

**SPECIAL ASSEMBLY MEETING
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

August 31, 2016 12:00 PM

City Hall - Assembly Chambers
Special Assembly Meeting 2016-30

Submitted By:

Duncan Rorie Watt
City and Borough Manager

I. CALL TO ORDER / ROLL CALL

II. AGENDA TOPICS

- A. Senate Bill 91
- B. Assembly Comments and Questions

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

IV. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org



LAWS OF ALASKA

2016

Source

HCS CSSSSB 91(FIN) am H

Chapter No.

AN ACT

Relating to civil in rem forfeiture actions; relating to criminal law and procedure; relating to controlled substances; relating to victims of criminal offenses; relating to probation; relating to sentencing; relating to treatment program credit for time spent toward service of a sentence of imprisonment; relating to the Violent Crimes Compensation Board; establishing a pretrial services program with pretrial services officers in the Department of Corrections; relating to permanent fund dividends; relating to electronic monitoring; relating to penalties for violations of municipal ordinances; relating to parole; relating to correctional restitution centers; relating to community work service; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to identification cards and driver's licenses for parolees; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to the duties of the commissioner of corrections; amending Rules 32, 32.1, 38, and 43, Alaska Rules of Criminal Procedure; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to civil in rem forfeiture actions; relating to criminal law and procedure; relating to
2 controlled substances; relating to victims of criminal offenses; relating to probation; relating
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4 of imprisonment; relating to the Violent Crimes Compensation Board; establishing a pretrial
5 services program with pretrial services officers in the Department of Corrections; relating to
6 permanent fund dividends; relating to electronic monitoring; relating to penalties for
7 violations of municipal ordinances; relating to parole; relating to correctional restitution
8 centers; relating to community work service; relating to revocation, termination, suspension,
9 cancellation, or restoration of a driver's license; relating to identification cards and driver's
10 licenses for parolees; relating to the disqualification of persons convicted of certain felony
11 drug offenses from participation in the food stamp and temporary assistance programs;

relating to the duties of the commissioner of corrections; amending Rules 32, 32.1, 38, and 43, Alaska Rules of Criminal Procedure; and providing for an effective date.

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

LEGISLATIVE INTENT. (a) It is the intent of the legislature that, if the taxes collected under AS 43.61.010 are lower than projected for fiscal year 2017, the legislature appropriate funds from the alcohol and other drug abuse treatment and prevention fund established in AS 43.60.050 to cover the shortfall.

(b) It is the intent of the legislature that reinvestment of excess funds be made into providing additional law enforcement resources in communities throughout the state.

*** Sec. 2.** AS 04.16.160(a) is amended to read:

(a) Except as otherwise provided by law, a person who is 21 years of age or older may not purchase alcoholic beverages if the person has been ordered to refrain from consuming alcoholic beverages under AS 12.55.015(a)(13) or as part of a sentence for conviction of a crime under AS 28.35.030, 28.35.032, or a similar municipal ordinance, [OR] as a condition of probation or parole from a conviction under AS 28.35.030, 28.35.032, or a similar municipal ordinance, **or as a condition of probation or parole for any other crime**. The restriction on purchasing alcoholic beverages applies during the period that the person is required to refrain from consuming alcoholic beverages under the sentence or condition of probation or parole.

*** Sec. 3.** AS 09.55 is amended by adding a new section to read:

Article 10. Civil in rem Forfeiture.

Sec. 09.55.700. In rem civil forfeiture actions. Common law civil in rem forfeiture actions are abolished if used instead of a criminal proceeding.

*** Sec. 4.** AS 11.41.110(a) is amended to read:

(a) A person commits the crime of murder in the second degree if
(1) with intent to cause serious physical injury to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to another person, the person causes the death of any person;

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

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

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

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

(A) a felony violation of AS 11.41;

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

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

*** Sec. 5.** AS 11.41.150(a) is amended to read:

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

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

(2) with intent to cause serious physical injury to an unborn child or to another person or knowing that the conduct is substantially certain to cause death or

serious physical injury to an unborn child or to another person, causes the death of an unborn child;

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

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

* **Sec. 6.** AS 11.46.130(a) is amended to read:

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

(1) the value of the property or services, **adjusted for inflation as provided in AS 11.46.982,** is **\$1,000** [\$750] or more but less than \$25,000;

(2) the property is a firearm or explosive;

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

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

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

(6) the value of the property, **adjusted for inflation as provided in AS 11.46.982,** is \$250 or more but less than **\$1,000** [\$750] and, within the preceding five years, the person has been convicted and sentenced on two or more separate

occasions in this or another jurisdiction of

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

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

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

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

(7) the property is an access device.

* **Sec. 7.** AS 11.46.140(a) is amended to read:

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

(1) the value of the property or services, **adjusted for inflation as provided in AS 11.46.982**, is \$250 or more but less than **\$1,000** [\$750]; or

(2) [REPEALED]

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

* **Sec. 8.** AS 11.46.150(a) is amended to read:

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services, **adjusted for inflation as provided in AS 11.46.982**, is less than \$250.

* **Sec. 9.** AS 11.46.220(c) is amended to read:

(c) Concealment of merchandise is

(1) a class C felony if

(A) the merchandise is a firearm;

(B) the value of the merchandise, **adjusted for inflation as provided in AS 11.46.982**, is **\$1,000** [\$750] or more; or

(C) the value of the merchandise, **adjusted for inflation as**

provided in AS 11.46.982, is \$250 or more but less than **\$1,000** [\$750] and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of

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

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

(2) a class A misdemeanor if

(A) the value of the merchandise, **adjusted for inflation as provided in AS 11.46.982**, is \$250 or more but less than **\$1,000** [\$750]; or

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

(3) a class B misdemeanor if the value of the merchandise, **adjusted for inflation as provided in AS 11.46.982**, is less than \$250.

* **Sec. 10.** AS 11.46.260(b) is amended to read:

(b) Removal of identification marks is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared, **adjusted for inflation as provided in AS 11.46.982**, is **\$1,000** [\$750] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared, **adjusted for inflation as provided in AS 11.46.982**, is \$250 or more but less than **\$1,000** [\$750];

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared, **adjusted for inflation as provided in AS 11.46.982**, is less than \$250.

* **Sec. 11.** AS 11.46.270(b) is amended to read:

(b) Unlawful possession is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared, **adjusted for inflation as provided in AS 11.46.982**, is **\$1,000** [\$750] or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared, **adjusted for inflation as provided in AS 11.46.982**, is \$250 or more but less than **\$1,000** [\$750];

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared, **adjusted for inflation as provided in AS 11.46.982**, is less than \$250.

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

(d) Issuing a bad check is

(1) a class B felony if the face amount of the check, **adjusted for inflation as provided in AS 11.46.982**, is \$25,000 or more;

(2) a class C felony if the face amount of the check, **adjusted for inflation as provided in AS 11.46.982**, is **\$1,000** [\$750] or more but less than \$25,000;

(3) a class A misdemeanor if the face amount of the check, **adjusted for inflation as provided in AS 11.46.982**, is \$250 or more but less than **\$1,000** [\$750];

(4) a class B misdemeanor if the face amount of the check, **adjusted for inflation as provided in AS 11.46.982**, is less than \$250.

* Sec. 13. AS 11.46.285(b) is amended to read:

(b) Fraudulent use of an access device is

(1) a class B felony if the value of the property or services obtained, **adjusted for inflation as provided in AS 11.46.982**, is \$25,000 or more;

(2) a class C felony if the value of the property or services obtained, **adjusted for inflation as provided in AS 11.46.982**, is **\$1,000** [\$750] or more but less than \$25,000;

(3) a class A misdemeanor if the value of the property or services obtained, **adjusted for inflation as provided in AS 11.46.982**, is less than **\$1,000**

1 [\$750].

2 * **Sec. 14.** 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)(3),] 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. 15.** 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 AS 11.46.982, of \$1,000**
24 [\$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 provided in**
27 **AS 11.46.982, of \$1,000** [\$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

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

(A) this section or AS 11.46.365;

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

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

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

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

* **Sec. 16.** AS 11.46.420(a) is amended to read:

(a) A person commits the crime of arson in the third degree if the person intentionally damages a motor vehicle

(1) by starting a fire or causing an explosion while that vehicle is located on public [STATE OR MUNICIPAL] land; or

(2) that is the property of another person by starting a fire or causing an explosion while that vehicle is located on private property.

* **Sec. 17.** AS 11.46.460 is amended to read:

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

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

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

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

* **Sec. 18.** AS 11.46.482(a) is amended to read:

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

(1) with intent to damage property of another, the person damages property of another in an amount, **adjusted for inflation as provided in AS 11.46.982**, of **\$1,000** [\$750] or more;

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

(3) the person knowingly

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

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

* **Sec. 19.** AS 11.46.484(a) is amended to read:

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

(1) with intent to damage property of another, the person damages property of another in an amount, **adjusted for inflation as provided in AS 11.46.982**, of \$250 or more but less than **\$1,000** [\$750];

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

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

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

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

1 * **Sec. 20.** AS 11.46.486(a) is amended to read:

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

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

8 (2) with intent to damage property of another, the person damages
9 property of another in an amount, **adjusted for inflation as provided in**
10 **AS 11.46.982**, less than \$250; or

11 (3) the person rides in a propelled vehicle knowing it has been stolen
12 or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

13 * **Sec. 21.** AS 11.46.530(b) is amended to read:

14 (b) Criminal simulation is

15 (1) a class C felony if the value of what the object purports to
16 represent, **adjusted for inflation as provided in AS 11.46.982**, is **\$1,000** [\$750] or
17 more;

18 (2) a class A misdemeanor if the value of what the object purports to
19 represent, **adjusted for inflation as provided in AS 11.46.982**, is \$250 or more but
20 less than **\$1,000** [\$750];

21 (3) a class B misdemeanor if the value of what the object purports to
22 represent, **adjusted for inflation as provided in AS 11.46.982**, is less than \$250.

23 * **Sec. 22.** AS 11.46.620(d) is amended to read:

24 (d) Misapplication of property is

25 (1) a class C felony if the value of the property misapplied, **adjusted**
26 **for inflation as provided in AS 11.46.982**, is **\$1,000** [\$750] or more;

27 (2) a class A misdemeanor if the value of the property misapplied,
28 **adjusted for inflation as provided in AS 11.46.982**, is less than **\$1,000** [\$750].

29 * **Sec. 23.** AS 11.46.730(c) is amended to read:

30 (c) Defrauding creditors is a class A misdemeanor unless that secured party,
31 judgment creditor, or creditor incurs a pecuniary loss, **adjusted for inflation as**

1 **provided in AS 11.46.982, of \$1,000** [\$750] or more as a result **of** [TO] the
 2 defendant's conduct, in which case defrauding secured creditors is

3 (1) a class B felony if the loss, **adjusted for inflation as provided in**
 4 **AS 11.46.982,** is \$25,000 or more;

5 (2) a class C felony if the loss, **adjusted for inflation as provided in**
 6 **AS 11.46.982,** is **\$1,000** [\$750] or more but less than \$25,000.

7 * **Sec. 24.** AS 11.46.980 is amended by adding a new subsection to read:

8 (d) In making a finding related to the degree or classification of a crime under
 9 this chapter, a court shall refer to the most recent property value threshold set by the
 10 Alaska Judicial Council under AS 11.46.982.

11 * **Sec. 25.** AS 11.46 is amended by adding a new section to read:

12 **Sec. 11.46.982. Adjustment for inflation increasing the value of property**
 13 **or services as an element of an offense.** (a) The Alaska Judicial Council shall publish
 14 a report on July 1, 2020, calculating the increase in value, if any, of property or
 15 services as an element of an offense in this chapter from a base value of \$250 and
 16 \$1,000, based on a formula provided by the Department of Labor and Workforce
 17 Development, reflecting the change in the Consumer Price Index for the Anchorage
 18 metropolitan area compiled by the Bureau of Labor Statistics, United States
 19 Department of Labor.

20 (b) The Alaska Judicial Council shall, in calculating the price of property or
 21 services as provided in this section,

22 (1) recalculate the base value of property and services of \$250 and
 23 \$1,000 every five years; and

24 (2) report the base value of property and services of \$250 and \$1,000
 25 rounded to the nearest \$50 increment.

26 (c) The Alaska Judicial Council shall publish the report provided in this
 27 section by electronically providing copies of the report

28 (1) to all law enforcement agencies in the state;

29 (2) to the Public Defender Agency;

30 (3) to the office of public advocacy;

31 (4) to the attorney general;

- (5) to the court system;
- (6) on the judicial council's Internet website; and
- (7) to the senate secretary and the chief clerk of the house of representatives.

* **Sec. 26.** AS 11.56.730(a) is amended to read:

- (a) A person commits the offense [CRIME] of failure to appear if the person
 - (1) is released under the provisions of AS 12.30;
 - (2) knows that the person is required to appear before a court or judicial officer at the time and place of a scheduled hearing; and
 - (3) with criminal negligence does not appear before the court or judicial officer at the time and place of the scheduled hearing.

* **Sec. 27.** AS 11.56.730(c) is amended to read:

- (c) A person who commits failure to appear incurs a forfeiture of any security for any appearance of the person that was given or pledged to the court for the person's release [, AND IS GUILTY OF A
 - (1) CLASS C FELONY IF THE PERSON WAS RELEASED IN CONNECTION WITH A CHARGE OF A FELONY, OR WHILE AWAITING SENTENCE OR APPEAL AFTER CONVICTION OF A FELONY;
 - (2) CLASS A MISDEMEANOR IF THE PERSON WAS RELEASED IN CONNECTION WITH A
 - (A) CHARGE OF A MISDEMEANOR, OR WHILE AWAITING SENTENCE OR APPEAL AFTER CONVICTION OF A MISDEMEANOR; OR
 - (B) REQUIREMENT TO APPEAR AS A MATERIAL WITNESS IN A CRIMINAL PROCEEDING].

* **Sec. 28.** AS 11.56.730 is amended by adding new subsections to read:

- (d) Failure to appear is a
 - (1) class C felony if the person was released in connection with a charge of a felony or while awaiting sentence or appeal after conviction of a felony and the person
 - (A) does not make contact with the court or a judicial officer

within 30 days after the person does not appear at the time and place of a scheduled hearing; or

(B) does not appear at the time and place of a scheduled hearing to avoid prosecution;

(2) class A misdemeanor if the person was released in connection with a charge of a misdemeanor, while awaiting sentence or appeal after conviction of a misdemeanor, or in connection with a requirement to appear as a material witness in a criminal proceeding, and the person

(A) does not make contact with the court or a judicial officer within 30 days after the person does not appear at the time and place of a scheduled hearing; or

(B) does not appear at the time and place of a scheduled hearing to avoid prosecution; or

(3) violation punishable by a fine of up to \$1,000.

(e) In a prosecution for failure to appear under (a) of this section, it is not a defense that the defendant did not receive a reminder notification from a court or judicial officer under Rule 38(e), Alaska Rules of Criminal Procedure.

* **Sec. 29.** AS 11.56.757(a) is amended to read:

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

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

(2) has been released under AS 12.30; and

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

* **Sec. 30.** AS 11.56.757(b) is amended to read:

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

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

* **Sec. 31.** AS 11.56.759(a) is amended to read:

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

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

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

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

* **Sec. 32.** AS 11.61.110(c) is amended to read:

(c) Disorderly conduct is a class B misdemeanor [AND IS PUNISHABLE AS AUTHORIZED IN AS 12.55 EXCEPT THAT A SENTENCE OF IMPRISONMENT, IF IMPOSED, SHALL BE FOR A DEFINITE TERM OF NOT MORE THAN 10 DAYS].

