the entire term of incarceration imposed for conviction
20 of the sex offense; and

21 (3) violates a condition of probation imposed under
22 **AS 12.55.100(a)(2)(E), (a)(2)(F)** [AS 12.55.100(a)(5), (a)(6)], or (e), 12.55.101(a)(1),
23 or any other condition imposed by the court that the court finds to be specifically
24 related to the defendant's offense.

25 * **Sec. 20.** AS 11.61.110(c) is amended to read:

26 (c) Disorderly conduct is a class B misdemeanor and is punishable **by a**
27 **definite term** [AS AUTHORIZED IN AS 12.55 EXCEPT THAT A SENTENCE] of
28 imprisonment [, IF IMPOSED, SHALL BE FOR A DEFINITE TERM] of not more
29 than **24 hours** [10 DAYS].

30 * **Sec. 21.** AS 11.61.145(d) is amended to read:

31 (d) Promoting an exhibition of fighting animals

1 (1) under (a)(1) or (2) of this section is a class C felony;

2 (2) under (a)(3) of this section is

3 **(A)** a violation

4 **(i)** for the first offense;

5 **(ii) punishable by a fine of not more than \$1,000** [, A
6 CLASS B MISDEMEANOR] for the second offense; [,] and

7 **(B)** a class A misdemeanor for the third and each subsequent
8 offense.

9 * **Sec. 22.** AS 11.61.150(a) is amended to read:

10 (a) A person commits the **offense** [CRIME] of obstruction of highways if the
11 person knowingly

12 (1) places, drops, or permits to drop on a highway any substance that
13 creates a substantial risk of physical injury to others using the highway; or

14 (2) renders a highway impassable or passable only with unreasonable
15 inconvenience or hazard.

16 * **Sec. 23.** AS 11.61.150(c) is amended to read:

17 (c) Obstruction of highways is a **violation punishable by a fine of not more**
18 **than \$1,000** [CLASS B MISDEMEANOR].

19 * **Sec. 24.** AS 11.66.200(c) is amended to read:

20 (c) Gambling is a violation

21 **(1)** for the first offense;

22 **(2) punishable by a fine of not more than \$1,000** [. GAMBLING IS
23 A CLASS B MISDEMEANOR] for the second and each subsequent offense.

24 * **Sec. 25.** 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 **second** [THIRD] degree if the
27 person

28 (1) [UNDER CIRCUMSTANCES NOT PROSCRIBED UNDER
29 AS 11.71.020(a)(2) - (6),] manufactures or delivers **2.5 grams or more** [ANY
30 AMOUNT] of a schedule **IA,** IIA₂ or IIIA controlled substance or possesses **2.5**
31 **grams or more** [ANY AMOUNT] of a schedule **IA,** IIA₂ or IIIA controlled substance

1 with intent to manufacture or deliver;

2 (2) delivers any amount of a schedule IVA, VA, or VIA controlled
3 substance to a person under 19 years of age who is at least three years younger than
4 the person delivering the substance; [OR]

5 (3) possesses any amount of a schedule IA or IIA 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 (4) manufactures any material, compound, mixture, or
12 preparation that contains

13 (A) methamphetamine, or its salts, isomers, or salts of
14 isomers; or

15 (B) an immediate precursor of methamphetamine, or its
16 salts, isomers, or salts of isomers;

17 (5) possesses an immediate precursor of methamphetamine, or the
18 salts, isomers, or salts of isomers of the immediate precursor of
19 methamphetamine, with the intent to manufacture any material, compound,
20 mixture, or preparation that contains methamphetamine, or its salts, isomers, or
21 salts of isomers;

22 (6) possesses a listed chemical with intent to manufacture any
23 material, compound, mixture, or preparation that contains

24 (A) methamphetamine, or its salts, isomers, or salts of
25 isomers; or

26 (B) an immediate precursor of methamphetamine, or its
27 salts, isomers, or salts of isomers;

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

30 (8) under circumstances not proscribed under AS 11.71.010(a)(2),
31 delivers

1 (A) an immediate precursor of methamphetamine, or the
 2 salts, isomers, or salts of isomers of the immediate precursor of
 3 methamphetamine, to another person with reckless disregard that the
 4 precursor will be used to manufacture any material, compound, mixture,
 5 or preparation that contains methamphetamine, or its salts, isomers, or
 6 salts of isomers; or

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

10 (i) methamphetamine, or its salts, isomers, or salts of
 11 isomers;

12 (ii) an immediate precursor of methamphetamine, or
 13 its salts, isomers, or salts of isomers; or

14 (iii) methamphetamine or its salts, isomers, or salts
 15 of isomers in an organic solution.

16 * **Sec. 26.** AS 11.71.030(c) is amended to read:

17 (c) Misconduct involving a controlled substance in the **second** [THIRD]
 18 degree is a class B felony.

19 * **Sec. 27.** AS 11.71.030 is amended by adding new subsections to read:

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

28 (1) the listed chemicals ephedrine, pseudoephedrine,
 29 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

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

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

3 (i) retailer or wholesaler;

4 (ii) wholesale drug distributor licensed by the Board of
5 Pharmacy;

6 (iii) manufacturer of drug products licensed by the
7 Board of Pharmacy;

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

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

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

17 (e) In this section, "listed chemical" means a chemical described under
18 AS 11.71.200.

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

20 (a) Except as authorized in AS 17.30, a person commits the crime of
21 misconduct involving a controlled substance in the **third** [FOURTH] degree if the
22 person

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

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

30 (3) possesses

31 (A) any amount of a

- 1 (i) schedule IA controlled substance; or
- 2 (ii) IIA controlled substance except a controlled
- 3 substance listed in AS 11.71.150(e)(11) - (15);
- 4 (B) 25 or more tablets, ampules, or syrettes containing a
- 5 schedule IIIA or IVA controlled substance;
- 6 (C) one or more preparations, compounds, mixtures, or
- 7 substances of an aggregate weight of
- 8 (i) three grams or more containing a schedule IIIA or
- 9 IVA controlled substance except a controlled substance in a form listed
- 10 in (ii) of this subparagraph;
- 11 (ii) 12 grams or more containing a schedule IIIA
- 12 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been
- 13 sprayed on or otherwise applied to tobacco, an herb, or another organic
- 14 material; or
- 15 (iii) 500 milligrams or more of a schedule IIA
- 16 controlled substance listed in AS 11.71.150(e)(11) - (15);
- 17 (D) 50 or more tablets, ampules, or syrettes containing a
- 18 schedule VA controlled substance;
- 19 (E) one or more preparations, compounds, mixtures, or
- 20 substances of an aggregate weight of six grams or more containing a schedule
- 21 VA controlled substance;
- 22 (F) one or more preparations, compounds, mixtures, or
- 23 substances of an aggregate weight of four ounces or more containing a
- 24 schedule VIA controlled substance; or
- 25 (G) 25 or more plants of the genus cannabis;
- 26 (4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance
- 27 (A) with reckless disregard that the possession occurs
- 28 (i) on or within 500 feet of school grounds; or
- 29 (ii) at or within 500 feet of a recreation or youth center;
- 30 or
- 31 (B) on a school bus;

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

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

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

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

15 (9) obtains possession of a controlled substance by misrepresentation,
16 fraud, forgery, deception, or subterfuge; [OR]

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

19 (11) manufactures or delivers less than 2.5 grams of a schedule IA,
20 IIA, or IIIA controlled substance or possesses less than 2.5 grams of a schedule
21 IA, IIA, or IIIA controlled substance with intent to manufacture or deliver.

22 * **Sec. 29.** AS 11.71.040(d) is amended to read:

23 (d) Misconduct involving a controlled substance in the third [FOURTH]
24 degree is a class C felony.

25 * **Sec. 30.** AS 11.71.050 is amended to read:

26 **Sec. 11.71.050. Misconduct involving a controlled substance in the fourth**
27 **[FIFTH] degree.** (a) Except as authorized in AS 17.30, a person commits the crime
28 of misconduct involving a controlled substance in the fourth [FIFTH] degree if the
29 person

30 (1) manufactures or delivers, or possesses with the intent to
31 manufacture or deliver, one or more preparations, compounds, mixtures, or substances

1 of an aggregate weight of less than one ounce containing a schedule VIA controlled
2 substance;

3 (2) possesses

4 (A) less than 25 tablets, ampules, or syrettes containing a
5 schedule IIIA or IVA controlled substance;

6 (B) one or more preparations, compounds, mixtures, or
7 substances of an aggregate weight of less than

8 (i) three grams containing a schedule IIIA or IVA
9 controlled substance except a controlled substance in a form listed in

10 (ii) of this subparagraph;

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

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

17 (C) less than 50 tablets, ampules, or syrettes containing a
18 schedule VA controlled substance;

19 (D) one or more preparations, compounds, mixtures, or
20 substances of an aggregate weight of less than six grams containing a schedule
21 VA controlled substance; or

22 (E) one or more preparations, compounds, mixtures, or
23 substances of an aggregate weight of one ounce or more containing a schedule
24 VIA controlled substance; [OR]

25 (3) fails to make, keep, or furnish any record, notification, order form,
26 statement, invoice, or information required under AS 17.30; or

27 (4) under circumstances not proscribed under
28 AS 11.71.060(a)(2)(B), possesses any amount of a schedule IA, IIA, IIIA, IVA, or
29 VA controlled substance.

30 (b) Misconduct involving a controlled substance in the fourth [FIFTH] degree
31 is a class A misdemeanor.

1 * **Sec. 31.** AS 11.71.060 is amended to read:

2 **Sec. 11.71.060. Misconduct involving a controlled substance in the fifth**
 3 **[SIXTH] degree.** (a) Except as authorized in AS 17.30, a person commits the crime
 4 of misconduct involving a controlled substance in the **fifth** [SIXTH] degree if the
 5 person

6 (1) uses or displays any amount of a schedule VIA controlled
 7 substance;

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

10 (A) less than one ounce containing a schedule VIA controlled
 11 substance;

12 (B) six grams or less containing a schedule IIIA controlled
 13 substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or
 14 otherwise applied to tobacco, an herb, or another organic material; or

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

17 (b) Misconduct involving a controlled substance in the **fifth** [SIXTH] degree
 18 is a class B misdemeanor.

19 * **Sec. 32.** AS 11.71.311(a) is amended to read:

20 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
 21 **11.71.040(a)(4), 11.71.050(a)(4)** [11.71.040(a)(3) OR (4), 11.71.050(a)(2)], or
 22 11.71.060(a)(1) or (2) if that person

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

26 (A) the evidence supporting the prosecution for an offense
 27 under AS 11.71.030(a)(3), **11.71.040(a)(4), 11.71.050(a)(4)** [11.71.040(a)(3)
 28 OR (4), 11.71.050(a)(2)], or 11.71.060(a)(1) or (2) was obtained or discovered
 29 as a result of the person seeking medical or law enforcement assistance;

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

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

3 (2) was experiencing a drug overdose and sought medical assistance,
4 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),
5 11.71.040(a)(4), 11.71.050(a)(4) [11.71.040(a)(3) OR (4), 11.71.050(a)(2)], or
6 11.71.060(a)(1) or (2) was obtained as a result of the overdose and the need for
7 medical assistance.

8 * **Sec. 33.** AS 12.25.180 is amended to read:

9 **Sec. 12.25.180. When peace officer may issue citation or take person**
10 **before the court.** (a) When a peace officer stops or contacts a person for the
11 commission of a class C felony offense that is not a crime against a person under
12 AS 11.41, arson in the third degree under AS 11.46.420, a misdemeanor, or the
13 violation of a municipal ordinance, the officer shall [MAY, IN THE OFFICER'S
14 DISCRETION,] issue a citation to the person instead of taking the person before a
15 judge or magistrate under AS 12.25.150, unless

16 (1) the person does not furnish satisfactory evidence of identity;

17 (2) the contacting officer reasonably believes the person is a danger to
18 self or others;

19 (3) the crime for which the person is contacted is one involving
20 violence or harm to another person or to property;

21 (4) [THE PERSON ASKS TO BE TAKEN BEFORE A JUDGE OR
22 MAGISTRATE UNDER AS 12.25.150; OR

23 (5)] the peace officer has probable cause to believe the person
24 committed a crime against a person under AS 11.41, a sexual offense, theft in the
25 second degree under AS 11.46.130, escape under AS 11.56.300 - 11.56.330,
26 unlawful evasion under AS 11.56.335 or 11.56.340, unlawful contact under
27 AS 11.56.750 or 11.56.755, or a crime involving domestic violence; in this paragraph,

28 (A) "crime involving domestic violence" has the meaning given
29 in AS 18.66.990; and

30 (B) "sexual offense" means an offense defined in
31 AS 11.41.410 - 11.41.470;

1 (5) the person refuses to accept service of the citation;

2 (6) the contacting officer reasonably believes there is a risk the
3 defendant will fail to appear in court; or

4 (7) the peace officer is required to arrest the person under another
5 provision of law.

6 (b) When a peace officer stops or contacts a person for the commission of an
7 infraction or a violation, the officer shall issue a citation instead of taking the person
8 before a judge or magistrate under AS 12.25.150, unless

9 (1) the person does not furnish satisfactory evidence of identity; [OR]

10 (2) the person refuses to accept service of the citation;

11 (3) the peace officer has probable cause to believe the person has
12 committed a violation of conditions of release under AS 11.56.757; or

13 (4) the violation is disorderly conduct under AS 11.61.110, in
14 which case the peace officer may make an arrest, but the person may be held for
15 not more than 24 hours after arrest.

16 * Sec. 34. AS 12.25.180 is amended by adding a new subsection to read:

17 (c) A person may not bring a civil action for damages for a failure to comply
18 with the provisions of this section.

19 * Sec. 35. AS 12.25.190(b) is amended to read:

20 (b) The time specified in the notice to appear shall be at least **two** [FIVE]
21 working days after the issuance of the citation.

22 * Sec. 36. AS 12.30.006(c) is amended to read:

23 (c) A person who remains in custody 48 hours after appearing before a judicial
24 officer because of inability to meet the conditions of release shall, upon application, be
25 entitled to have the conditions reviewed by the judicial officer who imposed them. If
26 the judicial officer who imposed the conditions of release is not available, any judicial
27 officer in the judicial district may review the conditions. Upon review of the
28 conditions, the judicial officer shall revise any conditions of release that have
29 prevented the defendant from being released unless the judicial officer finds on
30 the record that there is clear and convincing evidence that less restrictive release
31 conditions cannot reasonably ensure the

1 **(1) appearance of the person in court; and**

2 **(2) safety of the victim, other persons, and the community.**

3 * **Sec. 37.** AS 12.30.006(d) is amended to read:

4 (d) If a person remains in custody after review of conditions by a judicial
5 officer under (c) of this section, the person may request a subsequent review of
6 conditions. Unless the prosecuting authority stipulates otherwise or the person has
7 been incarcerated for a period equal to the maximum sentence for the most serious
8 charge for which the person is being held, a judicial officer may not schedule a bail
9 review hearing under this subsection unless

10 (1) the person provides to the court and the prosecuting authority a
11 written statement that new information not considered at the previous review will be
12 presented at the hearing; the statement must include a description of the information
13 and the reason the information was not presented at a previous hearing; in this
14 paragraph, "new information" **includes** [DOES NOT INCLUDE] the **person's**
15 inability to post the required bail;

16 (2) the prosecuting authority and any surety, if applicable, have at least
17 48 hours' written notice before the time set for the review requested under this
18 subsection; the defendant shall notify the surety; and

19 (3) at least seven days have elapsed between the previous review and
20 the time set for the requested review; **however, a person may only receive one bail**
21 **review hearing for new information relating to the person's inability to post the**
22 **required bail.**

23 * **Sec. 38.** AS 12.30.006(f) is amended to read:

24 (f) The judicial officer shall issue written or oral findings that explain the
25 reasons the officer imposed the particular conditions of release or modifications or
26 additions to conditions previously imposed. The judicial officer shall inform the
27 person that a law enforcement officer **or a pretrial services officer under AS 33.07**
28 may arrest the person without a warrant for violation of the court's order establishing
29 conditions of release.

30 * **Sec. 39.** AS 12.30.006 is amended by adding a new subsection to read:

31 (h) The first appearance under (a) and (b) of this section shall take place

1 within 24 hours after a person's arrest absent compelling circumstances, and in no
 2 instance shall the first appearance take place more than 48 hours after a person's arrest.

3 * **Sec. 40.** AS 12.30.011 is amended to read:

4 **Sec. 12.30.011. Release before trial.** (a) A [EXCEPT AS OTHERWISE
 5 PROVIDED IN THIS CHAPTER, A] judicial officer shall order a person charged
 6 with an offense to be released on the person's personal recognizance, [OR] upon
 7 execution of an unsecured appearance bond, **or upon execution of an unsecured**
 8 **performance bond if** [ON THE CONDITION THAT THE PERSON]

9 (1) **the pretrial services officer, in a report required under**
 10 **AS 33.07, determined that the person is a low or moderate risk defendant and the**
 11 **person has been charged with a misdemeanor, or that the person is a low risk**
 12 **defendant and has been charged with a class C felony; and**

13 **(2) the person has not been charged with an offense under**

14 **(A) AS 11.41;**

15 **(B) AS 11.56.730;**

16 **(C) AS 11.56.757;**

17 **(D) AS 18.66.990 that involves domestic violence;**

18 **(E) AS 28.35.030; or**

19 **(F) AS 28.35.032** [OBEY ALL COURT ORDERS AND ALL

20 FEDERAL, STATE, AND LOCAL LAWS; (2) APPEAR IN COURT WHEN
 21 ORDERED;

22 (3) IF REPRESENTED, MAINTAIN CONTACT WITH THE
 23 PERSON'S LAWYER; AND

24 (4) NOTIFY THE PERSON'S LAWYER, WHO SHALL NOTIFY
 25 THE PROSECUTING AUTHORITY AND THE COURT, NOT MORE THAN 24
 26 HOURS AFTER THE PERSON CHANGES RESIDENCE].

27 (b) [IF A JUDICIAL OFFICER DETERMINES THAT THE RELEASE
 28 UNDER (a) OF THIS SECTION WILL NOT REASONABLY ASSURE THE
 29 APPEARANCE OF THE PERSON OR WILL POSE A DANGER TO THE VICTIM,
 30 OTHER PERSONS, OR THE COMMUNITY, THE OFFICER SHALL IMPOSE
 31 THE LEAST RESTRICTIVE CONDITION OR CONDITIONS THAT WILL

1 REASONABLY ASSURE THE PERSON'S APPEARANCE AND PROTECT THE
2 VICTIM, OTHER PERSONS, AND THE COMMUNITY]. In addition to **other**
3 conditions under [(a) OF] this section, the judicial officer may, singly or in
4 combination,

5 (1) [REQUIRE THE EXECUTION OF AN APPEARANCE BOND
6 IN A SPECIFIED AMOUNT OF CASH TO BE DEPOSITED INTO THE
7 REGISTRY OF THE COURT, IN A SUM NOT TO EXCEED 10 PERCENT OF
8 THE AMOUNT OF THE BOND;

9 (2) REQUIRE THE EXECUTION OF A BAIL BOND WITH
10 SUFFICIENT SOLVENT SURETIES OR THE DEPOSIT OF CASH;

11 (3) REQUIRE THE EXECUTION OF A PERFORMANCE BOND IN
12 A SPECIFIED AMOUNT OF CASH TO BE DEPOSITED IN THE REGISTRY OF
13 THE COURT; (4)] place restrictions on the person's travel, association, or residence;

14 (2) [(5)] order the person to refrain from possessing a deadly weapon
15 on the person or in the person's vehicle or residence;

16 (3) [(6)] require the person to maintain employment or, if unemployed,
17 actively seek employment;

18 (4) [(7)] require the person to notify the person's lawyer and the
19 prosecuting authority within two business days after any change in employment;

20 (5) [(8)] require the person to avoid all contact with a victim, a
21 potential witness, or a codefendant;

22 (6) [(9)] require the person to refrain from the consumption and
23 possession of alcoholic beverages;

24 (7) [(10)] require the person to refrain from the use of a controlled
25 substance as defined by AS 11.71, unless prescribed by a licensed health care provider
26 with prescriptive authority;

27 (8) [(11)] require the person to be physically inside the person's
28 residence, or in the residence of the person's third-party custodian, at time periods set
29 by the court, **subject to AS 12.30.021**;

30 (9) [(12)] require the person to keep regular contact with a **pretrial**
31 **services officer or** law enforcement officer or agency;

1 **(10)** [(13)] order the person to refrain from entering or remaining in
2 premises licensed under AS 04;

3 **(11)** [(14)] place the person in the custody of an individual who agrees
4 to serve as a third-party custodian of the person as provided in AS 12.30.021;

5 **(12)** [(15)] if the person is under the treatment of a licensed health care
6 provider, order the person to follow the provider's treatment recommendations;

7 **(13)** [(16)] order the person to take medication that has been prescribed
8 for the person by a licensed health care provider with prescriptive authority;

9 **(14)** [(17)] order the person to comply with any other condition that is
10 reasonably necessary to assure the appearance of the person and to assure the safety of
11 the victim, other persons, and the community;

12 **(15)** [(18)] require the person to comply with a program established
13 under AS 47.38.020 if the person has been charged with an alcohol-related or
14 substance-abuse-related offense that is an unclassified felony, a class A felony, a
15 sexual felony, or a crime involving domestic violence.

16 (c) In determining the conditions of release under this chapter, the court shall
17 consider the following:

- 18 (1) the nature and circumstances of the offense charged;
- 19 (2) the weight of the evidence against the person;
- 20 (3) the nature and extent of the person's family ties and relationships;
- 21 (4) the person's employment status and history;
- 22 (5) the length and character of the person's past and present residence;
- 23 (6) the person's record of convictions;
- 24 (7) the person's record of appearance at court proceedings;
- 25 (8) assets available to the person to meet monetary conditions of
26 release;
- 27 (9) the person's reputation, character, and mental condition;
- 28 (10) the effect of the offense on the victim, any threats made to the
29 victim, and the danger that the person poses to the victim;
- 30 (11) any other facts that are relevant to the person's appearance or the
31 person's danger to the victim, other persons, or the community;

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(12) the conditions of release recommended by the pretrial services

officer;

(13) the person's pretrial risk assessment score.

(d) In making a finding regarding the release of a person under this chapter, [(1) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER,] the burden of proof is on the prosecuting authority that a person charged with an offense should be detained or released with conditions described in [(b) OF] this section or AS 12.30.016 [;

(2) THERE IS A REBUTTABLE PRESUMPTION THAT NO CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY ASSURE THE APPEARANCE OF THE PERSON OR THE SAFETY OF THE VICTIM, OTHER PERSONS, OR THE COMMUNITY, IF THE PERSON IS

(A) CHARGED WITH AN UNCLASSIFIED FELONY, A CLASS A FELONY, A SEXUAL FELONY, OR A FELONY UNDER AS 28.35.030 OR 28.35.032;

(B) CHARGED WITH A FELONY CRIME AGAINST A PERSON UNDER AS 11.41, WAS PREVIOUSLY CONVICTED OF A FELONY CRIME AGAINST A PERSON UNDER AS 11.41 IN THIS STATE OR A SIMILAR OFFENSE IN ANOTHER JURISDICTION, AND LESS THAN FIVE YEARS HAVE ELAPSED BETWEEN THE DATE OF THE PERSON'S UNCONDITIONAL DISCHARGE ON THE IMMEDIATELY PRECEDING OFFENSE AND THE COMMISSION OF THE PRESENT OFFENSE;

(C) CHARGED WITH A FELONY OFFENSE COMMITTED WHILE THE PERSON WAS ON RELEASE UNDER THIS CHAPTER FOR A CHARGE OR CONVICTION OF ANOTHER OFFENSE;

(D) CHARGED WITH A CRIME INVOLVING DOMESTIC VIOLENCE, AND HAS BEEN CONVICTED IN THE PREVIOUS FIVE YEARS OF A CRIME INVOLVING DOMESTIC VIOLENCE IN THIS STATE OR A SIMILAR OFFENSE IN ANOTHER JURISDICTION;

(E) ARRESTED IN CONNECTION WITH AN

1 ACCUSATION THAT THE PERSON COMMITTED A FELONY OUTSIDE
 2 THE STATE OR IS A FUGITIVE FROM JUSTICE FROM ANOTHER
 3 JURISDICTION, AND THE COURT IS CONSIDERING RELEASE UNDER
 4 AS 12.70].

5 * **Sec. 41.** AS 12.30.011 is amended by adding new subsections to read:

6 (e) Except as provided in (f) of this section, a judicial officer may order that a
 7 person charged with an offense, in addition to other conditions imposed under this
 8 section, be released

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

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

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

12 (f) A judicial officer shall order a person charged with an offense released on
 13 the person's own recognizance upon execution of an unsecured appearance bond, or
 14 unsecured performance bond, unless the judicial officer makes a finding on the record
 15 that there is clear and convincing evidence that no nonmonetary conditions of release
 16 in combination with the release of the person on the person's own recognizance can
 17 reasonably ensure the appearance of the person in court and the safety of the victim,
 18 other persons, and the community, if the person

19 (1) has been assessed by a pretrial services officer under AS 33.07 as a

20 (A) low risk defendant, unless the defendant is required to be
 21 released as provided in (a) and (b) of this section;

22 (B) high risk defendant, and the defendant has been charged
 23 with a misdemeanor that does not include an offense under

24 (i) AS 11.41;

25 (ii) AS 11.56.340;

26 (iii) AS 11.56.730;

27 (iv) AS 11.56.750;

28 (v) AS 11.56.757;

29 (vi) AS 11.61.210;

30 (vii) AS 11.61.220;

31 (viii) AS 18.66.990 that involves domestic violence;

1 (ix) AS 28.35.030; or

2 (x) AS 28.35.032;

3 (C) moderate to high risk defendant, and the defendant has
4 been charged with a class C felony that does not include an offense under

5 (i) AS 11.41;

6 (ii) AS 11.56.320;

7 (iii) AS 11.56.335;

8 (iv) AS 11.56.730;

9 (v) AS 11.56.757;

10 (vi) AS 11.56.810;

11 (vii) AS 11.61.127;

12 (viii) AS 11.61.200;

13 (ix) AS 11.66.130;

14 (x) AS 18.66.990 that involves domestic violence;

15 (xi) AS 28.35.030; or

16 (xii) AS 28.35.032;

17 (D) low to moderate risk defendant, and the defendant has been
18 charged with an offense under AS 11.56.757; or

19 (2) has been charged with an offense under AS 28.35.030 or
20 28.35.032.

21 (g) A person released under this section shall be released on the condition that
22 the person

23 (1) obey all court orders;

24 (2) obey all laws;

25 (3) make all court appearances;

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

28 (5) maintain contact with the person's attorney;

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

1 (h) If a person charged with an offense is not required under this section to be
 2 released on the person's own recognizance upon execution of an unsecured appearance
 3 bond or unsecured performance bond, a judicial officer may, singly or in combination,
 4 require that the person deposit with the court and execute

5 (1) an appearance bond with a 10 percent posting of the specified
 6 amount of the bond with the condition that the deposit be returned upon the
 7 performance of the conditions of release set by the court;

8 (2) a bail bond with a 10 percent posting of sufficient solvent sureties
 9 or the deposit of cash; or

10 (3) a performance bond in an amount specified by the court with the
 11 condition that the deposit be returned upon the performance of the conditions of
 12 release set by the court.

13 (i) In addition to other conditions under this section, a judicial officer may
 14 impose additional conditions of release and may require supervision of those
 15 conditions of release by a pretrial services officer to ensure compliance with the
 16 conditions of release if the conditions are the least restrictive conditions that will
 17 reasonably ensure the appearance of the person in court and the safety of the victim
 18 and the community.

19 * **Sec. 42.** AS 12.30.016(b) is amended to read:

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

22 (1) to refrain from

23 (A) consuming alcoholic beverages; or

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

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

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

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

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

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

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

10 * **Sec. 43.** AS 12.30.016(c) is amended to read:

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

13 (1) to refrain from

14 (A) consuming a controlled substance; or

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

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

24 (3) to enroll in a random drug testing program, at the person's expense,
25 **with testing to occur not less than once a week, or to submit to random drug**
26 **testing by the pretrial services office in the Department of Corrections** to detect
27 the presence of a controlled substance, [WITH TESTING TO OCCUR NOT LESS
28 THAN ONCE A WEEK, AND] with the results being submitted to the court and the
29 prosecuting authority;

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

1 (5) to refrain from being physically present at, within a two-block area
 2 of, or within a designated area near, the location where the alleged offense occurred or
 3 at other designated places, unless the person actually resides within that area;

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

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

6 * **Sec. 44.** AS 12.30.016(d) is amended to read:

7 (d) In a prosecution charging misconduct involving a controlled substance
 8 under **AS 11.71.020(a)(4)** [AS 11.71.020(a)(2)] for the manufacture of
 9 methamphetamine, or its salts, isomers, or salts of isomers, if the person has been
 10 previously convicted in this or another jurisdiction of a crime involving the
 11 manufacturing, delivering, or possessing of methamphetamine, or its salts, isomers, or
 12 salts of isomers, a judicial officer shall require the posting of a minimum of \$250,000
 13 cash bond before the person may be released. The judicial officer may reduce this
 14 requirement if the person proves to the satisfaction of the officer that the person's only
 15 role in the offense was as an aider or abettor and that the person did not stand to
 16 benefit financially from the manufacturing.

17 * **Sec. 45.** AS 12.30.021(a) is amended to read:

18 (a) In addition to other conditions imposed under AS 12.30.011 or 12.30.016,
 19 a judicial officer may appoint a third-party custodian if the officer finds, **on the**
 20 **record,** that

21 **(1) pretrial supervision under AS 33.07 is not available in the**
 22 **person's location;**

23 **(2) no secured appearance or performance bonds have been**
 24 **ordered; and**

25 **(3) no other conditions of release or combination of conditions can**
 26 [THE APPOINTMENT WILL, SINGLY OR IN COMBINATION WITH OTHER
 27 CONDITIONS,] reasonably **ensure** [ASSURE] the person's appearance and the safety
 28 of the victim, other persons, and the community.

29 * **Sec. 46.** AS 12.30.021(c) is amended to read:

30 (c) A judicial officer may not appoint a person as a third-party custodian if

31 (1) the proposed custodian is acting as a third-party custodian for

1 another person;

2 (2) the proposed custodian has been convicted in the previous three
3 years of a crime under AS 11.41 or a similar crime in this or another jurisdiction;

4 (3) criminal charges are pending in this state or another jurisdiction
5 against the proposed custodian;

6 (4) the proposed custodian is on probation in this state or another
7 jurisdiction for an offense;

8 (5) there is a reasonable probability that the state will call the
9 proposed custodian [MAY BE CALLED] as a witness in the prosecution of the
10 person;

11 (6) the proposed custodian resides out of state; however, a nonresident
12 may serve as a custodian if the nonresident resides in the state while serving as
13 custodian.

14 * **Sec. 47.** AS 12.30.055 is amended by adding a new subsection to read:

15 (b) A person who is in custody in connection with a petition to revoke
16 probation for a technical violation of probation under AS 12.55.110 shall be released
17 without bail after the person has served the maximum number of days that the court
18 could impose on the person for a technical violation of probation under AS 12.55.110.

19 * **Sec. 48.** AS 12.55.011 is amended by adding a new subsection to read:

20 (b) At the time of sentencing, the court shall provide the victim with a form
21 that

22 (1) provides information on

23 (A) whom the victim should contact if the victim has questions
24 about the sentence or release of the offender;

25 (B) the potential for release of the offender on furlough,
26 probation, or parole or for good time credit; and

27 (2) allows the victim to update the victim's contact information with
28 the court and with the Department of Corrections.

29 * **Sec. 49.** AS 12.55.015(a) is amended to read:

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

- 1 (1) impose a fine when authorized by law and as provided in
2 AS 12.55.035;
- 3 (2) order the defendant to be placed on probation under conditions
4 specified by the court that may include provision for active supervision;
- 5 (3) impose a definite term of periodic imprisonment, but only if an
6 employment obligation of the defendant preexisted sentencing and the defendant
7 receives a composite sentence of not more than two years to serve;
- 8 (4) impose a definite term of continuous imprisonment;
- 9 (5) order the defendant to make restitution under AS 12.55.045;
- 10 (6) order the defendant to carry out a continuous or periodic program of
11 community work **for an offense and** under **conditions specified in** AS 12.55.055;
- 12 (7) suspend execution of all or a portion of the sentence imposed under
13 AS 12.55.080;
- 14 (8) suspend imposition of sentence under AS 12.55.085;
- 15 (9) order the forfeiture to the commissioner of public safety or a
16 municipal law enforcement agency of a deadly weapon that was in the actual
17 possession of or used by the defendant during the commission of an offense described
18 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;
- 19 (10) order the defendant, while incarcerated, to participate in or comply
20 with the treatment plan of a rehabilitation program that is related to the defendant's
21 offense or to the defendant's rehabilitation if the program is made available to the
22 defendant by the Department of Corrections;
- 23 (11) order the forfeiture to the state of a motor vehicle, weapon,
24 electronic communication device, or money or other valuables, used in or obtained
25 through an offense that was committed for the benefit of, at the direction of, or in
26 association with a criminal street gang;
- 27 (12) order the defendant to have no contact, either directly or indirectly,
28 with a victim or witness of the offense until the defendant is unconditionally
29 discharged;
- 30 (13) order the defendant to refrain from consuming alcoholic beverages
31 for a period of time.

