

**HOUSE BILL NO. 49**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/23/19

Referred:

**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; relating to reports of involuntary**  
3 **commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for**  
4 **an effective date."**

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

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

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

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

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

14 (3) under circumstances not amounting to murder in the first degree

1 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the  
 2 person commits or attempts to commit arson in the first degree, kidnapping, sexual  
 3 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor  
 4 in the first degree, sexual abuse of a minor in the second degree, burglary in the first  
 5 degree, escape in the first or second degree, robbery in any degree, or misconduct  
 6 involving a controlled substance under AS 11.71.010(a), **11.71.021(a),**  
 7 **11.71.030(a)(2) or (9)** [11.71.030(a)(1), (2), OR (4) - (8)], or 11.71.040(a)(1) or (2)  
 8 and, in the course of or in furtherance of that crime or in immediate flight from that  
 9 crime, any person causes the death of a person other than one of the participants;

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

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

17 (A) a felony violation of AS 11.41;

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

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

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

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

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

26 (2) with intent to cause serious physical injury to an unborn child or to  
 27 another person or knowing that the conduct is substantially certain to cause death or  
 28 serious physical injury to an unborn child or to another person, causes the death of an  
 29 unborn child;

30 (3) while acting alone or with one or more persons, commits or  
 31 attempts to commit arson in the first degree, kidnapping, sexual assault in the first

1 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,  
 2 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the  
 3 first or second degree, robbery in any degree, or misconduct involving a controlled  
 4 substance under AS 11.71.010(a), 11.71.021(a), 11.71.030(a)(2) or (9)  
 5 [11.71.030(a)(1), (2), OR (4) - (8)], or 11.71.040(a)(1) or (2), and, in the course of or  
 6 in furtherance of that crime or in immediate flight from that crime, any person causes  
 7 the death of an unborn child;

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

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

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

17 (1) the value of the property or services [, ADJUSTED FOR  
 18 INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than  
 19 \$25,000;

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

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

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

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

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

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

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

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

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

7 (7) the property is an access device.

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

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

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

13 or

14 (2) [REPEALED]

15 (3) [REPEALED]

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

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

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

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

25 (c) Concealment of merchandise is

26 (1) a class C felony if

27 (A) the merchandise is a firearm;

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

30 (C) the value of the merchandise [, ADJUSTED FOR  
31 INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than

1 \$750 and, within the preceding five years, the person has been convicted and  
2 sentenced on two or more separate occasions in this or another jurisdiction of

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

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

9 (2) a class A misdemeanor if

10 (A) the value of the merchandise [, ADJUSTED FOR  
11 INFLATION AS PROVIDED IN AS 11.46.982,] is \$250 or more but less than  
12 \$750; or

13 (B) [REPEALED]

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

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

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

22 (b) Removal of identification marks is

23 (1) a class C felony if the value of the property on which the serial  
24 number or identification mark appeared [, ADJUSTED FOR INFLATION AS  
25 PROVIDED IN AS 11.46.982,] is \$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 [, ADJUSTED FOR INFLATION AS  
28 PROVIDED IN AS 11.46.982,] is \$250 or more but less than \$750;

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

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

2 (b) Unlawful possession is

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

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

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

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

13 (d) Issuing a bad check is

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

15 (2) a class C felony if the face amount of the check [, ADJUSTED  
16 FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$750 or more but less than  
17 \$25,000;

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

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

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

24 (b) Fraudulent use of an access device is

25 (1) a class B felony if the value of the property or services obtained is  
26 \$25,000 or more;

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

30 (3) a class A misdemeanor if the value of the property or services  
31 obtained [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less

1 than \$750.

2 \* **Sec. 11.** AS 11.46.295 is amended to read:

3 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior  
4 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) **or**  
5 **11.46.140(a)(4)** or in prosecuting the crime of concealment of merchandise under  
6 AS 11.46.220(c),

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

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

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

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

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

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

21 (2) the propelled vehicle of another and

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

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

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

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

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

3 (A) this section or AS 11.46.365;

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

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

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

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

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

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

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

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

20 (3) the person knowingly

21 (A) defaces, damages, or desecrates a cemetery or the contents  
22 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,  
23 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or  
24 memorial appears to be abandoned, lost, or neglected;

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

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

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



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

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

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

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

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

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

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

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

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

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

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

29 (b) Criminal simulation is

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

1 more;

2 (2) a class A misdemeanor if the value of what the object purports to  
3 represent [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is  
4 \$250 or more but less than \$750;

5 (3) a class B misdemeanor if the value of what the object purports to  
6 represent [, ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is less  
7 than \$250.