* **Sec. 33.** AS 11.61.145(d) is amended to read:

(d) Promoting an exhibition of fighting animals

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

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

(A) a violation

(i) for the first offense;

(ii) punishable by a fine of not more than \$1,000 [, A

CLASS B MISDEMEANOR] for the second offense; [,] and

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

* **Sec. 34.** AS 11.61.150(a) is amended to read:

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

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

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

* **Sec. 35.** AS 11.61.150(c) is amended to read:

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

* **Sec. 36.** AS 11.66.100 is amended by adding a new subsection to read:

(e) A person may not be prosecuted under (a)(1) of this section if the

(1) person witnessed or was a victim of, and reported to law enforcement in good faith, one or more of the following crimes:

(A) murder in the first degree under AS 11.41.100;

(B) murder in the second degree under AS 11.41.110;

(C) manslaughter under AS 11.41.120;

(D) criminally negligent homicide under AS 11.41.130;

(E) assault in the first degree under AS 11.41.200;

(F) assault in the second degree under AS 11.41.210;

(G) assault in the third degree under AS 11.41.220;

(H) assault in the fourth degree under AS 11.41.230;

(I) sexual assault in the first degree under AS 11.41.410;

(J) sexual assault in the second degree under AS 11.41.420;

(K) sexual assault in the third degree under AS 11.41.425;

(L) sexual assault in the fourth degree under AS 11.41.427;

(M) sexual abuse of a minor in the first degree under AS 11.41.434;

(N) sexual abuse of a minor in the second degree under AS 11.41.436;

(O) sexual abuse of a minor in the third degree under AS 11.41.438;

(P) sexual abuse of a minor in the fourth degree under AS 11.41.440;

(Q) robbery in the first degree under AS 11.41.500;

(R) robbery in the second degree under AS 11.41.510;

(S) extortion under AS 11.41.520;

(T) coercion under AS 11.41.530;

(U) distribution of child pornography under AS 11.61.125;

(V) possession of child pornography under AS 11.61.127;

(W) sex trafficking in the first degree under AS 11.66.110;

(X) sex trafficking in the second degree under AS 11.66.120;

(Y) sex trafficking in the third degree under AS 11.66.130; or

(Z) sex trafficking in the fourth degree under AS 11.66.135;

(2) evidence supporting the prosecution under (a)(1) of this section was obtained or discovered as a result of the person reporting the crime to law enforcement; and

(3) person cooperated with law enforcement personnel.

*** Sec. 37.** AS 11.66.110(a) is amended to read:

(a) A person commits the crime of sex trafficking in the first degree if the person

(1) induces or causes another [A] person to engage in prostitution through the use of force;

(2) as other than a patron of a prostitute, induces or causes another [A] person who is under 20 years of age to engage in prostitution; or

(3) induces or causes a person in that person's legal custody to engage in prostitution.

*** Sec. 38.** AS 11.66.130(a) is amended to read:

(a) A person commits the crime of sex trafficking in the third degree if, with intent to promote prostitution, the person

(1) manages, supervises, controls, or owns, either alone or in association with others, a place of prostitution;

(2) as other than a patron of a prostitute, induces or causes another [A] person who is 20 years of age or older to engage in prostitution;

(3) as other than a prostitute receiving compensation for personally rendered prostitution services, receives or agrees to receive money or other property under an agreement or understanding that the money or other property is derived from prostitution; or

(4) engages in conduct that institutes, aids, or facilitates a prostitution

enterprise.

* **Sec. 39.** AS 11.66.130 is amended by adding a new subsection to read:

(c) A person does not act with the intent to promote prostitution under (a) of this section if the person

(1) engages in prostitution in violation of AS 11.66.100(a) in a location even if that location is shared with another person; and

(2) has not induced or caused another person in that location to engage in prostitution.

* **Sec. 40.** AS 11.66.135 is amended by adding a new subsection to read:

(c) A person does not institute, aid, or facilitate prostitution if the person

(1) engages in prostitution in violation of AS 11.66.100(a) in a location even if that location is shared with another person; and

(2) has not induced or caused another person in that location to engage in prostitution.

* **Sec. 41.** AS 11.66.200(c) is amended to read:

(c) Gambling is a violation

(1) for the first offense;

(2) punishable by a fine of not more than \$1,000 [GAMBLING IS

A CLASS B MISDEMEANOR] for the second and each subsequent offense.

* **Sec. 42.** AS 11.71.030(a) is amended to read:

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

(1) [UNDER CIRCUMSTANCES NOT PROSCRIBED UNDER AS 11.71.020(a)(2) - (6),] manufactures or delivers, [ANY AMOUNT OF A SCHEDULE IIA OR IIIA CONTROLLED SUBSTANCE] or possesses [ANY AMOUNT OF A SCHEDULE IIA OR IIIA CONTROLLED SUBSTANCE] with intent to manufacture or deliver,

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

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

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

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

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

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

(A) with reckless disregard that the possession occurs

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

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

or

(B) on a school bus;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* **Sec. 43.** AS 11.71.030(c) is amended to read:

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

* **Sec. 44.** AS 11.71.030 is amended by adding new subsections to read:

(d) In a prosecution under (a) of this section, possession of more than six grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals is prima facie evidence that the person intended to use the listed chemicals to manufacture, aid or abet another person to manufacture, or deliver to another person who intends to manufacture methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers

of methamphetamine or its immediate precursors. The prima facie evidence described in this subsection does not apply to a person who possesses

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

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

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

(i) retailer or wholesaler;

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

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

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

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

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

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

* **Sec. 45.** AS 11.71.040(a) is amended to read:

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

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

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

(3) possesses

(A) any amount of a

(i) schedule IA controlled substance listed in AS 11.71.140(e); or

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

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

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

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

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

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

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

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

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

- (G) 25 or more plants of the genus cannabis;
- (4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance
 - (A) with reckless disregard that the possession occurs
 - (i) on or within 500 feet of school grounds; or
 - (ii) at or within 500 feet of a recreation or youth center;
 - or
 - (B) on a school bus;
- (5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for keeping or distributing controlled substances in violation of a felony offense under this chapter or AS 17.30;
- (6) makes, delivers, or possesses a punch, die, plate, stone, or other thing that prints, imprints, or reproduces a trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of these on [UPON] a drug, drug container, or labeling so as to render the drug a counterfeit substance;
- (7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;
- (8) knowingly furnishes false or fraudulent information in or omits material information from any application, report, record, or other document required to be kept or filed under AS 17.30;
- (9) obtains possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge; [OR]
- (10) affixes a false or forged label to a package or other container containing any controlled substance; or
- (11) manufactures or delivers, or possesses with the intent to manufacture or deliver,**
 - (A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one gram containing a schedule IA controlled substance;**
 - (B) less than 25 tablets, ampules, or syrettes containing a**

schedule IA controlled substance;

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

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

* **Sec. 46.** AS 11.71.040(d) is amended to read:

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

* **Sec. 47.** AS 11.71.050 is amended to read:

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

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

(2) possesses

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

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

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

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

(iii) 500 milligrams containing a schedule IIA

controlled substance listed in AS 11.71.150(e)(11) - (15);

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

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

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

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

(4) under circumstances not proscribed under AS 11.71.040(a)(3)(A)(i) or 11.71.060(a)(2)(B), possesses any amount of a schedule IA, IIA, IIIA, IVA, VA, or VIA controlled substance.

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

* **Sec. 48.** AS 11.71.060 is amended to read:

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

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

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

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

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

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

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

* **Sec. 49.** AS 11.71.311(a) is amended to read:

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

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

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

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

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

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

* **Sec. 50.** AS 12.25.150(a) is amended to read:

(a) A person arrested shall be taken before a judge or magistrate without unnecessary delay [,] and in any event within **24** [48] hours after arrest, **absent compelling circumstances**, including Sundays and holidays. **The unavailability of a report prepared by the pretrial services officer under AS 33.07 or a delay in the transmittal of that report to the parties or to the court may not be considered a sufficient compelling circumstance to justify delaying a hearing beyond 24 hours. The hearing before the judge or magistrate may not take place more than 48 hours after arrest.** This requirement applies to municipal police officers to the same extent as it does to state troopers.

* **Sec. 51.** AS 12.25.180 is amended to read:

Sec. 12.25.180. When peace officer may issue citation or take person before the court. (a) When a peace officer stops or contacts a person for the commission of a class C felony offense, a misdemeanor, or the violation of a municipal ordinance, the officer may, in the officer's discretion, issue a citation to the person instead of taking the person before a judge or magistrate under AS 12.25.150, except the officer may arrest if [UNLESS]

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

(2) the peace [CONTACTING] officer reasonably believes the person is a danger to [SELF OR] others;

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

(4) the person asks to be taken before a judge or magistrate under AS 12.25.150; or

(5) the peace officer has probable cause to believe the person committed a crime involving domestic violence; in this paragraph, "crime involving domestic violence" has the meaning given in AS 18.66.990.

(b) When a peace officer stops or contacts a person for the commission of an infraction or a violation, the officer shall issue a citation instead of taking the person before a judge or magistrate under AS 12.25.150, except the officer may arrest if [UNLESS]

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

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

(3) the peace officer has probable cause to believe the person has committed

(A) a violation of conditions of release under AS 11.56.757;

or

(B) the offense of failure to appear under AS 11.56.730.

* **Sec. 52.** AS 12.25.180 is amended by adding a new subsection to read:

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

1 * **Sec. 53.** AS 12.25.190(b) is amended to read:

2 (b) The time specified in the notice to appear shall be at least **two** [FIVE]
3 working days after the issuance of the citation **under AS 12.25.180(a)**.

4 * **Sec. 54.** AS 12.25.190 is amended by adding a new subsection to read:

5 (d) The time specified in the notice to appear shall be at least five working
6 days after issuance of the citation under AS 12.25.180(b).

7 * **Sec. 55.** AS 12.30.006(b) is amended to read:

8 (b) At the first appearance before a judicial officer, a person who is charged
9 with a felony, **other than a class C felony and the person has been assessed as low**
10 **risk under AS 12.30.011(c)(1)**, may be detained up to 48 hours for the prosecuting
11 authority to demonstrate that release of the person under **AS 12.30.011**
12 [AS 12.30.011(a)] would not reasonably **ensure** [ASSURE] the appearance of the
13 person or will pose a danger to the victim, other persons, or the community.

14 * **Sec. 56.** AS 12.30.006(c) is amended to read:

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

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

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

26 * **Sec. 57.** AS 12.30.006(d) is amended to read:

27 (d) If a person remains in custody after review of conditions by a judicial
28 officer under (c) of this section, the person may request a subsequent review of
29 conditions. Unless the prosecuting authority stipulates otherwise or the person has
30 been incarcerated for a period equal to the maximum sentence for the most serious
31 charge for which the person is being held, a judicial officer may not schedule a bail

1 review hearing under this subsection unless

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

8 (2) the prosecuting authority and any surety, if applicable, have at least
9 48 hours' written notice before the time set for the review requested under this
10 subsection; the defendant shall notify the surety; and

11 (3) at least seven days have elapsed between the previous review and
12 the time set for the requested review; **however, a person may receive only one bail**
13 **review hearing solely for inability to pay.**

14 * **Sec. 58.** AS 12.30.006(f) is amended to read:

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

21 * **Sec. 59.** AS 12.30.011 is repealed and reenacted to read:

22 **Sec. 12.30.011. Release before trial.** (a) A judicial officer may order that a
23 person charged with an offense, in addition to other conditions imposed under this
24 section, be released

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

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

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

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

1 (1) low to moderate risk shall be released on the person's own
2 recognizance or upon execution of an unsecured appearance bond or unsecured
3 performance bond; or

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

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

15 (1) low risk shall be released on the person's own recognizance or
16 upon execution of an unsecured appearance bond or unsecured performance bond; or

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

24 (d) A person charged under AS 28.35.030 or 28.35.032 who is assessed by a
25 pretrial services officer as low, moderate, or high risk shall be released on the person's
26 own recognizance or upon execution of an unsecured appearance bond or unsecured
27 performance bond unless the judicial officer finds on the record that there is clear and
28 convincing evidence that no nonmonetary conditions of release in combination with
29 the release of the person on the person's own recognizance or upon execution of an
30 unsecured bond can reasonably ensure the appearance of the person in court and the
31 safety of the victim, other persons, and the community.

(e) A person charged under AS 11.56.730 or 11.56.757 who is assessed by a pretrial services officer as

(1) low to moderate risk shall be released on the person's own recognizance or upon execution of an unsecured appearance bond or unsecured performance bond unless the judicial officer finds on the record that there is clear and convincing evidence that no nonmonetary conditions of release in combination with the release of the person on the person's own recognizance or upon execution of an unsecured bond can reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community; or

(2) high risk may be required, singly or in combination, in addition to other conditions specified in this section, to deposit with the court and execute

(A) an appearance bond with a posting not to exceed 10 percent of the specified amount of the bond with the condition that the deposit be returned upon the appearance of the person at scheduled hearings;

(B) a bail bond with sufficient solvent sureties or the deposit of cash; or

(C) a performance bond with a full or partial posting of the specified amount of the bond with the condition that the deposit be returned upon the performance of the conditions of release set by the court.

(f) A person charged with an offense who is not otherwise required to be released under (b) - (e) of this section and who is assessed by a pretrial services officer as

(1) low risk shall be released on the person's own recognizance or upon execution of an unsecured appearance bond or unsecured performance bond unless the judicial officer finds on the record that there is clear and convincing evidence that no nonmonetary conditions of release in combination with the release of the person on the person's own recognizance or upon execution of an unsecured bond can reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community; or

(2) moderate to high risk may be required, singly or in combination, in addition to other conditions specified in this section, to deposit with the court and

execute

(A) an appearance bond with a posting not to exceed 10 percent of the specified amount of the bond with the condition that the deposit be returned upon the appearance of the person at scheduled hearings;

(B) a bail bond with sufficient solvent sureties or the deposit of cash; or

(C) a performance bond with a full or partial posting of the specified amount of the bond with the condition that the deposit be returned upon the performance of the conditions of release set by the court.

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

(1) obey all court orders;

(2) obey all laws;

(3) make all court appearances;

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

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

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

(h) The judicial officer may, singly or in combination, order additional conditions if the condition or conditions are the least restrictive conditions that will reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community. The judicial officer may

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

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

(3) require the person to maintain employment or, if unemployed, actively seek employment;

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

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

(6) require the person to refrain from the consumption and possession of alcoholic beverages;

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

(8) require the person to be physically inside the person's residence, or in the residence of the person's third-party custodian, at times set by the court, subject to AS 12.30.021;

(9) require the person to keep regular contact with a pretrial services officer or law enforcement officer or agency;

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

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

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

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

(14) require the person to comply with a program established under AS 47.38.020 if the person has been charged with an alcohol-related or substance-abuse-related offense;

(15) order the person to comply with any other condition that is reasonably necessary to ensure the appearance of the person and to ensure the safety of the victim, other persons, and the community.

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

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

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

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

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

(j) Except as otherwise provided in this chapter, the burden of proof is on the prosecuting authority that a person charged with an offense should be detained or released with conditions described in this section or AS 12.30.016. Any monetary or nonmonetary condition or conditions imposed by the court under this section shall be the least restrictive condition or conditions that will reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community.

(k) If the report prepared by the pretrial services officer under AS 33.07 is not available at the time of the first appearance, bail review hearing, or bail hearing in connection with a petition to revoke probation, the court shall impose the least restrictive condition or conditions that will reasonably ensure the appearance of the person in court and the safety of the victim, other persons, and the community.

*** Sec. 60.** AS 12.30.016(b) is amended to read:

- (b) In a prosecution charging a violation of AS 04.11.010, 04.11.499, AS 28.35.030, or 28.35.032, a judicial officer may order the person
 - (1) to refrain from
 - (A) consuming alcoholic beverages; or
 - (B) possessing on the person, in the person's residence, or in

any vehicle or other property over which the person has control, alcoholic beverages;

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

(3) to submit to a breath test when requested by a law enforcement officer **or pretrial services officer**;

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

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

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

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

* **Sec. 61.** AS 12.30.016(c) is amended to read:

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

(1) to refrain from

(A) consuming a controlled substance; or

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

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

(3) to enroll in a random drug testing program, at the person's expense,

1 with testing to occur not less than once a week, or to submit to random drug
 2 testing by the pretrial services office in the Department of Corrections to detect
 3 the presence of a controlled substance, [WITH TESTING TO OCCUR NOT LESS
 4 THAN ONCE A WEEK, AND] with the results being submitted to the court and the
 5 prosecuting authority;

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

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

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

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

13 * **Sec. 62.** 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

17 (1) pretrial supervision under AS 33.07 is not available in the
 18 person's location;

19 (2) no secured appearance or performance bonds have been
 20 ordered; and

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

25 * **Sec. 63.** 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

against the proposed custodian;

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

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

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

* **Sec. 64.** AS 12.30.055 is amended by adding a new subsection to read:

(b) A person who is in custody in connection with a petition to revoke probation for a technical violation of probation under AS 12.55.110 shall be released after the person has served the maximum number of days that the court could impose on the person for a technical violation of probation under AS 12.55.110.

* **Sec. 65.** AS 12.55.011 is amended by adding a new subsection to read:

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

(1) provides information on

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

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

(2) allows the victim to update the victim's contact information with the court, the Victim Information and Notification Everyday service, and the Department of Corrections.

* **Sec. 66.** AS 12.55.025(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

(C) any other information required by the court.