1 * **Sec. 50.** AS 12.55.025(a) is amended to read:

2 (a) When imposing a sentence for conviction of a felony offense or a sentence
3 of imprisonment exceeding 90 days or upon a conviction of a violation of AS 04, a
4 regulation adopted under AS 04, or an ordinance adopted in conformity with
5 AS 04.21.010, the court shall prepare, as a part of the record, a sentencing report that
6 includes the following:

7 (1) a verbatim record of the sentencing hearing and any other in-court
8 sentencing procedures;

9 (2) findings on material issues of fact and on factual questions required
10 to be determined as a prerequisite to the selection of the sentence imposed;

11 (3) a clear statement of the terms of the sentence imposed; if a term of
12 imprisonment is imposed, the statement must include

13 (A) the approximate minimum term the defendant is expected to
14 serve before being released or placed on mandatory parole if the defendant is
15 eligible for and does not forfeit good conduct deductions under AS 33.20.010;
16 and

17 (B) if applicable, the approximate minimum term of
18 imprisonment the defendant must serve before becoming eligible for release on
19 discretionary or administrative parole;

20 (4) any recommendations as to the place of confinement or the manner
21 of treatment; and

22 (5) in the case of a conviction for a felony offense, information
23 assessing

24 (A) the financial, emotional, and medical effects of the offense
25 on the victim;

26 (B) the need of the victim for restitution; and

27 (C) any other information required by the court.

28 * **Sec. 51.** AS 12.55.025(c) is amended to read:

29 (c) Except as provided in (d) of this section, when a defendant is sentenced to
30 imprisonment, the term of confinement commences on the date of imposition of
31 sentence unless the court specifically provides that the defendant must report to serve

1 the sentence on another date. If the court provides another date to begin the term of
 2 confinement, the court shall provide the defendant with written notice of the date,
 3 time, and location of the correctional facility to which the defendant must report. A
 4 defendant shall receive credit for time spent in custody pending trial, sentencing, or
 5 appeal, if the detention was in connection with the offense for which sentence was
 6 imposed **including a technical violation of probation as provided in AS 12.55.110.**
 7 A defendant may not receive credit for more than the actual time spent in custody
 8 pending trial, sentencing, or appeal. The time during which a defendant is voluntarily
 9 absent from official detention after the defendant has been sentenced may not be
 10 credited toward service of the sentence.

11 * **Sec. 52.** AS 12.55.027(d) is amended to read:

12 (d) A court may grant credit **of not more than 120 days** against **the total term**
 13 [A SENTENCE] of imprisonment **imposed for a crime** for time spent under
 14 electronic monitoring **that complies with AS 33.30.011(10)**, if the person has not
 15 committed a criminal offense while under electronic monitoring and the court imposes
 16 restrictions on the person's freedom of movement and behavior while under the
 17 electronic monitoring program, including requiring the person to be confined to a
 18 residence except for a

19 (1) court appearance;

20 (2) meeting with counsel; or

21 (3) period during which the person is at a location ordered by the court
 22 for the purposes of employment, attending educational or vocational training,
 23 performing community volunteer work, or attending a rehabilitative activity or
 24 medical appointment.

25 * **Sec. 53.** AS 12.55.051(a) is amended to read:

26 (a) If the defendant defaults in the payment of a fine or any installment or of
 27 restitution or any installment, the court may order the defendant to show cause why
 28 the defendant should not be sentenced to imprisonment for nonpayment and, if the
 29 payment was made a condition of the defendant's probation, may revoke the probation
 30 of the defendant **subject to the limits set out in AS 12.55.110.** In a contempt or
 31 probation revocation proceeding brought as a result of failure to pay a fine or

1 restitution, it is an affirmative defense that the defendant was unable to pay despite
 2 having made continuing good faith efforts to pay the fine or restitution. If the court
 3 finds that the defendant was unable to pay despite having made continuing good faith
 4 efforts, the defendant may not be imprisoned solely because of the inability to pay. If
 5 the court does not find that the default was attributable to the defendant's inability to
 6 pay despite having made continuing good faith efforts to pay the fine or restitution, the
 7 court may order the defendant imprisoned **subject to the limits set out in**
 8 **AS 12.55.110** [UNTIL THE ORDER OF THE COURT IS SATISFIED]. A term of
 9 imprisonment imposed under this section may not exceed one day for each \$50 of the
 10 unpaid portion of the fine or restitution or one year, whichever is shorter. Credit shall
 11 be given toward satisfaction of the order of the court for every day a person is
 12 incarcerated for nonpayment of a fine or restitution.

13 * **Sec. 54.** AS 12.55.051 is amended by adding a new subsection to read:

14 (k) The Department of Law may garnish a permanent fund dividend under
 15 AS 43.23.065 or garnish other income of a defendant as allowed by state law to collect
 16 restitution ordered by the court.

17 * **Sec. 55.** AS 12.55.055(a) is amended to read:

18 (a) The court may order a defendant convicted of an offense **under AS 04,**
 19 **AS 28, or AS 47.12.030, that specifically provides for community work as**
 20 **authorized punishment** to perform community work as a condition of probation, [A
 21 SUSPENDED SENTENCE,] or **may order community work in a** suspended
 22 imposition of sentence, [OR] in addition to any fine or restitution ordered. [IF THE
 23 DEFENDANT IS SENTENCED TO IMPRISONMENT, THE COURT MAY
 24 RECOMMEND TO THE DEPARTMENT OF CORRECTIONS THAT THE
 25 DEFENDANT PERFORM COMMUNITY WORK.]

26 * **Sec. 56.** AS 12.55.055(c) is amended to read:

27 (c) The court may offer a defendant convicted of an offense the option of
 28 performing community work in lieu of a fine, surcharge, or portion of a fine or
 29 surcharge if the court finds the defendant is unable to pay the fine. The value of
 30 community work in lieu of a fine is **the state's minimum wage for each** [\$3 PER]
 31 hour.

1 * **Sec. 57.** AS 12.55.055 is amended by adding new subsections to read:

2 (g) The court may not

3 (1) offer a defendant convicted of an offense the option of serving jail
4 time in lieu of performing uncompleted community work previously ordered by the
5 court; or

6 (2) convert uncompleted community work hours into a sentence of
7 imprisonment.

8 (h) If a court orders community work as part of the defendant's sentence under
9 this section, the court shall provide notice to the defendant at sentencing and include
10 as a provision of the judgment that if the defendant fails to provide proof of
11 community work within 20 days after the date set by the court, the court shall convert
12 those community work hours to a fine equal to the number of uncompleted work hours
13 multiplied by the state's minimum hourly wage and issue a judgment against the
14 defendant for that amount.

15 * **Sec. 58.** AS 12.55 is amended by adding a new section to read:

16 **Sec. 12.55.078. Suspending entry of judgment.** (a) Except as provided in (f)
17 of this section, if a person is found guilty or pleads guilty to a crime, the court may,
18 with the consent of the defendant and the prosecution and without imposing or
19 entering a judgment of guilt, defer further proceedings and place the person on
20 probation.

21 (b) The court shall impose conditions of probation for a person on probation as
22 provided in (a) of this section, which may include that the person

23 (1) abide by all local, state, and federal laws;

24 (2) not leave the state without prior consent of the court;

25 (3) pay restitution as ordered by the court; and

26 (4) obey any other conditions of probation set by the court.

27 (c) At any time during the probationary term of the person released on
28 probation, a probation officer may, without warrant or other process, rearrest the
29 person so placed in the officer's care and bring the person before the court, or the court
30 may, in its discretion, issue a warrant for the rearrest of the person. The court may
31 revoke and terminate the probation if the court finds that the person placed upon

1 probation is

2 (1) violating the conditions of probation;

3 (2) engaging in criminal practices; or

4 (3) violating an order of the court to participate in or comply with the
5 treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

6 (d) If the court finds that the person has successfully completed probation, the
7 court shall, at the end of the probationary period set by the court, or at any time after
8 the expiration of one year from the date of the original probation, discharge the person
9 and dismiss the proceedings against the person.

10 (e) If the court finds that the person has violated the conditions of probation
11 ordered by the court, the court may revoke and terminate the person's probation, enter
12 judgment on the person's previous plea or finding of guilt, and pronounce sentence at
13 any time within the maximum probation period authorized by this section.

14 (f) The court may not suspend imposing or entering the judgment and defer
15 prosecution under this section of a person who

16 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260 -
17 11.41.320, 11.41.360 - 11.41.370, 11.41.410 - 11.41.530, AS 11.46.400, AS 11.61.125
18 - 11.61.128, or AS 11.66.110 - 11.66.135;

19 (2) uses a firearm in the commission of the offense for which the
20 person is convicted;

21 (3) has previously been granted a suspension of judgment under this
22 section or a similar statute in another jurisdiction, unless the court enters written
23 findings that by clear and convincing evidence the person's prospects for rehabilitation
24 are high and suspending judgment under this section adequately protects the victim of
25 the offense, if any, and the community;

26 (4) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony
27 and the person has one or more prior convictions for a misdemeanor violation of
28 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction
29 having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a
30 felony in this state; for the purposes of this paragraph, a person shall be considered to
31 have a prior conviction even if

- 1 (A) the charges were dismissed under this section;
 2 (B) the conviction has been set aside under AS 12.55.085; or
 3 (C) the charge or conviction was dismissed or set aside under an
 4 equivalent provision of the laws of another jurisdiction; or
 5 (5) has been convicted of a crime involving domestic violence, as
 6 defined by AS 18.66.990.

7 * **Sec. 59.** AS 12.55.090(b) is amended to read:

8 (b) Except as otherwise provided in (f) of this section, the court may revoke or
 9 modify any condition of probation, [OR MAY] change the period of probation, **or**
 10 **terminate probation and discharge the defendant from probation.**

11 * **Sec. 60.** AS 12.55.090(c) is amended to read:

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

13 (1) **10** [25] years for **an unclassified felony under AS 11 or** a felony
 14 sex offense; [OR]

15 (2) **five** [10] years for **a felony** [ANY OTHER] offense **not listed in (1)**
 16 **of this subsection;**

17 (3) **four years for a misdemeanor offense involving domestic**
 18 **violence;**

19 (4) **two years for a misdemeanor offense under AS 28.35.030 or**
 20 **28.35.032, if the person has previously been convicted of an offense under**
 21 **AS 28.35.030 or 28.35.032, or a similar law or ordinance of this or another**
 22 **jurisdiction; or**

23 (5) **one year for an offense not listed in (1) - (4) of this subsection.**

24 * **Sec. 61.** AS 12.55.090(f) is amended to read:

25 (f) Unless the defendant and the prosecuting authority agree at the probation
 26 revocation proceeding or other proceeding **related to a probation violation, the**
 27 **person qualifies for a reduction under AS 33.05.025 or a probation officer**
 28 **recommends to the court that probation be terminated and the defendant be**
 29 **discharged from probation under (g) of this section or AS 33.05.040,** the court may
 30 not reduce the specific period of probation [,] or the specific term of suspended
 31 incarceration except by the amount of incarceration imposed for a probation violation,

1 if

2 (1) the sentence was imposed in accordance with a plea agreement
3 under Rule 11, Alaska Rules of Criminal Procedure; and

4 (2) the agreement required a specific period of probation or a specific
5 term of suspended incarceration.

6 * **Sec. 62.** AS 12.55.090 is amended by adding new subsections to read:

7 (g) A probation officer shall recommend to the court that probation be
8 terminated and a defendant be discharged from probation if the defendant

9 (1) has completed at least one year on probation;

10 (2) has completed all treatment programs required as a condition of
11 probation;

12 (3) is currently in compliance with all conditions of probation; and

13 (4) has not been convicted of an unclassified felony offense, a sexual
14 felony as defined by AS 12.55.185, or a crime involving domestic violence as defined
15 by AS 18.66.990.

16 (h) Before a court may reduce the period of probation or terminate probation
17 and discharge the defendant before the period of probation for the offense has been
18 completed, the court shall allow victims to comment in writing to the court or allow a
19 victim to give sworn testimony or make an unsworn oral presentation at a hearing held
20 to determine whether to reduce the period of probation or terminate probation and
21 discharge the defendant.

22 (i) If a probation officer recommends to the court that probation be terminated
23 and a defendant be discharged from probation under (g) of this section, and the victim
24 has earlier requested to be notified, the Department of Corrections shall send the
25 victim notice of the recommendation under (g) of this section and inform the victim of
26 the victim's rights under this section, the deadline for receipt of written comments, the
27 hearing date, and the court's address.

28 (j) The court shall provide copies of the victim's written comments to the
29 prosecuting attorney, the defendant, and the defendant's attorney.

30 (k) In deciding whether to reduce a period of probation or terminate probation
31 and discharge the defendant from probation, the court shall consider the victim's

1 comments, testimony, or unsworn oral presentation, when relevant, and any response
2 by the prosecuting attorney and defendant.

3 (I) If a victim desires notice under this section, the victim shall maintain a
4 current, valid mailing address on file with the commissioner of corrections. The
5 commissioner shall send the notice to the victim's last known address. The victim's
6 address may not be disclosed to the defendant or the defendant's attorney.

7 * **Sec. 63.** AS 12.55.100(a) is amended to read:

8 (a) While on probation and among the conditions of probation, the defendant

9 **(1) shall be required to obey all state, federal, and local laws or**
10 **ordinances, and any court orders applicable to the probationer; and**

11 **(2)** may be required

12 **(A)** [(1)] to pay a fine in one or several sums;

13 **(B)** [(2)] to make restitution or reparation to aggrieved parties
14 for actual damages or loss caused by the crime for which conviction was had,
15 including compensation to a victim that is a nonprofit organization for the
16 value of labor or goods provided by volunteers if the labor or goods were
17 necessary to alleviate or mitigate the effects of the defendant's crime; when
18 determining the amount of actual damages or loss under this paragraph, the
19 court shall value property as the market value of the property at the time and
20 place of the crime or, if the market value cannot reasonably be ascertained, the
21 cost of the replacement of the property within a reasonable time after the
22 crime;

23 **(C)** [(3)] to provide for the support of any persons for whose
24 support the defendant is legally responsible;

25 **(D)** [(4)] to perform community work in accordance with
26 AS 12.55.055;

27 **(E)** [(5)] to participate in or comply with the treatment plan of
28 an inpatient or outpatient rehabilitation program specified by either the court or
29 the defendant's probation officer that is related to the defendant's offense or to
30 the defendant's rehabilitation;

31 **(F)** [(6)] to satisfy the screening, evaluation, referral, and

1 program requirements of an agency authorized by the court to make referrals
2 for rehabilitative treatment or to provide rehabilitative treatment;

3 (G) [AND (7)] to comply with a program established under
4 AS 47.38.020; and

5 (H) to comply with the sanctions imposed by the defendant's
6 probation officer under AS 33.05.020(g).

7 * **Sec. 64.** AS 12.55.100(c) is amended to read:

8 (c) A program of inpatient treatment may be required by the authorized agency
9 under (a)(2)(F) [(a)(6)] of this section only if authorized in the judgment, and may not
10 exceed the maximum term of inpatient treatment specified in the judgment. A person
11 who has been referred for inpatient treatment may make a written request to the
12 sentencing court asking the court to review the referral. The request for review shall be
13 made within seven days after [OF] the agency's referral, and shall specifically set out
14 the grounds on [UPON] which the request for review is based. The court may order a
15 hearing on the request for review.

16 * **Sec. 65.** AS 12.55.110 is amended by adding new subsections to read:

17 (c) If a defendant is serving a period of probation for an offense, the court may
18 find that the defendant has committed a technical violation of probation. If the court
19 finds that a defendant has committed a technical violation of probation that does not
20 include absconding, the court may reinstate the term of probation with appropriate
21 conditions or impose a sentence of imprisonment of not more than

22 (1) three days for the first petition to revoke probation filed with the
23 court;

24 (2) five days for the second petition to revoke probation filed with the
25 court;

26 (3) 10 days for the third petition to revoke probation filed with the
27 court; or

28 (4) up to the remainder of the suspended portion of the sentence for a
29 fourth or subsequent petition to revoke probation.

30 (d) If the court revokes a person's probation for absconding, the court may
31 impose a period of imprisonment not to exceed 30 days.

1 (e) The limits set out in this section on the length of imprisonment for a
 2 revocation do not apply if a probationer is enrolled in a program established under
 3 AS 33.05.020(f).

4 (f) If the defendant is ordered to complete treatment under
 5 AS 12.55.100(a)(2)(E) and does not comply with the court's order, the court may order
 6 the defendant to show cause why the defendant should not be sentenced to
 7 imprisonment for noncompletion of treatment and may revoke the suspended sentence
 8 subject to the limits established in this section. In a contempt or probation revocation
 9 proceeding brought as a result of failure to complete treatment, it is an affirmative
 10 defense that the defendant was unable to afford the cost of treatment or secure a place
 11 in a free treatment program, despite having made continuing good faith efforts. If the
 12 court finds that the defendant was unable to complete treatment despite having made
 13 continuing good faith efforts, the defendant may not be imprisoned solely because of
 14 an inability to pay. If the court does not find that the noncompletion of treatment was
 15 attributable to the defendant's inability to pay, the court may order the defendant
 16 imprisoned subject to the limits established in this section.

17 (g) In this section,

18 (1) "absconding" means failing to report within five working days after
 19 release from custody under AS 33.20.030 or failing to report to a probation officer
 20 within 30 days after release from custody as directed by the court or probation officer;

21 (2) "technical violation" means a violation of the conditions of
 22 probation that does not result from

23 (A) an arrest for a new criminal offense; or

24 (B) failing to complete sex offender treatment.

25 * **Sec. 66.** AS 12.55.115 is amended to read:

26 **Sec. 12.55.115. Fixing eligibility for discretionary or administrative parole**
 27 **at sentencing.** The court may, as part of a sentence of imprisonment, further restrict
 28 the eligibility of a prisoner for discretionary or administrative parole for a term
 29 greater than that required under AS 33.16.089, 33.16.090, [AS 33.16.090] and
 30 33.16.100.

31 * **Sec. 67.** AS 12.55.125(c) is amended to read:

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

5 (1) if the offense is a first felony conviction and does not involve
 6 circumstances described in (2) of this subsection, three [FIVE] to six [EIGHT] years;

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

8 (A) and the defendant possessed a firearm, used a dangerous
 9 instrument, or caused serious physical injury or death during the commission
 10 of the offense, or knowingly directed the conduct constituting the offense at a
 11 uniformed or otherwise clearly identified peace officer, firefighter, correctional
 12 employee, emergency medical technician, paramedic, ambulance attendant, or
 13 other emergency responder who was engaged in the performance of official
 14 duties at the time of the offense, five [SEVEN] to nine [11] years;

15 (B) and the conviction is for manufacturing related to
 16 methamphetamine under AS 11.71.030(a)(4)(A) or (B)
 17 [AS 11.71.020(a)(2)(A) OR (B)], seven to 11 years, if

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

22 (ii) in the course of manufacturing or in preparation for
 23 manufacturing, the defendant obtained the assistance of one or more
 24 children under 18 years of age or one or more children were present;

25 (3) if the offense is a second felony conviction, eight [10] to 12 [14]
 26 years;

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

29 * **Sec. 68.** AS 12.55.125(d) is amended to read:

30 (d) Except as provided in (i) of this section, a defendant convicted of a class B
 31 felony may be sentenced to a definite term of imprisonment of not more than 10 years,

1 and shall be sentenced to a definite term within the following presumptive ranges,
2 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

3 (1) if the offense is a first felony conviction and does not involve
4 circumstances described in (2) of this subsection, zero [ONE] to two [THREE] years;
5 a defendant sentenced under this paragraph may, if the court finds it appropriate, be
6 granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of
7 probation under AS 12.55.086, the defendant is required to serve an active term of
8 imprisonment within the range specified in this paragraph, unless the court finds that a
9 mitigation factor under AS 12.55.155 applies;

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

11 (A) the defendant violated AS 11.41.130, and the victim was a
12 child under 16 years of age, two to four years;

13 (B) two to four years if the conviction is for an attempt,
14 solicitation, or conspiracy to manufacture related to methamphetamine under
15 AS 11.31 and AS 11.71.030(a)(4)(A) or (B) [AS 11.71.020(a)(2)(A) OR (B)],
16 and

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

22 (ii) in the course of an attempt to manufacture, the
23 defendant obtained the assistance of one or more children under 18
24 years of age or one or more children were present;

25 (3) if the offense is a second felony conviction, two [FOUR] to five
26 [SEVEN] years;

27 (4) if the offense is a third felony conviction, four [SIX] to 10 years.

28 * **Sec. 69.** AS 12.55.125(e) is amended to read:

29 (e) Except as provided in (i) of this section, a defendant convicted of a class C
30 felony may be sentenced to a definite term of imprisonment of not more than five
31 years, and shall be sentenced to a definite term within the following presumptive

1 ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

2 (1) if the offense is a first felony conviction and does not involve
3 circumstances described in (4) of this subsection, **probation, with a suspended term**
4 **of imprisonment of** zero to **18 months** [TWO YEARS; A DEFENDANT
5 SENTENCED UNDER THIS PARAGRAPH MAY, IF THE COURT FINDS IT
6 APPROPRIATE, BE GRANTED A SUSPENDED IMPOSITION OF SENTENCE
7 UNDER AS 12.55.085, AND THE COURT MAY, AS A CONDITION OF
8 PROBATION UNDER AS 12.55.086, REQUIRE THE DEFENDANT TO SERVE
9 AN ACTIVE TERM OF IMPRISONMENT WITHIN THE RANGE SPECIFIED IN
10 THIS PARAGRAPH];

11 (2) if the offense is a second felony conviction, two to four years;

12 (3) if the offense is a third felony conviction, three to five years;

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

15 * **Sec. 70.** AS 12.55.135(a) is amended to read:

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

18 **(1) one year, if the**

19 **(A) conviction is for a crime with a mandatory minimum**
20 **term of more than 30 days of active imprisonment;**

21 **(B) trier of fact finds the aggravating factor that the conduct**
22 **constituting the offense was among the most serious conduct included in**
23 **the definition of the offense;**

24 **(C) the defendant has past criminal convictions for conduct**
25 **violative of criminal laws, punishable as felonies or misdemeanors, similar**
26 **in nature to the offense for which the defendant is being sentenced; or**

27 **(D) conviction is for the crime of assault in the fourth degree**
28 **under AS 11.41.230; or**

29 **(2) 30 days.**

30 * **Sec. 71.** AS 12.55.135(b) is amended to read:

31 (b) A defendant convicted of a class B misdemeanor may be sentenced to a

1 definite term of imprisonment of not more than 10 [90] days unless otherwise
 2 specified in the provision of law defining the offense or in this section.

3 * **Sec. 72.** AS 12.55.135 is amended by adding new subsections to read:

4 (l) A court may not impose a sentence of imprisonment or suspended
 5 imprisonment for a person convicted of theft under AS 11.46.150 if the person has not
 6 been previously convicted more than once for a violation of AS 11.46.120 - 11.46.150
 7 or of a law or ordinance of this or another jurisdiction with elements substantially
 8 similar to those of an offense described in AS 11.46.120 - 11.46.150.

9 (m) A court may not impose a sentence of imprisonment or suspended
 10 imprisonment for a person convicted of concealment of merchandise under
 11 AS 11.46.220 if the person has not been previously convicted more than once for a
 12 violation of AS 11.46.220 or of a law or ordinance of this or another jurisdiction with
 13 elements substantially similar to those of an offense described in AS 11.46.220.

*Prebble
Stadler*

14 (n) A court may not impose a sentence of imprisonment or suspended
 15 imprisonment for a person convicted of removal of identification marks under
 16 AS 11.46.260 if the person has not been previously convicted more than once for a
 17 violation of AS 11.46.260 or of a law or ordinance of this or another jurisdiction with
 18 elements substantially similar to those of an offense described in AS 11.46.260.

19 (o) A court may not impose a sentence of imprisonment or suspended
 20 imprisonment for a person convicted of unlawful possession under AS 11.46.270 if the
 21 person has not been previously convicted more than once for a violation of
 22 AS 11.46.270 or of a law or ordinance of this or another jurisdiction with elements
 23 substantially similar to those of an offense described in AS 11.46.270.

Stadler

24 (p) A court may not impose a sentence of imprisonment or suspended
 25 imprisonment for a person convicted of issuing a bad check under AS 11.46.280 if the
 26 person has not been previously convicted more than once for a violation of
 27 AS 11.46.280 or of a law or ordinance of this or another jurisdiction with elements
 28 substantially similar to those of an offense described in AS 11.46.280.

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29 (q) A court may not impose a sentence of imprisonment or suspended
 30 imprisonment for a person convicted of criminal simulation under AS 11.46.530 if the
 31 person has not been previously convicted more than once for a violation of

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1 AS 11.46.530 or of a law or ordinance of this or another jurisdiction with elements
2 substantially similar to those of an offense described in AS 11.46.530.

3 (r) If an aggravating factor is a necessary element of the present offense, that
4 factor may not be used to impose a sentence above the high end of the range.

5 (s) If the state seeks to establish an aggravating factor at sentencing

6 (1) under (a)(1) of this section, written notice must be served on the
7 opposing party and filed with the court not later than 10 days before the date set for
8 imposition of sentence; the aggravating factors in (a)(1) of this section must be
9 established by clear and convincing evidence before the court sitting without a jury; all
10 findings must be set out with specificity;

drafting error?

11 (2) aggravating factors in (a)(1) of this section shall be presented to a
12 trial jury under procedures set by the court, unless the defendant waives trial by jury,
13 stipulates to the existence of the factor, or consents to have the factor proven under
14 procedures set out in (1) of this subsection; an aggravating factor presented to a jury is
15 established if proved beyond a reasonable doubt; written notice of the intent to
16 establish an aggravating factor must be served on the defendant and filed with the
17 court

18 (A) 20 days before trial or at a time specified by the court;

19 (B) within 48 hours, or at a time specified by the court, if the
20 court instructs the jury about the option to return a verdict for a lesser included
21 offense; or

22 (C) five days before entering a plea that results in a finding of
23 guilt or at a time specified by the court.

24 * Sec. 73. AS 12.61.015(a) is amended to read:

25 (a) If a victim of a felony or a crime involving domestic violence requests, the
26 prosecuting attorney shall make a reasonable effort to

27 (1) confer with the person against whom the offense has been
28 perpetrated about that person's testimony before the defendant's trial;

29 (2) in a manner reasonably calculated to give prompt actual notice,
30 notify the victim

31 (A) of the defendant's conviction and the crimes of which the

1 defendant was convicted;

2 (B) of the victim's right in a case that is a felony to make a
3 written or oral statement for use in preparation of the defendant's presentence
4 report, and of the victim's right to appear personally at the defendant's
5 sentencing hearing to present a written statement and to give sworn testimony
6 or an unsworn oral presentation;

7 (C) of the address and telephone number of the office that will
8 prepare the presentence report; and

9 (D) of the time and place of the sentencing proceeding;

10 (3) notify the victim in writing of the final disposition of the case
11 within 30 days after final disposition of the case;

12 (4) confer with the victim [OF A CRIME INVOLVING DOMESTIC
13 VIOLENCE] concerning a proposed plea agreement before entering into an
14 agreement;

15 (5) inform the victim of a pending motion that may substantially delay
16 the prosecution and inform the court of the victim's position on the motion; in this
17 paragraph, a "substantial delay" is

18 (A) for a misdemeanor, a delay of one month or longer;

19 (B) for a felony, a delay of two months or longer; and

20 (C) for an appeal, a delay of six months or longer.

21 * **Sec. 74.** AS 22.35.030 is amended by adding a new subsection to read:

22 (b) Notwithstanding (a) of this section, the Alaska Court System shall publish
23 the court record of a person who is granted a suspended entry of judgment under
24 AS 12.55.078 on a publicly available website with a notation indicating a suspended
25 entry of judgment.

26 * **Sec. 75.** AS 28.15.165 is amended by adding a new subsection to read:

27 (e) A person whose driver's license, privilege to drive, or privilege to obtain a
28 license has been revoked under this section as a result of a refusal to submit to a
29 chemical test authorized under AS 28.35.031(a) or (g) or a similar municipal
30 ordinance or a chemical test administered under AS 28.35.031(a) or (g) or a similar
31 municipal ordinance in which the test produced a result described in

1 AS 28.35.030(a)(2) may request that the department rescind the revocation. The
 2 department shall rescind a revocation under this subsection if the department finds that
 3 the person has supplied proof in a form satisfactory to the department that

4 (1) the person has been acquitted of driving while under the influence
 5 under AS 28.35.030, refusal to submit to a chemical test under AS 28.35.032, or a
 6 similar municipal ordinance for the incident on which the revocation was based; or

7 (2) all criminal charges against the person for driving while under the
 8 influence under AS 28.35.030 or a similar municipal ordinance and refusing to submit
 9 to a chemical test under AS 28.35.032 or a similar municipal ordinance in relation to
 10 the incident on which the revocation is based have been dismissed with prejudice.

11 * **Sec. 76.** AS 28.15.181(f) is amended to read:

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

14 (1) **either**

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

18 (B) **the person**

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

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

24 (iii) **has been granted limited license privileges under**
 25 **AS 28.15.201(g) and has successfully driven for three years under**
 26 **that limited license without having the limited license privileges**
 27 **revoked; and**

28 (2) the person complies with the provisions of AS 28.15.211(d) and (e).

29 * **Sec. 77.** AS 28.15.201 is amended by adding new subsections to read:

30 (g) Notwithstanding (d) of this section, a court revoking a driver's license,
 31 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the

1 department when revoking a driver's license, privilege to drive, or privilege to obtain a
2 license under AS 28.15.165(c), may grant limited license privileges if

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

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

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

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

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

14 (B) the person signs an affidavit acknowledging that

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

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

20 (iii) the person is required to maintain the ignition
21 interlock device throughout the period of the limited license, to keep
22 up-to-date records in each vehicle showing that any required service
23 and calibration is current, and to produce those records immediately on
24 request;

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

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

30 (7) the person is participating in a program established under
31 AS 47.38.020 for a minimum of 120 days from the date a limited license is granted

1 under this section.

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

7 * **Sec. 78.** AS 28.15.291(a) is repealed and reenacted to read:

8 (a) A person commits the crime of driving while license canceled, suspended,
9 revoked, or in violation of a limitation if the person drives

10 (1) a motor vehicle on a highway or vehicular way or area at a time
11 when that person's driver's license, privilege to drive, or privilege to obtain a license
12 has been canceled, suspended, or revoked under circumstances described in
13 AS 28.15.181(c) or a similar law in another jurisdiction;

14 (2) a motor vehicle on a highway or vehicular way or area at a time
15 when that person's driver's license, privilege to drive, or privilege to obtain a license
16 has been canceled, suspended, or revoked under circumstances other than those
17 described in (1) of this subsection; or

18 (3) in violation of a limitation placed on that person's license or
19 privilege to drive in this or another jurisdiction.

20 * **Sec. 79.** AS 28.15.291(b) is repealed and reenacted to read:

21 (b) Driving while license canceled, suspended, revoked, or in violation of a
22 limitation is

23 (1) a class A misdemeanor if the person violates (a)(1) of this section;
24 upon conviction the court shall impose a minimum sentence of imprisonment of not
25 less than 10 days if the person has been previously convicted under (a)(1) of this
26 section or a similar law in another jurisdiction;

27 (2) an infraction if the person violates (a)(2) or (3) of this section.

28 * **Sec. 80.** AS 28.35.028(b) is amended to read:

29 (b) Once the court elects to proceed under this section, the defendant shall
30 enter a no contest or guilty plea to the offense or shall admit to a probation violation,
31 as appropriate. The state and the defendant may enter into a plea agreement to

1 determine the offense or offenses to which the defendant is required to plead. If the
 2 court accepts the agreement, the court shall enforce the terms of the agreement. The
 3 court shall enter a judgment of conviction for the offense or offenses for which the
 4 defendant has pleaded or an order finding that the defendant has violated probation, as
 5 appropriate. A judgment of conviction or an order finding a probation violation must
 6 set a schedule for payment of restitution owed by the defendant. In a judgment of
 7 conviction and on probation conditions that the court considers appropriate, the court
 8 may withhold pronouncement of a period of imprisonment or a fine to provide an
 9 incentive for the defendant to complete recommended treatment successfully.
 10 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any
 11 mandatory minimum or other sentencing provision applicable to the offense.
 12 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any
 13 other provision of law, the court, at any time after the period when a reduction of
 14 sentence is normally available, may consider and reduce the defendant's sentence,
 15 **including imprisonment, fine, or license revocation,** based on the defendant's
 16 compliance with the treatment plan; when reducing a sentence, the court (1) may not
 17 reduce the sentence below the mandatory minimum sentence for the offense unless the
 18 court finds that the defendant has successfully complied with and completed the
 19 treatment plan and that the treatment plan approximated the severity of the minimum
 20 period of imprisonment, and (2) may consider the defendant's compliance with the
 21 treatment plan as a mitigating factor allowing a reduction of a sentence under
 22 AS 12.55.155(a). A court entering an order finding the defendant has violated
 23 probation may withhold pronouncement of disposition to provide an incentive for the
 24 defendant to complete the recommended treatment successfully.

25 * **Sec. 81.** AS 28.35.030(k) is amended to read:

26 (k) Imprisonment required under (b)(1)(A) of this section shall be served [AT
 27 A COMMUNITY RESIDENTIAL CENTER OR] by electronic monitoring at a
 28 private residence **under AS 33.30.065.** If [A COMMUNITY RESIDENTIAL
 29 CENTER OR] electronic monitoring [AT A PRIVATE RESIDENCE] is not available,
 30 imprisonment required under (b)(1)(A) of this section **shall** [MAY] be served at **a**
 31 **private residence by other means determined by the commissioner of corrections**

1 [ANOTHER APPROPRIATE PLACE DETERMINED BY THE COMMISSIONER
 2 OF CORRECTIONS]. Imprisonment required under (b)(1)(B) - (F) of this section
 3 may be served at a community residential center or at a private residence if approved
 4 by the commissioner of corrections. Imprisonment served at a private residence must
 5 include electronic monitoring under AS 33.30.065 or, if electronic monitoring is not
 6 available, by other means as determined by the commissioner of corrections. The
 7 cost of imprisonment resulting from the sentence imposed under (b)(1) of this section
 8 shall be paid to the state by the person being sentenced. The [PROVIDED,
 9 HOWEVER, THAT THE] cost of imprisonment required to be paid under this
 10 subsection may not exceed \$2,000. Upon the person's conviction, the court shall
 11 include the costs of imprisonment as a part of the judgment of conviction. Except for
 12 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 43.23.065. A [WHILE AT THE COMMUNITY
 17 RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A] person
 18 sentenced under (b)(1)(A) of this section shall perform at least 24 hours of community
 19 service work. A person sentenced under (b)(1)(B) of this section shall perform at least
 20 160 hours of community service work, as required by the director of the community
 21 residential center or other appropriate place, or as required by the commissioner of
 22 corrections if the sentence is being served at a private residence. In this subsection,
 23 "appropriate place" means a facility with 24-hour on-site staff supervision that is
 24 specifically adapted to provide a residence, and includes a correctional center,
 25 residential treatment facility, hospital, halfway house, group home, work farm, work
 26 camp, or other place that provides varying levels of restriction.

