

SENATE BILL NO. 33

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/23/19

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to pretrial release; relating to sentencing; relating to treatment**
2 **program credit toward service of a sentence of imprisonment; relating to electronic**
3 **monitoring; amending Rules 38.2 and 45(d), Alaska Rules of Criminal Procedure; and**
4 **providing for an effective date."**

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

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

8 LEGISLATIVE INTENT. It is the intent of the legislature that the Alaska Court
9 System make continued efforts to find efficiencies in the criminal justice system and increase
10 the use of contemporaneous two-way video conference for pretrial hearings whenever
11 possible.

12 * **Sec. 2.** AS 12.25.150(a) is amended to read:

13 (a) A person arrested shall be taken before a judge or magistrate without
14 unnecessary delay and in any event within **48** [24] hours after arrest, [ABSENT

1 COMPELLING CIRCUMSTANCES,] including Sundays and holidays. [THE
2 UNAVAILABILITY OF A REPORT PREPARED BY THE PRETRIAL SERVICES
3 OFFICER UNDER AS 33.07 OR A DELAY IN THE TRANSMITTAL OF THAT
4 REPORT TO THE PARTIES OR TO THE COURT MAY NOT BE CONSIDERED
5 A SUFFICIENT COMPELLING CIRCUMSTANCE TO JUSTIFY DELAYING A
6 HEARING BEYOND 24 HOURS. THE HEARING BEFORE THE JUDGE OR
7 MAGISTRATE MAY NOT TAKE PLACE MORE THAN 48 HOURS AFTER
8 ARREST.] This requirement applies to municipal police officers to the same extent as
9 it does to state troopers.

10 * **Sec. 3.** AS 12.30.006(b) is amended to read:

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

15 (1) been charged with an unclassified, class A, class B, or class C
16 felony; or

17 (2) a criminal conviction or charge outside the state [THAT HAS NOT
18 BEEN USED IN DETERMINING THE PERSON'S RISK LEVEL IN THE
19 PRETRIAL RISK ASSESSMENT UNDER AS 33.07].

20 * **Sec. 4.** AS 12.30.006(c) is amended to read:

21 (c) A person who remains in custody 48 hours after appearing before a judicial
22 officer because of inability to meet the conditions of release shall, upon application, be
23 entitled to have the conditions reviewed by the judicial officer who imposed them. If
24 the judicial officer who imposed the conditions of release is not available, any judicial
25 officer in the judicial district may review the conditions. [UPON REVIEW OF THE
26 CONDITIONS, THE JUDICIAL OFFICER SHALL REVISE ANY CONDITIONS
27 OF RELEASE THAT HAVE PREVENTED THE DEFENDANT FROM BEING
28 RELEASED UNLESS THE JUDICIAL OFFICER FINDS ON THE RECORD THAT
29 THERE IS CLEAR AND CONVINCING EVIDENCE THAT LESS RESTRICTIVE
30 RELEASE CONDITIONS CANNOT REASONABLY ENSURE THE

31 (1) APPEARANCE OF THE PERSON IN COURT; AND

1 (2) SAFETY OF THE VICTIM, OTHER PERSONS, AND THE
2 COMMUNITY.]

3 * **Sec. 5.** 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" **does not include** [INCLUDES] the person's inability to
15 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 RECEIVE
21 ONLY ONE BAIL REVIEW HEARING SOLELY FOR INABILITY TO PAY].

22 * **Sec. 6.** AS 12.30.006(f) is amended to read:

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

29 * **Sec. 7.** AS 12.30.011 is repealed and reenacted to read:

30 **Sec. 12.30.011. Release before trial.** (a) Except as otherwise provided in this
31 chapter, a judicial officer shall order a person charged with an offense to be released

1 on the person's personal recognizance or upon execution of an unsecured appearance
2 bond, on the condition that the person

- 3 (1) obey all court orders and all federal, state, and local laws;
- 4 (2) appear in court when ordered;
- 5 (3) if represented, maintain contact with the person's lawyer; and
- 6 (4) notify the person's lawyer, who shall notify the prosecuting
7 authority and the court, not more than 24 hours after the person changes residence.