* **Sec. 67.** AS 12.55.025(c) is amended to read:

(c) Except as provided in (d) of this section, when a defendant is sentenced to imprisonment, the term of confinement commences on the date of imposition of sentence unless the court specifically provides that the defendant must report to serve the sentence on another date. If the court provides another date to begin the term of confinement, the court shall provide the defendant with written notice of the date, time, and location of the correctional facility to which the defendant must report. A defendant shall receive credit for time spent in custody pending trial, sentencing, or appeal, if the detention was in connection with the offense for which sentence was imposed **including a technical violation of probation as provided in AS 12.55.110.**

1 A defendant may not receive credit for more than the actual time spent in custody
 2 pending trial, sentencing, or appeal. The time during which a defendant is voluntarily
 3 absent from official detention after the defendant has been sentenced may not be
 4 credited toward service of the sentence.

5 * **Sec. 68.** AS 12.55.027(a) is amended to read:

6 (a) A court may grant a defendant credit toward a sentence of imprisonment
 7 for time spent in a treatment program that furthers the reformation and
 8 rehabilitation of the defendant if the court finds that the program places a
 9 substantial restriction on the defendant's freedom of movement and behavior and
 10 is consistent with [OR UNDER ELECTRONIC MONITORING ONLY AS
 11 PROVIDED IN] this section.

12 * **Sec. 69.** AS 12.55.027(b) is amended to read:

13 (b) A court may only grant credit under this section [A DEFENDANT ONE
 14 DAY OF CREDIT TOWARD A SENTENCE OF IMPRISONMENT FOR EACH
 15 FULL DAY THE DEFENDANT RESIDED IN THE FACILITY OF A
 16 TREATMENT PROGRAM AND OBSERVED THE RULES OF THE
 17 TREATMENT PROGRAM AND THE FACILITY IF]

18 (1) in the amount of one day of credit toward a sentence of
 19 imprisonment for each full day the defendant spent in a treatment program; and
 20 [THE COURT FINDS THAT THE TREATMENT PROGRAM MEETS THE
 21 STANDARDS DESCRIBED IN (c) OF THIS SECTION;]

22 (2) if the court ordered [BEFORE] the defendant [ENTERED THE
 23 TREATMENT PROGRAM, THE COURT ORDERED THE DEFENDANT] to
 24 [RESIDE IN THE FACILITY OF THE TREATMENT PROGRAM AND] participate
 25 in and comply with the conditions of the treatment program before the defendant
 26 entered the program [AS A CONDITION OF BAIL RELEASE OR A CONDITION
 27 OF PROBATION; AND]

28 (3) THE COURT HAS RECEIVED A WRITTEN REPORT FROM
 29 THE DIRECTOR OF THE PROGRAM THAT

30 (A) STATES THAT THE DEFENDANT HAS
 31 PARTICIPATED IN THE TREATMENT PLAN PRESCRIBED FOR THE

1 DEFENDANT AND HAS COMPLIED WITH THE REQUIREMENTS OF
2 THE PLAN; AND

3 (B) SETS OUT THE NUMBER OF FULL DAYS THE
4 DEFENDANT RESIDED IN THE FACILITY OF THE TREATMENT
5 PROGRAM AND OBSERVED THE RULES OF THE TREATMENT
6 PROGRAM AND FACILITY].

7 * **Sec. 70.** AS 12.55.027(c) is repealed and reenacted to read:

8 (c) In granting credit toward a sentence of imprisonment for time spent in a
9 treatment program, a court shall consider the following factors:

10 (1) the restrictions on the defendant's freedom of movement and
11 behavior;

12 (2) the circumstances under which the defendant was enrolled in the
13 program;

14 (3) the residency requirements of the program;

15 (4) the physical custody and supervision of the defendant at the
16 program;

17 (5) the circumstances under which the defendant is permitted to leave
18 the program's facility;

19 (6) the rules of the program and the requirement that the defendant
20 obey the orders of persons who have immediate custody or control over the defendant;

21 (7) the sanctions on the defendant for violating the program's rules or
22 orders;

23 (8) whether the defendant is subject to arrest for leaving the program's
24 facility without permission;

25 (9) the use of an electronic monitoring device;

26 (10) whether the program provides substance abuse treatment;

27 (11) the use of other technology that monitors or restricts the
28 defendant's movement and behavior;

29 (12) other factors that support the court's finding that the program
30 places a substantial restriction on the defendant's freedom of movement and behavior;

31 (13) other factors that support the court's finding that the program

further the reformation and rehabilitation of the defendant.

*** Sec. 71.** AS 12.55.027 is amended by adding new subsections to read:

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

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

(2) provide measures of progress or completion; and

(3) require notification to the pretrial services office or probation officer if the person is discharged from the program for noncompliance.

(g) A court granting credit against a sentence of imprisonment under (d) of this section may grant credit of not more than 360 days against a total term of imprisonment imposed for

(1) a felony crime against a person under AS 11.41;

(2) a crime involving domestic violence as defined in AS 18.66.990;

(3) a sex offense as defined in AS 12.63.100;

(4) an offense under AS 11.71 involving the delivery of a controlled substance to a person under 19 years of age;

(5) burglary in the first degree under AS 11.46.300; or

(6) arson in the first degree under AS 11.46.400.

*** Sec. 72.** AS 12.55.035(b) is amended to read:

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of not more than

(1) \$500,000 for murder in the first or second degree, attempted murder in the first degree, murder of an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first degree, kidnapping, sex trafficking in the first degree under AS 11.66.110(a)(2), or misconduct involving a controlled substance in the first degree;

(2) \$250,000 for a class A felony;

(3) \$100,000 for a class B felony;

(4) \$50,000 for a class C felony;

(5) **\$25,000** [\$10,000] for a class A misdemeanor;

(6) \$2,000 for a class B misdemeanor;

1 (7) \$500 for a violation.

2 * **Sec. 73.** AS 12.55.051(a) is amended to read:

3 (a) If the defendant defaults in the payment of a fine or any installment or of
 4 restitution or any installment, the court may order the defendant to show cause why
 5 the defendant should not be sentenced to imprisonment for nonpayment and, if the
 6 payment was made a condition of the defendant's probation, may revoke the probation
 7 of the defendant **subject to the limits set out in AS 12.55.110**. In a contempt or
 8 probation revocation proceeding brought as a result of failure to pay a fine or
 9 restitution, it is an affirmative defense that the defendant was unable to pay despite
 10 having made continuing good faith efforts to pay the fine or restitution. If the court
 11 finds that the defendant was unable to pay despite having made continuing good faith
 12 efforts, the defendant may not be imprisoned solely because of the inability to pay. If
 13 the court does not find that the default was attributable to the defendant's inability to
 14 pay despite having made continuing good faith efforts to pay the fine or restitution, the
 15 court may order the defendant imprisoned **subject to the limits set out in**
 16 **AS 12.55.110** [UNTIL THE ORDER OF THE COURT IS SATISFIED]. A term of
 17 imprisonment imposed under this section may not exceed one day for each \$50 of the
 18 unpaid portion of the fine or restitution or one year, whichever is shorter. Credit shall
 19 be given toward satisfaction of the order of the court for every day a person is
 20 incarcerated for nonpayment of a fine or restitution.

21 * **Sec. 74.** AS 12.55.055(a) is amended to read:

22 (a) The court may order a defendant convicted of an offense to perform
 23 community work as a condition of probation, a suspended sentence, [OR] suspended
 24 imposition of sentence, **or suspended entry of judgment**, or in addition to any fine or
 25 restitution ordered. If the defendant is sentenced to imprisonment, the court may
 26 recommend to the Department of Corrections that the defendant perform community
 27 work.

28 * **Sec. 75.** AS 12.55.055(c) is amended to read:

29 (c) The court may offer a defendant convicted of an offense the option of
 30 performing community work in lieu of a fine, surcharge, or portion of a fine or
 31 surcharge if the court finds the defendant is unable to pay the fine. The value of

community work in lieu of a fine is **the state's minimum wage for each** [\$3 PER] hour.

* **Sec. 76.** AS 12.55.055 is amended by adding new subsections to read:

(g) The court may not

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

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

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

* **Sec. 77.** AS 12.55 is amended by adding a new section to read:

Sec. 12.55.078. Suspending entry of judgment. (a) Except as provided in (f) of this section, if a person is found guilty or pleads guilty to a crime, the court may, with the consent of the defendant and the prosecution and without imposing or entering a judgment of guilt, defer further proceedings and place the person on probation. The period of probation may not exceed the applicable terms set out in AS 12.55.090(c).

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

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

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

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

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

(c) At any time during the probationary term of the person released on probation, a probation officer may, without warrant or other process, rearrest the

1 person so placed in the officer's care and bring the person before the court, or the court
2 may, in its discretion, issue a warrant for the rearrest of the person. The court may
3 revoke and terminate the probation if the court finds that the person placed on
4 probation is

5 (1) violating the conditions of probation;
6 (2) engaging in criminal practices; or
7 (3) violating an order of the court to participate in or comply with the
8 treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

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

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

17 (f) The court may not suspend the imposition or entry of judgment and may
18 not defer prosecution under this section of a person who

19 (1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260
20 - 11.41.320, 11.41.360 - 11.41.370, 11.41.410 - 11.41.530, AS 11.46.400,
21 AS 11.61.125 - 11.61.128, or AS 11.66.110 - 11.66.135;

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

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

29 (4) is convicted of a violation of AS 11.41.230, 11.41.250, or a felony
30 and the person has one or more prior convictions for a misdemeanor violation of
31 AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction

having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a felony in this state; for the purposes of this paragraph, a person shall be considered to have a prior conviction even if

(A) the charges were dismissed under this section;

(B) the conviction has been set aside under AS 12.55.085; or

(C) the charge or conviction was dismissed or set aside under an equivalent provision of the laws of another jurisdiction; or

(5) has been convicted of a crime involving domestic violence, as defined in AS 18.66.990.

* **Sec. 78.** AS 12.55.090(b) is amended to read:

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

* **Sec. 79.** AS 12.55.090(c) is amended to read:

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

(1) **15** [25] years for a felony sex offense; [OR]

(2) 10 years for **an unclassified felony under AS 11;**

(3) five years for a felony offense not listed in (1) or (2) of this subsection;

(4) three years for a misdemeanor offense

(A) under AS 11.41;

(B) that is a crime involving domestic violence; or

(C) that is a sex offense, as that term is defined in AS 12.63.100;

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

(6) one year for an offense not listed in (1) - (5) of this subsection

[ANY OTHER OFFENSE].

* **Sec. 80.** AS 12.55.090(f) is amended to read:

(f) Unless the defendant and the prosecuting authority agree at the probation revocation proceeding or other proceeding **related to a probation violation, the person qualifies for a reduction under AS 33.05.020(h), or a probation officer recommends to the court that probation be terminated and the defendant be discharged from probation under (g) of this section or AS 33.05.040,** the court may not reduce the specific period of probation [,] or the specific term of suspended incarceration except by the amount of incarceration imposed for a probation violation, if

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

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

* **Sec. 81.** AS 12.55.090 is amended by adding new subsections to read:

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

(1) has completed at least

(A) two years on probation if the person was convicted of a class A or class B felony that is not a crime under (5) of this subsection; or

(B) one year on probation if the person was convicted of a crime that is not a crime

(i) under (A) of this paragraph; or

(ii) under (5) of this subsection;

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

(3) has not been found in violation of conditions of probation by the court for the period specified in (1) of this subsection;

(4) is currently in compliance with all conditions of probation for all of the cases for which the person is on probation; and

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

1 (h) Before a court may terminate probation and discharge the defendant before
2 the period of probation for the offense has been completed under (g) of this section,
3 the court shall allow victims to comment in writing to the court or allow a victim to
4 give sworn testimony or make an unsworn oral presentation at a hearing held to
5 determine whether to reduce the period of probation or terminate probation and
6 discharge the defendant.

7 (i) If a probation officer recommends to the court that probation be terminated
8 and a defendant be discharged from probation under (g) of this section, and if the
9 victim has earlier requested to be notified, the Department of Corrections shall send
10 the victim notice of the recommendation under (g) of this section and inform the
11 victim of the victim's rights under this section, the deadline for receipt of written
12 comments, the hearing date, and the court's address.

13 (j) If the victim submits written comments directly to the court and the parties
14 do not otherwise have the victim statements, the court shall distribute the statements to
15 the parties.

16 (k) In deciding whether to terminate probation and discharge the defendant
17 from probation under (g) of this section, the court shall consider the victim's
18 comments, testimony, or unsworn oral presentation, when relevant, and any response
19 by the prosecuting attorney and defendant.

20 (l) If a victim desires notice under this section, the victim shall maintain a
21 current, valid mailing address on file with the commissioner of corrections. The
22 commissioner shall send the notice to the victim's last known address. The victim's
23 address may not be disclosed to the defendant or the defendant's attorney.

24 (m) The court shall discharge the defendant from probation upon completion
25 of the period of probation. The period of probation is considered to be completed
26 when the combination of time served and credits earned under AS 33.05.020 is equal
27 to the probation period imposed, or after the probationer has been discharged from
28 probation under this section.

29 (n) In this section, "sex offense" has the meaning given in AS 12.63.100.

30 * **Sec. 82.** AS 12.55.100(a) is amended to read:

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

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

(2) may be required

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

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

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

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

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

(F) [(6)] to satisfy the screening, evaluation, referral, and program requirements of an agency authorized by the court to make referrals for rehabilitative treatment or to provide rehabilitative treatment;

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

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

* **Sec. 83.** AS 12.55.100(c) is amended to read:

(c) A program of inpatient treatment may be required by the authorized

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

* **Sec. 84.** AS 12.55.110 is amended by adding new subsections to read:

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

(1) three days for the first probation revocation;

(2) five days for the second probation revocation;

(3) 10 days for the third probation revocation; or

(4) the remainder of the suspended portion of the sentence for a fourth or subsequent probation revocation.

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

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

(f) If the defendant is ordered to complete treatment under AS 12.55.100(a)(2)(E) and does not comply with the court's order, the court may order the defendant to show cause why the defendant should not be sentenced to imprisonment for noncompletion of treatment and may revoke the suspended sentence subject to the limits established in this section. In a contempt or probation revocation proceeding brought as a result of failure to complete treatment, it is an affirmative defense that the defendant was unable to afford the cost of treatment or secure a place in a free treatment program, despite having made continuing good faith efforts. If the

1 court finds that the defendant was unable to complete treatment despite having made
 2 continuing good faith efforts, the defendant may not be imprisoned solely because of
 3 an inability to pay. If the court does not find that the noncompletion of treatment was
 4 attributable to the defendant's inability to pay, the court may order the defendant
 5 imprisoned subject to the limits established in this section.

6 (g) Notwithstanding (c) of this section, a court may not find a technical
 7 violation under this section if a person convicted of a sex offense, as described in
 8 AS 12.63.100, violates a condition of probation provided in AS 12.55.100(e).

9 (h) In this section,

10 (1) "absconding" means failing to report within five working days after
 11 release from custody under AS 33.20.030 or failing to report for a scheduled meeting
 12 with a probation officer, as ordered by the court or as directed by the probation officer,
 13 and failing to make contact with the probation officer within 30 days following the
 14 missed meeting;

15 (2) "technical violation" means a violation of the conditions of
 16 probation that does not constitute

17 (A) a new criminal offense;

18 (B) failing to complete sex offender treatment; or

19 (C) failing to complete an intervention program for batterers.

20 * **Sec. 85.** AS 12.55.115 is amended to read:

21 **Sec. 12.55.115. Fixing eligibility for discretionary or administrative parole**
 22 **at sentencing.** The court may, as part of a sentence of imprisonment, further restrict
 23 the eligibility of a prisoner for discretionary or administrative parole for a term
 24 greater than that required under AS 33.16.089, 33.16.090, [AS 33.16.090] and
 25 33.16.100.

26 * **Sec. 86.** AS 12.55.125(a) is amended to read:

27 (a) A defendant convicted of murder in the first degree or murder of an unborn
 28 child under AS 11.41.150(a)(1) shall be sentenced to a definite term of imprisonment
 29 of at least 30 [20] years but not more than 99 years. A defendant convicted of murder
 30 in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years
 31 when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, firefighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the defendant subjected the murder victim to substantial physical torture;

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery; or

(5) the defendant is a peace officer who used the officer's authority as a peace officer to facilitate the murder.

* **Sec. 87.** AS 12.55.125(b) is amended to read:

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of an unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of imprisonment of at least 15 [10] years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in

1 relation to the child; or (2) caused the death of the child by committing a crime against
 2 a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and
 3 "position of authority" have the meanings given in AS 11.41.470.