27 * **Sec. 82.** AS 28.35.030(*l*) is amended to read:

28 (*l*) The commissioner of corrections shall determine and prescribe by
 29 regulation a uniform average cost of imprisonment for the purpose of determining the
 30 cost of imprisonment required to be paid under (k) of this section by a convicted
 31 person. The regulations must include the costs associated with electronic

1 **monitoring under AS 33.30.065.**

2 * **Sec. 83.** AS 28.35.030(o) is amended to read:

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

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

6 **(A)** [(1)] the license has been revoked for a period of at least 10
7 years;

8 **(B)** [(2)] the person has not been convicted of a criminal offense
9 since the license was revoked; and

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

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

12 **(A) the person has been granted limited license privileges**
13 **under AS 28.15.201(g) and has successfully driven under that limited**
14 **license for three years without having the limited license privileges**
15 **revoked;**

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

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

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

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

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

26 * **Sec. 84.** AS 28.35.032(o) is amended to read:

27 (o) Imprisonment required under (g)(1)(A) of this section shall be served **at a**
28 **private residence by electronic monitoring under AS 33.30.065. If electronic**
29 **monitoring** [AT A COMMUNITY RESIDENTIAL CENTER, OR IF A
30 COMMUNITY RESIDENTIAL CENTER] is not available, **imprisonment under**
31 **(g)(1)(A) of this section shall be served at a private residence by other means as**

1 **determined by the commissioner of corrections** [AT ANOTHER APPROPRIATE
 2 PLACE DETERMINED BY THE COMMISSIONER OF CORRECTIONS].
 3 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
 4 community residential center or at a private residence if approved by the
 5 commissioner of corrections. Imprisonment served at a private residence must include
 6 electronic monitoring **under AS 33.30.065 or, if electronic monitoring is not**
 7 **available, shall be served by other means as determined by the commissioner of**
 8 **corrections**. The cost of imprisonment resulting from the sentence imposed under
 9 (g)(1) of this section shall be paid to the state by the person being sentenced. **The**
 10 [PROVIDED, HOWEVER, THAT THE] cost of imprisonment required to be paid
 11 under this subsection may not exceed \$2,000. Upon the person's conviction, the court
 12 shall include the costs of imprisonment as a part of the judgment of conviction. Except
 13 for reimbursement from a permanent fund dividend as provided in this subsection,
 14 payment of the cost of imprisonment is not required if the court determines the person
 15 is indigent. For costs of imprisonment that are not paid by the person as required by
 16 this subsection, the state shall seek reimbursement from the person's permanent fund
 17 dividend as provided under AS 43.23.065. **A** [WHILE AT THE COMMUNITY
 18 RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A] person
 19 sentenced under (g)(1)(A) of this section shall perform at least 24 hours of community
 20 service work. A person sentenced under (g)(1)(B) of this section shall perform at least
 21 160 hours of community service work, as required by the director of the community
 22 residential center or other appropriate place, or as required by the commissioner of
 23 corrections if the sentence is being served at a private residence. In this subsection,
 24 "appropriate place" means a facility with 24-hour on-site staff supervision that is
 25 specifically adapted to provide a residence, and includes a correctional center,
 26 residential treatment facility, hospital, halfway house, group home, work farm, work
 27 camp, or other place that provides varying levels of restriction.

28 * **Sec. 85.** AS 29.10.200(21) is amended to read:

29 (21) AS 29.25.070(e) **and (g) (penalties)** [(NOTICES OF CERTAIN
 30 CIVIL ACTIONS)];

31 * **Sec. 86.** AS 29.25.070(a) is amended to read:

1 (a) For the violation of an ordinance, a municipality may by ordinance
 2 prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days,
 3 except as limited by (g) of this section. For a violation that cannot result in
 4 incarceration or the loss of a valuable license, a municipality may allow disposition of
 5 the violation without court appearance and establish a schedule of fine amounts for
 6 each offense.

7 * **Sec. 87.** AS 29.25.070 is amended by adding a new subsection to read:

8 (g) If a municipality prescribes a penalty for a violation of a municipal
 9 ordinance, including a violation under (a) of this section, and there is a comparable
 10 state offense under AS 11 with elements that are similar to the municipal ordinance,
 11 the municipality may not impose a greater punishment than that imposed for a
 12 violation of the state law. This subsection applies to home rule and general law
 13 municipalities.

14 * **Sec. 88.** AS 33.05.020 is amended by adding a new subsection to read:

15 (g) The commissioner shall establish an administrative sanction and incentive
 16 program to facilitate a prompt and effective response to a probationer's compliance
 17 with or violation of the conditions of probation. The commissioner shall adopt
 18 regulations to implement the program. At a minimum, the regulations must include

19 (1) a decision-making process to guide probation officers in
 20 determining the suitable response to positive and negative offender behavior that
 21 includes a list of sanctions for the most common types of negative behavior, including
 22 technical violations of conditions of probation, and a list of incentives for compliance
 23 with conditions and positive behavior that exceeds those conditions;

24 (2) policies and procedures that ensure

25 (A) a process for responding to negative behavior that includes
 26 a review of previous violations and sanctions;

27 (B) that enhanced sanctions for certain negative conduct are
 28 approved by the commissioner or the commissioner's designee; and

29 (C) that appropriate due process protections are included in the
 30 process, including notice of negative behavior, an opportunity to dispute the
 31 accusation and the sanction, and an opportunity to request a review of the

1 accusation and the sanction.

2 * **Sec. 89.** AS 33.05 is amended by adding a new section to read:

3 **Sec. 33.05.025. Probation incentive reduction; time computation.** (a) A
4 probation officer shall recommend to the sentencing court a probation incentive
5 reduction for good conduct by a person on probation.

6 (b) If a recommendation is made under (a) of this section, the probation officer
7 shall provide to the court a time computation for the reduction of the period of
8 probation of 30 days for each 30-day period of probation that a defendant successfully
9 complies with all of the conditions of probation for one or more 30-day period
10 immediately preceding the reduction computation. The computation under this
11 subsection may not include credit for less than a 30-day period.

12 * **Sec. 90.** AS 33.05.040 is amended to read:

13 **Sec. 33.05.040. Duties of probation officers.** A probation officer shall

14 (1) furnish to each probationer under the supervision of the officer a
15 written statement of the conditions of probation and shall instruct the probationer
16 regarding the same;

17 (2) keep informed concerning the conduct and condition of each
18 probationer under the supervision of the officer and shall report on the probationer to
19 the court placing the [SUCH] person on probation;

20 (3) use all suitable methods, not inconsistent with the conditions
21 imposed by the court, to aid probationers and to bring about improvements in their
22 conduct and condition;

23 (4) keep records of the probation work including sanctions and
24 incentives the probation officer imposes under AS 33.05.020(g), keep accurate and
25 complete accounts of all money collected from persons under the supervision of the
26 officer, give receipts for money collected and make at least monthly returns of it,
27 make the reports to the court and the commissioner required by them, and perform
28 other duties the court may direct;

29 (5) recommend to the court a probation reduction for a
30 probationer who is eligible for the reduction under AS 33.05.025; a probation
31 officer shall make the recommendation to the court at least 30 days before the

1 earliest date a probationer could be discharged from further supervision because
 2 of the reduction under AS 33.05.025;

3 (6) perform the [SUCH] duties with respect to persons on parole as the
 4 commissioner shall request [,] and, in that [SUCH] service, shall be termed a parole
 5 officer;

6 (7) use sanctions and incentives developed under AS 33.05.020(g) to
 7 respond to a probationer's negative and positive behavior, including responses to
 8 technical violations of conditions of probation, in a way that is intended to
 9 interrupt negative behavior in a swift, certain, and proportional manner and
 10 support progress with a recognition of positive behavior; and

11 (8) upon determining that a probationer under the supervision of
 12 the officer meets the requirements of AS 12.55.090(g), recommend to the court as
 13 soon as practicable that probation be terminated and the probationer be
 14 discharged from probation.

15 * **Sec. 91.** AS 33.05.080 is amended by adding a new paragraph to read:

16 (3) "administrative sanctions and incentives" means responses by a
 17 probation officer to a probationer's compliance with or violation of the conditions of
 18 probation under AS 33.05.020(g).

19 * **Sec. 92.** AS 33 is amended by adding a new chapter to read:

20 **Chapter 07. Pretrial Services Program.**

21 **Sec. 33.07.010. Pretrial services program; establishment.** The commissioner
 22 shall establish and administer a pretrial services program that provides a pretrial risk
 23 assessment for all defendants, recommendations to the court concerning pretrial
 24 release decisions, and supervision of defendants released while awaiting trial as
 25 ordered by the court.

26 **Sec. 33.07.020. Duties of commissioner; pretrial services.** The commissioner
 27 shall

28 (1) appoint and make available to the superior court and district court
 29 qualified pretrial services officers;

30 (2) fix pretrial services officers' salaries;

31 (3) assign pretrial services officers to the various judicial districts;

1 (4) provide for the necessary training, expenses, including clerical
2 services, and travel of pretrial services officers;

3 (5) approve a risk assessment instrument that is objective, standardized,
4 developed based on analysis of empirical data and risk factors relevant to pretrial
5 failure, that evaluates the likelihood of failure to appear in court and the likelihood of
6 rearrest during the pretrial period, and that is validated on the state's pretrial
7 population; and

8 (6) adopt regulations in consultation with the Department of Law, the
9 public defender, the Department of Public Safety, and the Alaska Court System,
10 consistent with this chapter and as necessary to implement the program; the
11 regulations must include pretrial release decision-making process guidelines for
12 pretrial services officers in making a recommendation to the court concerning a
13 pretrial release decision, including guidelines for pretrial diversion recommendations.

14 **Sec. 33.07.030. Duties of pretrial services officers.** (a) Pretrial services
15 officers shall, in advance of a first appearance before a judicial officer under
16 AS 12.30, conduct a pretrial risk assessment on the defendant using an instrument
17 approved by the commissioner for the purpose of making a recommendation to the
18 court concerning an appropriate pretrial release decision and conditions of release. In
19 conducting a pretrial risk assessment and making a recommendation to the court, the
20 department shall follow the decision-making process established by regulation under
21 this chapter. The pretrial risk assessment shall be completed and presented to the court
22 in a pretrial release report that contains a risk assessment rating of low, moderate, or
23 high and a recommendation regarding release and release conditions before the
24 defendant's first appearance before a judicial officer.

25 (b) A pretrial services officer shall make a recommendation under (a) of this
26 section for pretrial release to the court based on factors that include the results of a
27 pretrial risk assessment, the offense charged, the least restrictive condition, and
28 conditions that will reasonably ensure the appearance of the person in court and the
29 safety of the victim, other persons, and the community. The recommendation must
30 take into account

31 (1) the level of risk of a defendant;

1 (2) the appropriateness for release on the defendant's own recognizance
 2 or on the execution of an unsecured appearance bond, unsecured performance bond, or
 3 both; and

4 (3) nonmonetary release conditions permitted under AS 12.30.011,
 5 12.30.016, 12.30.021, and 12.30.027 for defendants who are recommended for release.

6 (c) A pretrial services officer shall recommend for release on personal
 7 recognizance, upon execution of an unsecured appearance bond, upon execution of an
 8 unsecured performance bond, or to a pretrial diversion program, with nonmonetary
 9 conditions as appropriate, a defendant charged with

10 (1) a misdemeanor, unless that misdemeanor is

11 (A) a crime involving domestic violence, as defined in
 12 AS 18.66.990;

13 (B) a crime against the person under AS 11.41;

14 (C) an offense under AS 11.56.730;

15 (2) a class C felony unless that felony is

16 (A) a crime involving domestic violence, as defined in
 17 AS 18.66.990;

18 (B) a crime against the person under AS 11.41;

19 (C) an offense under AS 11.56.730;

20 (3) an offense under AS 28.35.030 or 28.35.032, if the defendant has
 21 been assessed as being low or moderate risk on the pretrial risk assessment;

22 (4) an offense for which no finding has been made under (d) of this
 23 section that is

24 (A) an offense under AS 28.35.030 or 28.35.032, and the
 25 defendant has been assessed as being high risk on the pretrial risk assessment;

26 (B) an offense under AS 11.56.730 or 11.56.757, and the
 27 defendant has been assessed as being low to moderate risk on the pretrial risk
 28 assessment;

29 (C) any other offense, and the defendant has been assessed as
 30 being low risk on the pretrial risk assessment.

31 (d) For an offense under (c)(4) of this section, if the pretrial services officer

1 finds substantial evidence that no nonmonetary conditions of release in combination
 2 with a personal recognizance release or unsecured bond can reasonably ensure the
 3 appearance of the person in court and the safety of the victim, other persons, and the
 4 community, the pretrial services officer may recommend to the court more restrictive
 5 release conditions than otherwise provided for under (c) of this section.

6 (e) Pretrial services officers shall supervise defendants released during the
 7 pretrial period and prioritize supervision of defendants accused of serious charges or
 8 who are assessed as moderate or high risk on the pretrial risk assessment. Pretrial
 9 services officers shall impose the least restrictive level of supervision that will
 10 reasonably ensure the appearance of the person in court and the safety of the victim
 11 and the community.

12 (f) A pretrial services officer may

13 (1) recommend pretrial diversion to the court before adjudication;

14 (2) arrest a defendant who has been released pretrial without a warrant
 15 if the officer has reason to believe the defendant has committed an offense under
 16 AS 11.56.730 or 11.56.757 or has violated the defendant's release conditions;

17 (3) refer interested defendants for substance abuse screening,
 18 assessment, and treatment on a voluntary basis; and

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

21 **Sec. 33.07.040. Pretrial services officers as officers of court.** (a) All pretrial
 22 services officers shall be available to the superior and district courts and shall be
 23 officers of the court.

24 (b) The appointment of a pretrial services officer shall be entered on the
 25 journal of the court in the judicial district where the pretrial services officer is
 26 assigned, and one copy of the journal entry shall be sent to the administrative director
 27 of the Alaska Court System.

28 **Sec. 33.07.090. Definitions.** In this chapter,

29 (1) "commissioner" means the commissioner of corrections;

30 (2) "program" means the pretrial services program.

31 * **Sec. 93.** AS 33.16.010(c) is amended to read:

1 (c) A prisoner who is not eligible for special medical, administrative, or
 2 discretionary parole, or who is not released on special medical, administrative, or
 3 discretionary parole, shall be released on mandatory parole for the term of good time
 4 deductions credited under AS 33.20, if the term or terms of imprisonment are two
 5 years or more.

6 * **Sec. 94.** AS 33.16.010(d) is amended to read:

7 (d) A prisoner released on special medical, administrative, discretionary, or
 8 mandatory parole is subject to the conditions of parole imposed under AS 33.16.150.
 9 Parole may be revoked under AS 33.16.220.

10 * **Sec. 95.** AS 33.16.010 is amended by adding a new subsection to read:

11 (f) A prisoner eligible under AS 33.16.089 shall be released on administrative
 12 parole by the board of parole.

13 * **Sec. 96.** AS 33.16.060(a) is amended to read:

14 (a) The board shall

15 (1) serve as the parole authority for the state;

16 (2) upon receipt of an application, consider the suitability for parole of
 17 a prisoner who is eligible for special medical or discretionary parole;

18 (3) impose parole conditions on all prisoners released under
 19 administrative, discretionary, or mandatory parole;

20 (4) under AS 33.16.210, discharge a person from parole when custody
 21 is no longer required;

22 (5) maintain records of the meetings and proceedings of the board;

23 (6) recommend to the governor and the legislature changes in the law
 24 administered by the board;

25 (7) recommend to the governor or the commissioner changes in the
 26 practices of the department and of other departments of the executive branch
 27 necessary to facilitate the purposes and practices of parole;

28 (8) upon request of the governor, review and recommend applicants for
 29 executive clemency; [AND]

30 (9) execute other responsibilities prescribed by law; **and**

31 **(10) evaluate the eligibility and notify a prisoner of the prisoner's**

1 **eligibility for administrative and discretionary parole at least 90 days before the**
 2 **prisoner's first date of eligibility.**

3 * **Sec. 97.** AS 33.16 is amended by adding a new section to read:

4 **Sec. 33.16.089. Eligibility for administrative parole.** (a) A prisoner
 5 convicted of a misdemeanor or a class B or C felony that is not a sexual felony as
 6 defined in AS 12.55.185, who has not been previously convicted of a felony in this or
 7 another jurisdiction, and who has been sentenced to an active term of imprisonment of
 8 at least 181 days shall be released on administrative parole by the board without a
 9 hearing if

10 (1) the prisoner has served the greater of

11 (A) one-fourth of the active term of imprisonment imposed;

12 (B) the mandatory minimum term of imprisonment imposed; or

13 (C) a term of imprisonment imposed under AS 12.55.115;

14 (2) the prisoner is not excluded from eligibility for administrative
 15 parole by court order;

16 (3) the prisoner has agreed to and signed the conditions of parole under
 17 AS 33.16.050;

18 (4) the victim does not request a hearing to consider issues of public
 19 safety under AS 33.16.120; and

20 (5) the prisoner has met the requirements of the case plan established
 21 under AS 33.30.011(8).

22 (b) If a prisoner who is eligible for discretionary parole under AS 33.16.090
 23 does not meet the criteria for release on administrative parole under (a) of this section,
 24 the board shall consider the prisoner for discretionary parole.

25 (c) If a victim makes a timely request for a hearing under AS 33.16.120, the
 26 board shall conduct the hearing not later than 30 days before the prisoner's earliest
 27 parole eligibility date.

28 * **Sec. 98.** AS 33.16.090(a) is amended to read:


29 (a) A prisoner sentenced to an active term of imprisonment of at least 181 days
 30 **and who has not been released on administrative parole as provided in**
 31 **AS 33.16.089** may, in the discretion of the board, be released on discretionary parole

1 if the prisoner

2 (1) has served the amount of time specified under (b) of this section,
3 except that

4 (A) [(1)] a prisoner sentenced to one or more mandatory 99-
5 year terms under AS 12.55.125(a) or one or more definite terms under
6 AS 12.55.125(l) is not eligible for consideration for discretionary parole;

7 (B) [(2)] a prisoner is not eligible for consideration of
8 discretionary parole if made ineligible by order of a court under AS 12.55.115;

9 (C) [(3)] a prisoner imprisoned under AS 12.55.086 is not
10 eligible for discretionary parole unless the actual term of imprisonment is more
11 than one year; or 

12 (2) is at least 60 years of age, has served at least 10 years of a
13 sentence for one or more crimes in a single judgment, and has not been convicted
14 of an unclassified felony or a sexual felony as defined in AS 12.55.185.

15 * Sec. 99. AS 33.16.090(b) is amended to read:

16 (b) A prisoner eligible under (a)(1) of this section who is sentenced

17 (1) to a single sentence under AS 12.55.125(a) or (b) may not be
18 released on discretionary parole until the prisoner has served the mandatory minimum
19 term under AS 12.55.125(a) or (b), one-third of the active term of imprisonment
20 imposed, or any term set under AS 12.55.115, whichever is greatest;

21 (2) to a single sentence within or below a presumptive range set out in
22 AS 12.55.125(i)(1)(C) - (F) [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)],
23 and has not been allowed by the three-judge panel under AS 12.55.175 to be
24 considered for discretionary parole release, may not be released on discretionary
25 parole until the prisoner has served the term imposed, less good time earned under
26 AS 33.20.010;

27 (3) to a single sentence under AS 12.55.125(i)(1)(C) - (F)
28 [AS 12.55.125(c), (d)(2) - (4), (e)(3) AND (4), OR (i)], and has been allowed by the
29 three-judge panel under AS 12.55.175 to be considered for discretionary parole release
30 during the second half of the sentence, may not be released on discretionary parole
31 until

1 (A) the prisoner has served that portion of the active term of
2 imprisonment required by the three-judge panel; and

3 (B) in addition to the factors set out in AS 33.16.100(a), the
4 board determines that

5 (i) the prisoner has successfully completed all
6 rehabilitation programs ordered by the three-judge panel that were
7 made available to the prisoner; and

8 (ii) the prisoner would not constitute a danger to the
9 public if released on parole;

10 (4) to a single enhanced sentence under AS 12.55.155(a) that is above
11 the applicable presumptive range may not be released on discretionary parole until the
12 prisoner has served the greater of the following:

13 (A) an amount of time, less good time earned under
14 AS 33.20.010, equal to the upper end of the presumptive range plus one-fourth
15 of the amount of time above the presumptive range; or

16 (B) any term set under AS 12.55.115;

17 (5) to a single sentence under any other provision of law may not be
18 released on discretionary parole until the prisoner has served at least one-fourth of the
19 active term of imprisonment, any mandatory minimum sentence imposed under any
20 provision of law, or any term set under AS 12.55.115, whichever is greatest;

21 (6) to concurrent sentences may not be released on discretionary parole
22 until the prisoner has served the greatest of

23 (A) any mandatory minimum sentence or sentences imposed
24 under any provision of law;

25 (B) any term set under AS 12.55.115; or

26 (C) the amount of time that is required to be served under (1) -
27 (5) of this subsection for the sentence imposed for the primary crime, had that
28 been the only sentence imposed;

29 (7) to consecutive or partially consecutive sentences may not be
30 released on discretionary parole until the prisoner has served the greatest of

31 (A) the composite total of any mandatory minimum sentence or

1 sentences imposed under any provision of law, including AS 12.55.127;

2 (B) any term set under AS 12.55.115; or

3 (C) the amount of time that is required to be served under (1) -
4 (5) of this subsection for the sentence imposed for the primary crime, had that
5 been the only sentence imposed, plus one-quarter of the composite total of the
6 active term of imprisonment imposed as consecutive or partially consecutive
7 sentences imposed for all crimes other than the primary crime.

8 * **Sec. 100.** AS 33.16.100(a) is amended to read:

9 (a) The board may authorize the release of a prisoner **convicted of an**
10 **unclassified felony who is otherwise eligible under AS 12.55.115 and AS 33.16.090**
11 on discretionary parole if it determines a reasonable probability exists that

12 (1) the prisoner will live and remain at liberty without violating any
13 laws or conditions imposed by the board;

14 (2) the prisoner's rehabilitation and reintegration into society will be
15 furthered by release on parole;

16 (3) the prisoner will not pose a threat of harm to the public if released
17 on parole; and

18 (4) release of the prisoner on parole would not diminish the seriousness
19 of the crime.

20 * **Sec. 101.** AS 33.16.100(b) is amended to read:

21 (b) If the board finds a change in circumstances in a prisoner's **preparole**
22 **reports listed in AS 33.16.110(a)** [PAROLE RELEASE PLAN SUBMITTED
23 UNDER AS 33.16.130(a)], or discovers new information concerning a prisoner who
24 has been granted a parole release date, the board may rescind or revise the previously
25 granted parole release date. In reconsidering the release date, the procedures set out in
26 **AS 33.16.130** [AS 33.16.130(b) AND (c)] shall be followed.

27 * **Sec. 102.** AS 33.16.100 is amended by adding a new subsection to read:

28 (f) The board may authorize the release of a prisoner who has been convicted
29 of more than one felony, other than an unclassified felony, in this or another
30 jurisdiction, if the prisoner is eligible for discretionary parole under AS 12.55.115 and
31 AS 33.16.090, has met the requirements of a case plan created under AS 33.30.011(8),

1 and has agreed to the conditions of supervision, unless the board finds by clear and
 2 convincing evidence on the record that the prisoner poses a threat of harm to the
 3 public if released. If the board finds that failure to complete the requirements of a case
 4 plan was not caused by the prisoner, the board may waive the incomplete
 5 requirements.

6 * **Sec. 103.** AS 33.16.110(a) is amended to read:

7 (a) In determining whether a prisoner is suitable for discretionary parole, the
 8 board shall consider the preparole reports including

9 (1) the presentence report made to the sentencing court;

10 (2) the recommendations made by the sentencing court, by the
 11 prosecuting attorney, and by the defense attorney, and any statements made by the
 12 victim or the prisoner at sentencing;

13 (3) the prisoner's institutional conduct history while incarcerated;

14 (4) recommendations made by the staff of the correctional facilities in
 15 which the prisoner was incarcerated;

16 (5) reports of prior crimes, juvenile histories, and previous experiences
 17 of the prisoner on parole or probation;

18 (6) physical, mental, and psychiatric examinations of the prisoner;

19 (7) information submitted by the prisoner, the sentencing court, the
 20 victim of the crime, the prosecutor, or other persons having knowledge of the prisoner
 21 or the crime;

22 (8) information concerning an unjustified disparity in the sentence
 23 imposed on a prisoner in relation to other sentences imposed under similar
 24 circumstances; [AND]

25 (9) other relevant information that may be reasonably available;

26 **(10) the case plan created under AS 33.30.011(8) for the prisoner,**
 27 **including a compliance report on the case plan; and**

28 **(11) a reentry plan created under AS 33.30.011(9).**

29 * **Sec. 104.** AS 33.16.120(a) is amended to read:

30 (a) If the victim of a crime against a person or arson in the first degree requests
 31 notice of a scheduled hearing to review or consider discretionary parole for a prisoner

1 convicted of that crime, the board shall send notice of the hearing to the victim at least
 2 30 days before the hearing. The notice must be accompanied by a copy of the
 3 prisoner's preparole reports listed in AS 33.16.110 [APPLICATION FOR PAROLE
 4 SUBMITTED UNDER AS 33.16.130(a)]. However, the copy of the preparole
 5 reports [APPLICATION] sent to the victim may not include the prisoner's
 6 confidential health information, information protected under AS 33.16.170,
 7 proposed residence, or [AND] employment addresses.

8 * **Sec. 105.** AS 33.16.120(f) is amended to read:

9 (f) Upon request of the victim, if a prisoner is released under AS 33.16.010(c),
 10 33.16.089, or 33.16.090, the board shall make every reasonable effort to notify the
 11 victim before the prisoner's release date. Notification under this subsection must
 12 include the expected date of the prisoner's release, the geographic area in which the
 13 prisoner is required to reside, and other pertinent information concerning the prisoner's
 14 conditions of parole that may affect the victim.

15 * **Sec. 106.** AS 33.16.120(g) is amended to read:

16 (g) A victim of a crime involving domestic violence shall be informed by the
 17 board at least 30 days in advance of a scheduled hearing to review or consider
 18 [DISCRETIONARY] parole for a prisoner. The board shall inform the victim of any
 19 decision to grant or deny [DISCRETIONARY] parole or to release the prisoner under
 20 AS 33.16.010(c). If the prisoner is to be released, the victim shall be notified of the
 21 expected date of the release, the geographic area in which the prisoner will reside, and
 22 any other information concerning conditions of parole that may affect the victim. The
 23 victim shall also be informed of any changes in the conditions of parole that may
 24 affect the victim. The board shall send the notice required to the last known address of
 25 the victim. A person may not bring a civil action for damages for a failure to comply
 26 with the provisions of this subsection.

27 * **Sec. 107.** AS 33.16.120 is amended by adding a new subsection to read:

28 (h) A victim who has a right to notice under (a) of this section may request a
 29 hearing before a prisoner is released on administrative parole under AS 33.16.089. The
 30 notice to the victim must include the procedure and time frame for requesting a
 31 hearing.

1 * **Sec. 108.** AS 33.16.130 is repealed and reenacted to read:

2 **Sec. 33.16.130. Parole procedures.** (a) The parole board shall hold a hearing
3 for all prisoners who are eligible for parole before granting an eligible prisoner special
4 medical or discretionary parole. The board shall also hold a hearing if requested by a
5 victim under procedures established for the request for a prisoner eligible for
6 administrative parole. A hearing shall be conducted within the following time frames:

7 (1) for prisoners eligible under AS 33.16.100(a), not less than 90 days
8 before the first parole eligibility date;

9 (2) for all other prisoners, not less than 30 days after the board is
10 notified of the need for a hearing by the commissioner or the commissioner's designee.

11 (b) The commissioner or the commissioner's designee shall furnish a copy of
12 the preparole reports listed in AS 33.16.110(a), and the prisoner shall be permitted
13 access to all records that the board will consider in making its decision except those
14 that are made confidential by law. The prisoner may also respond in writing to all
15 materials the board considers, be present at the hearing, and present evidence to the
16 board.

17 (c) If the board denies parole, the board shall state the reasons for the denial,
18 identify all of the factors considered relevant to the denial, and provide a written plan
19 for addressing all of the factors relevant to the denial. The board may schedule a
20 subsequent parole hearing at the time of the denial or at a later date as follows:

21 (1) for the first parole denial, within two years after the first parole
22 eligibility date;

23 (2) for the second and subsequent denials, within two years after the
24 most recent parole hearing.

25 (d) The board shall issue its decision in writing and provide a copy of the
26 decision to the prisoner.

27 * **Sec. 109.** AS 33.16.140 is amended to read:

28 **Sec. 33.16.140. Order for parole.** An order for parole issued by the board,
29 setting out the conditions imposed under AS 33.16.150(a) and (b) and the date parole
30 custody ends, shall be furnished to each prisoner released on special medical,
31 administrative, discretionary, or mandatory parole.

1 * **Sec. 110.** AS 33.16.150(a) is amended to read:

2 (a) As a condition of parole, a prisoner released on special medical,
3 administrative, discretionary, or mandatory parole

4 (1) shall obey all state, federal, or local laws or ordinances, and any
5 court orders applicable to the parolee;

6 (2) shall make diligent efforts to maintain steady employment or meet
7 family obligations;

8 (3) shall, if involved in education, counseling, training, or treatment,
9 continue in the program unless granted permission from the parole officer assigned to
10 the parolee to discontinue the program;

11 (4) shall report

12 (A) upon release to the parole officer assigned to the parolee;

13 (B) at other times, and in the manner, prescribed by the board or
14 the parole officer assigned to the parolee;

15 (5) shall reside at a stated place and not change that residence without
16 notifying, and receiving permission from, the parole officer assigned to the parolee;

17 (6) shall remain within stated geographic limits unless written
18 permission to depart from the stated limits is granted the parolee;

19 (7) may not use, possess, handle, purchase, give, distribute, or
20 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
21 drug for which a prescription is required under state or federal law without a
22 prescription from a licensed medical professional to the parolee;

23 (8) may not possess or control a firearm; in this paragraph, "firearm"
24 has the meaning given in AS 11.81.900;

25 (9) may not enter into an agreement or other arrangement with a law
26 enforcement agency or officer that will place the parolee in the position of violating a
27 law or parole condition without the prior approval of the board;

28 (10) may not contact or correspond with anyone confined in a
29 correctional facility of any type serving any term of imprisonment or a felon without
30 the permission of the parole officer assigned to a parolee;

31 (11) shall agree to waive extradition from any state or territory of the

1 United States and to not contest efforts to return the parolee to the state;

2 (12) shall provide a blood sample, an oral sample, or both, when
3 requested by a health care professional acting on behalf of the state to provide the
4 sample or samples, or an oral sample when requested by a juvenile or adult
5 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
6 released after a conviction of an offense requiring the state to collect the sample or
7 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

8 (13) from a conviction for a sex offense shall submit to regular periodic
9 polygraph examinations; in this paragraph, "sex offense" has the meaning given in
10 AS 12.63.100.

11 * **Sec. 111.** AS 33.16.150(b) is amended to read:

12 (b) The board may require as a condition of special medical, administrative,
13 discretionary, or mandatory parole, or a member of the board acting for the board
14 under (e) of this section may require as a condition of administrative or mandatory
15 parole, that a prisoner released on parole

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

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

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

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

27 (5) submit to periodic examinations designed to detect the use of
28 alcohol or controlled substances; the periodic examinations may include testing under
29 the program established under AS 33.16.060(c);

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

1 (7) refrain from opening, maintaining, or using a checking account or
2 charge account;

3 (8) refrain from entering into a contract other than a prenuptial contract
4 or a marriage contract;

5 (9) refrain from operating a motor vehicle;

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

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

15 * **Sec. 112.** AS 33.16.150(e) is amended to read:

16 (e) The board may designate a member of the board to act on behalf of the
17 board in imposing conditions of administrative or mandatory parole under (a) and (b)
18 of this section, in delegating imposition of conditions of administrative or mandatory
19 parole under (c) of this section, and in setting the period of compliance with the
20 conditions of administrative or mandatory parole under (d) of this section. The
21 decision of a member of the board under this section is the decision of the board. A
22 prisoner or parolee aggrieved by a decision of a member of the board acting for the
23 board under this subsection may apply to the board under AS 33.16.160 for a change
24 in the conditions of administrative or mandatory parole.

25 * **Sec. 113.** AS 33.16.150(f) is amended to read:

26 (f) In addition to other conditions of parole imposed under this section, the
27 board may impose as a condition of special medical, administrative, discretionary, or
28 mandatory parole for a prisoner serving a term for a crime involving domestic
29 violence (1) any of the terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a
30 requirement that, at the prisoner's expense, the prisoner participate in and complete, to
31 the satisfaction of the board, a program for the rehabilitation of perpetrators of

1 domestic violence that meets the standards set by, and that is approved by, the
 2 department under AS 44.28.020(b); and (3) any other condition necessary to
 3 rehabilitate the prisoner. The board shall establish procedures for the exchange of
 4 information concerning the parolee with the victim and for responding to reports of
 5 nonattendance or noncompliance by the parolee with conditions imposed under this
 6 subsection. The board may not under this subsection require a prisoner to participate
 7 in and complete a program for the rehabilitation of perpetrators of domestic violence
 8 unless the program meets the standards set by, and is approved by, the department
 9 under AS 44.28.020(b).