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

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

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

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

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

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

24 (6) require the person to maintain employment or, if unemployed,
25 actively seek employment;

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

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

30 (9) require the person to refrain from the consumption and possession
31 of alcoholic beverages;

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

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

7 (12) require the person to keep regular contact with a pretrial service
8 officer or law enforcement officer or agency;

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

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

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

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

17 (17) order the person to submit to electronic monitoring administered
18 by a private organization;

19 (18) order the person to submit to supervision by the pretrial services
20 office in the Department of Corrections under AS 33.05 which may include the use of
21 electronic monitoring if determined necessary by the commissioner of corrections;

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

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

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

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

- 1 (2) the weight of the evidence against the person;
 2 (3) the nature and extent of the person's family ties and relationships;
 3 (4) the person's employment status and history;
 4 (5) the length and character of the person's past and present residence;
 5 (6) the person's record of convictions;
 6 (7) the person's record of appearance at court proceedings;
 7 (8) assets available to the person to meet monetary conditions of
 8 release;
 9 (9) the person's reputation, character, and mental condition;
 10 (10) the effect of the offense on the victim, any threats made to the
 11 victim, and the danger that the person poses to the victim; and
 12 (11) any other facts that are relevant to the person's appearance or the
 13 person's danger to the victim, other persons, or the community.

14 (d) In making a finding regarding the release of a person under this chapter,

15 (1) except as otherwise provided in this chapter, the burden of proof is
 16 on the prosecuting authority that a person charged with an offense should be detained
 17 or released with conditions described in (b) of this section or AS 12.30.016;

18 (2) there is a rebuttable presumption that there is a substantial risk that
 19 the person will not appear and the person poses a danger to the victim, other persons,
 20 or the community, if the person is

21 (A) charged with an unclassified felony, a class A felony, a
 22 sexual felony, or a felony under AS 28.35.030 or 28.35.032;

23 (B) charged with a felony crime against a person under
 24 AS 11.41, was previously convicted of a felony crime against a person under
 25 AS 11.41 in this state or a similar offense in another jurisdiction, and less than
 26 five years have elapsed between the date of the person's unconditional
 27 discharge on the immediately preceding offense and the commission of the
 28 present offense;

29 (C) charged with a felony offense committed while the person
 30 was on release under this chapter for a charge or conviction of another offense;

31 (D) charged with a crime involving domestic violence, and has

1 been convicted in the previous five years of a crime involving domestic
2 violence in this state or a similar offense in another jurisdiction;

3 (E) arrested in connection with an accusation that the person
4 committed a felony outside the state or is a fugitive from justice from another
5 jurisdiction, and the court is considering release under AS 12.70.

6 (e) If the supreme court establishes a schedule of bail amounts or conditions of
7 release for misdemeanor offenses, the schedule must include a condition providing
8 that a correctional facility shall, at the time of release, conduct a chemical test of the
9 breath of a person who has been arrested and who is intoxicated and may detain the
10 person until the test result indicates that the person's breath has less than 0.08 grams of
11 alcohol for each 210 liters of breath or, with the consent of the person, release the
12 person to another person who is willing and able to provide care for the person.

13 * **Sec. 8.** AS 12.30.021(a) is amended to read:

14 (a) In addition to other conditions imposed under AS 12.30.011 or 12.30.016,
15 a judicial officer may appoint a third-party custodian if the officer finds [, ON THE
16 RECORD,] that **the appointment will, singly or in combination with other**
17 **conditions,**

18 [(1) PRETRIAL SUPERVISION UNDER AS 33.07 IS NOT
19 AVAILABLE IN THE PERSON'S LOCATION;

20 (2) NO SECURED APPEARANCE OR PERFORMANCE BONDS
21 HAVE BEEN ORDERED; AND

22 (3) NO OTHER CONDITIONS OF RELEASE OR COMBINATION
23 OF CONDITIONS CAN] reasonably ensure the person's appearance and the safety of
24 the victim, other persons, and the community.

25 * **Sec. 9.** AS 12.30.021(c) is amended to read:

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

27 (1) the proposed custodian is acting as a third-party custodian for
28 another person;

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

31 (3) criminal charges are pending in this state or another jurisdiction

1 against the proposed custodian;

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

4 (5) [THERE IS A REASONABLE PROBABILITY THAT THE
5 STATE WILL CALL] the proposed custodian **may be called** as a witness in the
6 prosecution of the person;

7 (6) the proposed custodian resides out of state; however, a nonresident
8 may serve as a custodian if the nonresident resides in the state while serving as
9 custodian.