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

9 (d) Misapplication of property is

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

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

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

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

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

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

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

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

25 (1) removes oneself from

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (B) **without prior authorization, leaves one's residence or**  
 22 **other place designated by the commissioner of corrections or**  
 23 **commissioner of health and social services for service by electronic**  
 24 **monitoring; or**

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

26 (A) **removes, tampers with, or disables the electronic**  
 27 **monitoring equipment; or**

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

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

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

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

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

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

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

7 (d) Failure to appear is a

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

11 (A) DOES NOT MAKE CONTACT WITH THE COURT OR  
12 A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES  
13 NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED  
14 HEARING; OR

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

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

18 (A) a charge of a misdemeanor, while awaiting sentence or  
19 appeal after conviction of a misdemeanor; **or**

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

22 (A) DOES NOT MAKE CONTACT WITH THE COURT OR  
23 A JUDICIAL OFFICER WITHIN 30 DAYS AFTER THE PERSON DOES  
24 NOT APPEAR AT THE TIME AND PLACE OF A SCHEDULED  
25 HEARING; OR

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

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

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

30 (b) Violation of condition of release is

31 **(1) a class A misdemeanor if the person is released from a charge**

1 **or conviction of a felony;**

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

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

5 (a) A person commits the crime of violating an order to submit to DNA testing  
 6 if, when requested by a health care professional acting on behalf of the state to provide  
 7 a blood sample, oral sample, or both, or when requested by a juvenile or adult  
 8 correctional, probation, or parole officer or a peace officer to provide an oral sample,  
 9 the person refuses to provide the sample or samples and the person

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

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

14 (3) is required to register as a sex offender or child kidnapper under  
 15 AS 12.63; **or**

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

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

19 (c) Violating an order to submit to DNA testing **under (a)(1) - (3) of this**  
 20 **section** is a class C felony.

21 \* **Sec. 26.** AS 11.56.760 is amended by adding a new subsection to read:

22 (d) Violating an order to submit to DNA testing under (a)(4) of this section is  
 23 a class A misdemeanor.

24 \* **Sec. 27.** AS 11.56.810(a) is repealed and reenacted to read:

25 (a) A person commits the crime of terroristic threatening in the second degree  
 26 if the person

27 (1) communicates a threat to commit any crime against any person or  
 28 property with reckless disregard of the risk of

29 (A) placing a person in reasonable fear of serious physical  
 30 injury to any person;

31 (B) causing the evacuation of a building, public place or area,

1 business premises, or mode of public transportation;

2 (C) causing a serious public inconvenience; or

3 (D) placing the public or a substantial group of the public in  
4 fear of serious physical injury;

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

10 \* **Sec. 28.** AS 11.61.110(c) is amended to read:

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

14 \* **Sec. 29.** AS 11.71 is amended by adding a new section to read:

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

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

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

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

24 or

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

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

31 (4) possesses a listed chemical with intent to manufacture any material,

1 compound, mixture, or preparation that contains

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

3 or

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

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

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

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

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

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

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

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

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

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

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

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

7 (i) retailer or as a wholesaler;

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

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

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

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

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

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

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

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

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

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

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



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

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

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

8 (D) 50 or more tablets, ampules, or syrettes containing a  
9 schedule IIA or IIIA controlled substance;

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

13 (3) possesses any amount of a schedule IA or IIA controlled substance

14 (A) with reckless disregard that the possession occurs

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

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

17 or

18 (B) on a school bus;

19 (4) manufactures any material, compound, mixture, or preparation that  
20 contains

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

22 or

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

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

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

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

1 or

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

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

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

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

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

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

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

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

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

26 \* **Sec. 31.** AS 11.71.030(d) is amended to read:

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

29 \* **Sec. 32.** AS 11.71.040(a) is amended to read:

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

1 person

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

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

9 (3) possesses

10 (A) any amount of a

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

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

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

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

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

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

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

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

30 (E) one or more preparations, compounds, mixtures, or  
31 substances of an aggregate weight of six grams or more containing a

1 **schedule VA controlled substance;**

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

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

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

7 (A) with reckless disregard that the possession occurs

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

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

10 or

11 (B) on a school bus;

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

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

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

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

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

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

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

1 (A) one or more preparations, compounds, mixtures, or  
 2 substances of an aggregate weight of less than one gram containing a schedule  
 3 IA controlled substance;

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

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

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

11 \* **Sec. 33.** AS 11.71.040(d) is amended to read:

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

14 \* **Sec. 34.** AS 11.71.050 is amended to read:

15 **Sec. 11.71.050. Misconduct involving a controlled substance in the fifth**  
 16 **[FOURTH] degree.**

17 (a) Except as authorized in AS 17.30, a person commits the crime of  
 18 misconduct involving a controlled substance in the **fifth** [FOURTH] degree if the  
 19 person

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

24 (2) [REPEALED]

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 AS 11.71.030(a)(3),  
 28 11.71.040(a)(3), 11.71.040(a)(4), or 11.71.060(a)(2), possesses any amount of a  
 29 schedule IA, IIA, IIIA, IVA, VA, or VIA controlled substance; **or**

30 **(5) possesses**

31 **(A) less than 25 tablets, ampules, or syrettes containing a**

1 schedule IIIA or IVA controlled substance;

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

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

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

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

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

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

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

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

23 \* **Sec. 35.** AS 11.71.060 is amended to read:

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

27 (1) uses or displays any amount of a schedule VIA controlled  
28 substance;

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

31 (A) less than one ounce containing a schedule VIA controlled

1 substance;

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

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

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

9 \* **Sec. 36.** AS 11.71.311(a) is amended to read:

10 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),  
11 11.71.040(a)(3) or (4), 11.71.050(a)(5) [11.71.050(a)(4),] or 11.71.060(a)(1) or (2) if  
12 that person

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

16 (A) the evidence supporting the prosecution for an offense  
17 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(5)  
18 [11.71.050(a)(4)], or 11.71.060(a)(1) or (2) was obtained or discovered as a  
19 result of the person seeking medical or law enforcement assistance;

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

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

24 (2) was experiencing a drug overdose and sought medical assistance,  
25 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),  
26 11.71.040(a)(3) or (4), 11.71.050(a)(5) [11.71.050(a)(4)], or 11.71.060(a)(1) or (2)  
27 was obtained as a result of the overdose and the need for medical assistance.

28 \* **Sec. 37.** AS 12.55.090(c) is amended to read:

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

30 (1) 25 [15] years for a felony sex offense; or

31 (2) 10 years for any other offense [AN UNCLASSIFIED FELONY

1 UNDER AS 11 NOT LISTED IN (1) OF THIS SUBSECTION;

2 (3) FIVE YEARS FOR A FELONY OFFENSE NOT LISTED IN (1)  
3 OR (2) OF THIS SUBSECTION;

4 (4) THREE YEARS FOR A MISDEMEANOR OFFENSE

5 (A) UNDER AS 11.41;

6 (B) THAT IS A CRIME INVOLVING DOMESTIC  
7 VIOLENCE; OR

8 (C) THAT IS A SEX OFFENSE, AS THAT TERM IS  
9 DEFINED IN AS 12.63.100;

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

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

16 \* **Sec. 38.** AS 12.55.125(c) is amended to read:

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

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

23 (2) if the offense is a first felony conviction and the defendant [(A)]  
24 possessed a firearm, used a dangerous instrument, or caused serious physical injury or  
25 death during the commission of the offense, [FIVE TO NINE YEARS;] or [(B)]  
26 knowingly directed the conduct constituting the offense at a uniformed or otherwise  
27 clearly identified peace officer, firefighter, correctional employee, emergency medical  
28 technician, paramedic, ambulance attendant, or other emergency responder who was  
29 engaged in the performance of official duties at the time of the offense, seven to 11  
30 years;