10 * **Sec. 114.** AS 33.16.150(g) is amended to read:

11 (g) In addition to other conditions of parole imposed under this section for a
 12 prisoner serving a sentence for an offense where the aggravating factor provided in
 13 AS 12.55.155(c)(29) has been proven or admitted, the board shall impose as a
 14 condition of special medical, administrative, discretionary, and mandatory parole a
 15 requirement that the prisoner submit to electronic monitoring. Electronic monitoring
 16 under this subsection must provide for monitoring of the prisoner's location and
 17 movements by Global Positioning System technology. The board shall require a
 18 prisoner serving a period of probation with electronic monitoring as provided under
 19 this subsection to pay all or a portion of the costs of the electronic monitoring, but
 20 only if the prisoner has sufficient financial resources to pay the costs or a portion of
 21 the costs. A prisoner subject to electronic monitoring under this subsection is not
 22 entitled to a credit for time served in a correctional facility while the defendant is on
 23 parole. In this subsection, "correctional facility" has the meaning given in
 24 AS 33.30.901.

25 * **Sec. 115.** AS 33.16.180 is amended to read:

26 **Sec. 33.16.180. Duties of the commissioner.** The commissioner shall

- 27 (1) conduct investigations of prisoners eligible for administrative or
 28 discretionary parole, as requested by the board and as provided in this section;
 29 (2) supervise the conduct of parolees;
 30 (3) appoint and assign parole officers and personnel;
 31 (4) provide the board, within 30 days after sentencing, information on a

1 sentenced prisoner who may be eligible for administrative parole under
 2 AS 33.16.089 or discretionary parole under AS 33.16.090;

3 (5) notify the board and provide information on a prisoner 120 days
 4 before the prisoner's mandatory release date, if the prisoner is to be released on [TO]
 5 mandatory parole; [AND]

6 (6) maintain records, files, and accounts as requested by the board;

7 (7) prepare preparole reports under AS 33.16.110(a);

8 (8) notify the board in writing of a prisoner's compliance or
 9 noncompliance with the prisoner's case plan created under AS 33.30.011(8) not
 10 less than 30 days before the prisoner's next parole eligibility date or the
 11 prisoner's parole hearing date, whichever is earlier;

12 (9) establish an administrative sanction and incentive program to
 13 facilitate a swift and certain response to a parolee's compliance with or violation
 14 of the conditions of parole and shall adopt regulations to implement the program;
 15 at a minimum, the regulations must include

16 (A) a decision-making process to guide parole officers in
 17 determining the suitable response to positive and negative offender
 18 behavior that includes a list of sanctions for the most common types of
 19 negative behavior, including technical violations of conditions of parole,
 20 and a list of incentives for compliance with conditions and positive
 21 behavior that exceeds those conditions;

22 (B) policies and procedures that ensure

23 (i) a process for responding to negative behavior that
 24 includes a review of previous violations and sanctions;

25 (ii) that enhanced sanctions for certain negative
 26 conduct are approved by the commissioner or the commissioner's
 27 designee; and

28 (iii) that appropriate due process protections are
 29 included in the process, including notice of negative behavior, an
 30 opportunity to dispute the accusation and the sanction, and an
 31 opportunity to request a review of the accusation and the sanction;

1 (10) calculate and keep records of the parole reduction for a
 2 parolee who is eligible for the reduction under AS 33.16.210(d);

3 (11) notify the board at least 30 days before the earliest date a
 4 parolee's parole will be discharged under AS 33.16.210(d); and

5 (12) within 30 days after sentencing of an offender, provide the
 6 victim of a crime information on the earliest dates the offender could be released
 7 on furlough, probation, or parole, including deductions or reductions for good
 8 time or other good conduct incentives and the process for release, including
 9 contact information for the decision-making bodies.

10 * **Sec. 116.** AS 33.16.200 is amended to read:

11 **Sec. 33.16.200. Custody of parolee.** Except as provided in AS 33.16.210, the
 12 board retains custody of special medical, administrative, discretionary, and
 13 mandatory parolees until the expiration of the maximum term or terms of
 14 imprisonment to which the parolee is sentenced.

15 * **Sec. 117.** AS 33.16.210 is amended to read:

16 **Sec. 33.16.210. Discharge of parolee.** (a) The board may unconditionally
 17 discharge a parolee from the jurisdiction and custody of the board after the parolee has
 18 completed one year [TWO YEARS] of parole. A discretionary parolee with a residual
 19 period of probation may, after one year [TWO YEARS] of parole, be discharged by
 20 the board to immediately begin serving the residual period of probation.

21 (b) Notwithstanding (a) of this section, the board may unconditionally
 22 discharge a mandatory parolee before the parolee has completed one year [TWO
 23 YEARS] of parole if the parolee is serving a concurrent period of residual probation
 24 under AS 33.20.040(c), and the period of residual probation and the period of
 25 suspended imprisonment each equal or exceed the period of mandatory parole.

26 * **Sec. 118.** AS 33.16.210 is amended by adding new subsections to read:

27 (c) Notwithstanding (a) of this section, the board may unconditionally
 28 discharge a parolee if the parolee

29 (1) has completed at least one year on parole;

30 (2) has completed all treatment programs required as a condition of
 31 parole;

1 (3) is currently in compliance with all conditions of parole; and

2 (4) has not been convicted of an unclassified felony offense, a sexual
3 felony as defined by AS 12.55.185, or a crime involving domestic violence as defined
4 by AS 18.66.990.

5 (d) The board shall grant a parole incentive reduction for good conduct by a
6 person on parole of 30 days for each 30-day period of parole that a parolee
7 successfully complies with all of the conditions of parole for one or more 30-day
8 period immediately preceding the reduction computation. The board may not grant a
9 reduction for less than a 30-day period.

10 * **Sec. 119.** AS 33.16 is amended by adding a new section to read:

11 **Sec. 33.16.215. Sanctions for a technical violation of parole.** (a) If a parolee
12 is serving a period of parole for an offense, the board may find that the parolee has
13 committed a technical violation of parole. If the board finds that a parolee has
14 committed a technical violation of parole that does not include absconding, the board
15 may revoke parole and return the parolee to the custody of the commissioner and then
16 place the person back on parole after the appropriate period of time below:

17 (1) three days for the first technical violation of parole filed with the
18 board;

19 (2) five days for the second technical violation of parole filed with the
20 board;

21 (3) 10 days for the third technical violation of parole filed with the
22 board; and

23 (4) the remainder of the sentence for a fourth or subsequent technical
24 violation of parole.

25 (b) If the board revokes parole for absconding, the board may place a person
26 back on parole after the person has served up to 30 days.

27 (c) This section does not apply if the parolee is enrolled in the program
28 established under AS 33.16.060(c).

29 (d) If the defendant is ordered to complete treatment under AS 33.16.150(a)(3)
30 and does not comply with the board's order, the board may order the parolee to show
31 cause why the board should not revoke the parole for noncompletion of treatment. In a

1 parole revocation proceeding brought as a result of failure to complete treatment, it is
 2 an affirmative defense that the parolee was unable to afford the cost of treatment or
 3 secure a place in a free treatment program, despite having made continuing good faith
 4 efforts. If the board finds that the parolee was unable to complete treatment despite
 5 having made continuing good faith efforts, the parole may not be revoked solely
 6 because of an inability to pay. If the board does not find that the noncompletion of
 7 treatment was attributable to the parolee's inability to pay, the board may revoke
 8 parole subject to the limits established in this section.

9 (e) In this section,

10 (1) "absconding" means failing to report within five working days after
 11 release from custody under AS 33.20.030 or failing to report to a parole officer within
 12 30 days after release from custody;

13 (2) "technical violation" means a violation of the conditions of parole
 14 that does not result from

15 (A) an arrest for a new criminal offense; or

16 (B) failing to complete sex offender treatment.

17 * **Sec. 120.** AS 33.16.220(b) is amended to read:

18 (b) **If a parolee has been arrested for the commission of a new criminal**
 19 **offense or for failing to complete a sex offender treatment program, except**
 20 [EXCEPT] as provided in (e) of this section, **the board or its designee shall hold a**
 21 **preliminary hearing** within 15 working days after the arrest and incarceration of a
 22 parolee for violation of a condition of parole [, THE BOARD OR ITS DESIGNEE
 23 SHALL HOLD A PRELIMINARY HEARING]. At the preliminary hearing, the board
 24 or its designee shall determine if there is probable cause to believe that the parolee
 25 violated the conditions of parole and, when probable cause exists, whether the parolee
 26 should be released pending a final revocation hearing. A finding of probable cause at a
 27 preliminary hearing in a criminal case is conclusive proof of probable cause that a
 28 parole violation occurred.

29 * **Sec. 121.** AS 33.16.220(f) is amended to read:

30 (f) **If a parolee has had a preliminary hearing under (b) of this section, the**
 31 [THE] board shall hold a final revocation hearing **not** [NO] later than 120 days after a

1 parolee's arrest, subject to restrictions arising under AS 33.36.110 and (g) of this
2 section.

3 * **Sec. 122.** AS 33.16.220(i) is amended to read:

4 (i) If, after the final revocation hearing, the board finds that the parolee has
5 violated a condition of parole imposed under AS 33.16.150(a), (b), or (f), or a law or
6 ordinance, the board may revoke all or a portion of the parole **subject to the limits set**
7 **out in AS 33.16.215**, or change any condition of parole. **The board cannot extend**
8 **the period of parole beyond the maximum sentence imposed by the sentencing**
9 **court.**

10 * **Sec. 123.** AS 33.16.220 is amended by adding a new subsection to read:

11 (j) If a parolee has been arrested for a technical violation of conditions of
12 parole, the board or its designee shall hold a final hearing within 15 working days.

13 * **Sec. 124.** AS 33.16.240(e) is amended to read:

14 (e) A parolee **charged with a new crime or failure to comply with a sex**
15 **offender treatment program** [ARRESTED FOR VIOLATION OF PAROLE] is not
16 entitled to bail.

17 * **Sec. 125.** AS 33.16.240 is amended by adding new subsections to read:

18 (h) A parolee arrested under this section for a technical violation shall be
19 released without bail once the parolee has served the maximum number of days that
20 could be served for a technical violation under AS 33.16.215. Nothing in this
21 subsection prohibits the board or its designee from releasing a parolee sooner.

22 (i) The board or its designee may impose additional conditions necessary to
23 ensure the parolee's appearance at a hearing held under AS 33.16.220(h).

24 * **Sec. 126.** AS 33.16.900 is amended by adding a new paragraph to read:

25 (14) "administrative sanctions and incentives" means responses by a
26 parole officer to a parolee's compliance with or violation of the conditions of parole
27 under AS 33.16.180.

28 * **Sec. 127.** AS 33.20.010(c) is amended to read:

29 (c) A prisoner may not be awarded a good time deduction under (a) of this
30 section for any period spent in a treatment program **or** [,] in a private residence. **A**
31 **prisoner may be awarded a good time deduction under (a) of this section for any**

1 period spent [, OR] while under electronic monitoring.

2 * **Sec. 128.** AS 33.20.010 is amended by adding a new subsection to read:

3 (d) Notwithstanding (a) and (c) of this section, the commissioner of corrections
4 shall award to a prisoner convicted of a sexual offense that is ineligible for a deduction
5 under (a)(3)(A) or (B) of this section and sentenced to a term of imprisonment that
6 exceeds three days a deduction of one-third of the term of imprisonment rounded off
7 to the nearest day for periods during which the prisoner follows the rules of the
8 correctional facility in which the prisoner is confined. The commissioner may not
9 award the deduction under this subsection until the prisoner successfully completes the
10 treatment requirements in the prisoner's case plan.

11 * **Sec. 129.** AS 33.30.011 is amended to read:

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

13 (1) establish, maintain, operate, and control correctional facilities
14 suitable for the custody, care, and discipline of persons charged or convicted of
15 offenses against the state or held under authority of state law; each correctional facility
16 operated by the state shall be established, maintained, operated, and controlled in a
17 manner that is consistent with AS 33.30.015;

18 (2) classify prisoners;

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

21 (A) protect the public and the victims of crimes committed by
22 prisoners;

23 (B) maintain health;

24 (C) create or improve occupational skills;

25 (D) enhance educational qualifications;

26 (E) support court-ordered restitution; and

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

29 (4) provide necessary

30 (A) medical services for prisoners in correctional facilities or
31 who are committed by a court to the custody of the commissioner, including

1 examinations for communicable and infectious diseases;

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

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

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

9 (C) assessment or screening of the risks and needs of offenders
10 who may be vulnerable to harm, exploitation, or recidivism as a result of fetal
11 alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based
12 disorder;

13 (5) establish minimum standards for sex offender treatment programs
14 offered to persons who are committed to the custody of the commissioner;

15 (6) provide for fingerprinting in correctional facilities in accordance
16 with AS 12.80.060; [AND]

17 (7) establish a program to conduct assessments of the risks and needs of
18 offenders sentenced to serve a term of incarceration of 30 days or more and provide to
19 the legislature, by electronic means, by January 15, 2017, and thereafter by
20 January 15, preceding the first regular session of each legislature, a report
21 summarizing the findings and results of the program; **the program must include a**
22 **requirement for an assessment before release and within 24 hours after initial**
23 **arrest and detention;**

24 **(8) establish a procedure that provides for each prisoner required**
25 **to serve an active term of imprisonment of 30 days or more a written case plan**
26 **that is**

27 **(A) provided to the prisoner within 90 days after**
28 **sentencing;**

29 **(B) based on the results of the assessment of the prisoner's**
30 **risks and needs under (7) of this section;**

31 **(C) to the extent feasible, incorporated into institutional**

1 conduct of the prisoner and the correctional facility staff;

2 (D) modified when necessary for changes in classification,
3 housing status, medical or mental health, and resource availability;

4 (9) establish a program for reentry planning for each prisoner
5 serving an active term of imprisonment of 181 days or more that provides a
6 written plan to the prisoner not less than 90 days before release to furlough,
7 probation, or parole; the reentry plan must include

8 (A) information on the prisoner's proposed

9 (i) residence;

10 (ii) employment or alternative means of support;

11 (iii) treatment options;

12 (iv) counseling services;

13 (v) education or job training services;

14 (B) any other requirements for successful transition back to
15 the community, including electronic monitoring or furlough for the period
16 between a scheduled parole hearing and parole eligibility; and

17 (10) establish minimum standards for electronic monitoring for
18 offenders and procedures for approving electronic monitoring programs
19 provided by private contractors.

20 * **Sec. 130.** AS 33.30.013(a) is amended to read:

21 (a) The commissioner shall notify the victim if the offender

22 (1) escapes from custody;

23 (2) is eligible for or receives a parole reduction under

24 AS 33.16.210(d); or

25 (3) is released to the community on a furlough, on an early release
26 program, or for any other reason.

27 * **Sec. 131.** AS 33.30 is amended by adding a new section to read:

28 **Sec. 33.30.095. Duties of commissioner before release of prisoner.** (a) The
29 commissioner shall establish a program to prepare a prisoner who is serving a sentence
30 of imprisonment exceeding one year for the prisoner's discharge, release on parole or
31 probation, or prerelease furlough under AS 33.30.111 that begins 90 days before the

1 date of the prisoner's discharge, release, or furlough.

2 (b) The program established under (a) of this section must include

3 (1) instruction on

4 (A) obtaining state identification;

5 (B) community resources available for housing, employment,
6 and treatment;

7 (2) an individualized reentry plan for the prisoner; and

8 (3) probation and parole orientation, if appropriate.

9 * **Sec. 132.** AS 33.30.151 is amended to read:

10 **Sec. 33.30.151. Correctional restitution centers.** (a) The commissioner shall
11 establish correctional restitution centers in the state. The purpose of the centers is to
12 provide certain offenders with rehabilitation through **comprehensive treatment for**
13 **substance abuse, cognitive behavioral disorders, and other criminal risk factors,**
14 **including aftercare support,** community service, and employment, while protecting
15 the community through partial incarceration of the offender, and to create a means to
16 provide restitution to victims of crimes.

17 (b) The commissioner shall adopt regulations setting standards for the
18 operation of the centers including

19 (1) requirements that the centers be secure and in compliance with state
20 and local safety laws;

21 (2) standards for disciplinary rules to be imposed on prisoners confined
22 to the centers;

23 (3) standards for the granting of emergency absence to prisoners
24 confined to the centers;

25 (4) standards for classifying prisoners to centers;

26 (5) standards for mandatory employment and participation in
27 community service programs in each center; [AND]

28 (6) standards for periodic review of the performance of prisoners
29 confined to the centers **and quality assurance measures to ensure centers are**
30 **meeting state standards and contractual obligations;**

31 **(7) standards for the provision of treatment, including substance**

1 abuse treatment, cognitive behavioral therapy, and aftercare designed to address
 2 an offender's individual criminogenic needs; and

3 (8) standards and a process to assess an offender's risk of
 4 recidivating and the criminal risk factors and needs that reduce the risk of
 5 recidivating and ensure that

6 (A) high risk offenders with moderate to high needs are a
 7 priority for acceptance into a correctional restitution center; and

8 (B) centers establish internal procedures to limit the mixing
 9 of low and high risk prisoners.

10 * **Sec. 133.** AS 34.03.360(7) is amended to read:

11 (7) "illegal activity involving a controlled substance" means a violation
 12 of AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) - (8) [11.71.020(a), 11.71.030(a)(1)
 13 OR (2)], or 11.71.040(a)(1), (2), or (5);

14 * **Sec. 134.** AS 43.23.065(b) is amended to read:

15 (b) An exemption is not available under this section for permanent fund
 16 dividends taken to satisfy

17 (1) child support obligations required by court order or decision of the
 18 child support services agency under AS 25.27.140 - 25.27.220;

19 (2) court ordered restitution under AS 12.55.045 - 12.55.051,
 20 12.55.100, or AS 47.12.120(b)(4);

21 (3) claims on defaulted education loans under AS 43.23.067;

22 (4) court ordered fines;

23 (5) writs of execution under AS 09.35 of a judgment that is entered

24 (A) against a minor in a civil action to recover damages and
 25 court costs;

26 (B) under AS 09.65.255 against the parent, parents, or legal
 27 guardian of an unemancipated minor;

28 (6) a debt owed by an eligible individual to an agency of the state,
 29 including the University of Alaska, unless the debt is contested and an appeal is
 30 pending, or the time limit for filing an appeal has not expired;

31 (7) a debt owed to a person for a program for the rehabilitation of

1 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
2 AS 25.20.061(3), or AS 33.16.150(f)(2);

3 (8) a judgment for unpaid rent or damage owed to a landlord by an
4 eligible individual that was a tenant of the landlord; in this paragraph, "tenant" has the
5 meaning given in AS 34.03.360;

6 **(9) court-ordered forfeiture of an appearance or performance bond**
7 **under AS 12.30.075.**

8 * **Sec. 135.** AS 47.05 is amended by adding a new section to read:

9 **Sec. 47.05.035. Disqualification from public assistance for felony drug**
10 **offenses.** (a) A person convicted during or in the five years preceding a period in
11 which the person is receiving public assistance under AS 47.25 of an offense under
12 AS 11.71.010 - 11.71.050, 11.71.060(a)(2)(B), or by the law of another jurisdiction
13 that has as an element the possession, use, or distribution of a controlled substance, as
14 defined in AS 11.71.900, is disqualified from receiving public assistance under this
15 title unless the person participates in a testing program implemented by the department
16 at least quarterly, on renewal of public assistance eligibility, and on a random basis for
17 the use of illegal controlled substances. A person subject to this section who tests
18 positive for the illegal use of controlled substances or who refuses to submit to a test
19 required under this section is disqualified from receiving public assistance for six
20 months following the date of notice that the person tested positive for the use of illegal
21 controlled substances or from the date the person refused to submit to a test required
22 under this section.

23 (b) The department shall adopt regulations to implement (a) of this section.
24 The regulations adopted by the department must

25 (1) include an appeal process for a person disqualified under (a) of this
26 section; and

27 (2) provide that, where available, an alcohol safety action program
28 approved under AS 47.37.130 shall perform the drug testing.

29 (c) In this section, "public assistance" means

30 (1) a program that provides

31 (A) day care assistance under AS 47.25.001 - 47.25.095;

1 (B) general relief assistance under AS 47.25.120 - 300; or

2 (C) adult public assistance under AS 47.25.430 - 47.25.615;

3 (2) the Alaska affordable heating program under AS 47.25.621 -
4 47.25.626; or

5 (3) the food stamp program under AS 47.25.975 - 47.25.990.

6 * **Sec. 136.** AS 47.27.015 is amended by adding a new subsection to read:

7 (i) A person convicted after August 22, 1996, of an offense that is classified as
8 a felony under AS 11.71.010 - 11.71.040 or by the law of another jurisdiction that has
9 as an element the possession, use, or distribution of a controlled substance, as defined
10 in AS 11.71.900, is disqualified from receiving temporary assistance under this
11 chapter or food stamps under AS 47.25 unless the person demonstrates, to the
12 satisfaction of the department, that the person

13 (1) is satisfactorily serving, or has successfully completed, a period of
14 probation or parole;

15 (2) is in the process of serving, or has successfully completed,
16 mandatory participation in a drug or alcohol treatment program;

17 (3) has taken action toward rehabilitation, including participation in a
18 drug or alcohol treatment program; or

19 (4) is in compliance with AS 47.05.035.

20 * **Sec. 137.** The uncodified law of the State of Alaska is amended by adding a new section
21 to read:

22 DIRECT COURT RULE AMENDMENT. Rule 38, Alaska Rules of Criminal
23 Procedure, is amended by adding new subsections to read:

24 (d) **Hearing Notice.** The court shall provide a notice to a defendant of the date,
25 time, and place of a scheduled hearing at which the defendant is required to appear in
26 a form and manner established by the court.

27 (e) **Hearing Reminder.** In addition to the notice required under (d) of this rule,
28 the court shall provide a reminder notification to a defendant who is not in custody and
29 to the Department of Corrections at least 48 hours prior to a scheduled hearing at
30 which the defendant is required to appear regarding the date, time, and place of the
31 scheduled hearing and the potential consequences of failure to appear, in a form and

1 manner established by the court.

2 * **Sec. 138.** The uncodified law of the State of Alaska is amended by adding a new section
3 to read:

4 DIRECT COURT RULE AMENDMENT. Rule 41, Alaska Rules of Criminal
5 Procedure, is amended by adding a new subsection to read:

6 (j) **Misdemeanor and Felony Bail Schedules.** No bail schedule may be
7 established for misdemeanors or felonies.

8 * **Sec. 139.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 REPEAL OF COURT RULES. Rules 41(d) and (e), Alaska Rules of Criminal
11 Procedure, are repealed.

12 * **Sec. 140.** AS 11.71.020, 11.71.040(a)(3), and 11.71.050(a)(2) are repealed.

13 * **Sec. 141.** AS 47.27.015(i)(4) is repealed.

14 * **Sec. 142.** The uncodified law of the State of Alaska is amended by adding a new section
15 to read:

16 INDIRECT COURT RULE AMENDMENT. (a) AS 12.30.006(h), enacted by sec. 39
17 of this Act, has the effect of changing Rule 6, Alaska Rules of Criminal Procedure, by
18 directing the court to arraign a person within 24 hours after arrest, and in no instance later
19 than 48 hours after the person's arrest.

20 (b) AS 12.30.011, as amended by sec. 40 of this Act, and AS 12.30.011(e) - (i),
21 enacted by sec. 41 of this Act, have the effect of changing Rule 41, Alaska Rules of Criminal
22 Procedure, by changing and establishing release conditions for certain defendants, providing
23 for recommendations by pretrial services officers of release conditions based on a pretrial risk
24 assessment score, providing that a court shall order the release of a person under certain
25 circumstances upon execution of an appearance or performance bond, and providing new
26 procedures for use of appearance, surety, and performance bonds.

27 (c) AS 12.55.055(g), enacted by sec. 57 of this Act, has the effect of changing Rule
28 32, Alaska Rules of Criminal Procedure, by directing the court to include a provision in the
29 judgment that community work hours that are not completed shall be converted to a fine as
30 provided in AS 12.55.055(h), added by sec. 57 of this Act.

31 (d) AS 12.55.078, enacted by sec. 58 of this Act, has the effect of changing Rule 43,

1 Alaska Rules of Criminal Procedure, by creating an alternate procedure for when the court
2 may dismiss charges.

3 (e) AS 12.55.135(s), enacted by sec. 72 of this Act, has the effect of changing Rule
4 32.1, Alaska Rules of Criminal Procedure, by changing the procedure for notice of
5 aggravating factors.

6 (f) AS 33.07, enacted by sec. 92 of this Act, has the effect of changing Rule 41,
7 Alaska Rules of Criminal Procedure, by establishing pretrial services officers and procedures
8 and duties for pretrial services officers as officers of the superior and district courts, for the
9 purposes of performing risk assessments and making pretrial recommendations to the court
10 regarding a person's pretrial release and bail conditions.

11 * **Sec. 143.** The uncodified law of the State of Alaska is amended by adding a new section
12 to read:

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

- 15 (1) AS 11.46.130(a), as amended by sec. 3 of this Act;
16 (2) AS 11.46.140(a), as amended by sec. 4 of this Act;
17 (3) AS 11.46.220(c), as amended by sec. 5 of this Act;
18 (4) AS 11.46.260(b), as amended by sec. 6 of this Act;
19 (5) AS 11.46.270(b), as amended by sec. 7 of this Act;
20 (6) AS 11.46.280(d), as amended by sec. 8 of this Act;
21 (7) AS 11.46.285(b), as amended by sec. 9 of this Act;
22 (8) AS 11.46.482(a), as amended by sec. 11 of this Act;
23 (9) AS 11.46.484(a), as amended by sec. 12 of this Act;
24 (10) AS 11.46.530(b), as amended by sec. 13 of this Act;
25 (11) AS 11.46.620(d), as amended by sec. 14 of this Act;
26 (12) AS 11.46.730(c), as amended by sec. 15 of this Act;
27 (13) AS 11.61.110(c), as amended by sec. 20 of this Act;
28 (14) AS 11.61.145(d), as amended by sec. 21 of this Act;
29 (15) AS 11.66.200(c), as amended by sec. 24 of this Act;
30 (16) AS 11.71.030(a), as amended by sec. 25 of this Act;
31 (17) AS 11.71.040(a), as amended by sec. 28 of this Act;

- 1 (18) AS 11.71.050(a), as amended by sec. 30 of this Act;
 2 (19) AS 11.71.311(a), as amended by sec. 32 of this Act;
 3 (20) AS 28.15.291(a), as repealed and reenacted by sec. 78 of this Act;
 4 (21) AS 28.15.291(b), as repealed and reenacted by sec. 79 of this Act;
 5 (22) AS 29.10.200(21), as amended by sec. 85 of this Act;
 6 (23) AS 29.25.070(a), as amended by sec. 86 of this Act;
 7 (24) AS 29.25.070(g), enacted by sec. 87 of this Act; and
 8 (25) AS 47.27.015(i), enacted by sec. 136 of this Act.

9 (b) The following sections apply to offenses committed before, on, or after the
 10 effective date of those sections:

- 11 (1) AS 11.46.460, as amended by sec. 10 of this Act;
 12 (2) AS 11.56.757(b), as amended by sec. 18 of this Act; and
 13 (3) AS 11.61.150(c), as amended by sec. 23 of this Act.

14 (c) The following sections apply to offenses committed before, on, or after the
 15 effective date of those sections for contacts with peace officers occurring on or after the
 16 effective date of those sections:

- 17 (1) AS 12.25.180, as amended by sec. 33 of this Act; and
 18 (2) AS 12.25.190(b), as amended by sec. 35 of this Act.

19 (d) The following sections apply to sentences imposed on or after the effective date of
 20 those sections for conduct occurring before, on, or after the effective date of those sections:

- 21 (1) AS 12.55.015(a), as amended by sec. 49 of this Act;
 22 (2) AS 12.55.025(a), as amended by sec. 50 of this Act;
 23 (3) AS 12.55.025(c), as amended by sec. 51 of this Act;
 24 (4) AS 12.55.027(d), as amended by sec. 52 of this Act;
 25 (5) AS 12.55.115, as amended by sec. 66 of this Act;
 26 (6) AS 12.55.125(c), as amended by sec. 67 of this Act;
 27 (7) AS 12.55.125(d), as amended by sec. 68 of this Act;
 28 (8) AS 12.55.125(e), as amended by sec. 69 of this Act;
 29 (9) AS 12.55.135(a), as amended by sec. 70 of this Act;
 30 (10) AS 12.55.135(b), as amended by sec. 71 of this Act;
 31 (11) AS 12.55.135(l) - (s), enacted by sec. 72 of this Act;

- 1 (12) AS 28.35.030(k), as amended by sec. 81 of this Act;
 2 (13) AS 28.35.032(o), as amended by sec. 84 of this Act;
 3 (14) AS 33.16.010(c), as amended by sec. 93 of this Act;
 4 (15) AS 33.16.010(d), as amended by sec. 94 of this Act;
 5 (16) AS 33.16.010(f), enacted by sec. 95 of this Act;
 6 (17) AS 33.16.060(a), as amended by sec. 96 of this Act;
 7 (18) AS 33.16.089, enacted by sec. 97 of this Act;
 8 (19) AS 33.16.090(a), as amended by sec. 98 of this Act;
 9 (20) AS 33.16.100(a), as amended by sec. 100 of this Act;
 10 (21) AS 33.16.100(f), enacted by sec. 102 of this Act;
 11 (22) AS 33.20.010(c), as amended by sec. 127 of this Act; and
 12 (23) AS 33.20.010(d), enacted by sec. 128 of this Act.

13 (e) AS 12.30.055(b), enacted by sec. 47 of this Act, applies to persons in custody for a
 14 probation violation on or after the effective date of sec. 47 of this Act for a probation violation
 15 that occurred before, on, or after the effective date of sec. 47 of this Act.

16 (f) The following sections apply to community work service imposed on or after the
 17 effective date of those sections for offenses committed on or after the effective date of those
 18 sections:

- 19 (1) AS 12.55.055(a), as amended by sec. 55 of this Act;
 20 (2) AS 12.55.055(c), as amended by sec. 56 of this Act; and
 21 (3) AS 12.55.055(g) and (h), enacted by sec. 57 of this Act.

22 (g) AS 12.55.078, enacted by sec. 58 of this Act, applies to prosecutions occurring on
 23 or after the effective date of sec. 58 of this Act for offenses committed before, on, or after the
 24 effective date of sec. 58 of this Act.

25 (h) The following sections apply to probation ordered on or after the effective date of
 26 those sections for offenses committed before, on, or after the effective date of those sections:

- 27 (1) AS 12.55.051(a), as amended by sec. 53 of this Act;
 28 (2) AS 12.55.090(b), as amended by sec. 59 of this Act;
 29 (3) AS 12.55.090(c), as amended by sec. 60 of this Act;
 30 (4) AS 12.55.090(f), as amended by sec. 61 of this Act;
 31 (5) AS 12.55.090(g) - (l), enacted by sec. 62 of this Act;

- 1 (6) AS 12.55.100(a), as amended by sec. 63 of this Act;
 2 (7) AS 12.55.110(c) - (g), enacted by sec. 65 of this Act;
 3 (8) AS 33.05.025, enacted by sec. 89 of this Act; and
 4 (9) AS 33.05.040, as amended by sec. 90 of this Act.

5 (i) The following sections apply to a revocation of a driver's license, privilege to drive,
 6 or privilege to obtain a license occurring on or after the effective date of those sections for
 7 conduct occurring before, on, or after the effective date of those sections:

- 8 (1) AS 28.15.165(e), enacted by sec. 75 of this Act;
 9 (2) AS 28.15.181(f), as amended by sec. 76 of this Act;
 10 (3) AS 28.15.201(g) and (h), enacted by sec. 77 of this Act; and
 11 (4) AS 28.35.030(o), as amended by sec. 83 of this Act.

12 (j) The following sections apply to parole granted on or after the effective date of
 13 those sections for conduct occurring before, on, or after the effective date of those sections:

- 14 (1) AS 33.16.100(b), as amended by sec. 101 of this Act;
 15 (2) AS 33.16.130, as repealed and reenacted by sec. 108 of this Act;
 16 (3) AS 33.16.140, as amended by sec. 109 of this Act;
 17 (4) AS 33.16.150(a), as amended by sec. 110 of this Act;
 18 (5) AS 33.16.150(b), as amended by sec. 111 of this Act;
 19 (6) AS 33.16.150(e), as amended by sec. 112 of this Act;
 20 (7) AS 33.16.150(f), as amended by sec. 113 of this Act;
 21 (8) AS 33.16.150(g), as amended by sec. 114 of this Act;
 22 (9) AS 33.16.180, as amended by sec. 115 of this Act;
 23 (10) AS 33.16.200, as amended by sec. 116 of this Act;
 24 (11) AS 33.16.210, as amended by sec. 117 of this Act;
 25 (12) AS 33.16.210(c) and (d), enacted by sec. 118 of this Act;
 26 (13) AS 33.16.215, enacted by sec. 119 of this Act;
 27 (14) AS 33.16.220(b), as amended by sec. 120 of this Act;
 28 (15) AS 33.16.220(f), as amended by sec. 121 of this Act;
 29 (16) AS 33.16.220(i), as amended by sec. 122 of this Act;
 30 (17) AS 33.16.220(j), enacted by sec. 123 of this Act;
 31 (18) AS 33.16.240(e), as amended by sec. 124 of this Act; and

1 (19) AS 33.16.240(h) and (i), enacted by sec. 125 of this Act.

2 (k) AS 11.56.730(d), enacted by sec. 16 of this Act, and secs. 137 - 139 of this Act
3 apply to offenses committed on or after the effective date of secs. 16 and 137 - 139 of this
4 Act.

5 (l) The following sections apply to an offense committed on or after the effective date
6 of those sections:

7 (1) AS 12.55.006(c), as amended by sec. 36 of this Act;

8 (2) AS 12.30.006(d), as amended by sec. 37 of this Act;

9 (3) AS 12.30.006(f), as amended by sec. 38 of this Act;

10 (4) AS 12.30.006(h), enacted by sec. 39 of this Act;

11 (5) AS 12.30.011, as amended by sec. 40 of this Act;

12 (6) AS 12.30.011(e) - (i), enacted by sec. 41 of this Act;

13 (7) AS 12.30.016(b), as amended by sec. 42 of this Act;

14 (8) AS 12.30.016(c), as amended by sec. 43 of this Act;

15 (9) AS 12.30.021(a), as amended by sec. 45 of this Act;

16 (10) AS 12.30.021(c), as amended by sec. 46 of this Act;

17 (11) AS 12.55.051(k), enacted by sec. 54 of this Act;

18 (12) AS 33.07, enacted by sec. 92 of this Act; and

19 (13) AS 43.23.065(b), as amended by sec. 134 of this Act.