10 * **Sec. 10.** AS 12.55.027(d) is repealed and reenacted to read:

11 (d) A court may not grant credit against a sentence of imprisonment for time
12 spent in a private residence or under electronic monitoring.

13 * **Sec. 11.** AS 12.55.027(e) is amended to read:

14 (e) If a defendant intends to claim credit toward a sentence of imprisonment
15 for time spent in a treatment program [OR UNDER ELECTRONIC MONITORING]
16 either as a condition of probation or as a condition of bail release after a petition to
17 revoke probation has been filed, the defendant shall file notice with the court and the
18 prosecutor 10 days before the disposition hearing. The notice shall include the amount
19 of time the defendant is claiming. The defendant must prove by a preponderance of the
20 evidence that the credit claimed meets the requirements of this section. A court may
21 not consider, except for good cause, a request for credit made under this subsection
22 more than 90 days after the disposition hearing.

23 * **Sec. 12.** AS 12.55.027(f) is amended to read:

24 (f) To qualify as a treatment program under this section, a program must

25 (1) be intended to address criminogenic traits or behaviors;

26 (2) provide measures of progress or completion; and

27 (3) require notification to the **prosecuting authority**, pretrial services
28 **officer** [OFFICE] or probation officer if the person is discharged from the program for
29 noncompliance.

30 * **Sec. 13.** AS 12.55.027 is amended by adding a new subsection to read:

31 (i) A court granting credit against a sentence of imprisonment under (a) of this

1 section may grant credit of not more than 180 days against a total term of
2 imprisonment imposed.

3 * **Sec. 14.** AS 12.70.130 is amended to read:

4 **Sec. 12.70.130. Arrest without warrant.** The arrest of a person may also be
5 lawfully made by a peace officer or a private person without a warrant upon
6 reasonable information that the accused stands charged in the courts of another state
7 with a crime punishable by death or imprisonment for a term exceeding one year, but
8 when arrested the accused must be taken before a judge or magistrate without
9 unnecessary delay and, in any event, within **48** [24] hours after arrest, [ABSENT
10 COMPELLING CIRCUMSTANCES,] including Sundays and holidays, and
11 complaint shall be made against the accused under oath setting out the ground for the
12 arrest as in AS 12.70.120. [THE HEARING BEFORE THE JUDGE OR
13 MAGISTRATE MAY NOT TAKE PLACE MORE THAN 48 HOURS AFTER
14 ARREST.] Thereafter the answer of the accused shall be heard as if the accused had
15 been arrested on a warrant.

16 * **Sec. 15.** AS 33.05.010 is amended to read:

17 **Sec. 33.05.010. Powers of commissioner.** The commissioner shall administer
18 a probation system; [AND] enforce the probation laws in the superior court; **and**
19 **provide supervision of defendants released while awaiting trial as ordered by the**
20 **court.**

21 * **Sec. 16.** AS 33.05.020 is amended by adding new subsections to read:

22 (i) The commissioner shall appoint and make available to the superior court
23 and district court qualified pretrial services officers under AS 33.05.040(11) and
24 assign pretrial services officers to each judicial district for the supervision of
25 defendants released while awaiting trial as ordered by the court.

26 (j) The commissioner may, in accordance with AS 36.30, procure and enter
27 into agreements or contracts for the supervision of defendants on electronic
28 monitoring during the pretrial period.

29 * **Sec. 17.** AS 33.05.030(a) is amended by adding a new subsection to read:

30 (a) All probation officers made available to the courts under this chapter shall
31 be officers of the superior **and district courts** [COURT] and subject to the authority

1 of the superior and district courts [COURT].