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



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

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

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

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

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

16 \* **Sec. 39.** AS 12.55.125(d) is amended to read:

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

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

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

29 (A) the defendant violated AS 11.41.130, and the victim was  
 30 [(A)] a child under 16 years of age, two to four years; [OR]

31 (B) the conviction is for an attempt, solicitation, or

1           conspiracy to manufacture related to methamphetamine under AS 11.31  
 2           and AS 11.71.021(a)(2)(A) or (B), and

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

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

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

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

16           \* **Sec. 40.** AS 12.55.125(e) is amended to read:

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

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

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

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

31                           (4) if the offense is a first felony conviction, and the defendant violated

1 AS 08.54.720(a)(15), one to two years.

2 \* **Sec. 41.** AS 12.55.125(q) is amended to read:

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

15 \* **Sec. 42.** 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  
 20 MANDATORY MINIMUM TERM OF 30 DAYS OR MORE OF ACTIVE  
 21 IMPRISONMENT;

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

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

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

1 (E) CONVICTION IS FOR A VIOLATION OF

2 (i) AS 11.41.427;

3 (ii) AS 11.41.440;

4 (iii) AS 11.41.460, IF THE INDECENT EXPOSURE  
5 IS BEFORE A PERSON UNDER 16 YEARS OF AGE;

6 (iv) AS 11.61.116(c)(2); OR

7 (v) AS 11.61.118(a)(2);

8 (2) 30 DAYS].

9 \* **Sec. 43.** AS 12.55.135(b) is amended to read:

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

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

14 (2) 90 DAYS IF THE CONVICTION IS FOR A VIOLATION OF

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

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

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

21 \* **Sec. 44.** AS 12.55.135 is amended by adding a new subsection to read:

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

1 this subsection, the maximum unsuspended fine that the court may impose is \$1,000.

2 In this subsection,

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

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

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

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

17 \* **Sec. 45.** AS 28.35.030(k) is amended to read:

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

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

21 \* **Sec. 46.** AS 28.35.032(o) is amended to read:

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

1 OFFICER OR A PERSON REQUIRED TO ADMINISTER THE ELECTRONIC  
 2 MONITORING UNDER AS 33.30.065(a), EXCEPT UPON PROBABLE CAUSE.]  
 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  
 7 NOT AVAILABLE, SHALL BE SERVED BY OTHER MEANS AS DETERMINED  
 8 BY THE COMMISSIONER OF CORRECTIONS]. The cost of imprisonment  
 9 resulting from the sentence imposed under (g)(1) of this section shall be paid to the  
 10 state by the person being sentenced. 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 person sentenced under (g)(1)(B) of this  
 18 section shall perform at least 160 hours of community service work, as required by the  
 19 director of the community residential center or other appropriate place, or as required  
 20 by the commissioner of corrections if the sentence is being served at a private  
 21 residence. In this subsection, "appropriate place" means a facility with 24-hour on-site  
 22 staff supervision that is specifically adapted to provide a residence, and includes a  
 23 correctional center, residential treatment facility, hospital, halfway house, group home,  
 24 work farm, work camp, or other place that provides varying levels of restriction.

25 \* **Sec. 47.** AS 34.03.360(7) is amended to read:

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

29 \* **Sec. 48.** AS 47.12.315(a) is amended to read:

30 (a) Notwithstanding AS 47.12.310 and except as otherwise provided in this  
 31 section, the department shall disclose information to the public, on request, concerning

1 a minor subject to this chapter who was at least 13 years of age at the time of  
2 commission of

3 (1) a felony offense against a person under AS 11.41;

4 (2) arson in the first or second degree;

5 (3) burglary in the first degree;

6 (4) distribution of child pornography;

7 (5) sex trafficking in the first degree;

8 (6) misconduct involving a controlled substance in the first, [OR]  
9 second, or third degrees involving distribution or possession with intent to deliver; or

10 (7) misconduct involving weapons in the first through fourth degrees.