4 * **Sec. 88.** AS 12.55.125(c) is amended to read:

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

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

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

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

19 (B) and the conviction is for manufacturing related to
 20 methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years, if

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

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

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

30 (4) if the offense is a third felony conviction and the defendant is not
 31 subject to sentencing under (1) of this section, **13** [15] to 20 years.

1 * **Sec. 89.** AS 12.55.125(d) is amended to read:

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

6 (1) if the offense is a first felony conviction and does not involve
7 circumstances described in (2) of this subsection, zero [ONE] to two [THREE] years;
8 a defendant sentenced under this paragraph may, if the court finds it appropriate, be
9 granted a suspended imposition of sentence under AS 12.55.085 [IF, AS A
10 CONDITION OF PROBATION UNDER AS 12.55.086, THE DEFENDANT IS
11 REQUIRED TO SERVE AN ACTIVE TERM OF IMPRISONMENT WITHIN THE
12 RANGE SPECIFIED IN THIS PARAGRAPH, UNLESS THE COURT FINDS
13 THAT A MITIGATION FACTOR UNDER AS 12.55.155 APPLIES];

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

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

16 *(i)* a child under 16 years of age, two to four years; **or**

17 *(ii)* **was 16 years of age or older, one to three years;**

18 (B) two to four years if the conviction is for an attempt,
19 solicitation, or conspiracy to manufacture related to methamphetamine under
20 AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

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

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

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

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

* **Sec. 90.** AS 12.55.125(e) is amended to read:

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

(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, **probation, with a suspended term of imprisonment of zero to 18 months** [TWO YEARS]; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085 [, AND THE COURT MAY, AS A CONDITION OF PROBATION UNDER AS 12.55.086, REQUIRE THE DEFENDANT TO SERVE AN ACTIVE TERM OF IMPRISONMENT WITHIN THE RANGE SPECIFIED IN THIS PARAGRAPH];

(2) if the offense is a second felony conviction, **one to three** [TWO TO FOUR] years;

(3) if the offense is a third felony conviction, **two** [THREE] to five years;

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

(A) AS 08.54.720(a)(15), one to two years;

(B) AS 28.35.030(n)(1)(A) or 28.35.032(p)(1)(A), 120 days to

239 days;

(C) AS 28.35.030(n)(1)(B) or 28.35.032(p)(1)(B), 240 days to

359 days;

(D) AS 28.35.030(n)(1)(C) or 23.35.032(p)(1)(C), 360 days to

two years.

* **Sec. 91.** AS 12.55.135(a) is amended to read:

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

(1) one year, if the

(A) conviction is for a crime with a mandatory minimum

term of 30 days or more of active imprisonment;

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

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

(D) conviction is for an assault in the fourth degree under AS 11.41.230; or

(E) conviction is for a violation of

(i) AS 11.41.427;

(ii) AS 11.41.440;

(iii) AS 11.41.460, if the indecent exposure is before a person under 16 years of age; or

(iv) AS 11.61.118(a)(2);

(2) 30 days.

* **Sec. 92.** AS 12.55.135(b) is amended to read:

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

(1) 10 [90] days unless otherwise specified in the provision of law defining the offense or in this section;

(2) 90 days if the conviction is for a violation of

(A) AS 11.61.116(c)(1) and the person is 21 years of age or older; or

(B) AS 11.61.120(a)(6) and the person is 21 years of age or older.

* **Sec. 93.** AS 12.55.135 is amended by adding new subsections to read:

(l) A court sentencing a person convicted of theft in the fourth degree under AS 11.46.150, concealment of merchandise under AS 11.46.220(c)(3), removal of identification marks under AS 11.46.260(b)(3), unlawful possession under AS 11.46.270(b)(3), issuing a bad check under AS 11.46.280(d)(4), or criminal simulation under AS 11.46.530(b)(3) may not impose

1 (1) a sentence of more than five days of suspended imprisonment and a
2 term of probation of more than six months if the person has previously been convicted
3 two or more times of an offense under AS 11.46.110 - 11.46.220, 11.46.260 -
4 11.46.290, 11.46.360 or 11.46.365, or a law or ordinance of this or another jurisdiction
5 with substantially similar elements; or

6 (2) a sentence of active or suspended imprisonment if the person has
7 not been previously convicted, or has previously been convicted once, of an offense
8 under AS 11.46.110 - 11.46.220, 11.46.260 - 11.46.290, 11.46.360 or 11.46.365, or a
9 law or ordinance of this or another jurisdiction with substantially similar elements.

10 (m) A court may not impose a sentence of imprisonment for a definite term of
11 more than 24 hours for a person convicted of disorderly conduct under AS 11.61.110.

12 (n) A court sentencing a person convicted of misconduct involving a
13 controlled substance in the fourth degree under AS 11.71.050(a)(4) or misconduct
14 involving a controlled substance in the fifth degree under AS 11.71.060(a)(2) may not
15 impose

16 (1) a sentence of active imprisonment, unless the person has previously
17 been convicted more than once of an offense under AS 11.71 or a law of this or
18 another jurisdiction with elements substantially similar to an offense under AS 11.71;
19 or

20 (2) a sentence of suspended imprisonment greater than

21 (A) 30 days, if the defendant has not been previously convicted
22 of an offense under AS 11.71 or a law of this or another jurisdiction with
23 elements substantially similar to an offense under AS 11.71; or

24 (B) 180 days, if the person has been previously convicted of an
25 offense under AS 11.71 or a law of this or another jurisdiction with elements
26 substantially similar to an offense under AS 11.71.

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

29 (p) If the state seeks to establish an aggravating factor at sentencing

30 (1) under (a)(1)(C) of this section, written notice must be served on the
31 opposing party and filed with the court not later than 10 days before the date set for

1 imposition of sentence; the aggravating factor in (a)(1)(C) of this section must be
 2 established by clear and convincing evidence before the court sitting without a jury; all
 3 findings must be set out with specificity;

4 (2) an aggravating factor under (a)(1)(B) of this section shall be
 5 presented to a trial jury under procedures set by the court, unless the defendant waives
 6 trial by jury, stipulates to the existence of the factor, or consents to have the factor
 7 proven under procedures set out in (1) of this subsection; an aggravating factor
 8 presented to a jury is established if proved beyond a reasonable doubt; written notice
 9 of the intent to establish an aggravating factor must be served on the defendant and
 10 filed with the court

11 (A) not later than 10 days before trial or at a time specified by
 12 the court;

13 (B) not later than 48 hours, or at a time specified by the court,
 14 if the court instructs the jury about the option to return a verdict for a lesser
 15 included offense; or

16 (C) not later than five days before entering a plea that results in
 17 a finding of guilt or at a time specified by the court unless the defendant
 18 waives the notice requirement.

19 * **Sec. 94.** AS 12.61.015(a) is amended to read:

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

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

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

26 (A) of the defendant's conviction and the crimes of which the
 27 defendant was convicted;

28 (B) of the victim's right in a case that is a felony to make a
 29 written or oral statement for use in preparation of the defendant's presentence
 30 report, and of the victim's right to appear personally at the defendant's
 31 sentencing hearing to present a written statement and to give sworn testimony

or an unsworn oral presentation;

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

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

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

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

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

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

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

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

* **Sec. 95.** AS 12.61 is amended by adding a new section to read:

Sec. 12.61.016. Duties of agency investigating a sexual offense. A law enforcement agency investigating an offense under AS 11.41.410 - 11.41.470 may not disclose information related to the investigation to an employer of the victim unless

(1) the victim expressly permits the disclosure; or

(2) the agency determines the disclosure is necessary to investigate or prevent a crime.

* **Sec. 96.** AS 12.61.017(a) is amended to read:

(a) An employer may not penalize or threaten to penalize a victim **of an offense** because the victim

(1) is subpoenaed or requested by the prosecuting attorney to attend a court proceeding for the purpose of giving testimony; or

(2) reports the offense to a law enforcement agency or participates in the investigation of the offense by a law enforcement agency [. IN THIS

SUBSECTION, "PENALIZE" MEANS TO TAKE ACTION AFFECTING THE EMPLOYMENT STATUS, WAGES, AND BENEFITS PAYABLE TO THE

VICTIM, INCLUDING

(1) DEMOTION OR SUSPENSION;

(2) DISMISSAL FROM EMPLOYMENT; AND

(3) LOSS OF PAY OR BENEFITS, EXCEPT PAY AND BENEFITS

THAT ARE DIRECTLY ATTRIBUTABLE TO THE VICTIM'S ABSENCE FROM
EMPLOYMENT TO ATTEND THE COURT PROCEEDING].

* **Sec. 97.** AS 12.61.017 is amended by adding a new subsection to read:

(d) In this section, "penalize" means to take action affecting the employment
status, wages, and benefits payable to the victim, including

(1) demotion or suspension;

(2) dismissal from employment; and

(3) loss of pay or benefits, except pay and benefits that are directly
attributable to the victim's absence from employment to

(A) attend the court proceeding;

(B) report the offense to a law enforcement agency;

(C) participate in a law enforcement agency investigation of the
offense.

* **Sec. 98.** AS 12.70.130 is amended to read:

Sec. 12.70.130. Arrest without warrant. The arrest of a person may also be
lawfully made by a peace officer or a private person without a warrant upon
reasonable information that the accused stands charged in the courts of another state
with a crime punishable by death or imprisonment for a term exceeding one year, but
when arrested the accused must be taken before a judge or magistrate without
unnecessary delay and, in any event, within 24 [48] hours after arrest, **absent
compelling circumstances,** including Sundays and holidays, and complaint shall be
made against the accused under oath setting out the ground for the arrest as in
AS 12.70.120. **The hearing before the judge or magistrate may not take place
more than 48 hours after arrest.** Thereafter the answer of the accused shall be heard
as if the accused had been arrested on a warrant.

* **Sec. 99.** AS 18.67.020(a) is amended to read:

(a) **The** [THERE IS THE] Violent Crimes Compensation Board **is** [IN THE]

DEPARTMENT OF ADMINISTRATION] composed of three members to be appointed by the governor. One of the members shall be designated as chair by the governor. At least one member must be a medical or osteopathic physician, a physician assistant, or an advanced nurse practitioner licensed to practice in this state or [HOLDING A] retired from practice [STATUS LICENSE] in this state, and one member must be an attorney licensed to practice in this state or retired from practice in this state.

* **Sec. 100.** AS 22.35.030, added by sec. 2, ch. 1, SLA 2016, is amended to read:

Sec. 22.35.030. Records concerning criminal cases resulting in acquittal or dismissal. The Alaska Court System may not publish a court record of a criminal case on a publicly available website if 60 days have elapsed from the date of acquittal or dismissal and

(1) the defendant was acquitted of all charges filed in the case;

(2) all criminal charges against the defendant in the case have been dismissed and were not dismissed as part of a plea agreement in another criminal case under Rule 11, Alaska Rules of Criminal Procedure; [OR]

(3) the defendant was acquitted of some of the criminal charges in the case and the remaining charges were dismissed; or

(4) all criminal charges against the defendant in the case have been dismissed after a suspended entry of judgment under AS 12.55.078.

* **Sec. 101.** AS 28.15.165 is amended by adding a new subsection to read:

(e) A person whose driver's license, privilege to drive, or privilege to obtain a license has been revoked under this section as a result of a refusal to submit to a chemical test authorized under AS 28.35.031(a) or (g) or a similar municipal ordinance or a chemical test administered under AS 28.35.031(a) or (g) or a similar municipal ordinance in which the test produced a result described in AS 28.35.030(a)(2) may request that the department rescind the revocation. The department shall rescind a revocation under this subsection if the department finds that the person has supplied proof in a form satisfactory to the department that

(1) the person has been acquitted of driving while under the influence under AS 28.35.030, refusal to submit to a chemical test under AS 28.35.032, or a

1 similar municipal ordinance for the incident on which the revocation was based; or

2 (2) all criminal charges against the person for driving while under the
3 influence under AS 28.35.030 or a similar municipal ordinance and refusing to submit
4 to a chemical test under AS 28.35.032 or a similar municipal ordinance in relation to
5 the incident on which the revocation is based have been dismissed without prejudice.

6 * **Sec. 102.** AS 28.15.191(g) is amended to read:

7 (g) A court that has ordered a person to refrain from consuming alcoholic
8 beverages as part of a sentence for conviction of a crime under AS 28.35.030,
9 28.35.032, or a similar municipal ordinance or as a condition of probation or parole
10 following a conviction under those sections or a similar municipal ordinance, **or as a**
11 **condition of probation or parole for any other crime** shall

12 (1) require the surrender of the person's license and identification card
13 and forward the license and identification card to the department;

14 (2) report the order to the department within two days; and

15 (3) inform the person that the person's license and identification card
16 are subject to cancellation under AS 28.15.161 and AS 18.65.310 and, if the person is
17 otherwise qualified to receive a license or identification card, when the person obtains
18 a new license or identification card, the license or identification card must list the
19 restriction imposed by AS 04.16.160 for the period of probation or parole.

20 * **Sec. 103.** AS 28.15.201 is amended by adding new subsections to read:

21 (g) Notwithstanding (d) of this section, a court revoking a driver's license,
22 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the
23 department when revoking a driver's license, privilege to drive, or privilege to obtain a
24 license under AS 28.15.165(c), may grant limited license privileges if

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

26 (2) the person is participating in and has successfully participated for
27 at least six months in, or has successfully completed, a court-ordered treatment
28 program under AS 28.35.028, and submits verification acceptable to the department;

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

31 (4) the person is required to use an ignition interlock device during the

1 period of the limited license whenever the person operates a motor vehicle in a
2 community not included in the list published by the department under
3 AS 28.22.011(b) and, when applicable,

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

6 (B) the person signs an affidavit acknowledging that

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

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

12 (iii) the person is required to maintain the ignition
13 interlock device throughout the period of the limited license, to keep
14 up-to-date records in each vehicle showing that any required service
15 and calibration is current, and to produce those records immediately on
16 request;

17 (5) the person has not previously been granted a limited license under
18 this section and had the license revoked under (j) of this section.

19 (h) Notwithstanding (g)(2) of this section, if a person resides in a community
20 where a court-ordered treatment program under AS 28.35.028 is not available, the
21 person shall

22 (1) provide proof to the court that the person has successfully
23 completed a rehabilitative treatment program appropriate for the person's alcohol or
24 substance abuse condition; the program must

25 (A) include planning and treatment for alcohol or drug
26 addiction;

27 (B) include emphasis on personal responsibility;

28 (C) require payment of restitution to victims and completion of
29 community work service;

30 (D) include physician-approved treatment of physical addiction
31 and treatment of the psychological causes of addiction; and

(E) include a monitoring program and physical placement or housing in communities where the court finds that a monitoring program and placement or housing is available;

(2) provide proof by clear and convincing evidence to the court that the person is currently sober and has maintained sobriety for a period of at least 18 months; and

(3) provide written notice to the district attorney's office of the person's request for a limited license under this section.

(i) A person is not entitled to court-appointed counsel under (h) of this section.

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

* **Sec. 104.** AS 28.15.291(a) is repealed and reenacted to read:

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

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

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

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

* **Sec. 105.** AS 28.15.291(b) is repealed and reenacted to read:

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

(1) a class A misdemeanor if the person violates (a)(1) of this section;

1 upon conviction, the court shall impose a minimum sentence of imprisonment of not
 2 less than 10 days

3 (A) with 10 days suspended if the person has not been
 4 previously convicted under (a)(1) of this section or a similar law of another
 5 jurisdiction; or

6 (B) if the person has been previously convicted under (a)(1) of
 7 this section or a similar law in another jurisdiction;

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

9 * **Sec. 106.** AS 28.35.028(b) is amended to read:

10 (b) Once the court elects to proceed under this section, the defendant shall
 11 enter a no contest or guilty plea to the offense or shall admit to a probation violation,
 12 as appropriate. The state and the defendant may enter into a plea agreement to
 13 determine the offense or offenses to which the defendant is required to plead. If the
 14 court accepts the agreement, the court shall enforce the terms of the agreement. The
 15 court shall enter a judgment of conviction for the offense or offenses for which the
 16 defendant has pleaded or an order finding that the defendant has violated probation, as
 17 appropriate. A judgment of conviction or an order finding a probation violation must
 18 set a schedule for payment of restitution owed by the defendant. In a judgment of
 19 conviction and on probation conditions that the court considers appropriate, the court
 20 may withhold pronouncement of a period of imprisonment or a fine to provide an
 21 incentive for the defendant to complete recommended treatment successfully.
 22 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any
 23 mandatory minimum or other sentencing provision applicable to the offense.
 24 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any
 25 other provision of law, the court, at any time after the period when a reduction of
 26 sentence is normally available, may consider and reduce the defendant's sentence,
 27 **including imprisonment, fine, or license revocation,** based on the defendant's
 28 compliance with the treatment plan; when reducing a sentence, the court (1) may not
 29 reduce the sentence below the mandatory minimum sentence for the offense unless the
 30 court finds that the defendant has successfully complied with and completed the
 31 treatment plan and that the treatment plan approximated the severity of the minimum

1 period of imprisonment, and (2) may consider the defendant's compliance with the
 2 treatment plan as a mitigating factor allowing a reduction of a sentence under
 3 AS 12.55.155(a). A court entering an order finding the defendant has violated
 4 probation may withhold pronouncement of disposition to provide an incentive for the
 5 defendant to complete the recommended treatment successfully.