20 * **Sec. 144.** The uncodified law of the State of Alaska is amended by adding a new section
21 to read:

22 SEVERABILITY. Under AS 01.10.030, if AS 47.05.035, enacted by sec. 135 of this
23 Act, or the application of it to any person or circumstances, is held invalid by a court of
24 competent jurisdiction, the remainder of this Act and the application to other persons or
25 circumstances are not affected.

26 * **Sec. 145.** The uncodified law of the State of Alaska is amended by adding a new section
27 to read:

28 CONDITIONAL EFFECT. (a) AS 11.56.730(d), enacted by sec. 16 of this Act, takes
29 effect only if sec. 137 of this Act receives the two-thirds majority vote of each house required
30 by art. IV, sec. 15, Constitution of the State of Alaska.

31 (b) AS 12.30.006(h), added by sec. 39 of this Act, takes effect only if sec. 142(a) of

1 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
2 Constitution of the State of Alaska.

3 (c) AS 12.30.011, as amended by sec. 40 of this Act, takes effect only if sec. 142(b) of
4 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
5 Constitution of the State of Alaska.

6 (d) AS 12.30.011(e) - (i), added by sec. 41 of this Act, take effect only if sec. 142(b)
7 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
8 Constitution of the State of Alaska.

9 (e) AS 12.55.055(g), enacted by sec. 57 of this Act, takes effect only if sec. 142(c) of
10 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
11 Constitution of the State of Alaska.

12 (f) AS 12.55.078, enacted by sec. 58 of this Act, takes effect only if sec. 142(d) of this
13 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
14 Constitution of the State of Alaska.

15 (g) AS 12.55.135(s), enacted by sec. 72 of this Act, takes effect only if sec. 142(e) of
16 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
17 Constitution of the State of Alaska.

18 (h) AS 33.07, added by sec. 92 of this Act, takes effect only if sec. 142(f) of this Act
19 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
20 of the State of Alaska.

21 * **Sec. 146.** The uncodified law of the State of Alaska is amended by adding a new section
22 to read:

23 **CONDITIONAL EFFECT; NOTIFICATION.** (a) Section 141 of this Act takes effect
24 only if, before January 1, 2027, a court has entered a final judgment that AS 47.05.035,
25 enacted by sec. 135 of this Act, is unconstitutional, and

26 (1) the time for appeal has expired; or

27 (2) if an appeal was taken, a final order on the appeal has been entered that
28 AS 47.05.035, enacted by sec. 135 of this Act, is unconstitutional.

29 (b) The commissioner of health and social services shall notify the revisor of statutes if,
30 before January 1, 2027, a court enters a final judgment that AS 47.05.035, enacted by sec. 135
31 of this Act, is unconstitutional, and the time for appeal has expired or a final order on the

1 appeal has been entered.

2 * **Sec. 147.** Sections 36 - 46, 54, 92, and 134 of this Act take effect July 1, 2017.

3 * **Sec. 148.** If AS 11.56.730(d), enacted by sec. 16 of this Act, and sec. 137 of this Act take
4 effect, they take effect January 1, 2018.

5 * **Sec. 149.** Sections 138 and 139 of this Act take effect January 1, 2018.

6 * **Sec. 150.** If sec. 141 of this Act takes effect under sec. 146, it takes effect on the day after
7 the date that the revisor of statutes receives notice from the commissioner of health and social
8 services under sec. 146 of this Act.

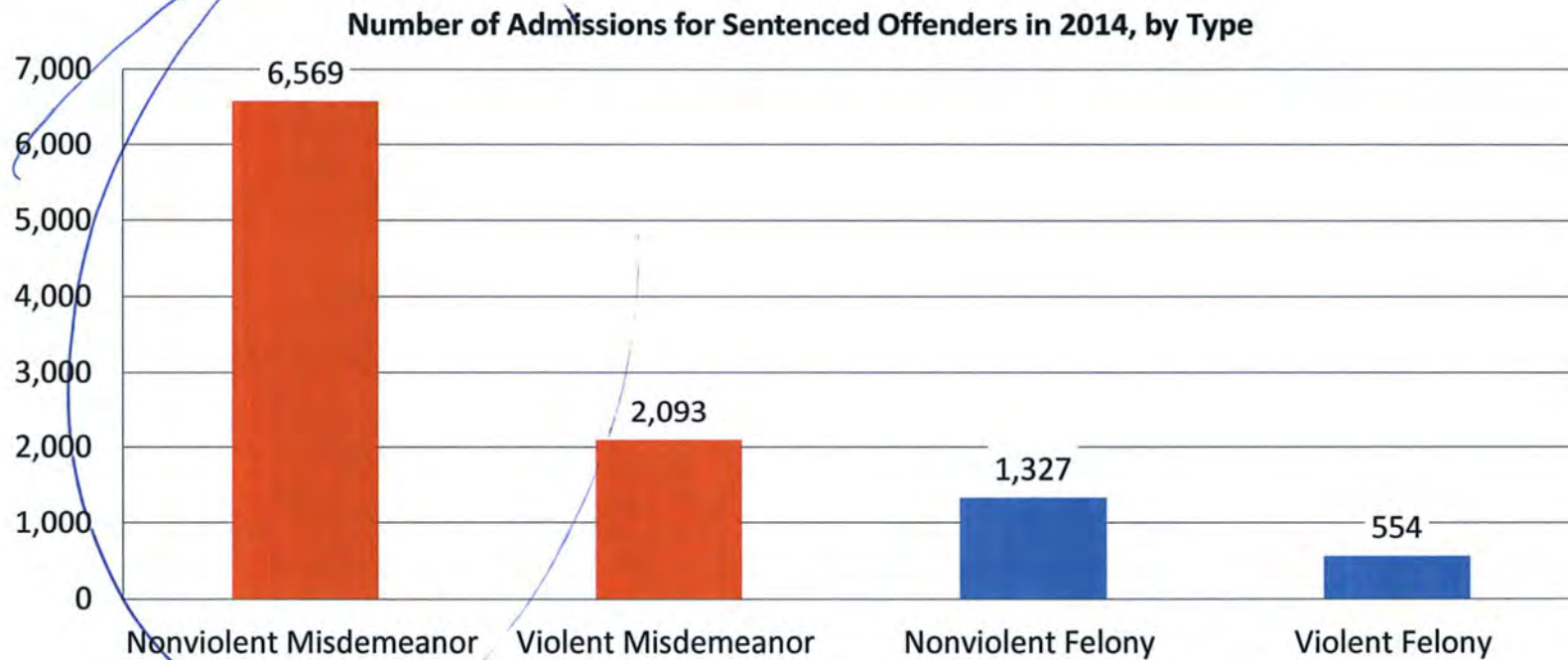
SB 91

ACJC Sentencing Recommendations (5-11)

Sentencing Recommendations

5. **Limit the use of prison for lower-level misdemeanor offenders**
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
8. Align non-sex felony presumptive ranges with prior presumptive terms
9. Expand and streamline the use of discretionary parole
10. Implement a specialty parole option for long-term geriatric inmates
11. Incentivize completion of treatment for sex offenders with an earned time policy

Vast Majority of Admissions to Prison Are Misdemeanants



Source: Alaska Dept. of Corrections

Sentencing Recommendations

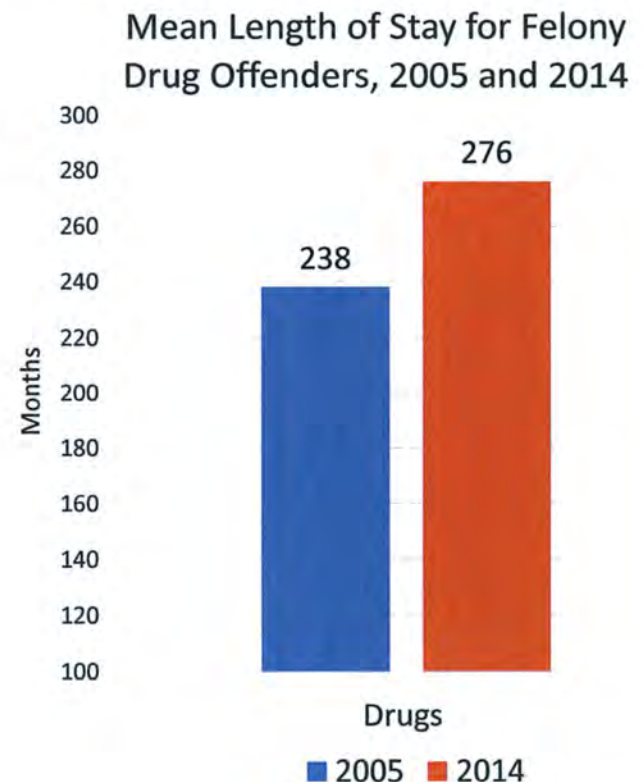
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Over Last Decade, More Offenders Entering Prison for Drug Crimes, and Staying Longer

Over past 10 years—

- admissions to prison for drug offenses has grown by 35%, and
- length of stay for Alaska's felony drug offenders has increased by 16%.

Source: Alaska Dept. of Corrections



• reinvestment
Language.

Research Shows: Long Prison Sentences for Drug Offenders Have Low Deterrent Value

- There is no significant effect of longer prison stays on recidivism rates (i.e. staying in prison longer does not make an offender less likely to recommit a crime).
- The chances of a typical street-level drug transaction being detected are about 1 in 15,000, providing a limited deterrent.
- In addition, some studies find that severe punishments such as felony convictions and prison terms may have criminogenic effects, causing offenders to be *more* likely to commit crimes in the future.

Source: Alaska Dept. of Corrections

Sentencing Recommendations

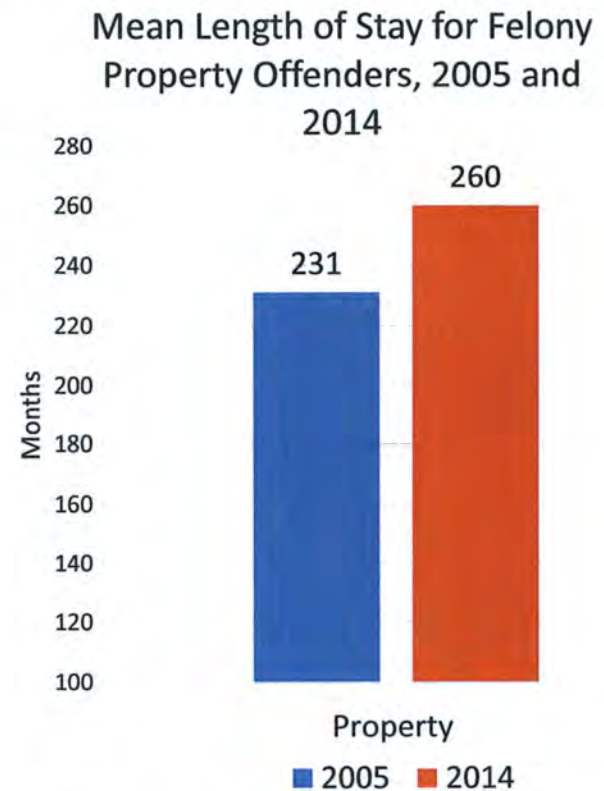
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Alaska's Property Offender Growth Driven by More Admissions, Longer Stays Behind Bars

Over past 10 years—

- admissions to prison for property offenses have grown by 16%; and
- length of stay for Alaska's felony property offenders has increased by 13%.

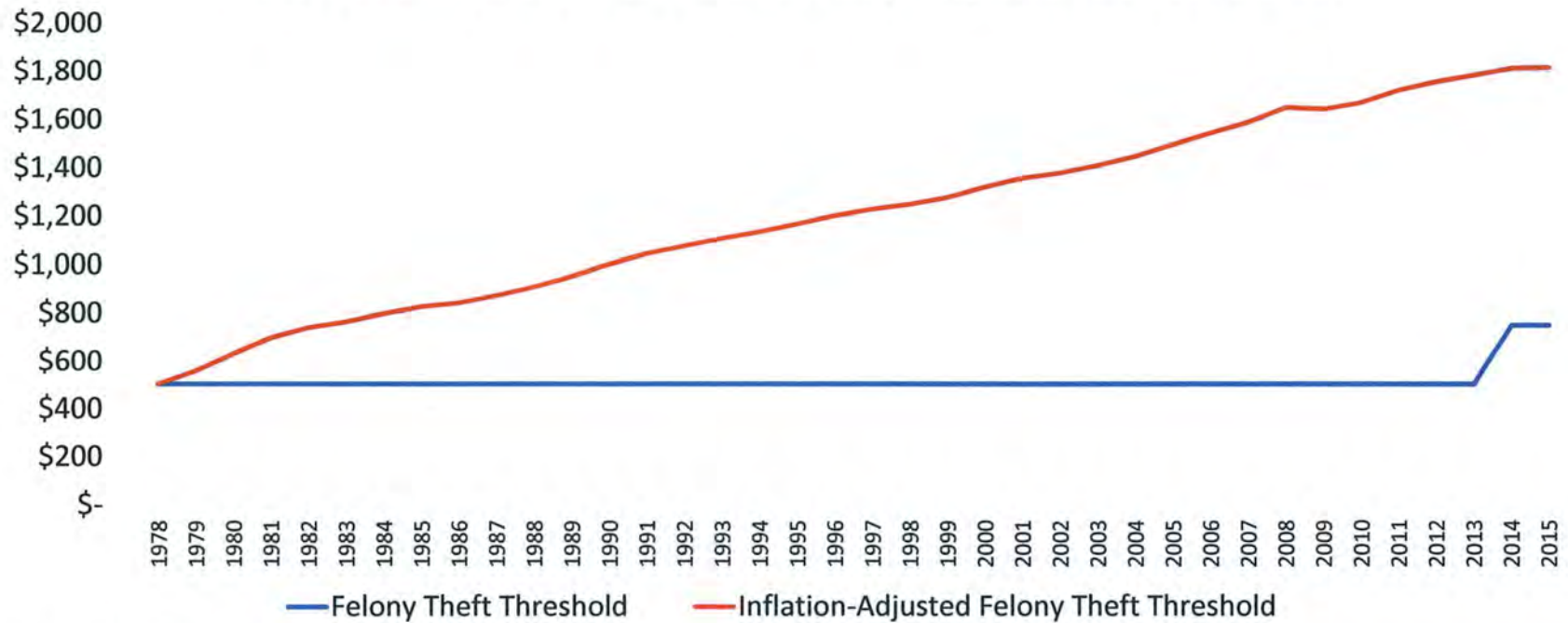
Source: Alaska Dept. of Corrections



\$1800. → CPI Link

Felony Theft Threshold in Alaska Has Not Kept Pace with Inflation

Alaska's Felony Theft Threshold and Inflation-Adjusted Value, 1978-2015



Source: Bureau of Labor Statistics

Research Shows: Raising the Felony Theft Threshold Has No Impact on Crime

- Between 2001 and 2011, 23 states raised their felony theft thresholds. In these 23 states, the change in threshold had no impact, up or down, in the state's overall property crime rate.
- In fact, property and larceny crime rates *fell* slightly more in the 23 states that raised their thresholds from 2001 to 2011 than the 27 states that did not.

Source: Alaska Criminal Justice Commission

Sentencing Recommendations

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
8. **Align non-sex felony presumptive ranges with prior presumptive terms**
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Flare would
blc the
mid-range

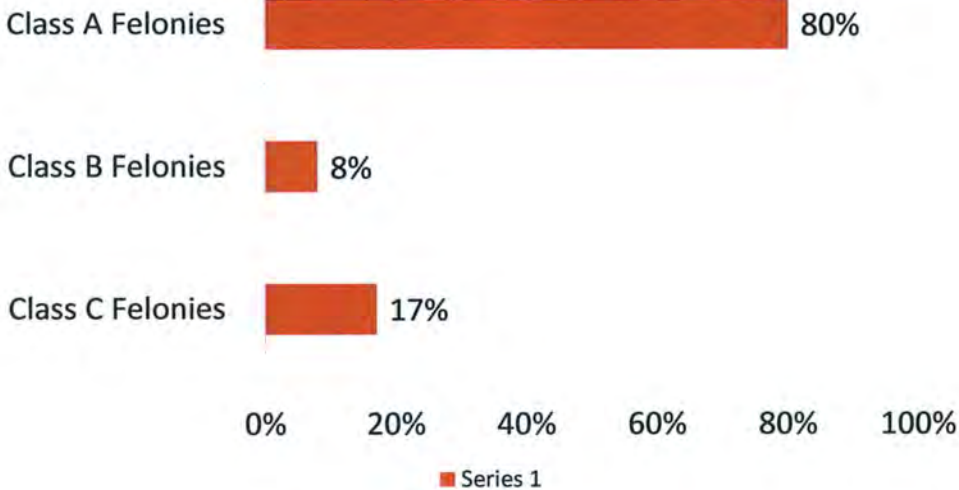
In 2005, Alaska Moved From Presumptive Terms to Presumptive Ranges

Felony Class	Presumptive Term (2005)	Alaska Current
A Felony		
First	[5] – 20 years	[5 – 8] – 20 years
First/Enhanced	[7] – 20 years	[7 – 11] – 20 years
Second	[10] – 20 years	[10 – 14] – 20 years
Third	[15] – 20 years	15 – 20 years
B Felony		
First	[n/a] – 10 years	[1 – 3] – 10 years
First/Enhanced	[n/a] – 10 years	[2 – 4] – 10 years
Second	[4] – 10 years	[4 – 7] – 10 years
Third	[6] – 10 years	6 – 10 years
C Felony		
First	[n/a] – 5 years	[0 – 2] – 5 years
Second	[2] – 5 years	[2 – 4] – 5 years
Third	[3] – 5 years	3 – 5 years

Change in Felony Sentencing Led to Increases in Length of Stay Behind Bars

From 2004 to 2014, average length of stay for:

- Class A felonies grew 80 percent;
- Class B felonies grew 8 percent; and
- Class C felonies grew 17 percent.



Source: Alaska Dept. of Corrections

Expungement.
level of

Sentencing Recommendations

5. Limit the use of prison for lower-level misdemeanor offenders
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
8. Align non-sex felony presumptive ranges with prior presumptive terms
- 9. Expand and streamline the use of discretionary parole**
10. Implement a specialty parole option for long-
11. Incentivize completion of treatment for sex o
earned time policy

For sex offenders
decline to adjust
all sentences down
but rather to focus
on early portions
of their time

Parole Release Underutilized in Alaska

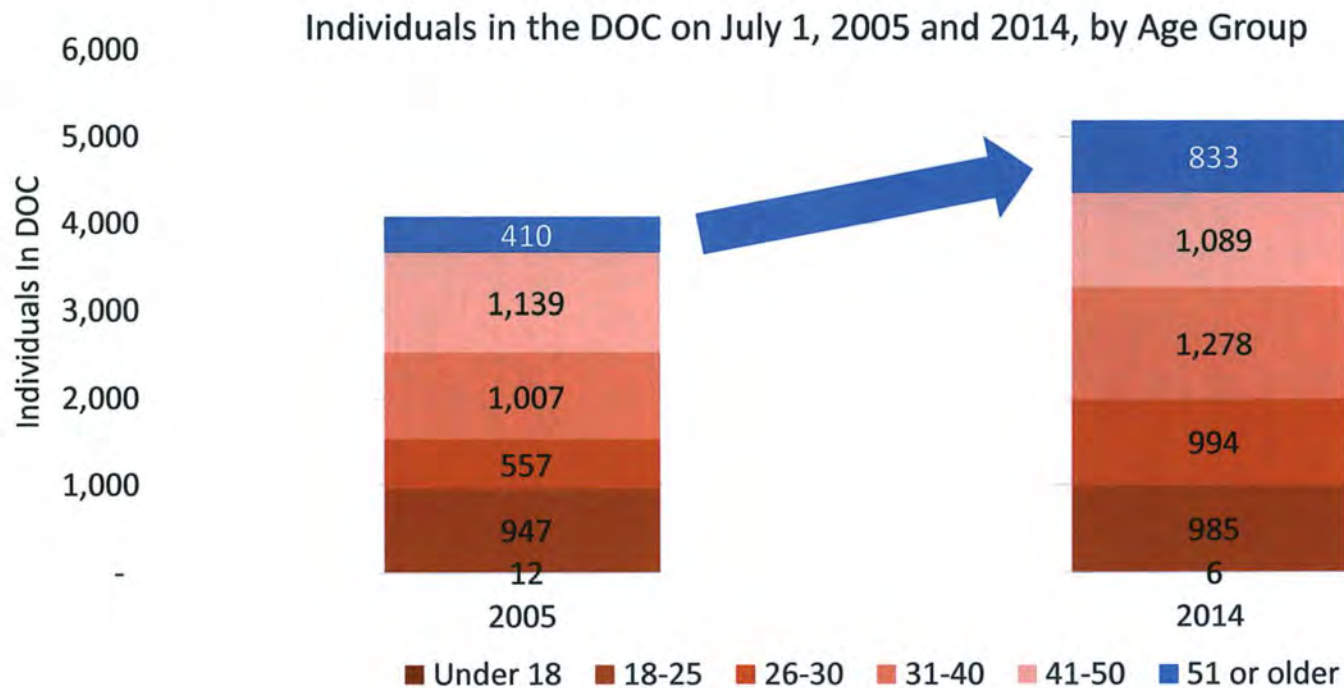
- On any given month in 2014, an average of 463 inmates were eligible for discretionary parole, and an average of only 15 parole hearings were held.

Source: Alaska Dept. of Corrections

Sentencing Recommendations

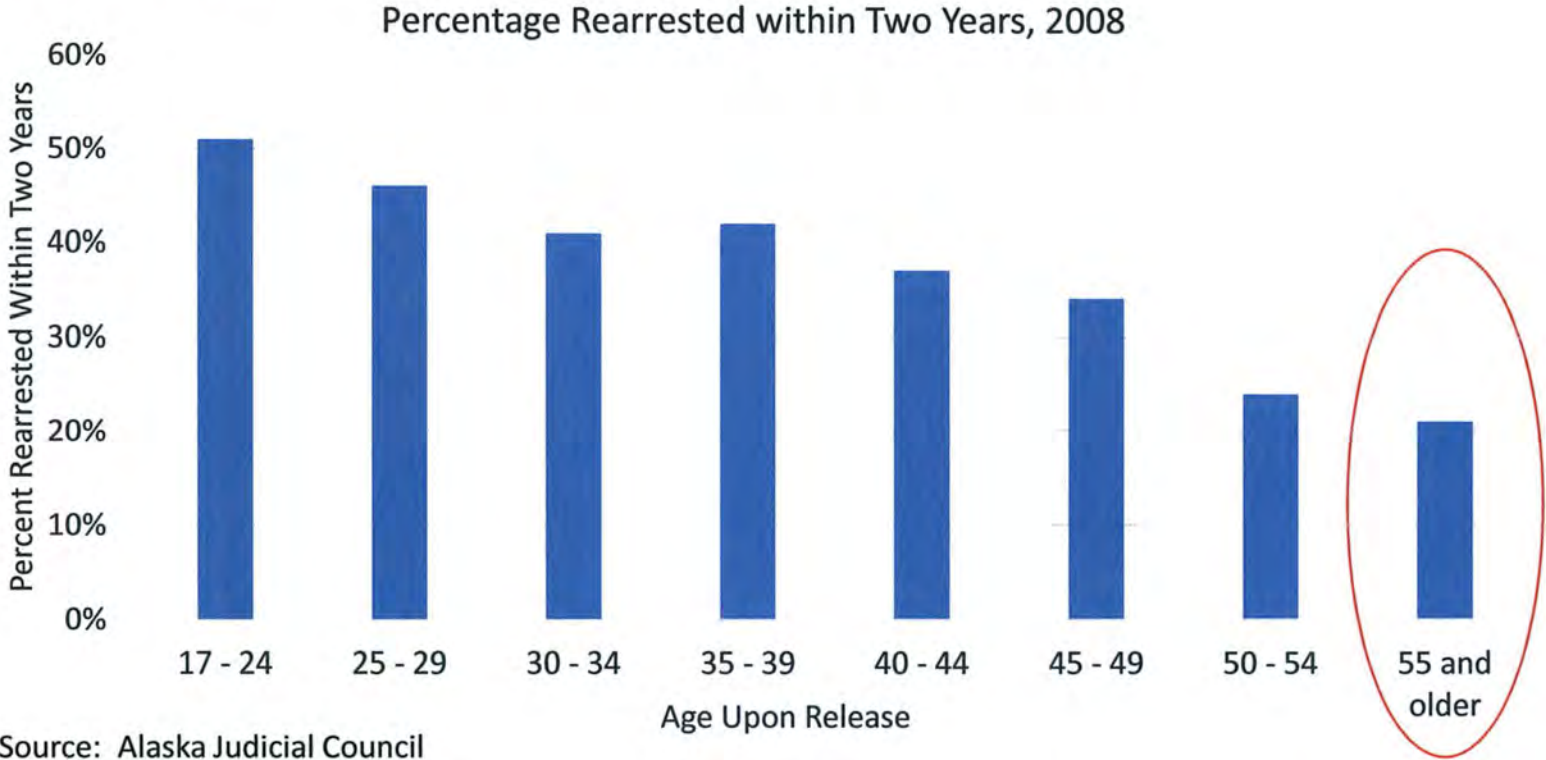
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- 10. Implement a specialty parole option for long-term geriatric inmates**
11. Incentivize completion of treatment for sex offenders with an earned time policy

Population of Oldest Offenders Has More than Doubled in Past 10 Years



Source: Alaska Dept. of Corrections

Alaska's Oldest Offenders Least Likely to Recidivate Upon Release

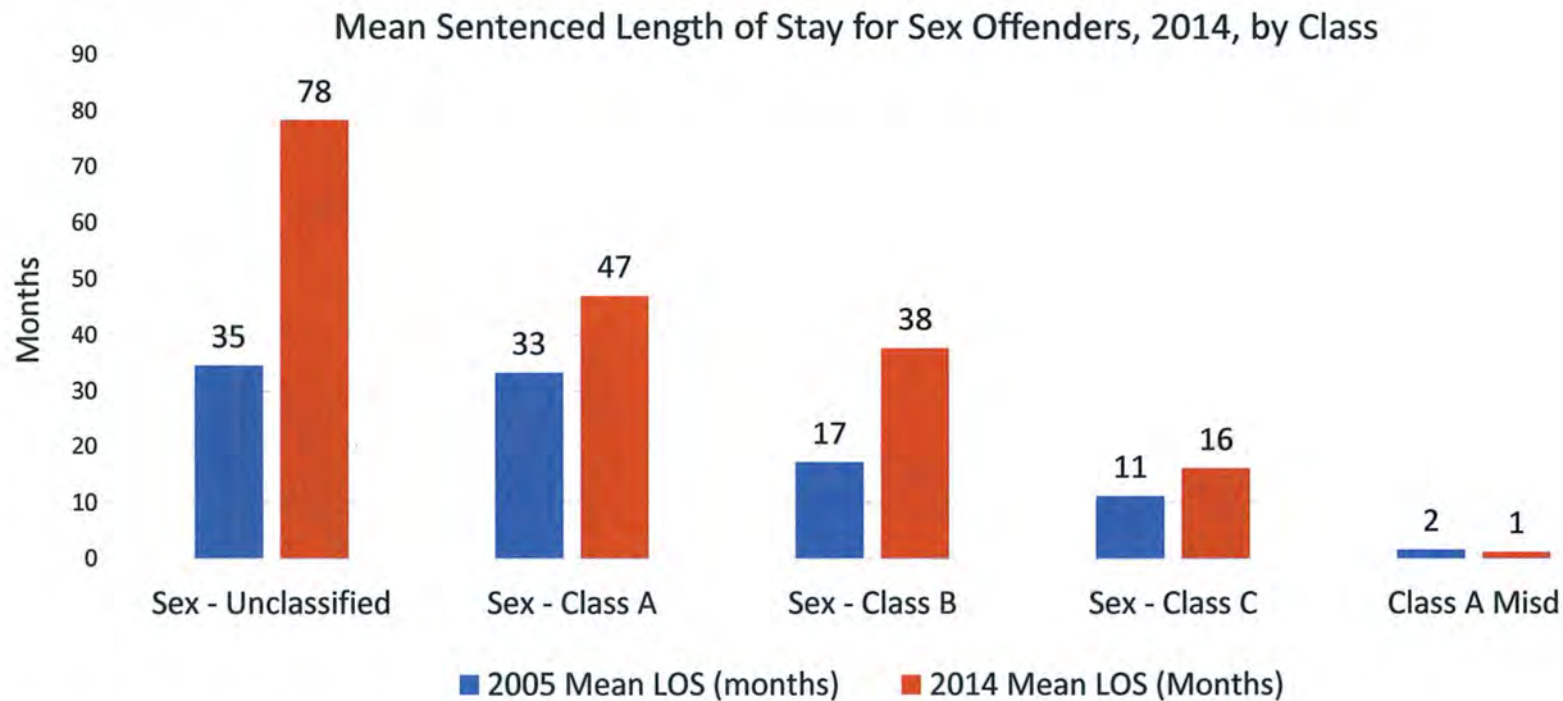


Sentencing Recommendations

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• properly
Risk
assess

Sex Offenders Staying 86 Percent Longer Behind Bars Over Past 10 Years



Source: Alaska Dept. of Corrections

Sex Offender Treatment Proven to Work, But Underfunded in Alaska

- A cost-benefit analysis compiling all credible evaluations of sex offender treatment found that in-prison treatment had a cost-benefit ratio of \$1.87 (i.e. for every \$1 spent on treatment, there is a \$1.87 dollar benefit returned to the state and state residents).
- However, in Alaska, the need for in-prison sex offender treatment far outstrips the supply. Currently, the waitlist for treatment is at least four years long.

Source: Alaska Criminal Justice Commission

SB 91

ACJC Pretrial Recommendations (1-4)

Recommendations

1. **Expand the use of citations in place of arrest for lower-level nonviolent offenses**
2. Utilize risk-based decision-making
3. Implement pretrial supervision
4. Focus supervision resources on high-risk defendants

Citation vs. Arrest

The Commission recommended expanding the use of citations in place of arrest for lower level non-violent offenses.

- 76% of pretrial admissions to prison are for misdemeanor charges.
- 56% of pretrial admissions to prison are for non-violent misdemeanor charges.

Recommendations

1. Expand the use of citations in place of arrest for lower-level *citations* nonviolent offenses
2. **Utilize risk-based decision-making**
3. Implement pretrial supervision
4. Focus supervision resources on high-risk defendants

Key Findings

- 81% growth in the pretrial inmate population in the last decade
- Half of pretrial defendants are detained on nonviolent charges, including misdemeanors.
- Bail system tied to money, not to risk
- 28% of the prison population is pretrial

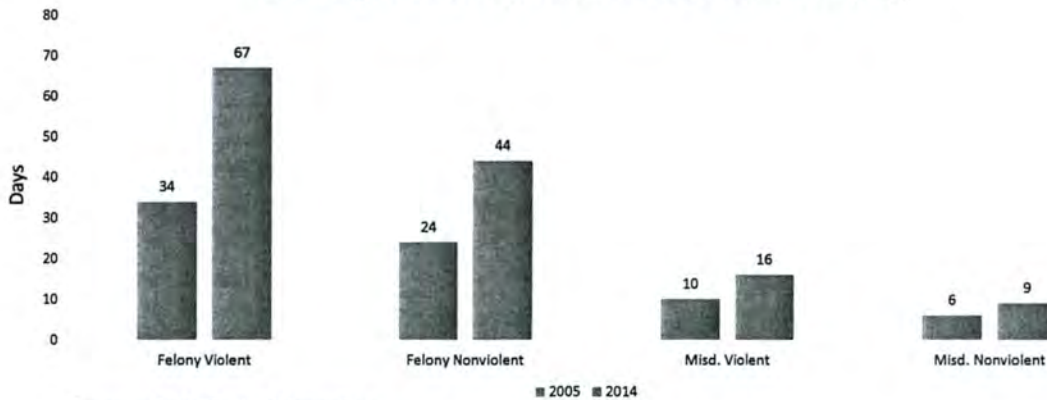
210 k a day

Prison Population by Status



Defendants Staying Longer Pretrial Than They Used to

Mean Length of Stay for Pretrial Detainees, 2005 and 2014 (Days)

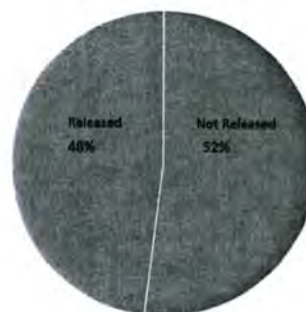


Source: Alaska Dept. of Corrections

Few Defendants Released On Their Own Recognizance

- Less than half of sampled defendants are released from prison pretrial.
- Only 12% of defendants sampled were released on their own recognizance, and an additional 10% had unsecured bond.

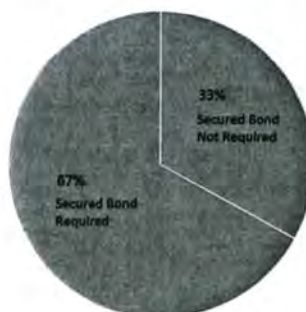
Percent of Sampled Defendants Released Pretrial



Release Linked to Ability to Pay Rather Than Risk

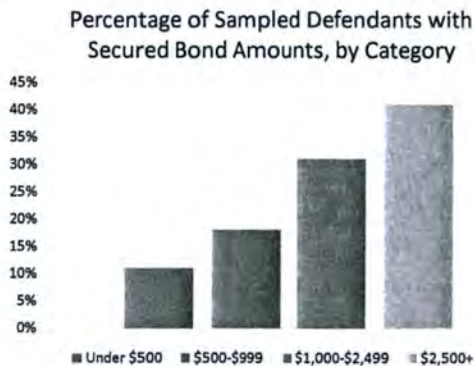
- Release Linked to Ability to Pay Rather Than Defendant's Risk
 - Pretrial risk assessment not used in decisions about whether to release or detain, or in setting conditions of release.
 - Because secured bond is ordered in the majority of cases, release is often linked to ability to pay rather than the defendant's risk of pretrial failure.