11 \* **Sec. 49.** AS 47.30.907 is amended by adding a new subsection to read:

12 (c) Notwithstanding AS 47.30.845, by December 31, 2019, the superior court  
13 shall transmit the information, if known, set out in (a) of this section to the Department  
14 of Public Safety for all orders of the superior court issued on or after October 1, 1981,  
15 for the involuntary commitment of a person under AS 47.30.735 - 47.30.755, or orders  
16 of relief from a disability resulting from an involuntary commitment or if an  
17 adjudication of mental illness or mental incompetence is granted under  
18 AS 47.30.851(b).

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

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

23 (r) **Admissibility of Evidence.**

24 (1) Evidence which would be legally admissible at trial shall be  
25 admissible before the grand jury. In appropriate cases, however, witnesses may be  
26 presented to summarize admissible evidence if the admissible evidence will be  
27 available at trial. Except as stated in subparagraphs (2), (3), and (6), hearsay evidence  
28 shall not be presented to the grand jury absent compelling justification for its  
29 introduction. If hearsay evidence is presented to the grand jury, the reasons for its use  
30 shall be stated on the record.

31 (2) In a prosecution for an offense under AS 11.41.410 - 11.41.458,



1 hearsay evidence of a statement related to the offense, not otherwise admissible, made  
 2 by a child who is the victim of the offense may be admitted into evidence before the  
 3 grand jury if

4 (i) the circumstances of the statement indicate its  
 5 reliability;

6 (ii) the child is under 10 years of age when the hearsay  
 7 evidence is sought to be admitted;

8 (iii) additional evidence is introduced to corroborate the  
 9 statement; and

10 (iv) the child testifies at the grand jury proceeding or  
 11 the child will be available to testify at trial.

12 (3) Hearsay evidence related to the offense, not otherwise admissible,  
 13 may be admitted into evidence before the grand jury if

14 (i) the individual presenting the hearsay evidence is a  
 15 peace officer involved in the investigation; and

16 (ii) the hearsay evidence consists of the statement and  
 17 observations made by another peace officer in the course of an  
 18 investigation; and

19 (iii) additional evidence is introduced to corroborate the  
 20 statement.

21 (4) If the testimony presented by a peace officer under paragraph (3) of  
 22 this section is inaccurate because of intentional, grossly negligent, or negligent  
 23 misstatements or omissions, then the court shall dismiss an indictment resulting from  
 24 the testimony if the defendant shows that the inaccuracy prejudices substantial rights  
 25 of the defendant.

26 (5) In this section "statement" means an oral or written assertion or  
 27 nonverbal conduct if the nonverbal conduct is intended as an assertion.

28 (6) **When a prior conviction is an element of an offense** [IN A  
 29 PROSECUTION FOR DRIVING WHILE INTOXICATED UNDER  
 30 AS 28.35.030(N) OR FOR REFUSAL TO SUBMIT TO A CHEMICAL TEST  
 31 UNDER AS 28.35.032(P)], hearsay evidence received through the Alaska Public

1 Safety Information Network or from other government agencies of prior convictions  
 2 [OF DRIVING WHILE INTOXICATED OR REFUSAL TO SUBMIT TO A  
 3 CHEMICAL TEST] may be presented to the grand jury.

4 \* **Sec. 51.** AS 11.46.980(d), 11.46.982; AS 11.56.330(a)(3); AS 11.71.030(a)(1),  
 5 11.71.030(a)(4), 11.71.030(a)(5), 11.71.030(a)(6), 11.71.030(a)(7), 11.71.030(a)(8),  
 6 11.71.030(c), 11.71.030(e), 11.71.040(a)(11), 11.71.050(a)(4); AS 12.25.180(b)(3);  
 7 AS 12.55.135(l), 12.55.135(m), 12.55.135(n), 12.55.135(o), 12.55.135(p), and  
 8 12.55.145(a)(5) are repealed.