6 * **Sec. 107.** AS 28.35.030(k) is amended to read:

7 (k) Imprisonment required under (b)(1)(A) of this section shall be served [AT
 8 A COMMUNITY RESIDENTIAL CENTER OR] by electronic monitoring at a
 9 private residence under AS 33.30.065. If [A COMMUNITY RESIDENTIAL
 10 CENTER OR] electronic monitoring [AT A PRIVATE RESIDENCE] is not available,
 11 imprisonment required under (b)(1)(A) of this section shall [MAY] be served at a
 12 private residence by other means determined by the commissioner of corrections.
 13 A person who is serving a sentence of imprisonment required under (b)(1)(A) of
 14 this section by electronic monitoring at a private residence may not be subject to
 15 a search of the person's dwelling by a peace officer or a person required to
 16 administer the electronic monitoring under AS 33.30.065(a), except upon
 17 probable cause [ANOTHER APPROPRIATE PLACE DETERMINED BY THE
 18 COMMISSIONER OF CORRECTIONS]. Imprisonment required under (b)(1)(B) -
 19 (F) of this section may be served at a community residential center or at a private
 20 residence if approved by the commissioner of corrections. Imprisonment served at a
 21 private residence must include electronic monitoring under AS 33.30.065 or, if
 22 electronic monitoring is not available, by other means as determined by the
 23 commissioner of corrections. The cost of imprisonment resulting from the sentence
 24 imposed under (b)(1) of this section shall be paid to the state by the person being
 25 sentenced. The [PROVIDED, HOWEVER, THAT THE] cost of imprisonment
 26 required to be paid under this subsection may not exceed \$2,000. Upon the person's
 27 conviction, the court shall include the costs of imprisonment as a part of the judgment
 28 of conviction. Except for reimbursement from a permanent fund dividend as provided
 29 in this subsection, payment of the cost of imprisonment is not required if the court
 30 determines the person is indigent. For costs of imprisonment that are not paid by the
 31 person as required by this subsection, the state shall seek reimbursement from the

1 person's permanent fund dividend as provided under AS 43.23.065. [WHILE AT THE
 2 COMMUNITY RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A
 3 PERSON SENTENCED UNDER (b)(1)(A) OF THIS SECTION SHALL PERFORM
 4 AT LEAST 24 HOURS OF COMMUNITY SERVICE WORK.] A person sentenced
 5 under (b)(1)(B) of this section shall perform at least 160 hours of community service
 6 work, as required by the director of the community residential center or other
 7 appropriate place, or as required by the commissioner of corrections if the sentence is
 8 being served at a private residence. In this subsection, "appropriate place" means a
 9 facility with 24-hour on-site staff supervision that is specifically adapted to provide a
 10 residence, and includes a correctional center, residential treatment facility, hospital,
 11 halfway house, group home, work farm, work camp, or other place that provides
 12 varying levels of restriction.

13 * **Sec. 108.** AS 28.35.030(l) is amended to read:

14 (l) The commissioner of corrections shall determine and prescribe by
 15 regulation a uniform average cost of imprisonment for the purpose of determining the
 16 cost of imprisonment required to be paid under (k) of this section by a convicted
 17 person. **The regulations must include the costs associated with electronic**
 18 **monitoring under AS 33.30.065.**

19 * **Sec. 109.** AS 28.35.030(o) is amended to read:

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

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

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

25 **(B)** [(2)] the person has not been convicted of a **driving-**
 26 **related** criminal offense since the license was revoked; and

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

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

29 **(A) the person has been granted limited license privileges**
 30 **under AS 28.15.201(g) and has successfully driven under that limited**
 31 **license for three years without having the limited license privileges**

1 revoked;

2 (B) the person has successfully completed a court-ordered
 3 treatment program under AS 28.35.028 or a rehabilitative treatment
 4 program under AS 28.15.201(h);

5 (C) the person has not been convicted of a violation of
 6 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another
 7 jurisdiction since the license was revoked;

8 (D) the person is otherwise eligible to have the person's
 9 driving privileges restored as provided in AS 28.15.211; in an application
 10 under this subsection, a person whose license was revoked for a violation
 11 of AS 28.35.030(n) or 28.35.032(p) is not required to submit compliance as
 12 required under AS 28.35.030(h) or 28.35.032(l); and

13 (E) the person provides proof of financial responsibility.

14 * **Sec. 110.** AS 28.35.032(o) is amended to read:

15 (o) Imprisonment required under (g)(1)(A) of this section shall be served at a
 16 private residence by electronic monitoring under AS 33.30.065. If electronic
 17 monitoring [AT A COMMUNITY RESIDENTIAL CENTER, OR IF A
 18 COMMUNITY RESIDENTIAL CENTER] is not available, imprisonment under
 19 (g)(1)(A) of this section shall be served at a private residence by other means as
 20 determined by the commissioner of corrections. A person who is serving a
 21 sentence of imprisonment required under (g)(1)(A) of this section by electronic
 22 monitoring at a private residence may not be subject to a search of the person's
 23 dwelling by a peace officer or a person required to administer the electronic
 24 monitoring under AS 33.30.065(a), except upon probable cause [AT ANOTHER
 25 APPROPRIATE PLACE DETERMINED BY THE COMMISSIONER OF
 26 CORRECTIONS]. Imprisonment required under (g)(1)(B) - (F) of this section may be
 27 served at a community residential center or at a private residence if approved by the
 28 commissioner of corrections. Imprisonment served at a private residence must include
 29 electronic monitoring under AS 33.30.065 or, if electronic monitoring is not
 30 available, shall be served by other means as determined by the commissioner of
 31 corrections. The cost of imprisonment resulting from the sentence imposed under

(g)(1) of this section shall be paid to the state by the person being sentenced. **The** [PROVIDED, HOWEVER, THAT THE] cost of imprisonment required to be paid under this subsection may not exceed \$2,000. Upon the person's conviction, the court shall include the costs of imprisonment as a part of the judgment of conviction. Except for reimbursement from a permanent fund dividend as provided in this subsection, payment of the cost of imprisonment is not required if the court determines the person is indigent. For costs of imprisonment that are not paid by the person as required by this subsection, the state shall seek reimbursement from the person's permanent fund dividend as provided under AS 43.23.065. [WHILE AT THE COMMUNITY RESIDENTIAL CENTER OR OTHER APPROPRIATE PLACE, A PERSON SENTENCED UNDER (g)(1)(A) OF THIS SECTION SHALL PERFORM AT LEAST 24 HOURS OF COMMUNITY SERVICE WORK.] A person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of community service work, as required by the director of the community residential center or other appropriate place, or as required by the commissioner of corrections if the sentence is being served at a private residence. In this subsection, "appropriate place" means a facility with 24-hour on-site staff supervision that is specifically adapted to provide a residence, and includes a correctional center, residential treatment facility, hospital, halfway house, group home, work farm, work camp, or other place that provides varying levels of restriction.

* **Sec. 111.** AS 29.10.200(21) is amended to read:

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

* **Sec. 112.** AS 29.25.070(a) is amended to read:

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

* **Sec. 113.** AS 29.25.070 is amended by adding a new subsection to read:

(g) If a municipality prescribes a penalty for a violation of a municipal ordinance, including a violation under (a) of this section, and there is a comparable state offense under AS 11 or AS 28 with elements that are similar to the municipal ordinance, the municipality may not impose a greater punishment than that imposed for a violation of the state law. This subsection applies to home rule and general law municipalities.

* **Sec. 114.** AS 33.05.020 is amended by adding new subsections to read:

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

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

(2) policies and procedures that ensure

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

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

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

(h) The commissioner shall establish by regulation a program allowing probationers to earn credits for complying with the conditions of probation. The credits earned reduce the period of probation. Nothing in this subsection prohibits the department from recommending to the court the early discharge of the probationer as provided in AS 33.30. At a minimum, the regulations must

(1) require that a probationer earn a credit of 30 days for each 30-day

1 period served in which the defendant complied with the conditions of probation;

2 (2) include policies and procedures for

3 (A) calculating and tracking credits earned by probationers;

4 (B) reducing the probationer's period of probation based on
5 credits earned by the probationer; and

6 (C) notifying a victim under AS 33.30.013.

7 * **Sec. 115.** AS 33.05.040 is amended to read:

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

9 (1) furnish to each probationer under the supervision of the officer a
10 written statement of the conditions of probation and shall instruct the probationer
11 regarding the same;

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

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

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

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

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

behavior;

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

(8) for each probationer who owes restitution and who is under the supervision of the officer, create a restitution payment schedule based on the probationer's income and ability to pay if the court has not already set a restitution payment schedule.

* **Sec. 116.** AS 33.05.080 is amended by adding a new paragraph to read:

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

* **Sec. 117.** AS 33 is amended by adding a new chapter to read:

Chapter 07. Pretrial Services Program.

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

Sec. 33.07.020. Duties of commissioner; pretrial services. The commissioner shall

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

(2) fix pretrial services officers' salaries;

(3) assign pretrial services officers to each judicial district;

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

(5) approve a risk assessment instrument that is objective, standardized, and developed based on analysis of empirical data and risk factors relevant to pretrial failure, that evaluates the likelihood of failure to appear in court

1 and the likelihood of rearrest during the pretrial period, and that is validated on the
2 state's pretrial population; and

3 (6) adopt regulations in consultation with the Department of Law, the
4 public defender, the Department of Public Safety, the office of victims' rights, and the
5 Alaska Court System, consistent with this chapter and as necessary to implement the
6 program; the regulations must include a process for pretrial services officers to make a
7 recommendation to the court concerning a pretrial release decision and guidelines for
8 pretrial diversion recommendations.

9 **Sec. 33.07.030. Duties of pretrial services officers.** (a) Pretrial services
10 officers shall, in advance of a first appearance before a judicial officer under
11 AS 12.30, conduct a pretrial risk assessment on the defendant using an instrument
12 approved by the commissioner for the purpose of making a recommendation to the
13 court concerning an appropriate pretrial release decision and conditions of release. In
14 conducting a pretrial risk assessment and making a recommendation to the court, the
15 pretrial services officer shall follow the decision-making process established by
16 regulation under this chapter. The pretrial risk assessment shall be completed and
17 presented to the court in a pretrial release report that contains a risk assessment rating
18 of low, moderate, or high and a recommendation regarding release and release
19 conditions, including a recommendation concerning a defendant's dependency on,
20 abuse of, or addiction to alcohol or controlled substances, to the extent those factors
21 are indicated by the offense or criminal history, before the defendant's first appearance
22 before a judicial officer.

23 (b) A pretrial services officer shall make a recommendation under (a) of this
24 section for pretrial release to the court based on factors that include the results of a
25 pretrial risk assessment, the offense charged, and the least restrictive condition or
26 conditions that will reasonably ensure the appearance of the person in court and the
27 safety of the victim, other persons, and the community. If the offense or criminal
28 history of a defendant identifies that a dependency on, abuse of, or addiction to
29 alcohol or controlled substances is a factor in the defendant's offense, the pretrial
30 services officer shall include that identified fact in the report to the court and to the
31 attorneys. The recommendation must take into account

(1) the defendant's risk rating;

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

(3) the appropriateness of nonmonetary release conditions permitted under AS 12.30.011, 12.30.016, 12.30.021, and 12.30.027 and supervision of those conditions by a pretrial services officer for defendants who are recommended for release.

(c) A pretrial services officer shall recommend for release on personal recognizance, upon execution of an unsecured appearance bond, or upon execution of an unsecured performance bond, with nonmonetary conditions as appropriate, if a defendant is charged with

(1) a misdemeanor, unless that misdemeanor is

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

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

(C) an offense under AS 11.56.730 or 11.56.757;

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

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

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

(C) an offense under AS 11.56.730;

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

(d) A pretrial services officer shall recommend release on personal recognizance, upon execution of an unsecured appearance bond, or upon execution of an unsecured performance bond, with nonmonetary conditions as appropriate, unless the pretrial services officer finds

(1) by substantial evidence that no nonmonetary conditions of release in combination with release on personal recognizance or upon execution of unsecured bond can reasonably ensure public safety and appearance in court; and

1 (2) the defendant has been charged with

2 (A) an offense under AS 28.35.030 or 28.35.032, and the
3 offender has been assessed as high risk under a pretrial risk assessment;

4 (B) an offense under AS 11.56.730 or 11.56.757, and the
5 offender has been assessed as low to moderate risk under a pretrial risk
6 assessment; or

7 (C) any other offense, and the defendant has been assessed as
8 being low risk under a pretrial risk assessment.

9 (e) A pretrial services officer may recommend release on personal
10 recognizance, upon execution of an unsecured appearance bond, or upon execution of
11 an unsecured performance bond, with nonmonetary conditions as appropriate, for a
12 defendant not otherwise recommended for release under (c) or (d) of this section.

13 (f) A pretrial services officer may supervise a defendant released while
14 awaiting trial, imposing the least restrictive level of supervision that will reasonably
15 ensure the appearance of the person in court and the safety of the victim, other
16 persons, and the community, and prioritizing higher levels of supervision for a
17 defendant accused of serious charges or assessed as moderate or high risk under a
18 pretrial risk assessment. The commissioner may, in accordance with AS 36.30,
19 procure and enter into agreements or contracts for the supervision of defendants on
20 electronic monitoring during the pretrial period.

21 (g) A pretrial services officer may

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

25 (2) arrest, without a warrant, a defendant who has been released while
26 awaiting trial if the officer has probable cause to believe the defendant has committed
27 an offense under AS 11.56.730 or 11.56.757 or has violated the defendant's release
28 conditions;

29 (3) refer interested defendants for substance abuse screening,
30 assessment, and treatment on a voluntary basis and assist any defendant whose offense
31 or criminal history identified a dependency on, abuse of, or addiction to alcohol or

1 controlled substances with accessing and obtaining appropriate treatment in the
2 community to address those needs;

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

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

8 **Sec. 33.07.040. Pretrial services officers as officers of court.** All pretrial
9 services officers shall be available to the superior and district courts and shall be
10 officers of the court.

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

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

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

14 * **Sec. 118.** AS 33.16.010(c) is amended to read:

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

20 * **Sec. 119.** AS 33.16.010(d) is amended to read:

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

24 * **Sec. 120.** AS 33.16.010 is amended by adding a new subsection to read:

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

27 * **Sec. 121.** AS 33.16.060(a) is amended to read:

28 (a) The board shall

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

30 (2) [UPON RECEIPT OF AN APPLICATION,] consider the
31 suitability for parole of a prisoner who is eligible for discretionary parole at least 90

days before the prisoner's first date of eligibility and upon receipt of the prisoner's application for special medical [OR DISCRETIONARY] parole;

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

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

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

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

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

(8) upon request of the governor, review and recommend applicants for executive clemency; and

(9) execute other responsibilities prescribed by law.

* **Sec. 122.** AS 33.16 is amended by adding a new section to read:

Sec. 33.16.089. Eligibility for administrative parole. (a) A prisoner convicted of a misdemeanor or a class B or C felony that is not a sex offense as defined in AS 12.63.100 or an offense under AS 11.41 who has not been previously convicted of a felony in this or another jurisdiction and who has been sentenced to an active term of imprisonment of at least 181 days shall be released on administrative parole by the board without a hearing if

(1) the prisoner has served the greater of

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

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

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

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

(3) the prisoner has agreed to and signed the conditions of parole under AS 33.16.150;

(4) the victim does not request a hearing to consider issues of public

1 safety under AS 33.16.120; and

2 (5) the prisoner has met the requirements of the case plan, including
3 completing programming in the case plan, under AS 33.30.011(8).

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

7 (c) If a victim makes a request at least 60 days before the prisoner's earliest
8 parole eligibility date for a hearing under AS 33.16.120, the board shall conduct the
9 hearing not later than 30 days before the prisoner's earliest parole eligibility date. The
10 board may release or deny release of a prisoner on administrative parole after the
11 hearing.