Percent of Sampled Defendants With Secured Bond Requirements



Monetary Bail Leads to Detention on Low Bond Amounts

41% of Bonds Set At \$2,500 or More



Lower Release Rates For Higher Bond Amounts

- Secured bail under \$500: 36% unable to post bond.
- Secured bail between \$500-\$999: 57% unable to post bond.
- Secured bail between \$1,000-\$2,499: 62% unable to post bond.
- Secured bail of \$2,500 or more: 66% unable to post bond.

more than 1/2 of A's cost meet monetary
 Kentucky → pre-trial system 92% ASK
 Commissioner.

Recommendations

1. Expand the use of citations in place of arrest for lower-level nonviolent offenses
2. Utilize risk-based decision-making
3. **Implement pretrial supervision**
4. **Focus supervision resources on high-risk defendants**

Implement Pretrial Supervision

- Minimal supervision with court date reminders
- Basic supervision (in-office appointments, phone calls, field visits)
- Enhanced supervision (higher frequency contacts, drug and alcohol testing, electronic monitoring)

Research shows that enhanced supervision should be focused on those who are most likely to fail pretrial.

In 2014, detainees whose most serious charge was a nonviolent misdemeanor were staying an average of 9 days during pretrial period- 3 days longer than the average stay in 2005. At \$142 dollars per day adds up very quickly!

Back of the napkin numbers- real quick

Population Approx. 5267 use 28 % of that.... Approx. 1475 are pretrial...that's over \$210,000 per day for pretrial nonviolent offenders.... Think about this- that this is the fastest growing population in our prison system.

This is a result of defendants staying in prison slightly longer in pretrial than they used to - I am hoping the Administration can speak to that issue.

The other issue is due to people entering prison pretrial for misdemeanor offenses, low level crimes.

We will also focus on our bail system which is tied to ability to pay money, not risk and pretrial supervision.

Best order of testimony:

Jordan Shilling with quick overview and power point

Craig Richards-AG

Dean Williams- DOC Commissioner

Gary Folger- DPS Commissioner (online)

Lt. Kris Sell- Commissioner ACJS

Brenda Stanfill- ACJS

Quinlan Steiner- Public Defender (online)

Possible Office of Victim Rights...not sure...



RESOLUTION NO. 2016-01

**A RESOLUTION BY THE FAIRBANKS DIVERSITY COUNCIL URGING
THE FAIRBANKS CITY COUNCIL TO SUPPORT STATE SENATE BILL 91
PERTAINING TO COMPREHENSIVE CRIMINAL JUSTICE REFORM**

WHEREAS, the Alaska Legislature is looking at how to manage the state's current fiscal crisis. Facing a multi-billion dollar budget shortfall, it is vital that each dollar spent is cost effective, and targeted in a manner to get the best return on investment; and

WHEREAS, Alaska's corrections spending has grown unchecked for decades, now costing the state over \$300 million each year, and hundreds of millions more each time Alaska builds a new prison. Despite this extraordinary cost, the state is not getting a good return on investment. Two out of three offenders released from Alaska's prisons return within three years. A two-thirds failure rate would not be tolerated in any other area of government spending; and

WHEREAS, every dollar the state spends on corrections is a dollar that is unavailable for priorities like education and economic development. Thanks to the Alaska Criminal Justice Commission, we now know that the state can spend less on corrections and actually get better public safety outcomes. The Commission tracked the best research in the field on what works – and what does not work – to change criminal offending behavior, and has provided the Legislature with 21 recommendations for statutory changes that will get better outcomes while safely reducing the prison population and saving the state an estimated \$424 million. We applaud Senator Coghill for incorporating these recommendations into Senate Bill 91, and encourage the Alaska Legislature to pass them into law; and

WHEREAS, public safety is directly related to healthy, vibrant, and economically sound communities. Prison, however, is not the only path to public safety, particularly for low-level crimes. Too many Alaskans are taken out of the workforce for involvement in minor nonviolent crimes. The comprehensive package of criminal justice reforms contained in Senate Bill 91 will help ensure that our workforce can remain productive members of society, and not become financial burdens on the state; and

WHEREAS, we have seen the Alaska Legislature work aggressively to ensure that state dollars are not wasted. The time to extend that cost-benefit approach to the state's prison system is now;

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks Diversity Council supports State of Alaska Senate Bill 91 and urges the Fairbanks City Council to approve a resolution in support of the bill.

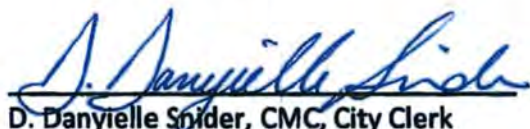
PASSED and **APPROVED** this 8th day of March 2016 by the Fairbanks Diversity Council.

Signed:



John Eberhart, FDC Chair

Attest:



D. Danyielle Spider, CMC, City Clerk

Category	Policy	Rec	Bill Sections
Pretrial	Citation vs. Arrest	1	33-35
	Risk-Based Release Decision Making	2	19,36, 37, 38, 39, 40, 41, 42-44, 45,46, 54, 134
	Pretrial Supervision	3 & 4	92
Sentencing	Misdemeanors	5	10, 16-18, 20, 21-24, 70-72,78,79, 81,82,84, 85-87
	Controlled Substances	6	1,2, 25, 26, 27,28, 29, 30, 31, 32, 133
	Felony Theft Threshold	7	3-9, 11-15
	Presumptive Ranges	8	67-69
	Discretionary Parole/Administrative Parole	9	50,66, 93, 94,95-97, 99-103,104-107,108, 109-117, 129-130
	Geriatric Parole	10	98
	Sex Offender Treatment	11	128
Comm. Supervision	Graduated Sanctions/Incentives	12	63, 88, 91, 126
	Cap Technical Violation Stays	13	47,51,53,65, 119 ,120-124, 125
	Probation Earned Credit	14	59, 61-62,64, 89, 90, 118
	Maximum Probation Terms	15	60
	Good-Time on E.M.	16	127
	ASAP	17	Not yet drafted.
	CRC's	18	132
Other	Limited Driver's License	None	76-77, 80, 83
	Administrative License Revocations		75
	Food Stamps		136
	Public Assistance		135
	Re-Entry Program		131
	Community Work		49,55-57
	Limiting Pretrial Credit to 120 days		52
	Suspended Entry of Judgment		58
Victim's Rights	48, 73,74		

Dianne Blumer

From: Newman, Anthony (HSS) <anthony.newman@alaska.gov>
Sent: Friday, March 11, 2016 1:26 PM
To: Jordan Shilling; Dianne Blumer
Cc: Mitchell, Monica M (HSS); OBrien, Sean K (HSS)
Subject: FW: DHSS attendance at S-Jud this afternoon 2 pm

Jordan, Dianne, see minor correction below.

From: Newman, Anthony (HSS)
Sent: Friday, March 11, 2016 1:19 PM
To: Shilling, Jordan K (LAA); Blumer, Dianne K (LAA)
Cc: OBrien, Sean K (HSS); Mitchell, Monica M (HSS); Davidson, Matt W (HSS); Piper, Tony (HSS); Clement, Liz A (HSS)
Subject: DHSS attendance at S-Jud this afternoon 2 pm

Be advised of the following participation by Dept. of Health and Social Services staff for today's Senate Judiciary hearing on **SB 91 Omnibus Crime Bill**:

- Sean O'Brien, Director, Division of Public Assistance, available for questions in person
- Monica Windom, Chief of Policy, Division of Public Assistance, available for questions **in-person by phone**
- Matt Davidson, Program Coordinator Policy and Planning, Division of Juvenile Justice, available for questions in person
- Tony Piper, Program Coordinator, Alcohol Safety Action Program, Division of Behavioral Health, available for questions by phone. Mr. Piper will call in to 1-844-586-9085

Tony Newman | Legislative Liaison

Office of the Commissioner | Alaska Department of Health and Social Services

350 Main Street, Room 404 | Juneau AK 99811
(desk) [907.465.1611](tel:907.465.1611) | (cell) [907.321.3989](tel:907.321.3989)
anthony.newman@alaska.gov

Alaska State Legislature

Senate Majority Leader

Joint Armed Services Committee
Co-Chairman
Judiciary Committee
Vice-Chairman
Resources Committee
State Affairs Committee
Legislative Council
Rules Committee



Senator John Coghill

Session Address:
State Capitol, Room 119
Juneau, AK 99801-1182
(907) 465-3719

Interim Address:
1292 Sadler Way, Suite 340
Fairbanks, AK 99701
(907) 451-2997
877-465-3719

www.aksenate.org

SENATE BILL 91

SPONSOR STATEMENT

Omnibus Criminal Law & Procedure; Corrections
Version N

Senate Bill 91 implements proven practices to reduce recidivism, keep Alaskans safe, hold offenders accountable, and control corrections spending.

Increased spending on prisons has not brought Alaskans greater public safety: nearly two out of every three inmates who leave prison return to prison within three years. The high rate of recidivism has significantly increased Department of Corrections operating costs to \$324 million in FY 2016, and spurred the opening of the Goose Creek Correctional Center, costing the state \$240 million in construction funds.

Alaska Criminal Justice Commission

Seeking a better public safety return on our state's corrections spending, the legislature established the Alaska Criminal Justice Commission. The Commission included legislators, judges, law enforcement officers, prosecutors, defenders, corrections officials, and members representing crime victims and Alaska Natives. The Commission spent over a year conducting an exhaustive review of the state's pretrial, sentencing, corrections, and community supervision data and systems.

SB 91 Incorporates the Commission's Recommendations

The Commission developed a package of consensus recommendations that will reduce the state's daily prison population by 21 percent over the next 10 years, saving the state \$424 million. SB 91 aims to:

- **Implement evidence-based pretrial practices** by expanding the use of citations in lieu of arrest for lower-level nonviolent offenses; and making changes to bail practices to focus pretrial release decisions more on risk than on ability to pay.

- **Focus prison beds on serious and violent offenders** by diverting nonviolent misdemeanor offenders to alternatives; revising drug crime penalties; adjusting dollar amounts for felony property crimes to account for inflation; realigning sentence ranges in statute, expanding and streamlining parole; and incentivizing sex offenders to complete treatment programming.
- **Strengthen probation and parole supervision** by standardizing sanctions for violations of probation and parole conditions to ensure they are swift, certain, and proportional; establishing incentives to comply with supervision conditions; and focusing treatment resources on high-needs offenders.
- **Improve opportunities for successful reentry** by offering limited licenses to eligible revoked offenders; creating a reentry program within the Department of Corrections; and opting out of the federal ban on food stamps for people convicted of drug crimes.
- **Reinvest** a portion of the savings from these reforms into evidence-based practices designed to improve public safety, control corrections populations, and reduce recidivism, including supervision services, victims' services, violence prevention, treatment services, and reentry services.

Cost of Doing Nothing: \$169 Million

Alaska's prison population grew 27 percent in the last decade, nearly three times faster than the resident population. At this rate, the Department of Corrections projects the need to house an additional 1,416 inmates by 2024, which will cost the state at least \$169 million in new spending. With the disappointing recidivism rates and public safety outcomes the state has been achieving, the cost of doing nothing is too high. I ask for your support.

SPONSOR STATEMENT

Omnibus Criminal Law & Procedure; Corrections

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**Alaska Criminal Justice Commission
Justice Reinvestment Report**

December 2015

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Executive Summary

Alaska's prison population has grown by 27 percent in the last decade, almost three times faster than the resident population. This rapid growth spurred the opening of the state's newest correctional facility – Goose Creek Correctional Center – in 2012, costing the state \$240 million in construction funds. On July 1, 2014, Alaska's correctional facilities housed 5,267 inmates, and the Department of Corrections ("DOC") had a fiscal year operating budget of \$327 million.

Absent reform, these trends are projected to continue: Alaska will need to house an additional 1,416 inmates by 2024, surpassing the state's current prison bed capacity by 2017. This growth is estimated to cost the state at least \$169 million in new corrections spending over the next 10 years.

The rising cost of Alaska's prison population coupled with the state's high recidivism rate – almost two-thirds of inmates released from the state's facilities return within three years – have led policymakers to consider whether the state is achieving the best public safety return on its corrections spending.

Seeking a comprehensive review of the state's corrections and criminal justice systems, the 2014 Alaska Legislature established the bi-partisan, interbranch Alaska Criminal Justice Commission ("Commission").

In April of the following year, state leaders from all three branches of government joined together to request technical assistance from the Public Safety Performance Project of The Pew Charitable Trusts and the U.S. Department of Justice as part of the Justice Reinvestment Initiative. Governor Bill Walker, former Chief Justice Dana Fabe, Senate President Kevin Meyer, House Speaker Mike Chenault, Attorney General Craig Richards, former Commissioner of the Alaska DOC Ron Taylor, and former Chair of the Commission Alexander O. Bryner tasked the Commission with "develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars."

In addition, Senate President Meyer and Speaker Chenault requested that, because the state's difficult budget situation rendered reinvestment in evidence-based programs and treatment possible only with significant reforms, the Commission forward policy options that would not only avert future prison growth, but would also reduce the prison population between 15 and 25 percent below current levels.

Over a seven-month period, the Commission analyzed the state's criminal justice system, including a comprehensive review of sentencing, corrections, and community supervision data. Key findings include:

- Alaska's pretrial population has grown by 81 percent over the past decade, driven primarily by longer lengths of stay for both felony and misdemeanor defendants.

- Three-quarters of offenders entering prison post-conviction in 2014 were convicted of a nonviolent offense.
- Length of stay for sentenced felony offenders is up 31 percent over the past decade.
- In 2014, 47 percent of post-revocation supervision violators – who are incarcerated primarily for non-criminal violations of probation and parole conditions – stayed more than 30 days, and 28 percent stayed longer than 3 months behind bars.

Based on this analysis, and the directive from legislative leadership, the Commission developed a comprehensive, evidence-based package of 21 consensus policy recommendations that would protect public safety, hold offenders accountable, and reduce the state's average daily prison population by 21 percent, netting estimated savings of \$424 million over the next decade.

Members of the Alaska Criminal Justice Commission

Gregory P. Razo (Chair)	Alaska Native Justice Center
Justice Alexander O. Bryner	Alaska Supreme Court (retired)
Senator John Coghill	Alaska State Senate
Commissioner Gary Folger	Alaska Department of Public Safety
Jeff Jessee	Alaska Mental Health Trust Authority
Representative Wes Keller	Alaska House of Representatives
Commissioner Walt Monegan	Alaska Department of Corrections
Hon. Judge Stephanie Rhoades	Anchorage District Court
Attorney General Craig Richards	Alaska Department of Law
Lieutenant Kris Sell	Juneau Police Department
Brenda Stanfill	Interior Alaska Center for Non-Violent Living
Quinlan Steiner	Alaska Public Defender
Hon. Judge Trevor Stephens	Ketchikan Superior Court

Terry Vrabec, former Deputy Commissioner of the Department of Public Safety and Ron Taylor, former Commissioner of the Department of Corrections, were previous members of the Commission and initial participants in the Justice Reinvestment process.

Challenges Facing Alaska

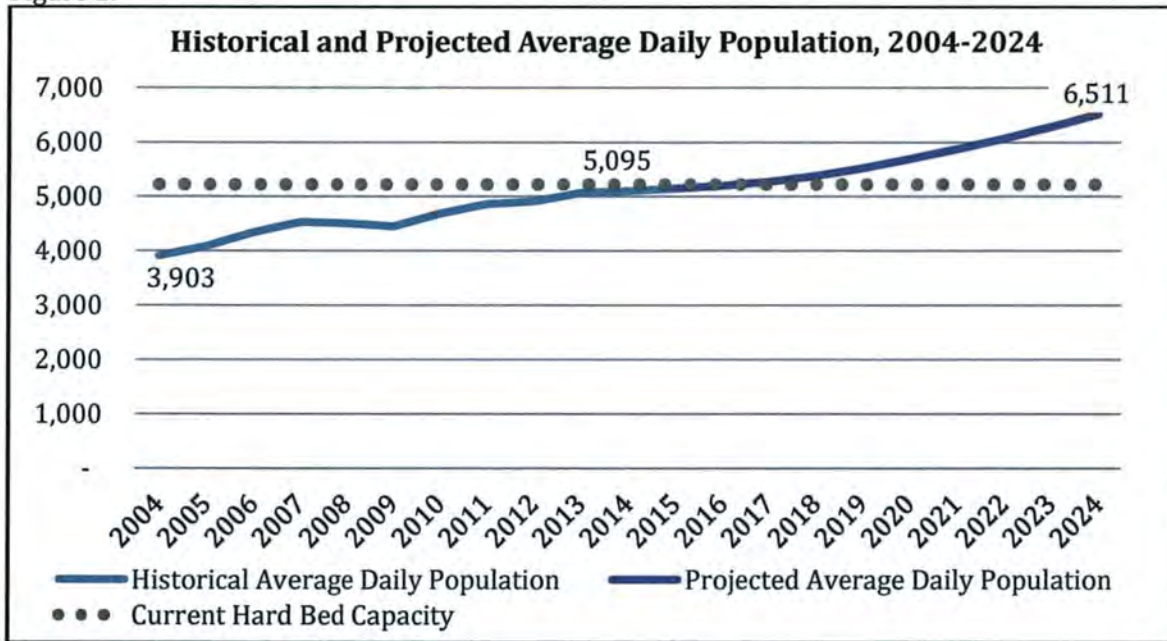
Alaska's prison population, which includes both pretrial and post-conviction inmates, has grown by 27 percent in the last decade, nearly three times faster than the resident population.¹ Alaska's overall correctional population, which includes incarcerated offenders as well as offenders on probation and parole, electronic monitoring, and in halfway houses, grew 45 percent over the last decade. On July 1, 2014, Alaska's correctional facilities housed 5,267 inmates and the total number of offenders under the Department of Corrections' ("DOC") control numbered 11,136.

Growth in the state's prison and community corrections populations has come at significant state expense. Alaska spent \$327 million on corrections in fiscal year 2014, up from \$184 million in 2005. In addition to these operating costs, recent corrections growth has also required significant capital expenditures, including the construction of the \$240 million Goose Creek Correctional Center, which opened in 2012.²

Moreover, the state's growing prison population and increased corrections spending have failed to produce commensurate improvements in public safety: nearly two out of every three offenders released from Alaska correctional facilities return within three years.

Without a shift in sentencing and corrections policy, Alaska's average daily prison population is projected to grow by another 1,416 inmates over the next decade. (See figure 1, next page.) These additional inmates will surpass the state's capacity to house them in 2017, requiring both the re-opening of a currently unused 128-bed facility and, once that facility has been filled, transferring inmates to private facilities out of state. If policy makers decide to keep all the state's inmates in Alaska, accommodating the projected prison population growth will necessitate building another facility or expanding existing facilities, costing the state significantly more in capital expenditures.

Figure 1.



Source: Alaska Department of Corrections

Alaska Criminal Justice Commission

Seeking a comprehensive review of the state's corrections and criminal justice systems, the 2014 Alaska Legislature passed Senate Bill 64, which established the bipartisan, inter-branch Alaska Criminal Justice Commission ("Commission").

The Commission, comprised of 13 stakeholders including legislators, judges, law enforcement officials, the state's Attorney General and Public Defender, the Corrections Commissioner, and members representing crime victims, Alaska Natives, and the Mental Health Trust Authority, was charged with conducting a comprehensive review of Alaska's criminal justice system and providing recommendations for legislative and administrative action.

In April 2015, state leaders from all branches of government joined together to request technical assistance from the Public Safety Performance Project as part of the Justice Reinvestment Initiative, a collaboration between The Pew Charitable Trusts and the U.S. Department of Justice Bureau of Justice Assistance. Governor Bill Walker, former Chief Justice Dana Fabe, Senate President Kevin Meyer, House Speaker Mike Chenault, Attorney General Craig Richards, former Commissioner of the Alaska DOC Ron Taylor, and former Chair of the Commission Alexander O. Bryner tasked the Commission with "develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars."

Beginning in the summer of 2015 and extending through the end of the calendar year, the full Commission met seven times as a part of the Justice Reinvestment Initiative. To provide the opportunity for further analysis and discussion of specific policy areas, Commissioners also split into three subgroups focused on pretrial, sentencing, and community supervision policies.

Each subgroup's goal was to craft recommendations within their criminal justice policy area that would meet the Commission's charge. Subgroups reported their policy recommendations to the larger Commission for consideration.

Throughout the Justice Reinvestment process, the Commission and its staff heard from a wide range of stakeholders. It held five public hearings across the state, conducted outreach in rural hub communities and remote villages, and held roundtable discussions with victims, survivors, and victim advocates to identify key priorities. Members of the Commission and staff also received input and advice from prosecutors, defense attorneys, behavioral health experts, and other criminal justice stakeholders, and presented at annual convenings for judges, magistrates, law enforcement, the Prisoner Reentry Coalition, and the Alaska Federation of Natives.

National Picture

Alaska's challenges with long-term prison growth are not unique. Across the country, state prison populations have expanded rapidly and state officials have spent an increasing share of taxpayer dollars to keep pace with soaring prison costs. From the mid-1980s to the mid-2000s, spending on corrections was the second fastest growing state budget category, behind only Medicaid.³ In 2012, one in 14 state general fund dollars went to corrections.⁴

However, in recent years many states have taken steps to curb their prison population growth while holding public safety paramount. After 38 years of uninterrupted growth, the national prison population declined 3 percent between 2009 and 2014.⁵

Many of these states adopted policies to rein in the size and cost of their corrections systems through a "justice reinvestment" strategy. Georgia, Mississippi, North Carolina, Oregon, South Dakota, Texas, and Utah, among many others, have implemented reforms to protect public safety and control corrections costs. These states revised their sentencing and corrections policies to focus state prison beds on violent and habitual offenders and then reinvested a portion of the savings from averted prison growth into more cost-effective strategies to reduce recidivism.

In 2011, for example, policymakers in Georgia faced a projected eight percent increase in the prison population over the next five years, at a cost of \$264 million. Rather than spend additional taxpayer dollars on prisons, Georgia leaders looked for more cost-effective solutions. The state legislature unanimously passed a set of reforms that controlled prison growth through changes to drug and property offense statutes, and improved public safety by investing in drug and mental health courts and treatment.⁶ Between 2012 and 2014 (the most recent year with available crime data), the state crime rate has fallen three percent and the sentenced prison population has declined three percent, giving taxpayers better public safety at a lower cost.⁷

In these and other states, state working groups have focused on research that shows how to improve public safety and have integrated the perspectives of the three branches of government and key system stakeholders. This data-driven, inclusive process resulted in wide-ranging innovations to the laws and policies that govern who goes to prison, how long they stay, and whether they return.

Key Findings of the Alaska Criminal Justice Commission

To evaluate Alaska's criminal justice system, the Commission reviewed the research on what works to change criminal offending behavior and safely reduce prison populations and then assessed Alaska's practices and policies against these standards. The Commission studied the criminal justice system in three areas – pretrial detention, post-conviction imprisonment, and community corrections.

Pretrial Detention

The number of pretrial inmates in Alaska has grown by 81 percent over the past decade (up from 817 in 2005 to 1,479 in 2014), significantly outpacing the growth of the post-conviction population (up 14 percent from 2,303 in 2005 to 2,627 in 2014) and the growth in the supervision violation population (up 15 percent from 1,013 to 1,161). In 2005, pretrial inmates comprised 20 percent of the population; today they comprise 28 percent.

While criminologists have been studying post-conviction imprisonment and community corrections for many decades, publications on the pretrial phase of the criminal justice system were, until recently, focused almost exclusively on legal and constitutional questions rather than scientific ones. In the last decade, however, rigorous scientific research into the area of pretrial policy has expanded rapidly. Today, a growing body of literature supports the following three principles of pretrial policy.

Pretrial risks can be predicted and used to guide release decisions

In deciding whether to release a defendant pretrial, courts generally consider two factors: the likelihood that the defendant will miss their court hearings and the likelihood that the defendant will engage in new criminal activity if released.⁸ Research has shown that risk assessment tools can accurately predict these risks by identifying and weighing factors that are associated with each type of pretrial failure.⁹

Research also supports the use of these assessments in guiding decisions about conditions of release. Targeted use of pretrial conditions is critical because restrictive release conditions such as electronic monitoring and drug and alcohol testing do not improve outcomes for all pretrial defendants. While select restrictive release conditions can decrease the likelihood of pretrial failure (measured as failure to appear or bail revocation due to new arrest) for higher risk defendants, when restrictive conditions are applied to lower risk defendants, they can actually do the opposite. Compared to similar defendants not assigned these restrictive release conditions,

lower risk defendants with restrictive release conditions are more likely to fail during their pretrial release period.¹⁰

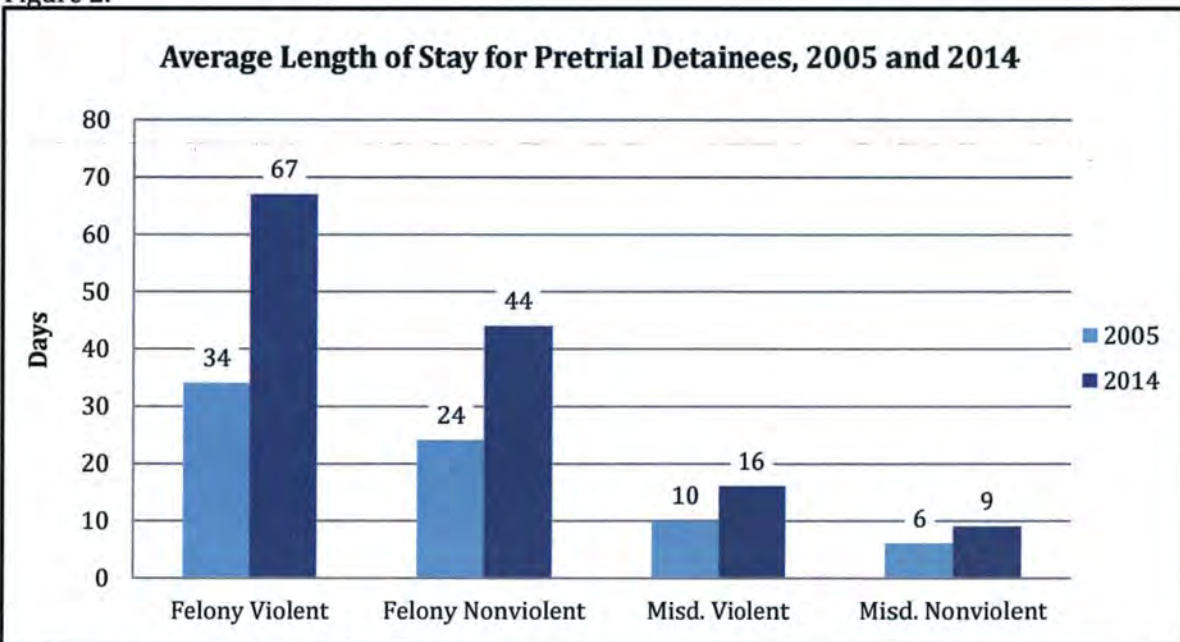
In Alaska, courts do not currently utilize pretrial risk assessments to guide their decisions about release or conditions of release, so, in the absence of data, it is not possible to determine whether those who are detained pretrial or released under restrictive conditions are in fact higher risk.

Pretrial detention longer than 24 hours can lead to worse outcomes, particularly for low risk defendants

Researchers have also examined the impacts of pretrial detention on defendants' outcomes. In a recent examination of this relationship, researchers matched defendants with similar criminal charges, risk levels, and demographic characteristics who were detained pretrial for different lengths of time. A key finding of this study was that, generally, low risk defendants who are detained for more than 24 hours experience an increased likelihood of failure to appear and new criminal activity during the pretrial period.¹¹ In addition, the study demonstrated that being detained for the entirety of the pretrial period is associated with an increased likelihood of new criminal activity post-disposition across all risk categories.¹²

In Alaska, pretrial inmates are staying behind bars longer before being released than they were 10 years ago – increases that have occurred across charge severity. (See figure 2.) For example, in 2014, detainees whose most serious charge was a nonviolent misdemeanor were staying an average of nine days during the pretrial period – three days longer than the average stay in 2005.

Figure 2.



Source: Alaska Department of Corrections

Unsecured bail is as effective as secured bail

Across the country, length of pretrial detention is often tied to whether a defendant can afford to pay monetary bail. While this is a common practice in the United States, it does not have a foundation in the growing body of research on pretrial risk. Ability to pay monetary bail does not make a person low risk.¹³ There are defendants who cannot afford monetary bail who are unlikely to engage in new criminal activity during the pretrial period. Additionally, there are defendants who can afford to pay their monetary bail, but who are likely to engage in new criminal activity. For these reasons, monetary bail is not the most effective tool for protecting the public during the pretrial period.

Research supports the use of unsecured monetary bail and other release conditions in place of secured monetary bail to reduce length of pretrial detention. (Secured bail requires payment of money upfront to be released, while unsecured bail permits release without payment and only requires payment if the defendant does not comply with their release conditions). Research has shown that defendants are as likely to make their court appearances and refrain from new criminal activity whether their bail is secured or unsecured, compared to defendants with similar risk levels.¹⁴ However, use of secured bail results in many more jail beds than use of unsecured bail, as defendants who are unable to post the monetary amount upfront remain detained.¹⁵

One of the likely contributors to pretrial length of stay in Alaska is the use of secured money bail. While there is a statutory presumption that defendants will be released on personal recognizance or unsecured bail, a court file review of bail conditions for a random sample of offenders found that courts departed from this presumption in the vast majority of cases.¹⁶ Only 12 percent of defendants in the sample were released on personal recognizance, and an additional 10 percent had unsecured money bail. Fifty-two percent of sampled defendants were never released prior to their case being resolved.

The case file review also revealed a connection between higher dollar bail amounts and release. Fewer than half of the defendants sampled were released at all during the pretrial period, and those with higher amounts of secured money bail were less likely to be released. Of those who were released, those with higher money bail spent longer in jail prior to their first release. For offenders whose bail was set at \$1,000 or more, for example, those who were eventually able to secure their release spent an average of seven weeks detained pretrial prior to release.

Post-Conviction Imprisonment

Alaska's sentenced prison population, defined as those offenders sentenced to a period of incarceration for a new criminal conviction, has grown by 14 percent in the last decade. Additionally, the number of offenders in prison for a violation of supervision (both pre-hearing and post-revocation) grew 15 percent over the same period.

The relationship between crime and incarceration has been studied for many years. While experts differ on precise figures, researchers have found that increased incarceration in the 1990s was responsible for between 10 and 30 percent of the nationwide crime decline in that decade.¹⁷

Beyond the crime control benefit, prison sentences can be used to express community condemnation or to isolate the offender.

However, there is general consensus among experts that, as states have incarcerated higher numbers of lower-level offenders, and held offenders for longer periods of time, the country has passed the point of diminishing returns, meaning that additional use of prison would have little if any crime reduction effect today.¹⁸ On the individual offender level, the evidence suggests that, for many offenders, incarceration is not more effective at reducing recidivism than non-custodial sanctions. At the same time, for a substantial number of offenders, there is little or no evidence that longer prison stays reduce recidivism more than shorter prison stays.¹⁹

For many offenders, incarceration is not more effective at reducing recidivism than non-custodial sanctions

The Commission first considered the value of sending offenders to prison relative to non-custodial sanctions – such as drug court, probation, or electronic monitoring. Researchers have examined this question by matching samples of offenders sent to prison with those sent to non-custodial sanctions and have consistently found no differences in re-arrest or re-conviction rates, both in short-term and in long-term analyses, even when controlling for individuals' education, employment, drug abuse status, and current offense.²⁰

Moreover, there is a growing body of research showing that for many low-level offenders, prison terms may increase rather than reduce recidivism.²¹ Research around the “schools of crime” theory suggests that for many types of nonviolent offenders, the negative impacts of incarceration outweigh the positive: that is, sending offenders to prison can cause them to commit more crimes upon release.²²

In examining the use of incarceration as a post-conviction sanction in Alaska, the Commission focused closely on the number of offenders entering prison for nonviolent offenses. Over the last 10 years, the number of nonviolent felony admissions has increased and, in 2014, nonviolent offenses (misdemeanors and felonies) comprised three-quarters of all post-conviction admissions to prison. (See figure 3.)

Figure 3.



Source: Alaska Department of Corrections

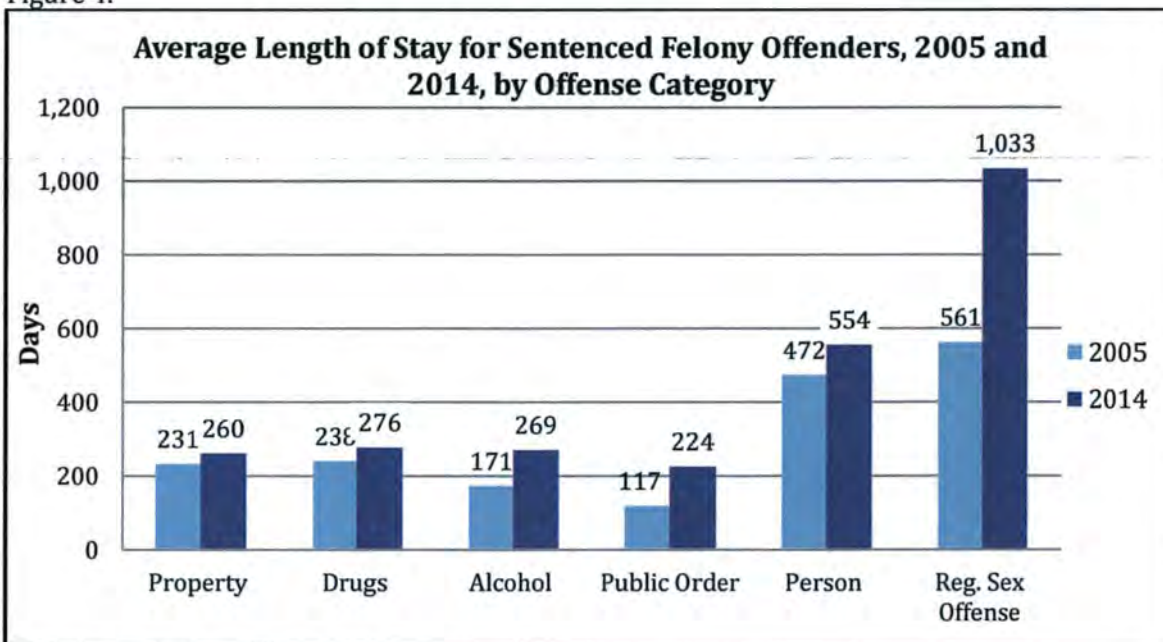
Additionally, the Commission examined the growing number of inmates in Alaska entering prison not for a new conviction but for a technical violation of their probation or parole conditions, defined as a violation of their supervision conditions that does not rise to the level of new criminal conduct. These offenders are admitted for failing to comply with the terms of their supervision, such as missing or failing a drug test or failing to report to their supervision officer. The number of offenders sentenced to prison after being revoked for a technical violation grew 32 percent in the past 10 years.