2 * **Sec. 18.** AS 33.05.040 is amended to read:

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

4 (1) furnish to each probationer under the supervision of the officer a
5 written statement of the conditions of probation and shall instruct the probationer
6 regarding the same;

7 (2) keep informed concerning the conduct and condition of each
8 probationer under the supervision of the officer and shall report on the probationer to
9 the court placing that person on probation;

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

13 (4) keep records of the probation work, including administrative
14 sanctions and incentives the probation officer imposes under AS 33.05.020(g), keep
15 accurate and complete accounts of all money collected from persons under the
16 supervision of the officer, give receipts for money collected and make at least monthly
17 returns of it, make the reports to the court and the commissioner required by them, and
18 perform other duties the court may direct;

19 (5) perform duties with respect to persons on parole as the
20 commissioner shall request, and in that service shall be termed a parole officer;

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

26 (7) upon determining that a probationer under the supervision of the
27 officer meets the requirements of AS 12.55.090(g), recommend to the court as soon as
28 practicable that probation be terminated and the probationer be discharged from
29 probation;

30 (8) for each probationer who owes restitution and who is under the
31 supervision of the officer, create a restitution payment schedule based on the

1 probationer's income and ability to pay if the court has not already set a restitution
2 payment schedule;

3 (9) accommodate the diligent efforts of each probationer to secure and
4 maintain steady employment or to participate in educational courses or training
5 programs when prescribing the times at which a probationer shall report;

6 (10) permit each probationer to travel in the state to make diligent
7 efforts to secure and maintain steady employment or to participate in educational
8 courses or training programs if the travel is not inconsistent with other terms and
9 conditions of probation;

10 **(11) perform duties with respect to persons on pretrial release as**
11 **the commissioner shall request, and in that service shall be termed a pretrial**
12 **services officer.**

13 * **Sec. 19.** AS 33.05 is amended by adding a new section to read:

14 **Sec. 33.05.045. Duties of probation officers when acting as pretrial services**
15 **officers.** A probation officer acting as a pretrial services officer shall

16 (1) upon order of the court and request by the commissioner, supervise
17 a defendant released while awaiting trial that may include the use of electronic
18 monitoring;

19 (2) if the probation officer acting as a pretrial services officer has
20 probable cause to believe the defendant has committed an offense under AS 11.56.730
21 or 11.56.757 or has violated the defendant's release conditions, file a complaint with
22 the court and

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

25 (B) request the court to issue a warrant related to any violation
26 of the defendant's release conditions;

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

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

2 **Sec. 33.16.190. Authority of parole [, PRETRIAL SERVICES,] and**
 3 **probation officers.** An officer appointed by the commissioner under AS 33.05.020(a)
 4 [, AS 33.07,] or this chapter [,] may discharge duties under AS 33.05 [, AS 33.07,] or
 5 this chapter.

6 * **Sec. 21.** AS 44.19.645(g) is amended to read:

7 (g) The Department of Corrections shall report quarterly to the working group
 8 authorized in (b)(3) of this section. The report shall include the following information:

9 (1) data on pretrial decision making and outcomes, including
 10 information on pretrial detainees admitted for a new criminal charge; detainees
 11 released at any point before case resolution; time spent detained before first release or
 12 case resolution [PRETRIAL DEFENDANT RISK LEVEL AND CHARGE;
 13 PRETRIAL RELEASE RECOMMENDATIONS MADE BY PRETRIAL SERVICES
 14 OFFICERS]; pretrial conditions imposed on pretrial detainees by judicial officers,
 15 including amount of bail, and supervision conditions; and information on pretrial
 16 outcomes, including whether or not the defendant appeared in court or was re-arrested
 17 during the pretrial period;

18 (2) data on offenders admitted to the Department of Corrections for a
 19 new criminal conviction, including the offense type, number of prior felony
 20 convictions, sentence length, and length of stay;

21 (3) data on the population of the Department of Corrections, using a
 22 one-day snapshot on the first day of the first month of each quarter, broken down by
 23 type of admission, offense type, and risk level;

24 (4) data on offenders on probation supervised by the Department of
 25 Corrections, including the total number of offenders supervised using a one-day
 26 snapshot on the first month of each quarter; admissions to probation; assignments to a
 27 program under AS 33.05.020(f); probation sentence length; time served on the
 28 sentence; whether probation was successfully completed, any new convictions for a
 29 felony offense, and any sentences to a term of imprisonment while on probation;

30 (5) data on parole, including the number of offenders supervised on
 31 parole, using a one-day snapshot on the first month of each quarter; the number of