12 (d) The board shall send notice to the victim at least 90 days before the
13 prisoner's earliest parole eligibility date and provide instructions on how to request a
14 hearing under AS 33.16.120.

15 * **Sec. 123.** AS 33.16.090(a) is amended to read:

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

20 **(1)** has served the amount of time specified under (b) of this section,
21 except that

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

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

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

30 **(2)** **is at least 60 years of age, has served at least 10 years of a**
31 **sentence for one or more crimes in a single judgment, and has not been convicted**

1 **of an unclassified felony or a sexual felony as defined in AS 12.55.185.**

2 * **Sec. 124.** AS 33.16.090(b) is amended to read:

3 (b) A prisoner eligible under **(a)(1)** [(a)] of this section who is sentenced

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

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

14 (3) to a single sentence under **AS 12.55.125(i)** [AS 12.55.125(c), (d)(2)
15 - (4), (e)(3) AND (4), OR (i)], and has been allowed by the three-judge panel under
16 AS 12.55.175 to be considered for discretionary parole release during the second half
17 of the sentence, may not be released on discretionary parole until

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

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

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

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

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

30 (A) an amount of time, less good time earned under
31 AS 33.20.010, equal to the upper end of the presumptive range plus one-fourth

1 of the amount of time above the presumptive range; or

2 (B) any term set under AS 12.55.115;

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

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

9 (A) any mandatory minimum sentence or sentences imposed
10 under any provision of law;

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

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

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

17 (A) the composite total of any mandatory minimum sentence or
18 sentences imposed under any provision of law, including AS 12.55.127;

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

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

25 **(8) to a single sentence under AS 12.55.125(i)(3) and (4), and has**
26 **not been allowed by the three-judge panel under AS 12.55.175 to be considered**
27 **for discretionary parole release, may not be released on discretionary parole until**
28 **the prisoner has served, after a deduction for good time earned under**
29 **AS 33.20.010, one-half of the active term of imprisonment imposed.**

30 * Sec. 125. AS 33.16.100(a) is amended to read:

31 (a) The board may authorize the release of a prisoner **convicted of an**

1 unclassified felony who is otherwise eligible under AS 12.55.115 and
 2 AS 33.16.090(a)(1) on discretionary parole if it determines a reasonable probability
 3 exists that

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

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

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

10 (4) release of the prisoner on parole would not diminish the
 11 seriousness of the crime.

12 * **Sec. 126.** AS 33.16.100(b) is amended to read:

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

19 * **Sec. 127.** AS 33.16.100 is amended by adding new subsections to read:

20 (f) The board shall authorize the release of a prisoner who has been convicted
 21 of a class A, class B, or class C felony, or a misdemeanor, who is eligible for parole
 22 under AS 12.55.115 and AS 33.16.090, has met the requirement of a case plan created
 23 under AS 33.30.011(8), has agreed to and signed the condition of parole under
 24 AS 33.16.150, and has not been released on administrative parole under AS 33.16.089,
 25 unless the board finds by clear and convincing evidence on the record that the prisoner
 26 poses a threat of harm to the public if released on parole. If the board finds that the
 27 incomplete case plan is not the fault of the prisoner or that the prisoner would not pose
 28 a threat of harm to the public if released on parole, the board may waive the case plan
 29 requirement.

30 (g) When considering a prisoner for release on discretionary parole under
 31 AS 33.16.090(a)(2), the board may release a prisoner if, taking into consideration the

prisoner's likelihood of recidivism given the prisoner's age, criminal history, behavior in prison, participation in treatment, and plans for reentering the community, a reasonable probability exists that

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

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

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

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

*** Sec. 128.** AS 33.16.110(a) is amended to read:

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

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

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

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

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

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

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

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

(8) information concerning an unjustified disparity in the sentence imposed on a prisoner in relation to other sentences imposed under similar circumstances;

(9) the case plan created under AS 33.30.011(8) for the prisoner,

1 **including a compliance report on the case plan;**

2 **(10) a reentry plan created under AS 33.30.011(9); and**

3 **(11)** [AND (9)] other relevant information that may be reasonably
4 available.

5 * **Sec. 129.** AS 33.16.120(a) is amended to read:

6 (a) If the victim of a crime against a person or arson in the first degree
7 requests notice of a scheduled hearing to review or consider discretionary parole for a
8 prisoner convicted of that crime, the board shall send notice of the hearing to the
9 victim at least 30 days before the hearing. The notice must be accompanied by a copy
10 of the prisoner's **parole plan submitted to the board** [APPLICATION FOR
11 PAROLE SUBMITTED UNDER AS 33.16.130(a)]. However, the copy of the **parole**
12 **plan** [APPLICATION] sent to the victim may not include the prisoner's **confidential**
13 **health information, information protected under AS 33.16.170,** proposed
14 residence, **or** [AND] employment addresses.

15 * **Sec. 130.** AS 33.16.120(f) is amended to read:

16 (f) Upon request of the victim, if a prisoner is released under AS 33.16.010(c),
17 **33.16.089, or 33.16.090,** the board shall make every reasonable effort to notify the
18 victim before the prisoner's release date. Notification under this subsection must
19 include the expected date of the prisoner's release, the geographic area in which the
20 prisoner is required to reside, and other pertinent information concerning the prisoner's
21 conditions of parole that may affect the victim.

22 * **Sec. 131.** AS 33.16.120(g) is amended to read:

23 (g) A victim of a crime involving domestic violence **or of a sexual assault**
24 **under AS 11.41.410 - 11.41.427** shall be informed by the board at least 30 days in
25 advance of a scheduled hearing to review or consider [DISCRETIONARY] parole for
26 a prisoner. The board shall inform the victim of any decision to grant or deny
27 [DISCRETIONARY] parole or to release the prisoner under AS 33.16.010(c). If the
28 prisoner is to be released, the victim shall be notified of the expected date of the
29 release, the geographic area in which the prisoner will reside, and any other
30 information concerning conditions of parole that may affect the victim. The victim
31 shall also be informed of any changes in the conditions of parole that may affect the

1 victim. The board shall send the notice required to the last known address of the
2 victim. A person may not bring a civil action for damages for a failure to comply with
3 the provisions of this subsection.

4 * **Sec. 132.** AS 33.16.120 is amended by adding a new subsection to read:

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

9 * **Sec. 133.** AS 33.16.130 is repealed and reenacted to read:

10 **Sec. 33.16.130. Parole procedures.** (a) The parole board shall hold a hearing
11 before granting an eligible prisoner special medical or discretionary parole. The board
12 shall also hold a hearing if requested by a victim under procedures established for the
13 request for a prisoner eligible for administrative parole. A hearing shall be conducted
14 within the following time frames:

15 (1) for prisoners eligible under AS 33.16.100(a) or (f), not less than 90
16 days before the first parole eligibility date, unless the prisoner is eligible for
17 administrative parole;

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

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

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

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

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

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

* **Sec. 134.** AS 33.16.140 is amended to read:

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

* **Sec. 135.** AS 33.16.150(a) is amended to read:

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

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

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

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

(4) shall report

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

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

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

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

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

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

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

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

(11) shall agree to waive extradition from any state or territory of the United States and to not contest efforts to return the parolee to the state;

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

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

* **Sec. 136.** AS 33.16.150(b) is amended to read:

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

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

(2) refrain from possessing or consuming alcoholic beverages;

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

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

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

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

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

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

(9) refrain from operating a motor vehicle;

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

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

* **Sec. 137.** AS 33.16.150(e) is amended to read:

(e) The board may designate a member of the board to act on behalf of the board in imposing conditions of **administrative or** mandatory parole under (a) and (b) of this section, in delegating imposition of conditions of **administrative or** mandatory parole under (c) of this section, and in setting the period of compliance with the conditions of **administrative or** mandatory parole under (d) of this section. The decision of a member of the board under this section is the decision of the board. A prisoner or parolee aggrieved by a decision of a member of the board acting for the

1 board under this subsection may apply to the board under AS 33.16.160 for a change
 2 in the conditions of administrative or mandatory parole.

3 * **Sec. 138.** AS 33.16.150(f) is amended to read:

4 (f) In addition to other conditions of parole imposed under this section, the
 5 board may impose as a condition of special medical, administrative, discretionary, or
 6 mandatory parole for a prisoner serving a term for a crime involving domestic
 7 violence (1) any of the terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a
 8 requirement that, at the prisoner's expense, the prisoner participate in and complete, to
 9 the satisfaction of the board, a program for the rehabilitation of perpetrators of
 10 domestic violence that meets the standards set by, and that is approved by, the
 11 department under AS 44.28.020(b); and (3) any other condition necessary to
 12 rehabilitate the prisoner. The board shall establish procedures for the exchange of
 13 information concerning the parolee with the victim and for responding to reports of
 14 nonattendance or noncompliance by the parolee with conditions imposed under this
 15 subsection. The board may not under this subsection require a prisoner to participate
 16 in and complete a program for the rehabilitation of perpetrators of domestic violence
 17 unless the program meets the standards set by, and is approved by, the department
 18 under AS 44.28.020(b).

19 * **Sec. 139.** AS 33.16.150(g) is amended to read:

20 (g) In addition to other conditions of parole imposed under this section for a
 21 prisoner serving a sentence for an offense where the aggravating factor provided in
 22 AS 12.55.155(c)(29) has been proven or admitted, the board shall impose as a
 23 condition of special medical, administrative, discretionary, and mandatory parole a
 24 requirement that the prisoner submit to electronic monitoring. Electronic monitoring
 25 under this subsection must comply with AS 33.30.011(10) and provide for
 26 monitoring of the prisoner's location and movements by Global Positioning System
 27 technology. The board shall require a prisoner serving a period of parole
 28 [PROBATION] with electronic monitoring as provided under this subsection to pay
 29 all or a portion of the costs of the electronic monitoring, but only if the prisoner has
 30 sufficient financial resources to pay the costs or a portion of the costs. A prisoner
 31 subject to electronic monitoring under this subsection is not entitled to a credit for

1 time served in a correctional facility while the defendant is on parole. In this
 2 subsection, "correctional facility" has the meaning given in AS 33.30.901.

3 * **Sec. 140.** AS 33.16.150 is amended by adding new subsections to read:

4 (h) In addition to other conditions of parole imposed under this section, for a
 5 prisoner serving a sentence for an offense involving the use of alcohol or controlled
 6 substances, the board may impose, as a condition of special medical, administrative,
 7 discretionary, or mandatory parole, a requirement that the prisoner comply with a
 8 program established under AS 33.16.060(c) or AS 47.38.020. The board may require a
 9 prisoner serving a period of parole and complying with a program established under
 10 AS 33.16.060(c) or AS 47.38.020 to pay all or a portion of the costs associated with
 11 the program.

12 (i) In addition to other conditions of parole imposed under this section, for a
 13 prisoner who is serving a sentence for an offense involving the use of alcohol and
 14 whom the board has ordered to refrain from possessing or consuming alcoholic
 15 beverages, the board shall require the surrender of the person's driver's license or
 16 identification card, forward the license or identification card to the department, and
 17 impose as a condition of parole that, if the parolee is eligible for a driver's license or
 18 identification card, the parolee shall apply to the department for a new license or
 19 identification card with a restriction imposed on the person under AS 04.16.160. The
 20 board shall notify the department of the board's order under this subsection by
 21 providing a copy of the board's order. Upon discharge from parole, the board shall
 22 notify the department of the parolee's discharge. In this subsection, "department"
 23 means the Department of Administration.

24 * **Sec. 141.** AS 33.16.180 is amended to read:

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

26 (1) conduct investigations of prisoners eligible for administrative or
 27 discretionary parole, as requested by the board and as provided in this section;

28 (2) supervise the conduct of parolees;

29 (3) appoint and assign parole officers and personnel;

30 (4) provide the board, within 30 days after sentencing, information on
 31 a sentenced prisoner who may be eligible for administrative parole under

AS 33.16.089 or discretionary parole under AS 33.16.090;

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

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

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

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

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

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

(B) policies and procedures that ensure

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

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

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

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

* **Sec. 142.** AS 33.16.200 is amended to read:

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

* **Sec. 143.** AS 33.16.210 is amended to read:

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

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

* **Sec. 144.** AS 33.16.210 is amended by adding a new subsection to read:

(c) A parole officer shall recommend to the board early discharge for a parolee who

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

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

(3) has not been found in violation of conditions of parole by the board for at least one year; and

(4) has not been convicted of

(A) an unclassified felony offense under AS 11;

(B) a sexual felony as defined in AS 12.55.185; or

(C) a crime involving domestic violence as defined in

AS 18.66.990.

* **Sec. 145.** AS 33.16 is amended by adding a new section to read:

Sec. 33.16.215. Sanctions for technical violations and other violations of

parole. (a) If a parolee is serving a period of parole for an offense, the board may find that the parolee has committed a technical violation of parole. If the board finds that a parolee has committed a technical violation of parole that does not include absconding, the board may reinstate the term of parole with appropriate conditions or revoke parole and impose a term of imprisonment of not more than

(1) three days for the first parole revocation;

(2) five days for the second parole revocation;

(3) 10 days for the third parole revocation; and

(4) the remainder of the sentence for a fourth or subsequent parole revocation.

(b) If the board revokes a parolee's parole for absconding, the board may impose a period of imprisonment not to exceed 30 days.

(c) The limits on length of imprisonment the board may impose under this section if the board revokes a parolee's parole do not apply if the parolee is enrolled in the program established under AS 33.16.060(c).

(d) If the defendant is ordered to complete treatment under AS 33.16.150(a)(3) and does not comply with the board's order, the board may order the parolee to show cause why the board should not revoke the parole for noncompletion of treatment. In a parole revocation proceeding brought as a result of failure to complete treatment, it is an affirmative defense that the parolee was unable to afford the cost of treatment or secure a place in a free treatment program, despite having made continuing good faith efforts. If the board finds that the parolee was unable to complete treatment despite having made continuing good faith efforts, the parole may not be revoked solely because of an inability to pay. If the board does not find that the noncompletion of treatment was attributable to the parolee's inability to pay, the board may revoke parole subject to the limits established in this section.

(e) Notwithstanding (a) of this section, the board may not find a technical violation under this section if a person convicted of a sex offense as defined in AS 12.63.100 violates a special condition of parole that is similar to a probation condition described in AS 12.55.100(e).

(f) In this section,

(1) "absconding" means failing to report within five working days after release from custody under AS 33.20.030 or failing to report for a scheduled meeting with a parole officer, as directed by the board or the parole officer, and failing to make contact with the parole officer within 30 days following the missed meeting;

(2) "technical violation" means a violation of the conditions of parole that does not constitute

(A) a new criminal offense;

(B) failing to complete sex offender treatment; or

(C) failing to complete an intervention program for batterers.

* **Sec. 146.** AS 33.16.220(b) is amended to read:

(b) Except as provided in (e) of this section, within 15 working days after the arrest and incarceration of a parolee for violation of a condition of parole, **other than a technical violation under AS 33.16.215**, the board or its designee shall hold a preliminary hearing. At the preliminary hearing, the board or its designee shall determine if there is probable cause to believe that the parolee violated the conditions of parole and, when probable cause exists, whether the parolee should be released pending a final revocation hearing. A finding of probable cause at a preliminary hearing in a criminal case is conclusive proof of probable cause that a parole violation occurred.

* **Sec. 147.** AS 33.16.220(f) is amended to read:

(f) **If a parolee has had a preliminary hearing under (b) of this section, the** [THE] board shall hold a final revocation hearing **not** [NO] later than 120 days after a parolee's arrest, subject to restrictions arising under AS 33.36.110 and (g) of this section.

* **Sec. 148.** AS 33.16.220(i) is amended to read:

(i) If, after the final revocation hearing, the board finds that the parolee has

violated a condition of parole imposed under AS 33.16.150(a), (b), or (f), or a law or ordinance, the board may revoke all or a portion of the remaining period of parole subject to the limits set out in AS 33.16.215, or change any condition of parole. A parolee's period of parole is tolled from the date of filing with the parole board of a violation report for absconding and the date of the parolee's arrest, if the parole board finds, after a hearing, that the parolee violated parole by absconding, as defined in AS 33.16.215(f). The board may not extend the period of parole beyond the maximum release date calculated by the department on the parolee's original sentence plus any time that has been tolled as described in this section.

* **Sec. 149.** AS 33.16.220 is amended by adding a new subsection to read:

(j) If a parolee has been arrested for a technical violation of conditions of parole, the board or its designee shall hold a final hearing within 15 working days.