Longer prison stays do not reduce recidivism more than shorter prison stays

The Commission also considered the relationship between the length of prison terms and recidivism. The best measurement for whether longer lengths of stay provide for greater deterrence is whether similar offenders, when subjected to different terms of incarceration, recidivate at different levels. The rigorous research studies find no significant effect, positive or negative, of longer prison terms on recidivism rates.²³

Examining length of stay in Alaska presents a mixed picture: while average misdemeanor length of stay is down slightly over the last 10 years, felony length of stay is up across all offense types and felony classes. For some offense types, including drug and property offenders, length of stay has increased by roughly 30 days over the last decade. For others, including felony public order and sex offenders, length of stay has nearly doubled, leading to an additional 3 ½ months in prison on average for public order convictions and an additional 16 months in prison on average for felony sex offenders.²⁴ (See figure 4.)

Figure 4.

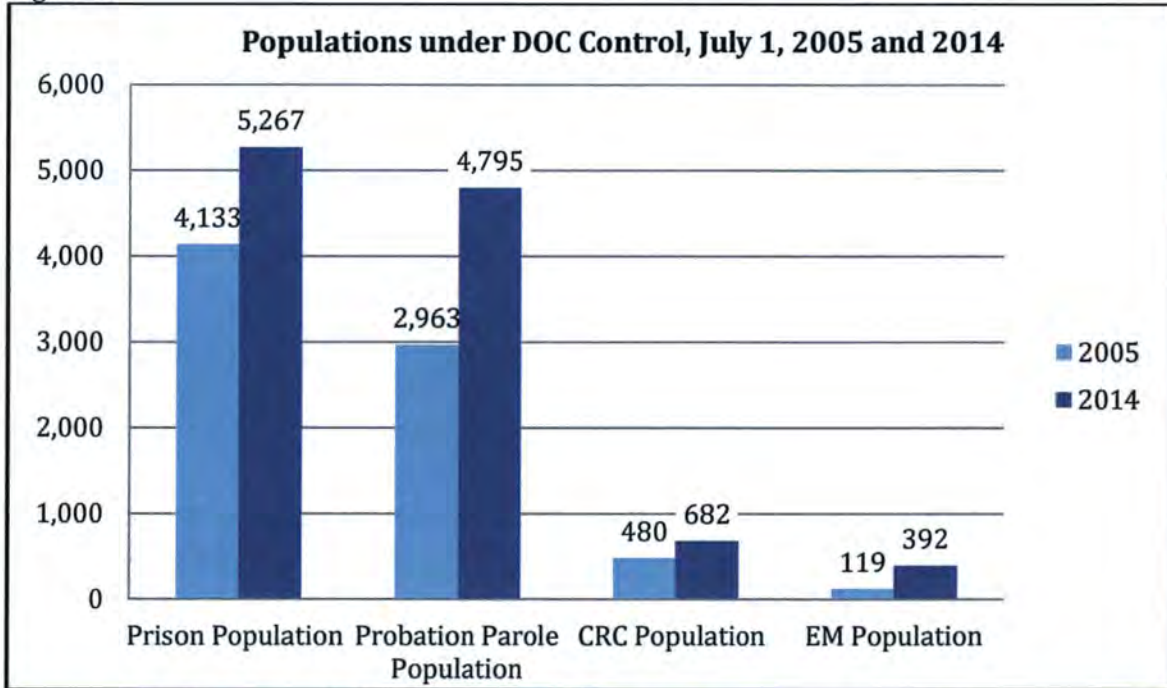


Source: Alaska Department of Corrections

Community Corrections

While Alaska's prison population has grown by 27 percent over the last decade, the state has experienced more growth among its community corrections populations, including probation and parole (up 62 percent), community residential centers or halfway houses ("CRCs") (up 42 percent), and electronic monitoring ("EM") (up 229 percent). (See figure 5.)

Figure 5.



Source: Alaska Department of Corrections

Research has identified a number of key strategies to increase success rates for those supervised in the community, including identifying and focusing resources on higher risk offenders, using swift, certain, and proportionate sanctions, incorporating rewards and incentives, frontloading resources in the first weeks and months following release from prison, and integrating treatment into supervision, rather than relying on surveillance alone.

Identify and focus supervision resources on high risk offenders

Research has consistently shown that offenders' likelihood to recidivate – that is, to commit new crimes upon release – can be accurately predicted with the use of validated risk assessment tools.²⁵ With these tools, supervision agents can focus their oversight and resources on those who pose the highest risk of reoffending, a practice that provides the biggest return on investment.

While Alaska currently utilizes a risk and needs assessment tool, the Level of Service Inventory-Revised ("LSI-R"), to inform supervision levels, a sizeable portion of the state's community

supervision resources remain focused on low risk offenders. On July 1, 2014, 39 percent of the state's probation and parole supervised population was classified as low risk. Even with reduced reporting requirements, these low risk offenders make up a large share of caseloads and require staff resources that could otherwise be dedicated to offenders with a higher likelihood to reoffend.

Use swift, certain, and proportionate sanctions

Research has also demonstrated that offenders are more responsive to sanctions that are swift, certain, and proportionate rather than those that are delayed, inconsistently applied, and severe.²⁶ Swift and proportionate sanctions work both because they help offenders see the sanction as a consequence of their behavior rather than a decision levied upon them, and because offenders heavily weigh the present over the future (consequences that come months and years later are steeply discounted). Certainty establishes a credible and consistent threat – thereby creating a clear deterrent for non-compliant behavior.²⁷

In Alaska, with the implementation of the Probation Accountability with Certain Enforcement (“PACE”) program in 2010, the state has begun utilizing evidence-based jail sanctions for a small portion of offenders on community supervision (offenders deemed high risk in five pilot communities). However, data across the entire supervision violator population – PACE and non-PACE – point to long delays between the problem behavior and the consequence – with an average of 33 days to resolve a revocation charge – and many offenders serving long sentences once convicted. In 2014, nearly half of revoked supervision violators stayed more than 30 days, and 28 percent stayed longer than 3 months behind bars.

Moreover, Alaska lacks a system-wide framework for the use of swift, certain, and proportionate sanctions that do not rise to the level of additional prison time. States across the country have successfully implemented graduated sanctioning, whereby supervision officers can respond to non-compliant behavior with a range of non-custodial responses – from less intensive sanctions like increased reporting requirements or community service hours, to more intensive sanctions like electronic monitoring.

Incorporate rewards and incentives

Historically, probation and parole supervision was focused on surveillance and sanctioning in order to catch or interrupt negative behavior. However, research shows that encouraging positive behavior with incentives and rewards can have an even greater effect on motivating and sustaining behavior change.²⁸

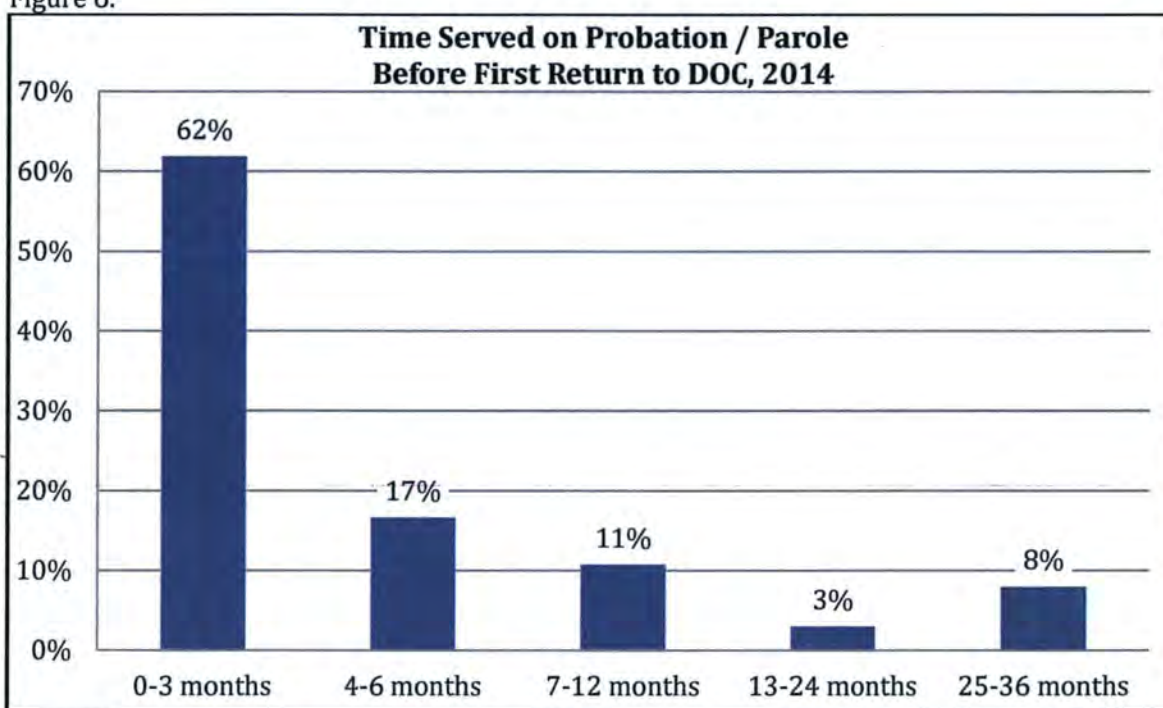
While incarcerated offenders in Alaska have the opportunity to receive good time and furlough incentives in acknowledgement of positive behavior and program participation, the state provides no similar incentives for offenders under supervision. Alaska has no earned discharge policy to allow supervisees to earn time off their supervision sentence for good behavior. Additionally, there is currently no standard practice for probation and parole officers to terminate supervision for offenders who have been consistently compliant. Rather, applications to terminate supervision must be made before a court and on an individual basis.

Frontload resources in the first weeks and months following release

Long-term success for offenders returning home from prison is closely tied to accountability and support in the time period immediately following release. Offenders in Alaska and elsewhere are most likely to reoffend or violate the terms of their community supervision in the initial days, weeks, and months after release from prison. (See figure 6.) The likelihood of violations and the value of ongoing supervision diminish as offenders gain stability and demonstrate longer-term success in the community.²⁹

Research has shown that supervision resources have the highest impact when they target this critical period. By frontloading limited resources, states can better target offenders at the time when they are most likely to reoffend, thereby reducing future violations by addressing non-compliant offender behavior early in the process.³⁰

Figure 6.



Source: Alaska Department of Corrections

While Alaska has taken significant strides in recent years to support offenders as they reenter the community, the state lacks policies to concentrate supervision resources on those first critical months. Moreover, while offenders are far more likely to fail in the first three months after release, the average length of time spent on community supervision prior to successful discharge has grown by 13 percent in the last decade, meaning that more parole and probation resources are dedicated to supervising offenders beyond the period when they pose the highest risk.

Integrate treatment into surveillance

Lastly, research shows that a combination of surveillance and treatment focused on offenders' criminogenic needs (changeable risk factors that increase an offender's likelihood of committing a crime, such as anti-social behavior and substance abuse) is more effective at reducing recidivism than supervision consisting of surveillance alone.³¹

In Alaska, probation and parole officers currently use risk assessments to both inform offenders' supervision levels (as outlined earlier), as well as to identify supervisees' criminogenic needs with top priority needs forming the basis of case management plans. However, the Commission heard a number of anecdotal reports regarding insufficient inpatient and outpatient treatment beds in DOC institutions and CRCs, as well as regional disparities in the availability of community-based treatment and programming, that render accessing evidence-based treatment difficult for many offenders.

Policy Recommendations

On September 8, 2015, Senate President Kevin Meyer and Speaker of the House Mike Chenault made an additional request of the Commission. Noting that the state's difficult budget situation rendered reinvestment in programs and treatment only possible with significant reforms, they charged the Commission with delivering policy options that met three benchmarks: (1) averting all future growth, (2) averting all future growth and reducing the prison population by 15 percent, and (3) averting all future growth and reducing the prison population by 25 percent. In a separate letter, Governor Walker applauded the legislative leadership for taking this initiative and pledged to use the benchmarks in developing reinvestment priorities in his budget.

Based on the Commission's review of evidence-based practices and an evaluation of the state's alignment with those practices in the areas of pretrial detention, post-conviction imprisonment, and community corrections, the Commission came to consensus on 21 policy recommendations that, taken together, are projected to reduce the average daily prison population by 21 percent by 2024, achieving an estimated net savings to the state of \$424 million over the next decade.

These 21 consensus recommendations will:

- Implement evidence-based pretrial practices;
- Focus prison beds on serious and violent offenders;
- Strengthen supervision and interventions to reduce recidivism;
- Ensure oversight and accountability; and
- Advance crime victim priorities.

In an acknowledgement of the state's rapid prison growth over the last decade, and the importance of reinvesting savings into programs and policies that will reduce victimization and the state's recidivism rate, the Commission decided not to forward recommendations to the legislature that met the first two benchmarks: averting all future growth, and averting all future growth and reducing the prison population by 15 percent. Instead, the Commission strongly encourages the legislature to consider the 21 consensus recommendations forwarded and, where savings are achieved, to reinvest a portion into pretrial supervision services, victims' services in remote and

bush communities, violence prevention, reentry support services, and institutional and community-based treatment in both rural and urban areas.

Commission's Consensus Recommendations

Implement evidence-based pretrial practices

Recommendation 1: Expand the use of citations in place of arrest for lower-level nonviolent offenses

The majority of admissions to prison pretrial are for defendants with nonviolent misdemeanor charges. While law enforcement officers have discretion to issue citations for these offenses, the large number of admissions suggests that officers are not using that discretion as often as they could to ensure that expensive prison beds during the pretrial period are occupied those facing serious charges.

Specific Action Recommended: To reduce pretrial admissions for defendants with lower-level nonviolent charges, the Commission recommends:

- a. Creating a presumption of citation for misdemeanors and class C felonies, excluding person offenses, domestic violence offenses, violations of release conditions, or offenses for which a warrant or summons has been ordered.
- b. Allowing law enforcement officials to overcome the presumption of citation if the officer has reasonable grounds to believe the person presents a significant likelihood of flight, presents a significant danger to the victim or the public, or if the officer is unable to verify the person's identification without making an arrest.

Recommendation 2: Utilize risk-based release decision-making

A review of a sample of Alaska court files found that courts ordered some amount of secured monetary bond (as opposed to personal recognizance or unsecured bond) in a majority of cases. Additionally, 52 percent of sampled defendants were detained for the entirety of their pretrial period. Therefore, whether a defendant is released pretrial in Alaska is often tied to his or her ability to pay a certain amount of secured money bail rather than his or her likelihood of failing to appear for court hearings or engaging in new criminal activity.

Specific Action Recommended: To implement pretrial release decision-making based upon the offender's risk level, instead of ability to pay monetary bond, the Commission recommends:

- a. Directing the DOC, in consultation with the Department of Law ("DOL"), Public Defender, Department of Public Safety ("DPS"), and Alaska Court System ("ACS"), to create an evidence-based pretrial release decision-making grid that strengthens the presumption of release on personal recognizance or unsecured bond for defendants with less serious charges and lower risk scores. The statutory parameters for this grid would include:
 - i. Defining a category of defendants who, as a matter of law, should always be released on personal recognizance or unsecured bond with appropriate release conditions; and

- ii. Defining categories of defendants for whom DOC should always or usually recommend release on personal recognizance or unsecured bond with appropriate release conditions, while providing a mechanism for the court to depart from that recommendation in limited circumstances.³²

The following grid captures the release categories as recommended by the Commission:

Offense Type	Misd. non-person offense (non-DV/ non-DUI)	Class C felony non-person offense (non-DV/ non-DUI)	DUI	Failure to appear/ violation of release condition	Other
Low-risk	OR or UB release	OR or UB release	OR or UB recommended	OR or UB usually recommended	OR or UB usually recommended
Moderate-risk	OR or UB release	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended
High-risk	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended	OR or UB not usually recommended

OR: Own recognizance.

UB: Unsecured bond.

- b. Mandating that DOC assess all pretrial defendants for risk using a validated pretrial risk assessment tool and make release recommendations to the court based on the grid prior to the defendant's first appearance. All releases on personal recognizance or unsecured bond would be accompanied by release conditions and, when appropriate, varying levels of pretrial supervision.
- i. Absent compelling circumstances, all defendants should be seen for their first appearance within 24 hours. If a first appearance happens within 24 hours, DOL is not required to be present. The court shall notify DOL if an additional probable cause hearing within 48 hours is required.
- c. Authorizing courts to consider a defendant's inability to pay a previously set secured money bond in at least one bail review hearing.
- d. Authorizing courts to issue unsecured and partially-secured performance bonds.³³
- e. Authorizing the DOL collections unit to garnish paychecks and Permanent Fund Dividend checks to collect on forfeited unsecured bonds and unpaid victim restitution.
- f. Directing the ACS to eliminate misdemeanor bail schedules following DOC's implementation of the above evidence-based pretrial practices. Thereafter, any defendant arrested by law enforcement would remain detained until they have received a risk assessment and have made their first appearance before a judicial officer.

Recommendation 3: Implement meaningful pretrial supervision

Currently, judges have few options for pretrial supervision, and the options that are available are typically handled by non-state agencies and contingent upon the defendant's ability to pay monitoring fees, including the ordering of a private third-party custodian, the services of a private electronic-monitoring company, and the 24/7 sobriety program. The Commission heard from many judges and magistrates who said they would release more defendants from jail pretrial if there were more options for meaningful supervision in the community to reduce the defendants' risk of committing new crimes or failing to appear for court.

Specific Action Recommended: To reduce the risk that released defendants will fail to appear or engage in new criminal activity, the Commission recommends:

- a. Directing the DOC to provide varying levels of supervision for moderate- and high-risk defendants who are released pretrial. The DOC would also be responsible for standardizing and recommending the use of pretrial diversion, conducting outreach to community programs and tribal courts to develop and expand diversion options, and providing referral services on a voluntary basis for substance abuse and behavioral health treatment services.
- b. Directing the ACS to issue court date reminders to criminal defendants for each of their hearings, and to coordinate and share information about hearing dates and times with the DOC.

Recommendation 4: Focus supervision resources on high-risk defendants

Research shows that pretrial supervision resources should be focused on those defendants who are the most likely to fail. Certain restrictive release conditions can improve success rates for higher-risk defendants, but result in worse outcomes for lower-risk defendants.³⁴ Courts in Alaska currently do not utilize actuarial risk assessment tools or have guidance for assigning release conditions based in part on risk scores.

Specific Action Recommended: To ensure that supervision resources are focused on defendants at the highest risk to reoffend, the Commission recommends:

- a. Ensuring that the DOC recommends evidence-based release conditions for each defendant who they have recommended for pretrial release, with more restrictive conditions reserved for higher-risk defendants.
 - i. Additionally, entitling defendants to a subsequent bail hearing in cases where the release conditions prevented the defendant's release. At the bail hearing, the court would either revise the conditions or find on the record that there is clear and convincing evidence that no other release conditions can reasonably assure court appearance and public safety.
- b. Restricting third-party custodian conditions to only those cases in which pretrial supervision provided by the DOC is not available; when no secured money bond is ordered; and when the court finds on the record that there is clear and convincing evidence that no less restrictive release conditions can reasonably assure court appearance and public safety.
- c. Revising eligibility requirements for third-party custodians to limit disqualification from serving as a third-party custodian if there is a reasonable possibility that the prosecution will call them as a witness.³⁵

Focus prison beds on serious and violent offenders

Recommendation 5: Limit the use of prison for lower-level misdemeanor offenders

In 2014, 6,569 offenders were admitted for a period of incarceration for a nonviolent misdemeanor offense, and an additional 2,093 offenders were admitted to prison for a violent misdemeanor – constituting 82 percent of all admissions to prison in that year.

Specific Action Recommended: In accordance with the research on the null or mildly criminogenic effect of prison stays for many lower-level offenders, and the Commission’s desire to redirect a greater percentage of lower-level misdemeanor offenders to alternatives such as fines, probation, and electronic monitoring, the Commission recommends:

- a. Reclassifying the following misdemeanors as violations, punishable by up to \$1,000 fine:
 - i. Misdemeanor B offenses, the lowest-level misdemeanor class in terms of severity, excluding theft and disorderly conduct violations;
 - ii. Driving with a suspended license (“DWLS”) offenses, when the underlying license suspension was not related to a conviction for driving under the influence (“DUI”) or refusal to submit to a chemical test; and
 - iii. Violations of conditions of release (“VCOR”) and failure to appear (“FTA”) offenses, with certain exclusions.³⁶ For these pretrial violations, law enforcement will be authorized to arrest the defendant, and the DOC will be authorized to detain the defendant until the court schedules a bail review hearing.
- b. Reclassifying disorderly conduct offenses in such a way that allows for an arrest but limits jail holds or terms up to 24 hours.
- c. Reclassifying first- and second-time theft offenses under \$250 as non-jailable misdemeanors, and limiting the maximum sentence for a third or subsequent theft offense under \$250 to five days suspended and a six-month probation term.
- d. Eliminating the mandatory minimum for first-time DUI-related DWLS offenses.
- e. Requiring that first-time misdemeanor DUI and refusal to submit to chemical test offenders serve their incarceration sentences on electronic monitoring in the community; in cases where electronic monitoring is not available, assigning the offenders to serve their incarceration sentence on supervised probation.
- f. Presumptively setting a zero to thirty day sentencing range for misdemeanor A’s.
 - i. Permitting courts to depart from the presumptive sentencing range for DV-related assault 4s if the prosecution demonstrates that the conduct was among the most serious constituting the offense or if the offender has past similar and repeated criminal history (not limited to convictions).
 - ii. Permitting courts to depart from the presumptive sentencing range for all other misdemeanor A’s if the prosecution demonstrates that the conduct was among the most

serious constituting the offense or if the offender had past similar criminal convictions.

- g. Restricting municipalities from incarcerating past these limits for similar municipal offenses.

Recommendation 6: Revise drug penalties to focus the most severe punishments on higher-level drug offenders

Over the past 10 years, post-conviction admissions to prison for drug offenses have grown by 35 percent. In addition, felony drug offenders are spending 16 percent longer behind bars than they were a decade ago.

In addition to reviewing meta-analyses demonstrating that longer prison stays do not reduce recidivism more than shorter prison stays for many offenders, the Commission also reviewed research pointing to the low deterrent value of long prison terms for drug offenders. Research shows that the chances of a typical street-level drug transaction being detected are about 1 in 15,000.³⁷ With such a low risk of detection, drug offenders are unlikely to be dissuaded by the remote possibility of a longer stay in prison.

Specific Action Recommended: In accordance with the research on the limited recidivism-reduction benefit of longer stays in prison, as well as the low deterrent value of long drug sentences in particular, the Commission recommends:

- a. Reclassifying simple possession of heroin, methamphetamine, and cocaine as a misdemeanor offense, and limiting the maximum penalty for first- and second-time possession offenses to one month and six month suspended sentences, respectively.³⁸
- b. Aligning penalties for commercial heroin offenses with penalties for commercial methamphetamine and cocaine offenses.³⁹ This recommendation shall be forwarded to the Controlled Substances Advisory Committee ("CSAC") and CSAC shall be provided with the opportunity to comment and carry out their duties under AS 11.71.110.
- c. Creating a tiered commercial drug statute whereby offenses related to more than 2.5g of heroin, methamphetamine, and cocaine is a more serious offense (Felony B) than offenses related to less than 2.5g of heroin, methamphetamine, and cocaine (Felony C).⁴⁰

Recommendation 7: Utilize inflation-adjusted property thresholds

Alaska's felony property offense threshold, the dividing line at which the vast majority of property crimes are categorized as felonies as opposed to misdemeanors, was originally set at \$500 in 1978. The equivalent value in today's dollars would be over \$1800. However, the state's threshold today is set at \$750, having been raised from \$500 in 2014.

In a recent examination of felony cut-off points, findings showed that increasing a felony theft threshold does not lead to higher property crime rates. Between 2001 and 2011, 23 states raised their felony theft thresholds. The analysis found that the change in threshold had no statistically significant impact, up or down, in the states' overall property crime or larceny rates. Additionally,

the study found no correlation between the amount of a state's felony theft threshold – whether it is \$500, \$1,000, or \$2,000 – and its property crime rates.⁴¹

Specific Action Recommended: To focus costly prison space on more serious offenders, and to ensure that value-based penalties take inflation into account, the Commission recommends:

- a. Raising the felony property crime threshold to \$2,000 for all property crimes with a required value amount.⁴²
- b. Requiring the Department of Labor to set in regulation an inflation-adjusted felony property threshold, as well as an inflation-adjusted threshold dividing Misdemeanor A and B property crimes (currently set at \$250), every 5 years, rounded up to the nearest \$50 increment.

Recommendation 8: Align non-sex felony presumptive ranges with prior presumptive terms

In 2005, following the Supreme Court Case *Blakely v. Washington*, Alaska moved from a statutory framework with presumptive prison terms to one utilizing presumptive ranges. In designing these ranges, lawmakers used the prior presumptive term as the bottom of the presumptive range. For example, in establishing the presumptive range for a non-sex, first-time Class A Felony, the prior presumptive term – 5 years – was used as the bottom of the new presumptive range – set at 5 to 8 years. (See chart below.)

Lawmakers had sought to maintain the status quo in regard to sentence lengths, noting in the legislation that, “it is not the intent [...] to bring about an overall increase in the amount of active imprisonment time.”⁴³ However, since the shift to presumptive ranges, length of stay has increased across all non-sex felony classes: including an 80 percent increase for Class A Felonies, an 8 percent increase for Class B Felonies, and a 17 percent increase for Class C Felonies.⁴⁴

Specific Action Recommended: In accordance with the research demonstrating that for many offenders longer prison stays do not reduce recidivism more than shorter prison stays, and the original legislative intent to maintain lengths of prison stays at 2005 levels, the Commission recommends aligning presumptive ranges with the prior presumptive terms as outlined below.

(Numbers in brackets indicate presumptive terms/ranges.)

Felony Class ⁴⁵	Presumptive Term (2005)	Alaska Current	Recommendation
Class A			
First	[5] – 20 years	[5 – 8] – 20 years	[3 – 6] – 20 years
First/Enhanced ⁴⁶	[7] – 20 years	[7 – 11] – 20 years	[5 – 9] – 20 years
Second	[10] – 20 years	[10 – 14] – 20 years	[8 – 12] – 20 years
Third	[15] – 20 years	15 – 20 years	13 – 20 years
Class B			
First	[n/a] – 10 years	[1 – 3] – 10 years	[0 – 2] – 10 years
First/Enhanced ⁴⁷	[n/a] – 10 years	[2 – 4] – 10 years	[1 – 3] – 10 years
Second	[4] – 10 years	[4 – 7] – 10 years	[2 – 5] – 10 years
Third	[6] – 10 years	6 – 10 years	4 – 10 years
Class C			
First	[n/a] – 5 years	[0 – 2] – 5 years	Presumptive probation;

			0 – 18 months ⁴⁸
Second	[2] – 5 years	[2 – 4] – 5 years	[1 – 3] – 5 years
Third	[3] – 5 years	3 – 5 years	2 – 5 years

Recommendation 9: Expand and streamline the use of discretionary parole

Current eligibility for discretionary parole is restricted to those non-sex offense felons convicted of the most serious crimes (Unclassified Felonies), and felonies towards the bottom of the severity scale (first- and second-time Class C Felonies, as well as first-time Class B Felonies). Offenders who fall between these two poles are ineligible for discretionary parole without the intervention of the three-judge panel. Additionally, no offenders convicted of a felony sex offense are able to apply for discretionary parole without the intervention of the three-judge panel.

Moreover, a review of DOC files found that, although a substantial number of offenders currently serving time in prison are eligible for discretionary parole, only a small percentage are applying and appearing before the Parole Board. Commissioners heard from numerous sources that this low percentage was attributable to a cumbersome application and review process.

Specific Action Recommended: To increase the number of offenders who are eligible to apply for parole, as well as to streamline the decision-making process, the Commission recommends:

- a. Expanding eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with prior felony convictions.
- b. Streamlining parole decision-making for lower-level felonies (first time Felony C and B offenders) by restricting hearings to only those offenders who have failed to comply with their individual case plan or who have been disciplined for failure to obey institutional rules, or in cases where the victim has requested a parole hearing. Otherwise, inmates will be paroled at their earliest eligibility date.
- c. Requiring that any other offender who is eligible for parole receives a hearing at least 90 days before his or her first eligibility date, with the presumption that the offender will be granted parole if he or she has complied with the Individual Case Plan and followed institutional rules. The presumption of parole could be overcome with a finding on the record that release would jeopardize public safety.

Recommendation 10: Implement a specialty parole option for long-term, geriatric inmates

Geriatric prisoners are often much more expensive than younger inmates because of their higher medical costs. At the same time, research shows that older inmates are at a much lower risk of recidivism than younger inmates because they typically have “aged out” of their crime committing years. According to research by the Alaska Judicial Council, offenders released at age 55 and older were far less likely to be rearrested than the average for all offenders.⁴⁹

Specific Action Recommended: To reduce the number of low risk, geriatric offenders in prison, the Commission recommends:

- a. Providing for automatic parole hearings for offenders, including those incarcerated prior to the implementation of the legislation, who are over an age threshold set between 55 and 60 and have served at least 10 years of their sentence.
- b. Ensuring that when evaluating inmates under this policy, the Parole Board considers the inmate's likelihood of re-offending in light of his or her age, as well as criminal history, behavior in prison, participation in treatment, and plans for reentering the community.

Recommendation 11: Incentivize completion of treatment for sex offenders with an earned time policy

The Commission also reviewed research relating to the efficacy of sex offender treatment. Over the last decade, a growing body of evidence has demonstrated that treatment interventions for sex offenders can be successful. A cost-benefit analysis conducted by the Washington State Institute for Public Policy found that in-prison sex offender treatment had a positive cost-benefit ratio of \$1.87 (i.e. for every dollar spent on treatment, there was \$1.87 returned in benefits to the state and state residents).⁵⁰

Many states utilize earned time to motivate offenders to complete treatment rehabilitation activities – whereby inmate prison terms are reduced from the date on which they might have been released had they not completed the specified programs.⁵¹ Earned time is distinguished from “good time” credits (often referred to in Alaska as “mandatory parole”), which are awarded to offenders exclusively for following prison rules.

Specific Action Recommended: To incentivize participation in and completion of sex offender treatment, the Commission recommends:

- a. Implementing an earned time policy for sex offenders who are currently ineligible for mandatory parole, whereby offenders are able to earn up to one-third off their sentence if they complete in-prison treatment requirements set forth by the DOC.
- b. Expanding the DOC's capacity to provide residential, long-term sex offender treatment that focuses on ensuring the offender is held responsible for harmful behavior and teaches cognitive behavioral strategies to end patterns of abuse.

Strengthen supervision and interventions to reduce recidivism

Recommendation 12: Implement graduated sanctions and incentives

Alaska law does not authorize community supervision field officers to respond to technical violations of community supervision, such as missing drug tests or treatment sessions, with intermediate sanctions. Although DOC policies do give field officers the authority to address minor violations administratively, there is no system-wide framework for the use of swift, certain, and proportionate sanctions. As a result, sanctioning practices vary widely across the state.

Specific Action Recommended: To reduce recidivism and increase success rates on probation and

parole through the use of swift, certain, and proportional sanctions and incentives, the Commission recommends:

- a. Statutorily authorizing the DOC to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses, and to follow the matrix both when rewarding pro-social behavior and when responding to technical violations of supervision.
- b. Requiring field agents to be trained on principles of effective intervention, case management, and the use of sanctions and rewards.

Recommendation 13: Reduce pre-adjudication length of stay and cap overall incarceration time for technical violations of supervision

On July 1, 2014, 22 percent of Alaska's prison population was comprised of offenders who have violated the terms of their probation or parole supervision. Of those, most have violated the rules of supervision that do not constitute new criminal conduct, such as failing drug screenings or failing to report to their probation or parole officer.

After revocation, supervision violators are staying incarcerated, on average, for 106 days. Many of these supervision violators also spend a significant amount of time incarcerated before their case is resolved – on average, approximately one month. However, research shows – and Alaska's experiences with the PACE program have demonstrated – that more proportionate sanctions, administered in a swift and certain fashion have a stronger deterrent effect than these less swift and more severe sanctions.

Specific Action Recommended: To respond swiftly and proportionately to violations of supervision and to limit the use of prison as a sanction for technical violations, the Commission recommends:

- a. For offenders not participating in the PACE program, limiting revocations to prison as a potential sanction for technical violations of probation or parole as follows:
 - i. First revocation: Up to 3 days
 - ii. Second revocation: Up to 5 days
 - iii. Third revocation: Up to 10 days
 - iv. Fourth and subsequent revocation: Up to 10 days and a referral to the PACE program; or, if the PACE program is not available in the jurisdiction, the sanction would be left to judicial or Board discretion.
 - v. Revocation for absconding⁵²: Up to 30 days.
 - vi. These limits would not apply if the probationer or parolee is a sex offender who has failed to complete sex offender treatment.
- b. Requiring that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released back to probation and/or parole supervision on personal recognizance after serving the maximum allowable time outlined above, unless new criminal charges have been filed.
- c. Requiring that courts convert any unperformed Community Work Service directed in a judgment to a fine – and not to jail time - once the deadline set and announced at the time of

sentencing has elapsed.