1 parole hearings; the parole grant rate and number of parolees released on discretionary
 2 and special medical parole; and information on parolees, including time spent on
 3 parole, whether parole was successfully completed, any new convictions for a new
 4 felony offense, and any sentences to a term of imprisonment while on parole;

5 (6) data on the implementation of policies from the 2015 justice
 6 reinvestment report, including the number and percentage of offenders who earn
 7 compliance credits under AS 33.05.020(h) or AS 33.16.270 in one or more months,
 8 and the total amount of credits earned; the average number of sanctions issued under
 9 AS 33.05.020(g) before a petition to revoke probation or parole is filed; and the most
 10 common violations of probation or parole; and

11 (7) data on probation and parole revocations, including information on
 12 probationers and parolees admitted for a supervision violation pre-case and post-case
 13 resolution; probationers and parolees admitted solely for a technical violation;
 14 probationers and parolees admitted for a new arrest; the number of previous
 15 revocations on the current sentence, if any; the length of time held pre-case resolution;
 16 the length of time to case resolution; and the length of stay.

17 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 DIRECT COURT RULE AMENDMENT. Rule 38.2(a), Alaska Rules of
 20 Criminal Procedure, is amended to read:

21 (a) The Administrative Director of the Alaska Court System, after consultation
 22 with the presiding judge, Public Defender Agency, and Attorney General's Office,
 23 may enter into agreements with the Department of Public Safety and Department of
 24 Corrections which approve systems allowing judges to provide for the appearance by a
 25 defendant at certain criminal proceedings by way of **contemporaneous two-way**
 26 **video conference** [TELEVISION] equipment in lieu of the physical presence of the
 27 defendant in the courtroom. Such an agreement must provide for a procedure by which
 28 the defendant may confer with the defendant's attorney in private.

29 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 DIRECT COURT RULE AMENDMENT. Rule 38.2(b), Alaska Rules of

1 Criminal Procedure, is amended to read:

2 (b) In those court locations in which a **contemporaneous two-way video**
 3 **conference** [TELEVISION] system has been approved by the supreme court and has
 4 been installed, in custody defendants **may** [SHALL] appear by way of
 5 **contemporaneous two-way video conference** [TELEVISION] for **all hearings**
 6 **except for trial and sentencings** [ARRAIGNMENT, PLEAS, AND NON-
 7 EVIDENTIARY BAIL REVIEWS IN TRAFFIC AND MISDEMEANOR CASES;
 8 AND INITIAL APPEARANCE HEARINGS, NON-EVIDENTIARY BAIL
 9 REVIEWS, AND NOT GUILTY PLEA ARRAIGNMENTS IN FELONY CASES],
 10 unless otherwise ordered for cause stated by the presiding judge. **However, with**
 11 [WITH] the defendant's consent, sentencings may be done by way of
 12 **contemporaneous two-way video conference** [TELEVISION] in traffic and
 13 misdemeanor cases.

14 In any particular case, the trial court may order that the defendant be
 15 transported to court for court proceedings if the trial judge finds that the defendant's
 16 rights would be prejudiced by use of the system.

17 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 DIRECT COURT RULE AMENDMENT. Rule 45(d), Alaska Rules of
 20 Criminal Procedure, is amended to read:

21 **(d) Excluded Periods.** The following periods shall be excluded in computing
 22 the time for trial:

23 (1) The period of delay resulting from other proceedings concerning
 24 the defendant, including but not limited to motions to dismiss or suppress,
 25 examinations and hearings on competency, the period during which the defendant is
 26 incompetent to stand trial, interlocutory appeals, and trial of other charges. No pretrial
 27 motion shall be held under advisement for more than 30 days and any time longer than
 28 30 days shall not be considered as an excluded period.

29 (2) The period of delay resulting from an adjournment or continuance
 30 granted at the timely request or with the consent of the defendant **or** [AND] the
 31 defendant's counsel. The court shall grant such a continuance only if it is satisfied that

1 the postponement is in the interest of justice, taking into account the public interest in
2 the prompt disposition of criminal offenses, and after consideration of the interests of
3 the crime victim, if known, as provided in (h) of this rule. A defendant without
4 counsel shall not be deemed to have consented to a continuance unless the defendant
5 has been advised by the court of the right to a speedy trial under this rule and of the
6 effect of consent.