* **Sec. 150.** AS 33.16.240 is amended by adding new subsections to read:

(h) A parolee arrested under this section for a technical violation shall be released once the parolee has served the maximum number of days that could be served for a technical violation under AS 33.16.215. Nothing in this subsection prohibits the board or its designee from releasing a parolee sooner.

(i) The board or its designee may impose additional conditions necessary to ensure the parolee's appearance at a hearing held under AS 33.16.220(h).

* **Sec. 151.** AS 33.16 is amended by adding a new section to read:

Sec. 33.16.270. Earned compliance credits. The commissioner shall establish by regulation a program allowing parolees to earn credits for complying with the conditions of parole. The earned compliance credits reduce the period of parole. Nothing in this section prohibits the department from recommending to the board the early discharge of the parolee as provided in this chapter. At a minimum, the regulations must

(1) require that a parolee earn a credit of 30 days for each 30-day period served in which the parolee complied with the conditions of parole;

(2) include policies and procedures for

(A) calculating and tracking credits earned by parolees;

(B) reducing the parolee's period of parole based on credits earned by the parolee and notifying a victim under AS 33.30.013.

* **Sec. 152.** AS 33.16.900 is amended by adding new paragraphs to read:

(14) "administrative parole" means the release of a prisoner who is eligible for administrative parole under AS 33.16.089 and who has satisfied the criteria for release, subject to conditions imposed by the board and subject to its custody and jurisdiction;

(15) "administrative sanctions and incentives" means responses by a parole officer to a parolee's compliance with or violation of the conditions of parole under AS 33.16.180.

* **Sec. 153.** AS 33.20.010(a) is amended to read:

(a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner convicted of an offense against the state or a political subdivision of the state and sentenced to a term of imprisonment that exceeds three days is entitled to a deduction of one-third of the term of imprisonment rounded off to the nearest day if the prisoner follows the rules of the correctional facility in which the prisoner is confined. A prisoner is not eligible for a good time deduction if the prisoner has been sentenced

(1) to a mandatory 99-year term of imprisonment under AS 12.55.125(a) after June 27, 1996;

(2) to a definite term under AS 12.55.125(l); [OR]

(3) for a sexual felony under AS 12.55.125(i)

(A) and has one or more prior sexual felony convictions as determined under AS 12.55.145(a)(4); or

(B) that is an unclassified or a class A felony; or

(4) to a definite term of imprisonment of not more than 10 days for a technical violation of AS 12.55.110(c) or AS 33.16.215.

* **Sec. 154.** AS 33.20.010(c) is repealed and reenacted to read:

(c) A prisoner is entitled to a good time deduction under (a) of this section for any time spent under electronic monitoring or in a residential program for treatment of alcohol or drug abuse under a prerelease furlough as provided in AS 33.30.101.

* **Sec. 155.** AS 33.30.011 is amended to read:

Sec. 33.30.011. Duties of commissioner. The commissioner shall

(1) establish, maintain, operate, and control correctional facilities suitable for the custody, care, and discipline of persons charged or convicted of offenses against the state or held under authority of state law; each correctional facility operated by the state shall be established, maintained, operated, and controlled in a manner that is consistent with AS 33.30.015;

(2) classify prisoners;

(3) for persons committed to the custody of the commissioner, establish programs, including furlough programs that are reasonably calculated to

(A) protect the public and the victims of crimes committed by prisoners;

(B) maintain health;

(C) create or improve occupational skills;

(D) enhance educational qualifications;

(E) support court-ordered restitution; and

(F) otherwise provide for the rehabilitation and reformation of prisoners, facilitating their reintegration into society;

(4) provide necessary

(A) medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner, including examinations for communicable and infectious diseases;

(B) psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

(i) a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(ii) the potential for harm to the prisoner by reason of delay or denial of care is substantial; and

(C) assessment or screening of the risks and needs of offenders who may be vulnerable to harm, exploitation, or recidivism as a result of fetal alcohol syndrome, fetal alcohol spectrum disorder, or another brain-based

disorder;

(5) establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner;

(6) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; [AND]

(7) establish a program to conduct assessments of the risks and needs of offenders sentenced to serve a term of incarceration of 30 days or more and provide to the legislature, by electronic means, by January 15, 2017, and thereafter by January 15, preceding the first regular session of each legislature, a report summarizing the findings and results of the program; **the program must include a requirement for an assessment before a prisoner's release on parole, furlough, or electronic monitoring from a correctional facility;**

(8) establish a procedure that provides for each prisoner required to serve an active term of imprisonment of 30 days or more a written case plan that

(A) is provided to the prisoner within 90 days after sentencing;

(B) is based on the results of the assessment of the prisoner's risks and needs under (7) of this section;

(C) includes a requirement to follow the rules of the institution;

(D) is modified when necessary for changes in classification, housing status, medical or mental health, and resource availability;

(E) includes participation in programming that addresses the needs identified in the assessment;

(9) establish a program to begin reentry planning with each prisoner serving an active term of imprisonment of 90 days or more; reentry planning must begin at least 90 days before release on furlough or probation or parole; the reentry program must include

(A) a written reentry plan for each prisoner completed upon release on furlough or probation or parole that includes information

on the prisoner's proposed

(i) residence;

(ii) employment or alternative means of support;

(iii) treatment options;

(iv) counseling services;

(v) education or job training services;

(B) any other requirements for successful transition back to the community, including electronic monitoring or furlough for the period between a scheduled parole hearing and parole eligibility;

(C) coordination with the Department of Labor and Workforce Development to provide access, after release, to job training and employment assistance;

(10) for offenders under electronic monitoring, establish

(A) minimum standards for electronic monitoring, which may include the requirement of active, real-time monitoring using global positioning systems; and

(B) procedures for oversight and approving electronic monitoring programs and systems provided by private contractors; and

(11) assist a prisoner in obtaining a valid state identification card if the prisoner does not have a valid state identification card before the prisoner's release; the department shall pay the application fee for the identification card.

* **Sec. 156.** AS 33.30.013(a) is amended to read:

(a) The commissioner shall notify the victim if the offender

(1) escapes from custody;

(2) is discharged from parole under AS 33.16; or

(3) is released to the community on a furlough, on an early release program, or for any other reason.

* **Sec. 157.** AS 33.30.065(a) is amended to read:

(a) If the commissioner designates a prisoner to serve the prisoner's term of imprisonment or period of temporary commitment, or a part of the term or period, by electronic monitoring, the commissioner shall direct the prisoner to serve the term or

period at the prisoner's residence or other place selected by the commissioner. The electronic monitoring shall be administered by the department or by a private contractor approved by the department under AS 33.30.011(10)(B) and shall be designed so that any attempt to remove, tamper with, or disable the monitoring equipment or to leave the place selected for the service of the term or period will result in a report or notice to the department.

* **Sec. 158.** AS 33.30 is amended by adding a new section to read:

Sec. 33.30.095. Duties of commissioner before release of prisoner. (a) The commissioner shall establish a program to prepare a prisoner who is serving a sentence of imprisonment exceeding one year for the prisoner's discharge, release on parole or probation, or prerelease furlough under AS 33.30.111 that begins 90 days before the date of the prisoner's discharge, release, or furlough.

(b) The program established under (a) of this section must include

(1) instruction on

(A) obtaining state identification;

(B) community resources available for housing, employment, and treatment;

(2) an individualized reentry plan under AS 33.30.011(9) for the prisoner;

(3) probation and parole orientation, if appropriate; and

(4) a partnership with one or more nonprofit organizations to allow access to a prisoner before the prisoner's discharge, release, or furlough to assist the prisoner with the prisoner's application for Medicaid, social security benefits, public assistance under AS 47.25, and a state identification card or driver's license and provide other programs to assist the prisoner's transition into the community, promote rehabilitation, and reduce recidivism.

* **Sec. 159.** AS 33.30.151 is amended to read:

Sec. 33.30.151. Correctional restitution centers. (a) The commissioner shall establish correctional restitution centers in the state. The purpose of the centers is to provide certain offenders with rehabilitation through comprehensive treatment for substance abuse, cognitive behavioral disorders, and other criminal risk factors,

1 **including aftercare support,** community service, and employment, while protecting
 2 the community through partial incarceration of the offender, and to create a means to
 3 provide restitution to victims of crimes.

4 (b) The commissioner shall adopt regulations setting standards for the
 5 operation of the centers including

6 (1) requirements that the centers be secure and in compliance with
 7 state and local safety laws;

8 (2) standards for disciplinary rules to be imposed on prisoners confined
 9 to the centers;

10 (3) standards for the granting of emergency absence to prisoners
 11 confined to the centers;

12 (4) standards for classifying prisoners to centers;

13 (5) standards for mandatory employment and participation in
 14 community service programs in each center; [AND]

15 (6) standards for periodic review of the performance of prisoners
 16 confined to the centers **and quality assurance measures to ensure centers are**
 17 **meeting state standards and contractual obligations;**

18 **(7) standards for the provision of treatment, including substance**
 19 **abuse treatment, cognitive behavioral therapy, and aftercare designed to address**
 20 **an offender's individual criminogenic needs; and**

21 **(8) standards and a process to assess an offender's risk of**
 22 **recidivating and the criminal risk factors and needs that reduce the risk of**
 23 **recidivating and ensure that**

24 **(A) high risk offenders with moderate to high needs are a**
 25 **priority for acceptance into a correctional restitution center; and**

26 **(B) centers establish internal procedures to limit the mixing**
 27 **of low and high risk prisoners.**

28 * **Sec. 160.** AS 34.03.360(7) is amended to read:

29 (7) "illegal activity involving a controlled substance" means a violation
 30 of AS 11.71.010(a), **11.71.030(a)(1), (2), or (4) - (8)** [11.71.020(a), 11.71.030(a)(1)
 31 OR (2)], or 11.71.040(a)(1), (2), or (5);

1 * **Sec. 161.** AS 43.23.065(b) is amended to read:

2 (b) An exemption is not available under this section for permanent fund
3 dividends taken to satisfy

4 (1) child support obligations required by court order or decision of the
5 child support services agency under AS 25.27.140 - 25.27.220;

6 (2) court ordered restitution under AS 12.55.045 - 12.55.051,
7 12.55.100, or AS 47.12.120(b)(4);

8 (3) claims on defaulted education loans under AS 43.23.067;

9 (4) court ordered fines;

10 (5) writs of execution under AS 09.35 of a judgment that is entered

11 (A) against a minor in a civil action to recover damages and
12 court costs;

13 (B) under AS 09.65.255 against the parent, parents, or legal
14 guardian of an unemancipated minor;

15 (6) a debt owed by an eligible individual to an agency of the state,
16 including the University of Alaska, unless the debt is contested and an appeal is
17 pending, or the time limit for filing an appeal has not expired;

18 (7) a debt owed to a person for a program for the rehabilitation of
19 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
20 AS 25.20.061(3), or AS 33.16.150(f)(2);

21 (8) a judgment for unpaid rent or damage owed to a landlord by an
22 eligible individual that was a tenant of the landlord; in this paragraph, "tenant" has the
23 meaning given in AS 34.03.360;

24 **(9) court-ordered forfeiture of an appearance or performance**
25 **bond under AS 12.30.075.**

26 * **Sec. 162.** AS 43.61.010 is amended by adding new subsections to read:

27 (c) The recidivism reduction fund is established in the general fund. The
28 Department of Administration shall separately account for 50 percent of the tax
29 collected under this section and deposit it into the recidivism reduction fund.

30 (d) The legislature may use the annual estimated balance in the fund to make
31 appropriations to the Department of Corrections, the Department of Health and Social

Services, or the Department of Public Safety for recidivism reduction programs.

(e) Nothing in this section creates a dedicated fund.

* **Sec. 163.** AS 44.19.645 is amended to read:

Sec. 44.19.645. Powers and duties of the commission. (a) The commission shall evaluate the effect of sentencing laws and criminal justice practices on the criminal justice system to evaluate whether those sentencing laws and criminal justice practices provide for protection of the public, community condemnation of the offender, the rights of victims of crimes, the rights of the accused and the person convicted, restitution from the offender, and the principle of reformation. The commission shall make recommendations for improving criminal sentencing practices and criminal justice practices, including rehabilitation and restitution. **The commission shall annually make recommendations to the governor and the legislature on how savings from criminal justice reforms should be reinvested to reduce recidivism.** In formulating its recommendations, the commission shall consider

(1) statutes, court rules, and court decisions relevant to sentencing of criminal defendants in misdemeanor and felony cases;

(2) sentencing practices of the judiciary, including use of presumptive sentences;

(3) means of promoting uniformity, proportionality, and accountability in sentencing;

(4) alternatives to traditional forms of incarceration;

(5) the efficacy of parole and probation in ensuring public safety, achieving rehabilitation, and reducing recidivism;

(6) the adequacy, availability, and effectiveness of treatment and rehabilitation programs;

(7) crime and incarceration rates, including the rate of violent crime and the abuse of controlled substances, in this state compared to other states, and best practices adopted by other states that have proven to be successful in reducing recidivism;

(8) the relationship between sentencing priorities and correctional

resources;

(9) the effectiveness of the state's current methodologies for the collection and dissemination of criminal justice data; and

(10) whether the schedules for controlled substances in AS 11.71.140 - 11.71.190 are reasonable and appropriate, considering the criteria established in AS 11.71.120(c).

(b) The commission may

(1) recommend legislative and administrative action on criminal justice practices; [AND]

(2) select and retain the services of consultants as necessary;

(3) appoint a working group to review and analyze the implementation of the recommendations made in the justice reinvestment report in December 2015, and other recommendations issued by the commission, and regularly report to the commission on the status of the implementation; a working group may include representatives of criminal justice agencies and key constituencies who are not members of the commission; and

(4) enter into data-sharing agreements with the Justice Center at the University of Alaska, the Alaska Judicial Council, or other research institutions for the purposes of analyzing data and performance metrics.

* **Sec. 164.** AS 44.19.645 is amended by adding new subsections to read:

(c) The commission shall

(1) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the 2015 justice reinvestment report and other recommendations issued by the commission and who are collecting data during the implementation and management of specific commission recommendations;

(2) track and assess outcomes from the recommendations the commission has made and corresponding criminal justice reforms;

(3) request, receive, and review data and reports on performance outcome data relating to criminal justice reform;

(4) appoint a working group to review and analyze sexual offense statutes and report to the legislature if there are circumstances under which victims'

1 rights, public safety, and the rehabilitation of offenders are better served by changing
2 existing laws; the working group shall consult with the office of victims' rights in
3 developing the report; the commission shall deliver the report to the senate secretary
4 and the chief clerk of the house of representatives and notify the legislature that the
5 report is available; the commission may include in the working group people
6 representing a variety of viewpoints who are not members of the commission; and

7 (5) explore the possibility of entering into mutually agreeable
8 arrangements with regional nonprofit organizations, including tribes and tribal
9 organizations, to provide the pretrial, probation, and parole services needed in
10 underserved areas of the state.

11 (d) Agencies and entities reporting data to the working group authorized in
12 (b)(3) of this section under (e) - (g) of this section shall

13 (1) report data individually by case number, including an identifier
14 number such as the Alaska Public Safety Information Network number, the court case
15 number, the Alaska Corrections Offender Management System number, and the arrest
16 tracking number, as available;

17 (2) include demographic information necessary for tracking
18 individuals across multiple databases, including the individual's first name, last name,
19 middle initial as available, and date of birth; and

20 (3) include information necessary to measure possible disparate effects
21 of criminal justice laws and policies, such as race and gender as available.

22 (e) The judiciary shall report quarterly to the working group authorized in
23 (b)(3) of this section. The report shall include criminal case processing data, including

24 (1) the date, type, and number of all charges disposed within the
25 quarter;

26 (2) the disposition of each charge, whether convicted, dismissed,
27 acquitted, or otherwise disposed; and

28 (3) the date of the disposition for each charge.

29 (f) The Department of Public Safety shall report quarterly to the working
30 group authorized under (b)(3) of this section. The report shall include the following
31 information:

1 (1) data on citations and arrests for criminal offenses, including the
2 offense charged and reason for arrest if an arrest was made;

3 (2) data on all criminal convictions and sentences during the quarter;
4 and

5 (3) criminal history information for selected offenders as agreed on by
6 the department and the working group authorized in (b)(3) of this section.