- d. Stipulating that jail time cannot be imposed because a person failed to complete treatment if, despite having made a good faith effort, they were unable to afford treatment.
 - i. Additionally, including substance abuse treatment as a reinvestment priority for indigent offenders who are:
 - 1. Referred to ASAP by the court; and
 - 2. At a moderate to high risk of re-offending and in need of substance abuse treatment, as determined by a validated risk and needs assessment.

Recommendation 14: Establish a system of earned compliance credits

A robust body of research shows reduced recidivism when resources are focused on high risk offenders and front-loaded toward the first months following release. However, 39 percent of offenders on probation or parole are classified as low-risk, and supervising these offenders for long periods of time costs Alaska resources without improving public safety.

Earned compliance credits can provide a powerful incentive for offenders to participate in programs, obtain and retain employment, and remain drug- and alcohol-free.⁵³ As compliant and low risk offenders earn their way off supervision, earned compliance credits also work to focus limited supervision resources on the higher risk offenders who most require attention.

Specific Action Recommended: To focus resources on offenders at the highest risk to reoffend and to incentivize compliance with the offender's conditions of probation or parole, the Commission recommends:

- a. Statutorily establishing an earned compliance policy that grants probationers and parolees one month credit towards their probation and/or parole term for each month they are in compliance with the conditions of supervision.
- b. Establishing an automated time accounting system wherein probationers/parolees automatically earn the credit each month unless a violation report has been filed in that month.

Recommendation 15: Reduce maximum lengths for probation terms and standardize early discharge proceedings

Over the past decade, the average time that an offender spends on probation or parole prior to discharge has increased by 13 percent. However, a review of Alaska's data demonstrates that failure on supervision is most likely to happen in the first three months after an offender's release. Longer stays on probation and parole divert supervision resources that could be better focused on higher risk offenders at the time when they are most likely to fail on supervision.

Additionally, while the DOC currently has the option of recommending early termination of probation or parole to the court or Parole Board, there are no guidelines for when this option should be used, leading to differences in practice from region to region. Further, several statutory barriers restrict the usefulness of this option, including a restriction on terminating probation early

for Rule 11 (plea agreement) cases, and a requirement that offenders serve at least two years on parole before being discharged.

Specific Action Recommended: To more effectively focus scarce probation and parole resources on offenders at the time they are most likely to re-offend or fail, the Commission recommends:

- a. Capping maximum probation terms at the following:
 - i. A maximum of 5 years for felony sex offenders and Unclassified felony offenders;
 - ii. A maximum of 3 years for all other felony offenders;
 - iii. A maximum of 2 years for 2nd DUI and DV assault misdemeanor offenders; and
 - iv. A maximum of 1 year for all other misdemeanor offenders.
- b. Reducing the minimum time needed to serve on probation or parole prior to being eligible for early discharge to 1 year.
- c. Requiring the DOC to recommend early termination of probation or parole to the court/Parole Board for any offender who has completed all treatment programs required as a condition of supervision and is currently in compliance with all supervision conditions.
- d. Requiring the DOC to provide notification to the victim when recommending early discharge, with an opportunity for the victim to provide input at the court or Parole Board hearing.
- e. Authorizing courts to terminate probation early in cases where the sentence was imposed in accordance with a plea agreement under Rule 11 and DOC is recommending early discharge for good behavior.

Recommendation 16: Extend good time eligibility to offenders serving sentences on electronic monitoring

Most offenders who are housed within an institution have the opportunity to earn “good time” up to one-third off their sentences in acknowledgement of positive behavior. However, offenders who are serving their sentence on electronic monitoring are currently banned by statute from earning this incentive.

Specific Action Recommended: To incentivize compliance with the conditions of electronic monitoring, the Commission recommends allowing offenders on electronic monitoring to qualify for good time credits under the same conditions set forth for offenders in DOC institutions.

Recommendation 17: Focus ASAP resources to improve program effectiveness

Alaska’s Alcohol Safety Action Program (“ASAP”) provides screening and treatment referral services for thousands of misdemeanor offenders who are referred by the court. Unfortunately, the Commission finds that under-funding of ASAP has limited the program’s effectiveness.

This Commission believes that the best policy would be to increase funding for ASAP to allow the agency to provide more robust screening and treatment resources to all offenders struggling with substance abuse. The Commission also recognizes that, in the current fiscal climate, this is unlikely

– and in light of that, recommends focusing available ASAP resources on a smaller subset of high-risk misdemeanants to achieve better results.

Specific Action Recommended: To increase the effectiveness of the ASAP program, the Commission recommends:

- a. Focusing ASAP resources on offenders at the highest risk of taking up future prison resources through one of the following means:⁵⁴
 - i. Limiting the offense categories that courts would be authorized to refer to ASAP to those currently mandated by statute (DUI, refusal to submit to a chemical test, and habitual minor consuming).
 - ii. Alternatively, limiting the offense categories that courts would be authorized to refer to ASAP to second-time misdemeanor DUI and refusal to submit to a chemical test offenses, as well as alcohol-related assault 4 offenses.
- b. Requiring ASAP to expand the services it provides to include:
 - i. Using a validated assessment tool to screen for criminogenic risk;
 - ii. Performing a brief behavioral health screening; and
 - iii. Providing referrals to treatment programs designed to address offenders' individual high priority criminogenic needs including, but not limited to, substance abuse.
- c. Requiring ASAP provide increased case supervision for moderate to high risk offenders as resources permit.

Recommendation 18: Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

CRCs, otherwise known as halfway houses, have the potential to effectively support offenders who are transitioning back to the community from prison. However, the Commission found that CRCs are likely mixing low and high risk offenders, which research has shown can lead to increased recidivism for low risk offenders.⁵⁵ Additionally, the Commission found that CRCs would be more effective at reducing recidivism if the facilities offered treatment for offenders in addition to supervision.

Specific Action Recommended: To reduce recidivism and improve outcomes for offenders placed in CRCs, the Commission recommends:

- a. Requiring CRCs to provide treatment (cognitive-behavioral, substance abuse, after care and/or support services) designed to address offenders' individual criminogenic needs.
- b. Adopting quality assurance procedures to ensure CRCs are meeting contractual obligations with regard to safety and offender management.
- c. Implementing admission criteria for CRCs that:
 - i. Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment, using the results of a validated risk and needs assessment; and

- ii. Minimize the mixing of low and high risk offenders.

Ensure oversight and accountability

Recommendation 19: Require collection of key performance measures and establish an oversight council

The reforms to Alaska's corrections and criminal justice systems will require careful implementation and oversight. Moreover, additional legislative and administrative reforms may be needed after implementation to enable the state to realize the goals of justice reinvestment. Several states that have enacted similar comprehensive reform packages, including Georgia, South Carolina, and South Dakota, have mandated data collection on key performance measures and required oversight councils to track implementation, report on outcomes, and recommend additional reforms if necessary. Many of these states have also charged the oversight councils with helping to administer ongoing reinvestment dollars based upon the savings associated with the reforms.

Specific Action Recommended: To ensure that reforms are monitored for fidelity and efficacy, and to better prepare the state to meet the objectives of justice reinvestment, the Commission recommends:

- a. Requiring the ACS, the DOC, the Department of Health and Social Services ("DHSS"), the DOL, the DPS, and the Parole Board to collect and report data annually on key performance measures.
- b. Creating a Justice Reinvestment Oversight Task Force ("Task Force"), composed of legislative, executive, and judicial branch members, as well as members representing crime victims and Alaska Natives, charged with:
 - i. Monitoring and reporting back to the Legislature and Governor on the implementation and outcomes of the Commission's recommendations;
 - ii. If needed, making additional recommendations for legislative and administrative changes to achieve the state's justice reinvestment goals;
 - iii. Helping to administer reinvestment dollars and develop plans on an annual basis for ongoing reinvestment of a portion of the state general fund savings achieved through pretrial, sentencing, and corrections reforms, based on observed outcomes and cost-benefit estimates; and
 - iv. Assessing state government processes to ensure victim restitution and violent crimes compensation are working effectively to meet crime victim needs.

Recommendation 20: Ensure policymakers are aware of the impact of all future legislative proposals that could affect prison populations

Many sentencing and corrections reforms do not affect biennial budgets, but have significant impact on budgets four, six, and eight years out or longer. Fiscal impact statements that cover a longer period of time would give policymakers a more accurate account of the implications of proposed sentencing and corrections policies on the state prison population and budget.

Specific Action Recommended: To ensure that policymakers are informed of the long-term fiscal impact of proposed corrections policies, require 10-year fiscal impact statements to accompany future sentencing and corrections legislation.

Recommendation 21: Advance crime victim priorities

Crime victims, survivors, and victim advocates are important stakeholders in the work of the Commission. Two roundtable discussions were held in September 2015 to provide survivors and advocates with an overview of the Commission's work, and to seek their input in establishing priorities for crime victims and those who serve them in Alaska. These roundtables were supplemented with significant additional outreach to victim advocates in the state. The Commission did not make data- or fact-findings related to crime victims or victim services. Instead, the following recommendations reflect the shared concerns expressed by victims, survivors, and advocates in the state.

Proposed Administrative Reforms: To advance reforms addressing the needs of crime victims, the Commission recommends the following administrative reforms:

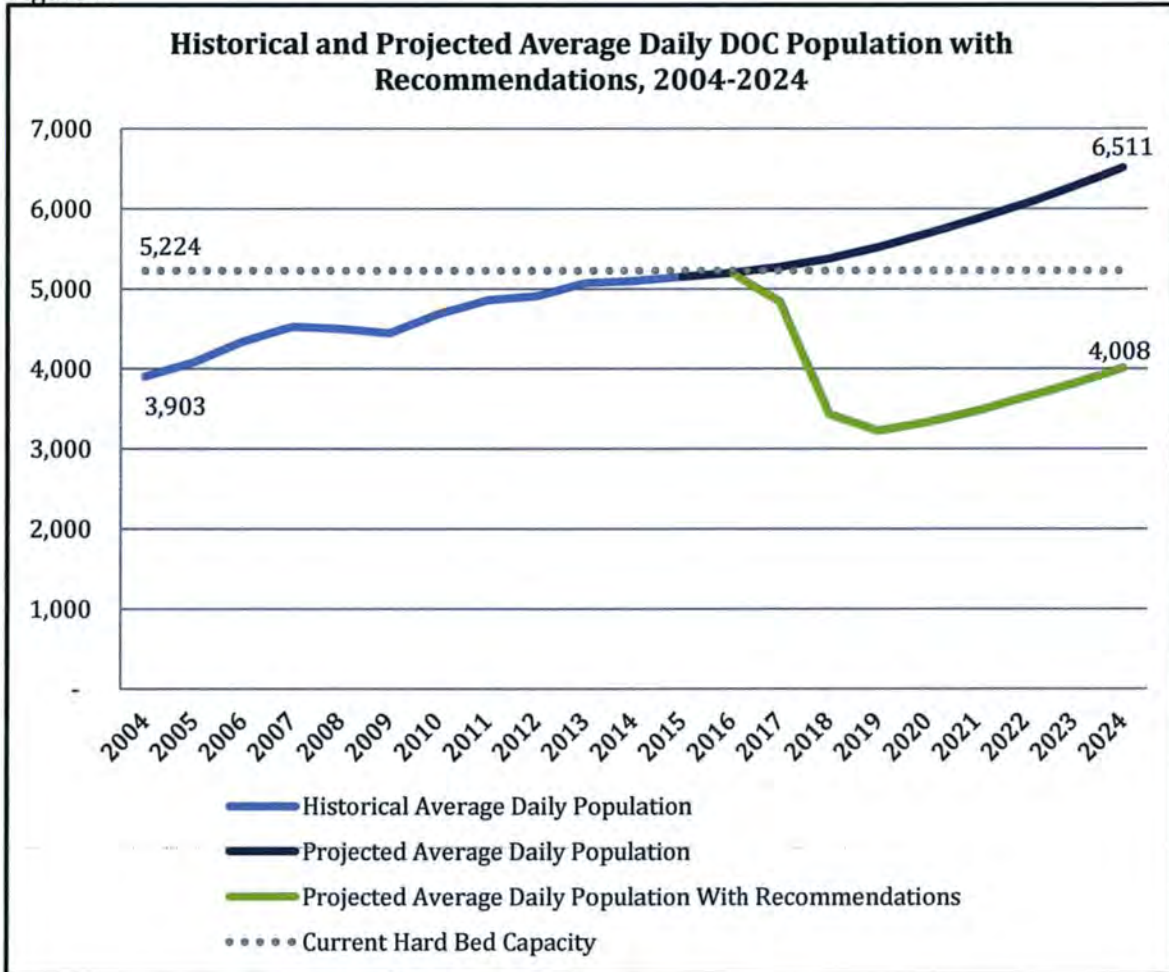
- a. The DOL and District Attorneys' offices should make enhanced efforts to increase the number of crime victims signed up for court notifications through VINE.
- b. The DOC should review and revise policies and procedures related to inmate phone calls and visitation to reduce the likelihood of offenders contacting victims.
- c. The DOC should review and revise policies and procedures to include an increased focus on crime victim needs during offender transition and reentry planning.
- d. The training standards for criminal justice professionals should contain more specific provisions related to the frequency and content of victim-focused training, with input as appropriate from victim advocacy organizations in the state.
- e. The state should authorize the DHSS to provide similar trauma-informed services for child victims as the services that exist for adult victims.
- f. The courts and criminal justice agencies should take steps to make communications and documents more accessible for non-English speakers and people with low levels of literacy.

Impacts of Commission's Consensus Recommendations

Enacting all 21 of the Commission's consensus recommendations is projected to reduce the average daily prison population by 21 percent over the next 10 years, netting an estimated \$424 million in prison costs through 2024. (See figure 7, next page.) This number includes both the savings associated with averting projected prison growth (\$169 million) and the savings associated with reducing the population below current levels (\$255 million).

These impacts are contingent upon successful implementation and funding of the above recommendations.

Figure 7.



Source: The Alaska Department of Corrections; the Pew Charitable Trusts.

Reinvestment Priorities

Recognizing that these recommendations will result in substantial state general fund savings over the next decade, the Commission strongly recommends reinvesting a portion of the savings into priority services designed to protect public safety, reduce victimization, and sustain reductions in the prison population.

With the understanding that prison population reductions and the associated savings will likely be achieved in the near future, the Commission recommends that the state provide an upfront

investment, and ongoing reinvestment based on guidance from the Justice Reinvestment Oversight Task Force, into the following priority services:

- a. Pretrial services. Provide resources for the DOC to conduct pretrial risk assessments, make recommendations to the court regarding release and release conditions, and provide varying levels of supervision in the community.
- b. Victims' services in remote and bush communities. Provide for emergency housing and travel, forensic exam training and equipment for health care providers, and community-driven programs that address cultural and geographic issues.
- c. Violence prevention. Provide for community-based programming focused on prevention, education, bystander intervention, restorative justice, evidence-based offender intervention, and building healthy communities.
- d. Treatment services. Fund treatment and programming in facilities and in the community to address criminogenic needs, behavioral health, substance abuse, and sexual offending behavior.
- e. Reentry and support services. Expand transitional housing, employment, case management, and support for addiction recovery.

Additional Recommendations for Legislative Consideration

In addition to the consensus package of reforms above, the Commission also voted to forward the following six recommendations that received majority approval. Taken in concert with the consensus policy package, these policies are projected to reduce the average daily prison population by 26 percent and save the state an estimated \$447 million dollars over the following decade.

Additional Recommendation 1: Require that all misdemeanor DUI and refusal to submit to a chemical test offenders serve their incarceration terms in proven prison alternatives (variation on recommendation 5(e))

In 2014, over 2,500 offenders were admitted to prison post-conviction for a misdemeanor DUI, and an additional 105 offenders were admitted for refusal to submit to a chemical test – together, comprising a quarter of all post-conviction admissions in that year. The Commission reviewed a number of studies on the effective management of DUI offenders, including a 2014 study which found that jail sentences for DUI offenders were associated with higher recidivism rates than sentences to probation, even when controlling for differences between offender groups.⁵⁶ Additional studies have found that, no matter that number of past DUI convictions (1, 2, or 3 or more), sanctions involving jail time were associated with the highest recidivism rates.⁵⁷

Specific Action Recommended: In recognition of the limited and potentially negative impacts of jail sanctions for DUI offenders, including repeat DUI offenders, a majority of Commission members recommend requiring all misdemeanor DUI and refusal to submit to a chemical test offenders (including those with a prior offense) to serve their incarceration terms in prison alternatives – specifically supervision under remote surveillance technologies or a CRC. In cases where electronic

monitoring is not available, the offenders can be assigned to serve their incarceration sentence on supervised probation.

Additional Recommendation 2: Set the weight threshold at which more serious commercial drug offenses are differentiated from less serious offenses at 5g (variation on recommendation 6(c))

While the Commission unanimously sought to differentiate more serious commercial drug offenses from less serious commercial drug offenses through the use of a weight-based system, a number of Commissioners sought to set the dividing weight at an amount higher than 2.5g, with the understanding that many drug addicts engage in low-level sale offenses primarily to support their habit, and therefore do not fall into the category of serious drug dealers.

Specific Action Recommended: A majority of Commission members recommend setting the weight at which more serious drug commercial drug offenses are differentiated from less serious offenses at 5g.

Additional Recommendation 3: Bring presumptive ranges under the ceiling of prior presumptive terms (variation on recommendation 8)

While the Commission unanimously sought to align non-sex presumptive sentencing ranges with prior presumptive terms, a number of Commissioners also sought to reduce average prison stays below 2005 levels – pointing to the robust body of research demonstrating that, even when controlling for offender characteristics, inmates who are sentenced to longer periods of incarceration are not less likely to commit a crime upon release than similarly situated offenders sentenced to shorter periods of incarceration.

Specific Action Recommended: In accordance with the research demonstrating that longer prison stays do not reduce recidivism more than shorter prison stays, a majority of Commission members recommend bringing presumptive ranges under the ceiling of the 2005 presumptive terms, and extending presumptive probation to both first- and second-time Class C Felony offenders.

Additional Recommendation 4: Return sentence lengths for Felony C and B sex offenders to pre-2006 levels

Over the last decade, the average length of stay behind bars for felony sex offenders has grown by 84 percent. Since 2005, Felony B sex offenders are staying an average of 120 percent longer and Felony C sex offenders are staying an average of 45 percent longer in prison. These longer prison stays were likely driven in part by significant increases in the lengths of sex offender sentences (both minimums and maximums) pursuant to legislative changes in 2006.

The Commission reviewed research demonstrating that sex offenders have a low risk of recidivism compared to other offense types. The most recent Alaska Judicial Council study of recidivism in the state found that sex offenders have substantially lower rates of rearrest within one year than other offense groups.⁵⁸ The same study found that sex offenders were reconvicted for a new sex offense

within two years at a rate of two percent.⁵⁹ Similar findings have also been borne out in national studies of recidivism rates.⁶⁰

Specific Action Recommended: In accordance with the research demonstrating that sex offenders have a low risk of recidivism compared to other offense types, and that longer prison stays do not reduce recidivism more than shorter prison stays, a majority of Commission members recommend returning sentence lengths for Felony C and B sex offenders to 2005 levels.

Additional Recommendation 5: Expand Medicaid funding to provide substance abuse treatment for indigent offenders

Substance abuse and mental illness are associated with a substantial number of crimes committed in Alaska. A 2012 study found that Mental Health Trust beneficiaries, defined as individuals with mental illness, chronic alcoholism, traumatic brain injuries, and developmental disabilities, comprised 30 percent of individuals entering the prison system and 65 percent of the standing prison population.⁶¹

Yet stakeholders report that the need for substance abuse and mental health treatment far exceeds demand, both in institutions and in the community. In communities that do have some form of treatment available, waitlists are long, and free or subsidized options are limited; in much of rural Alaska, options are limited or non-existent.

Specific Action Recommended: To reduce the likelihood that high risk offenders in need of substance abuse and/or mental health treatment will re-offend, a majority of Commission members recommend expanding the availability of funding for treatment by both maximizing the enrollment of eligible offenders and better equipping private providers to bill Medicaid.

Additional Recommendation 6: Limit the use of multiple misdemeanor revocations for the same allegation of program noncompliance

Specific Action Recommended: To motivate probationers to participate in and complete treatment and programming, while also reducing the number of misdemeanants who are revoked and serve multiple jail terms for the same allegation of program noncompliance, a majority of Commission members recommend:

- a. Requiring that the court process misdemeanor revocations for failure to comply with substance abuse or other programming in such a manner that one single petition is processed for that violation.
- b. Ensuring that, after adjudication, the defendant is offered the opportunity to complete the required programming and a disposition hearing is continued for the purpose of assuring either successful completion of the program condition or a one-time suspended jail imposition and deletion of the program condition.

Endnotes

¹ Note: Unless otherwise cited, the analyses in this report were conducted for the Alaska Criminal Justice Commission by the Public Safety Performance Project of the Pew Charitable Trusts using annual cohort recidivism rates, prison and probation/parole admission, release, and stock population data 2005-2014 as well as aggregate community residential center and electronic monitoring counts provided by the Alaska Department of Corrections; criminal charge information 2005-2014 provided by the Alaska Court System; and national data from sources including the Federal Bureau of Investigation Uniform Crime Reports and the US Census Bureau population forecasts.

² Ben Anderson, (2012) "Opening Soon: Alaska's \$240 million Goose Creek Prison," *Alaska Dispatch News*, <http://www.adn.com/article/opening-soon-alaskas-240-million-goose-creek-prison>.

³ National Association of State Budget Officers (1987), "The State Expenditure Report", http://www.nasbo.org/sites/default/files/ER_1987.PDF; National Association of State Budget Officers (2007), State Expenditure Report Fiscal 2006", http://www.nasbo.org/sites/default/files/ER_2006.pdf. Note: Comparison excludes capital expenditures.

⁴ National Association of State Budget Officers (2014) "Examining Fiscal State Spending 2011-2013", <http://www.nasbo.org/sites/default/files/State%20Expenditure%20Report%20%28Fiscal%202011-2013%20Data%29.pdf>.

⁵ Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT), <http://www.bjs.gov/index.cfm?ty=nps>; Bureau of Justice Statistics (2015), "Prisoners in 2014", <http://www.bjs.gov/content/pub/pdf/p14.pdf>.

⁶ Pew Public Safety Performance Project (2012), "2012 Georgia Public Safety Reform", <http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/2012-georgia-public-safety-reform>.

⁷ Federal Bureau of Investigation, Uniform Crime Reports, UCR Data Tool <http://www.ucrdatatool.gov/Search/State/StateCrime.cfm>; Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT), <http://www.bjs.gov/index.cfm?ty=nps>.

⁸ In Alaska, courts are legally required to consider the likelihood that the defendant will miss their court hearings and the likelihood that the defendant poses a danger to the victim, other persons, or the community (according to AS 12.30.006).

⁹ Mamalian (2011), "State of the Science of Pretrial Risk Assessment", https://www.bja.gov/publications/pji_pretrialriskassessment.pdf; Lowenkamp & Van Nostrand (2013), "Assessing Pretrial Risk Without a Defendant Interview", http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_no-interview_FNL.pdf.

¹⁰ VanNostrand (2009), "Pretrial Risk Assessment in the Federal Court", [http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20\(2009\).pdf](http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20(2009).pdf).

¹¹ Lowenkamp, VanNostrand, & Holsinger (2013), "The Hidden Cost of Pretrial Detention", <http://www.pretrial.org/download/research/The%20Hidden%20Costs%20of%20Pretrial%20Detention%20-%20LJAF%202013.pdf>. Note: For this population, pretrial detention of 8-14 days and 31 or more days were not significantly associated with an increase in odds of failure to appear. Statistically significant differences were found for those who were detained for 2-3, 4-7, and 5-30 days as compared to 1 day or less.

¹² *Ibid.*

¹³ Schnacke (2014), "Money As a Criminal Justice Stakeholder: The Judge's Decision to Release or Detain a Defendant Pretrial", <http://www.pretrial.org/download/research/Money%20as%20a%20Criminal%20Justice%20Stakeholder.pdf>.

¹⁴ Jones (2013), "Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option", <http://www.pretrial.org/download/research/Unsecured+Bonds.+The+As+Effective+and+Most+Efficient+Pretrial+Release+Option+--+Jones+2013.pdf>.

¹⁵ *Ibid.*

¹⁶ Note: A random sample of 400 case files (usable bail information N=310) from Anchorage, Juneau, Bethel, Fairbanks, and Nome Courts was selected and reviewed to examine pretrial releases conditions and sentence lengths. Data entry and analysis were conducted by Pew and the Alaska Judicial Council in July 2015. All findings related to bail conditions were derived from this analysis.

¹⁷ National Research Council (2014), "The Growth of Incarceration in the United States", <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

¹⁸ *Ibid.*

¹⁹ Campbell Collaboration (2015), "The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge", <http://www.campbellcollaboration.org/lib/project/22/>; Nagin &

Snodgrass (2013), "The Effect of Incarceration on Re-Offending: Evidence from a Natural Experiment in Pennsylvania", <http://repository.cmu.edu/cgi/viewcontent.cgi?article=1407&context=heinworks>; Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending", http://www.jstor.org/stable/10.1086/599202?seq=1#page_scan_tab_contents; Meade, Steiner, Makarios, & Travis (2012), "Estimating a Dose-Response Relationship Between Time Served in Prison and Recidivism", <http://irc.sagepub.com/content/50/4/525.abstract>.

²⁰ Campbell Collaboration (2015), "The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge"; Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending".

²¹ *Ibid.*

²² Spohn & Holleran (2002), "The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders", <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.2002.tb00959.x/abstract>; Nieuwebeerta, Nagin, & Blokland (2009), "Assessing the Impact of First Time Imprisonment on Offender's Subsequent Criminal Career Development: A Matched Samples Comparison", <http://link.springer.com/article/10.1007%2Fs10940-009-9069-7>,

²³ Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending".

²⁴ Note: It is possible the increase in length of stay for felony sex offense convictions is an underestimate given the long sentences being served by many individuals convicted of sex offenses. The length of stay average is calculated based on the average time spent by offenders in their category released in a given year. As many sex offenders receive very long sentences, especially since sentencing ranges were broadened in 2006, the mean length of stay for offenders in this group might not reflect how long the average sex offender is likely to serve.

²⁵ Andrews (1999), "Recidivism Is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism", http://www.csc-scc.gc.ca/research/forum/e012/12j_e.pdf.

²⁶ Grasmack & Bryjak (1980), "The Deterrent Effect of Perceived Severity in Punishment", http://www.jstor.org/stable/2578032?seq=1#page_scan_tab_contents; Farabee (2005), "Rethinking Rehabilitation: Why Can't We Reform Our Criminals?", http://www.aei.org/wp-content/uploads/2011/10/20050111_book806text.pdf.

²⁷ Nagin & Pogarsky (2000), "Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence: Theory and Evidence", <https://www.ssc.wisc.edu/econ/Durlauf/networkweb1/London/Criminology1-15-01.pdf>.

²⁸ Wodahl, Garland, Culhane, & McCarty (2011), "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections", <http://cjb.sagepub.com/content/38/4/386.abstract>,

²⁹ National Research Council (2007), "Parole, Desistance from Crime, and Community Integration", <https://cdpsdocs.state.co.us/ccj/Resources/Ref/NCR2007.pdf>; Grattet, Petersilia, & Lin (2008), "Parole Violations and Revocations in California", <https://www.ncjrs.gov/pdffiles1/nij/grants/224521.pdf>.

³⁰ *Ibid.*

³¹ Washington State Institute for Public Policy. Adult Criminal Justice "Benefit-Cost Results." <http://www.wsipp.wa.gov/BenefitCost?topicId=2>.

³² Note: For these categories of defendants, in order for the court to depart from a recommendation of personal recognizance or unsecured bond, and order secured money bond, it would have to find on the record that there is clear and convincing evidence that no other conditions of release can reasonably assure court appearance and public safety.

³³ Note: A performance bond is an agreement between the defendant and the court that if the defendant violates his or her conditions of release, he or she will forfeit a certain amount of money. A *secured* performance bond requires the defendant to pay upfront in order to be released, and the defendant would get that money back if they successfully completed the pretrial period. An *unsecured* performance bond does not require an upfront payment, but if the defendant violates conditions of release, the court can order the defendant to pay that amount of money. A *partially-secured* performance bond would require payment of 10 percent of the bond amount upfront in order to be released. That amount would be recoverable if the defendant successfully completes the pretrial period. Currently in Alaska, courts only have authority to issue *secured* performance bonds. As used in the policy description on the pretrial release decision-making grid, "unsecured bond" would refer to both appearance bonds and performance bonds, but statutes would have to change to permit courts to issue unsecured performance bonds.

³⁴ VanNostrand (2009), "Pretrial Risk Assessment in the Federal Court", <http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20%282009%29.pdf>.

³⁵ Note: Currently, the statute disqualifies a person from serving as a third-party custodian if they *may be called* as a witness.

³⁶ Note: FTA with intent to avoid prosecution and FTA for more than 30 days; and for violation of a protective order or no-contact order.

³⁷ Boyum & Reuter (2005), "An Analytic Assessment of Drug Policy, American Enterprise Institute for Public Policy Research", http://www.aei.org/wp-content/uploads/2014/07/-an-analytic-assessment-of-us-drug-policy_112041831996.pdf.

³⁸ Note: This policy would reclassify all unaggravated simple possession as a misdemeanor offense (currently set forth in AS 11.71.040(a)(3).

³⁹ Note: This policy extends to commercial offenses relating to IA controlled substances (currently set forth in AS 11.71.020(a)(1).

⁴⁰ Note: This policy extends to commercial offenses related to IA, IIA and IIIA controlled substances (currently set forth in AS 11.71.020(a)(1) and AS 11.71.030(a)(1).

⁴¹ Pew Charitable Trusts (forthcoming), "The Effects of Changing State Theft Penalties".

⁴² Note: Includes theft, concealing merchandise, issuing a bad check, vehicle theft, criminal mischief, unlawful possession, misapplication of property, criminal simulation, and removal of I.D. marks.

⁴³ Alaska State Legislature (2005), "Senate Bill 56".

⁴⁴ Note: Comparison years are 2006 and 2014.

⁴⁵ Note: Excludes Unclassified felonies.

⁴⁶ Note: The enhanced sentence applies to possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct at a peace officer or first responder who was engaged in official duties and to manufacturing of methamphetamine offenses if knowing within presence of children.

⁴⁷ Note: The enhanced sentence applies to violations of AS 11.41.130 (CN Homicide) and the victim was a child under 16 and to manufacturing of methamphetamine offenses if reckless within presence of children.

⁴⁸ Note: Maximum allowable imprisonment term if probation is not imposed.

⁴⁹ Alaska Judicial Council (2011), "Criminal Recidivism in Alaska, 2008 and 2009",

<http://www.ajc.state.ak.us/reports/ucid2011.pdf>.

⁵⁰ Washington State Institute for Public Policy (2015), "What Works and What Does Not?: Cost-Benefit Findings from WSIPP", http://www.wsipp.wa.gov/ReportFile/1602/WSipp_What-Works-and-What-Does-Not-Benefit-Cost-Findings-from-WSIPP_Report.pdf.

⁵¹ National Conference of State Legislatures, (2009) "Cutting Corrections Costs: Earned Time Policies for State Prisoners," http://www.ncsl.org/documents/cj/earned_time_report.pdf.

⁵² As used here, "absconding" is defined as failing to report within 5 working days after release or failing to report for 30 days.

⁵³ Petersilia (2007), "Employ Behavioral Contracting for "Earned Discharge" Parole",

<http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9133.2007.00472.x/pdf>; Wodahl, Garland, Culhane, & McCarty

(2011), "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections";

American Probation and Parole Association (2014), "Administrative Responses in Probation and Parole Supervision: A Research Memo", <http://www.appa-net.org/eWeb/Resources/SPSP/Research-Memo.pdf>.

⁵⁴ The Commission has chosen to forward two iterations of this policy to the legislature for its consideration.

⁵⁵ Lowenkamp & Latessa (2002), "Evaluation of Ohio's Community Based Correctional Facilities and Halfway House Programs", https://www.uc.edu/content/dam/uc/ccjr/docs/reports/project_reports/HH_CBCF_Report1.pdf.

⁵⁶ Bachmann & Dixon (2014), "DWI Sentencing in the United States: Toward Promising Punishment Alternatives in Texas", <http://www.sascv.org/ijcjs/pdfs/bachmannandixonijcjs2014vol9issue2.pdf>; Martin, Annan, & Forst(1993), "The Special Deterrent Effects of a Jail Sanction on First-Time Drunk Drivers: A Quasi-Experimental Study",

http://www.researchgate.net/publication/14800968_The_special_deterrent_effects_of_a_jail_sanction_on_first-time_drunk_drivers_A_quasi-experimental_study;

Annan, Sampson, Martin, & Forst (1986), "Deterring the Drunk Driver: A Feasibility Study", <http://www.worldcat.org/title/deterring-the-drunk-driver-a-feasibility-study-technical-report/oclc/18578880>.

⁵⁷ DeYoung (1997), "An Evaluation of the Effectiveness of Alcohol Treatment, Driver License Actions and Jail Terms in Reducing Drunk Driving Recidivism in California", <http://www.ncbi.nlm.nih.gov/pubmed/9376781>.

⁵⁸ Alaska Judicial Council (2011), "Criminal Recidivism in Alaska, 2008 and 2009".

⁵⁹ *Ibid.*

⁶⁰ Bureau of Justice Statistics (2003), "Recidivism of Sex Offenders Released from Prison in 1994", <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1136>.

⁶¹ Hornby Zeller Associates, Inc. (2014), "Trust Beneficiaries in Alaska's Department of Corrections", <http://mhtrust.org/mhtawp/wp-content/uploads/2014/10/ADOC-Trust-Beneficiaries-May-2014-FINAL-PRINT.pdf>