9 \* **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to  
 10 read:

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

- 13 (1) AS 11.41.110(a), as amended by sec. 1 of this Act;
- 14 (2) AS 11.41.150(a), as amended by sec. 2 of this Act;
- 15 (3) AS 11.46.130(a), as amended by sec. 3 of this Act;
- 16 (4) AS 11.46.140(a), as amended by sec. 4 of this Act;
- 17 (5) AS 11.46.150(a), as amended by sec. 5 of this Act;
- 18 (6) AS 11.46.220(c), as amended by sec. 6 of this Act;
- 19 (7) AS 11.46.260(b), as amended by sec. 7 of this Act;
- 20 (8) AS 11.46.270(b), as amended by sec. 8 of this Act;
- 21 (9) AS 11.46.280(d), as amended by sec. 9 of this Act;
- 22 (10) AS 11.46.285(b), as amended by sec. 10 of this Act;
- 23 (11) AS 11.46.295, as amended by sec. 11 of this Act;
- 24 (12) AS 11.46.360(a), as amended by sec. 12 of this Act;
- 25 (13) AS 11.46.482(a), as amended by sec. 13 of this Act;
- 26 (14) AS 11.46.484(a), as amended by sec. 14 of this Act;
- 27 (15) AS 11.46.486(a), as amended by sec. 15 of this Act;
- 28 (16) AS 11.46.530(b), as amended by sec. 16 of this Act;
- 29 (17) AS 11.46.620(d), as amended by sec. 17 of this Act;
- 30 (18) AS 11.46.730(c), as amended by sec. 18 of this Act;
- 31 (19) AS 11.56.310(a), as amended by sec. 19 of this Act;

- 1 (20) AS 11.56.320(a), as amended by sec. 20 of this Act;
- 2 (21) AS 11.56.730(a), as amended by sec. 21 of this Act;
- 3 (22) AS 11.56.730(d), as amended by sec. 22 of this Act;
- 4 (23) AS 11.56.757(b), as amended by sec. 23 of this Act;
- 5 (24) AS 11.56.760(a), as amended by sec. 24 of this Act;
- 6 (25) AS 11.56.760(d), enacted by sec. 26 of this Act;
- 7 (26) AS 11.56.810(a), as repealed and reenacted by sec. 27 of this Act;
- 8 (27) AS 11.61.110(c), as amended by sec. 28 of this Act;
- 9 (28) AS 11.71.021, enacted by sec. 29 of this Act;
- 10 (29) AS 11.71.030(a), as amended by sec. 30 of this Act;
- 11 (30) AS 11.71.030(d), as amended by sec. 31 of this Act;
- 12 (31) AS 11.71.040(a), as amended by sec. 32 of this Act;
- 13 (32) AS 11.71.040(d), as amended by sec. 33 of this Act;
- 14 (33) AS 11.71.050, as amended by sec. 34 of this Act;
- 15 (34) AS 11.71.060, as amended by sec. 35 of this Act;
- 16 (35) AS 11.71.311(a), as amended by sec. 36 of this Act.

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

- 19 (1) AS 12.55.125(c), as amended by sec. 38 of this Act;
- 20 (2) AS 12.55.125(d), as amended by sec. 39 of this Act;
- 21 (3) AS 12.55.125(e), as amended by sec. 40 of this Act;
- 22 (4) AS 12.55.125(q), as amended by sec. 41 of this Act;
- 23 (5) AS 12.55.135(a), as amended by sec. 42 of this Act;
- 24 (6) AS 12.55.135(b), as amended by sec. 43 of this Act;
- 25 (7) AS 12.55.135(q), enacted by sec. 44 of this Act;
- 26 (8) AS 28.35.030(k), as amended by sec. 45 of this Act;
- 27 (9) AS 28.35.032(o), as amended by sec. 46 of this Act.

28 (c) AS 12.55.090(c), as amended by sec. 37 of this Act, applies to probation ordered  
29 on or after the effective date of sec. 37 of this Act for conduct occurring on or after the  
30 effective date of sec. 37 of this Act.

31 \* **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETROACTIVITY. AS 47.30.097(c), added by sec. 49 of this Act, is retroactive to  
3 October 1, 1981.

4 \* **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 CONDITIONAL EFFECT. Section 50 of this Act takes effect only if sec. 50 of this  
7 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,  
8 Constitution of the State of Alaska.

9 \* **Sec. 55.** Sections 49 and 53 of this Act take effect immediately under AS 01.10.070(c).

10 \* **Sec. 56.** Except as provided in sec. 55 of this Act, this Act takes effect July 1, 2019.