7 (3) The period of delay resulting from a continuance granted at the
8 timely request of the prosecution, if:

9 (A) The continuance is granted because of the unavailability of
10 evidence material to the state's case, when the prosecuting attorney has
11 exercised due diligence to obtain such evidence and there are reasonable
12 grounds to believe that such evidence will be available at the later date; or

13 (B) The continuance is granted to allow the prosecuting
14 attorney in a felony case additional time to prepare the state's case and
15 additional time is justified because of the exceptional complexity of the
16 particular case.

17 (4) The period of delay resulting from the absence or unavailability of
18 the defendant. A defendant should be considered absent whenever the defendant's
19 whereabouts are unknown and in addition the defendant is attempting to avoid
20 apprehension or prosecution or the defendant's whereabouts cannot be determined by
21 due diligence. A defendant should be considered unavailable whenever the defendant's
22 whereabouts are known but the defendant's presence for trial cannot be obtained or the
23 defendant resists being returned to the state for trial.

24 (5) A reasonable period of delay when the defendant is joined for trial
25 with a codefendant as to whom the time for trial has not run and there is good cause
26 for not granting a severance. In all other cases, the defendant shall be granted a
27 severance in order that the defendant may be tried within the time limits applicable to
28 the defendant.

29 (6) The period of delay resulting from detention of the defendant in
30 another jurisdiction provided the prosecuting attorney has been diligent and has made
31 reasonable efforts to obtain the presence of the defendant for trial. When the

1 prosecution is unable to obtain the presence of the defendant in detention, and seeks to
 2 exclude the period of detention, the prosecution shall cause a detainer to be filed with
 3 the official having custody of the defendant and request the official to advise the
 4 defendant of the detainer and to inform the defendant of the defendant's rights under
 5 this rule.

6 (7) Other periods of delay for good cause.

7 * **Sec. 25.** AS 12.55.027(g); AS 33.07.010, 33.07.020, 33.07.030, 33.07.040, and 33.07.090
 8 are repealed.

9 * **Sec. 26.** 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 12.25.150(a), as amended by sec. 2 of this Act;
- 14 (2) AS 12.30.006(b), as amended by sec. 3 of this Act;
- 15 (3) AS 12.30.006(c), as amended by sec. 4 of this Act;
- 16 (4) AS 12.30.006(d), as amended by sec. 5 of this Act;
- 17 (5) AS 12.30.006(f), as amended by sec. 6 of this Act;
- 18 (6) AS 12.30.011, as repealed and reenacted by sec. 7 of this Act;
- 19 (7) AS 12.30.021(a), as amended by sec. 8 of this Act;
- 20 (8) AS 12.30.021(c), as amended by sec. 9 of this Act;
- 21 (9) AS 12.70.130, as amended by sec. 14 of this Act;
- 22 (10) AS 33.05.010, as amended by sec. 15 of this Act;
- 23 (11) AS 33.05.020(i) and (j), enacted by sec. 16 of this Act;
- 24 (12) AS 33.05.030(a), as amended by sec. 17 of this Act;
- 25 (13) AS 33.05.040, as amended by sec. 18 of this Act; and
- 26 (14) AS 33.05.045, enacted by sec. 19 of this Act.

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

- 29 (1) AS 12.55.027(d), as repealed and reenacted by sec. 10 of this Act;
- 30 (2) AS 12.55.027(e), as amended by sec. 11 of this Act; and
- 31 (3) AS 12.55.027(i), enacted by sec. 13 of this Act.

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

3 TRANSITION. Court orders ordering a pretrial services officer to supervise a
4 defendant while on pretrial release issued before the effective date of this Act, remain in
5 effect until nullified by the court, and the authority of the Department of Corrections to
6 supervise those defendants in accordance with those orders continues in effect
7 notwithstanding a transfer, amendment, or repeal provided for in this Act.

8 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 CONDITIONAL EFFECT. Sections 22 - 24 of this Act take effect only if secs. 22 - 24
11 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
12 Constitution of the State of Alaska.

13 * **Sec. 29.** This Act takes effect July 1, 2019.