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; pretrial release
13 recommendations made by pretrial services officers; pretrial conditions imposed on
14 pretrial detainees by judicial officers, including amount of bail, and supervision
15 conditions; and information on pretrial outcomes, including whether or not the
16 defendant appeared in court or was re-arrested during the pretrial period;

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

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

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

29 (5) data on parole, including the number of offenders supervised on
30 parole, using a one-day snapshot on the first month of each quarter; the number of
31 parole hearings; the parole grant rate and number of parolees released on

1 administrative, discretionary, and special medical parole; and information on parolees,
 2 including time spent on parole, whether parole was successfully completed, any new
 3 convictions for a new felony offense, and any sentences to a term of imprisonment
 4 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) in one or more months, and the total
 8 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. 165.** AS 44.19.647 is amended to read:

18 **Sec. 44.19.647. Annual report and recommendations.** The commission shall
 19 submit to the governor and the legislature an annual report. **The report must include**

20 **(1) a description** of its proceedings for the previous calendar year;

21 **(2) a summary of savings and recommendations on how savings**
 22 **from criminal justice reform should be reinvested to reduce recidivism;**

23 **(3) performance metrics and outcomes from the recommendations**
 24 **the commission made in its December 2015 report, including recidivism rates,**
 25 **defined as**

26 **(A) the percentage of inmates who return to prison within**
 27 **three years after release, broken down by offense type and risk level; and**

28 **(B) the percentage of inmates who return to prison within**
 29 **three years after release for a new criminal conviction, broken down by**
 30 **offense type and risk level; and**

31 **(4) recommendations for additional reforms, which may include**

1 [AND MAY SUBMIT] recommendations for legislative and administrative action.
 2 [REPORTS AND RECOMMENDATIONS PROVIDED UNDER THIS SECTION
 3 SHALL BE SUBMITTED NOT LATER THAN FEBRUARY 1 OF EACH YEAR].

4 * **Sec. 166.** AS 44.19.647 is amended by adding a new subsection to read:

5 (b) The commission shall submit the reports and recommendations provided
 6 under (a) of this section not later than November 1 of each year.

7 * **Sec. 167.** AS 44.66.010(a)(12) is amended to read:

8 (12) Alaska Criminal Justice Commission (AS 44.19.641) - **June 30,**
 9 **2021** [JUNE 30, 2017];

10 * **Sec. 168.** AS 47.12.315(a) is amended to read:

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

- 15 (1) a felony offense against a person under AS 11.41;
- 16 (2) arson in the first or second degree;
- 17 (3) burglary in the first degree;
- 18 (4) distribution of child pornography;
- 19 (5) sex trafficking in the first degree;
- 20 (6) misconduct involving a controlled substance in the first **or** [,]
 21 second [, OR THIRD] degrees involving distribution or possession with intent to
 22 deliver; or
- 23 (7) misconduct involving weapons in the first through fourth degrees.

24 * **Sec. 169.** AS 47.27.015 is amended by adding a new subsection to read:

25 (i) A person convicted after August 22, 1996, of an offense that is classified as
 26 a felony under AS 11.71.010 - 11.71.040 or by the law of another jurisdiction that has
 27 as an element the possession, use, or distribution of a controlled substance, as defined
 28 in AS 11.71.900, is disqualified from receiving temporary assistance under this
 29 chapter or food stamps under AS 47.25 unless the person demonstrates, to the
 30 satisfaction of the department, that the person

- 31 (1) is satisfactorily serving, or has successfully completed, a period of

1 probation or parole;

2 (2) is in the process of serving, or has successfully completed,
3 mandatory participation in a drug or alcohol treatment program;

4 (3) has taken action toward rehabilitation, including participation in a
5 drug or alcohol treatment program; or

6 (4) is successfully complying with the requirements of the person's
7 reentry plan.

8 * **Sec. 170.** AS 47.37.040 is amended to read:

9 **Sec. 47.37.040. Duties of department.** The department shall

10 (1) develop, encourage, and foster statewide, regional, and local plans
11 and programs for the prevention of alcoholism and drug abuse and treatment of
12 alcoholics, intoxicated persons, drug abusers, and inhalant abusers in cooperation with
13 public and private agencies, organizations, and individuals, and provide technical
14 assistance and consultation services for these purposes;

15 (2) coordinate the efforts and enlist the assistance of all public and
16 private agencies, organizations, and individuals interested in prevention of alcoholism,
17 drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, drug
18 abusers, and inhalant abusers;

19 (3) cooperate with the Department of Corrections in establishing and
20 conducting programs to provide treatment for alcoholics, intoxicated persons, drug
21 abusers, and inhalant abusers in or on parole from penal institutions;

22 (4) cooperate with the Department of Education and Early
23 Development, school boards, schools, police departments, courts, and other public and
24 private agencies, organizations, and individuals in establishing programs for the
25 prevention of alcoholism, drug abuse, and inhalant abuse, and treatment of alcoholics,
26 intoxicated persons, drug abusers, and inhalant abusers, and preparing curriculum
27 materials for use at all levels of school education;

28 (5) prepare, publish, evaluate, and disseminate educational material
29 dealing with the nature and effects of alcohol and drugs, and the misuse of hazardous
30 volatile substances;

31 (6) develop and implement, as an integral part of treatment programs,

1 an educational program for use in the treatment of alcoholics, intoxicated persons,
2 drug abusers, and inhalant abusers that includes the dissemination of information
3 concerning the nature and effects of alcohol, drugs, and hazardous volatile substances;

4 (7) organize and foster training programs for all persons engaged in
5 treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and
6 establish standards for training paraprofessional alcoholism, drug abuse, and inhalant
7 abuse workers;

8 (8) sponsor and encourage research into the causes and nature of
9 alcoholism, drug abuse, and inhalant abuse, and the treatment of alcoholics,
10 intoxicated persons, drug abusers, and inhalant abusers, and serve as a clearinghouse
11 for information relating to alcoholism, drug abuse, and inhalant abuse;

12 (9) specify uniform methods for keeping statistical information by
13 public and private agencies, organizations, and individuals, and collect and make
14 available relevant statistical information, including number of persons treated,
15 frequency of admission and readmission, and frequency and duration of treatment;

16 (10) conduct program planning activities approved by the Advisory
17 Board on Alcoholism and Drug Abuse;

18 (11) review all state health, welfare, and treatment plans to be
19 submitted for federal funding, and advise the commissioner on provisions to be
20 included relating to alcoholics, intoxicated persons, drug abusers, and inhalant
21 abusers;

22 (12) assist in the development of, and cooperate with, alcohol, drug
23 abuse, and inhalant abuse education and treatment programs for employees of state
24 and local governments and businesses and industries in the state;

25 (13) use the support and assistance of interested persons in the
26 community, particularly recovered alcoholics, drug abusers, and inhalant abusers, to
27 encourage alcoholics, drug abusers, and inhalant abusers to voluntarily undergo
28 treatment;

29 (14) cooperate with the Department of Public Safety and the
30 Department of Transportation and Public Facilities in establishing and conducting
31 programs designed to deal with the problem of persons operating motor vehicles while

1 under the influence of an alcoholic beverage, inhalant, or controlled substance, and
2 develop and approve alcohol information courses required to be taken by drivers under
3 AS 28.15 or made available to drivers to reduce points assessed for violation of traffic
4 laws;

5 (15) encourage hospitals and other appropriate health facilities to
6 admit without discrimination alcoholics, intoxicated persons, drug abusers, and
7 inhalant abusers and to provide them with adequate and appropriate treatment;

8 (16) encourage all health insurance programs to include alcoholism
9 and drug abuse as a covered illness;

10 (17) prepare an annual report covering the activities of the department
11 and notify the legislature that the report is available;

12 (18) develop and implement a training program on alcoholism and
13 drug abuse for employees of state and municipal governments, and private institutions;

14 (19) develop curriculum materials on drug and alcohol abuse and the
15 misuse of hazardous volatile substances for use in grades kindergarten through 12, as
16 well as a course of instruction for teachers to be charged with presenting the
17 curriculum;

18 (20) develop and implement or designate, in cooperation with other
19 state or local agencies, a juvenile alcohol safety action program that provides alcohol
20 and substance abuse screening, referral, and monitoring of persons under 18 years of
21 age who have been referred to it by

22 (A) a court in connection with a charge or conviction of a
23 violation or misdemeanor related to the use of alcohol or a controlled
24 substance;

25 (B) the agency responsible for the administration of motor
26 vehicle laws in connection with a license action related to the use of alcohol or
27 a controlled substance; or

28 (C) department staff after a delinquency adjudication that is
29 related to the use of alcohol or a controlled substance;

30 (21) develop and implement, or designate, in cooperation with other
31 state or local agencies, an alcohol safety action program that provides [ALCOHOL

1 AND SUBSTANCE ABUSE SCREENING, REFERRAL, AND MONITORING]
 2 services to persons who have been referred by a court [IN CONNECTION WITH A
 3 CHARGE OR CONVICTION OF A MISDEMEANOR INVOLVING THE USE OF
 4 A MOTOR VEHICLE, AIRCRAFT, OR WATERCRAFT AND ALCOHOL OR A
 5 CONTROLLED SUBSTANCE, REFERRED BY A COURT] under AS 28.35.028,
 6 **28.35.030, or 28.35.032,** or referred by an agency of the state with the responsibility
 7 for administering motor vehicle laws in connection with a driver's license action
 8 involving the use of alcohol or a controlled substance;

9 (22) whenever possible, apply evidence-based, research-based, and
 10 consensus-based substance abuse and co-occurring substance abuse and mental health
 11 disorders treatment practices and remove barriers that prevent the use of those
 12 practices;

13 (23) collaborate with first responders, hospitals, schools, primary care
 14 providers, developmental disability treatment providers, law enforcement, corrections,
 15 attorneys, the Alaska Court System, community behavioral treatment providers,
 16 Alaska Native organizations, and federally funded programs in implementing
 17 programs for co-occurring substance abuse and mental health disorders treatment.

18 * **Sec. 171.** AS 47.37.130(h) is amended to read:

19 (h) The department shall

20 (1) inspect, on a regular basis, approved public and private alcohol
 21 safety action programs at reasonable times and in a reasonable manner; [AND]

22 (2) maintain a list of approved public and private alcohol safety action
 23 programs; **and**

24 **(3) develop regulations for the operation and management of**
 25 **alcohol safety action programs that ensure**

26 **(A) screenings are conducted using a validated risk tool;**

27 **and**

28 **(B) monitoring of participants is appropriate to the risk of**
 29 **reoffense of the participant as determined by the screening.**

30 * **Sec. 172.** AS 47.37.130 is amended by adding a new subsection to read:

31 (k) The public and private alcohol safety action programs established under

AS 47.37.040(21) shall provide

(1) screening of eligible persons to determine the risk of the person to reoffend and the criminal risk factors that are contributing to the risk; and

(2) monitoring of participants based on the risk to reoffend as determined by the screening.

* **Sec. 173.** AS 47.38.020 is amended to read:

Sec. 47.38.020. Alcohol and substance abuse monitoring program. (a) The commissioner, in cooperation with the commissioner of corrections, shall establish a program using a competitive procurement process for certain persons with release conditions ordered as provided under AS 12.30, or offenders with conditions of probation, that include not consuming controlled substances or alcoholic beverages.

(b) The commissioner shall adopt regulations to implement the program. The regulations must include regulations regarding products and services that provide alcohol and substance abuse monitoring.

(c) The commissioner shall include in the program

(1) a requirement for twice-a-day testing, either remotely or in person [IF PRACTICABLE], for alcoholic beverage use and random testing for controlled substances;

(2) a means to provide the probation officer, prosecutor's office, or local law enforcement agency with notice within 24 hours, so that a complaint may be filed alleging a violation of AS 11.56.757, a petition may be filed with the court seeking appropriate sanctions and may be scheduled by the court for a prompt hearing, or an arrest warrant may be issued for the person on release or offender with conditions of probation provided in this subsection, if the person or offender

(A) fails to appear for an appointment or fails to complete a test through the use of remote alcohol or substance abuse monitoring technology as required by the program requirements; or

(B) tests positive for the use of controlled substances or alcoholic beverages; and

(3) a requirement that the person or offender pay, based on the person's or offender's ability under financial guidelines established by the commissioner, for

1 the cost of participating in the program.

2 (d) The department shall contract with one or more vendors using a
 3 competitive procurement process in accordance with AS 36.30 (State
 4 Procurement Code) to provide or conduct the testing required under (c) of this
 5 section.

6 * **Sec. 174.** AS 47.38.100(a) is amended to read:

7 (a) The recidivism reduction program is established to promote the
 8 rehabilitation [THROUGH TRANSITIONAL RE-ENTRY PROGRAMS] of persons
 9 on probation or parole or incarcerated for offenses and recently released from
 10 correctional facilities.

11 * **Sec. 175.** AS 47.38.100(b) is amended to read:

12 (b) The commissioner, in cooperation with the Alaska Criminal Justice
 13 Commission established in AS 44.19.641 [COMMISSIONER OF CORRECTIONS],
 14 may provide for programs that have, as a primary focus, rehabilitation and reduction
 15 of recidivism [THROUGH TRANSITIONAL RE-ENTRY] for persons on probation
 16 or parole or incarcerated for offenses and recently released from correctional
 17 facilities. The commissioner may enter into contracts to provide for programs under
 18 this section. An eligible [A] program under this section must accomplish at least one
 19 of the following objectives:

20 (1) increasing access to evidence-based rehabilitation programs,
 21 including drug and alcohol treatment, mental health treatment, and cognitive
 22 behavioral programs; or

23 (2) supporting offenders' transition and re-entry from correctional
 24 facilities to the community, including transitional housing services, employment
 25 services, vocational training, educational support, counseling, and medical care

26 [INCLUDE CASE MANAGEMENT;

27 (2) REQUIRE SOBER LIVING;

28 (3) PROVIDE, ON-SITE OR BY REFERRAL, TREATMENT FOR
 29 SUBSTANCE ABUSE OR MENTAL HEALTH TREATMENT;

30 (4) REQUIRE EMPLOYMENT, EDUCATIONAL
 31 PROGRAMMING, VOCATIONAL TRAINING, OR COMMUNITY VOLUNTEER

1 WORK AS APPROVED BY THE DIRECTOR OF THE TREATMENT PROGRAM;
2 AND

3 (5) LIMIT RESIDENTIAL PLACEMENTS IN THE PROGRAM TO
4 A MAXIMUM OF ONE YEAR].

5 * **Sec. 176.** AS 47.38.100 is amended by adding a new subsection to read:

6 (d) In this section, "evidenced-based" means a program or practice that offers
7 a high level of research on effectiveness.

8 * **Sec. 177.** Section 35, ch. 83, SLA 2014, is amended to read:

9 Sec. 35. AS 22.20.210 is repealed **June 30, 2021** [JUNE 30, 2017].

10 * **Sec. 178.** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 DIRECT COURT RULE AMENDMENT. Rule 38, Alaska Rules of Criminal
13 Procedure, is amended by adding new subsections to read:

14 (d) **Hearing Notice.** The court shall provide a notice to a defendant of the
15 date, time, and place of a scheduled hearing at which the defendant is required to
16 appear, in a form and manner established by the court.

17 (e) **Hearing Reminder.** In addition to the notice required under (d) of this
18 rule, the court shall provide a reminder notification to a defendant who is not in
19 custody and to the Department of Corrections at least 48 hours prior to a scheduled
20 hearing at which the defendant is required to appear regarding the date, time, and
21 place of the scheduled hearing and the potential consequences of failure to appear, in a
22 form and manner established by the court.

23 * **Sec. 179.** AS 11.46.140(a)(3), 11.46.220(c)(2)(B); AS 11.71.020, 11.71.040(a)(3)(A)(ii),
24 11.71.040(a)(3)(B), 11.71.040(a)(3)(C), 11.71.040(a)(3)(D), 11.71.040(a)(3)(E),
25 11.71.040(a)(3)(F), 11.71.040(a)(3)(G), 11.71.050(a)(2); AS 12.30.016(d);
26 AS 12.55.125(c)(2)(B), 12.55.125(d)(2)(B), 12.55.125(o), 12.55.135(j); and AS 33.16.100(e)
27 are repealed.

28 * **Sec. 180.** The uncodified law of the State of Alaska is amended by adding a new section
29 to read:

30 INDIRECT COURT RULE AMENDMENT. (a) AS 12.30.011, as repealed and
31 reenacted by sec. 59 of this Act, has the effect of changing Rule 41, Alaska Rules of Criminal

1 Procedure, by changing and establishing release conditions for certain defendants, providing
 2 for recommendations by pretrial services officers of release conditions based on a pretrial risk
 3 assessment score, providing that a court shall order the release of a person under certain
 4 circumstances, and providing new procedures for use of appearance, surety, and performance
 5 bonds.

6 (b) AS 12.55.055(h), enacted by sec. 76 of this Act, has the effect of changing Rule
 7 32, Alaska Rules of Criminal Procedure, by directing the court to include a provision in the
 8 judgment that community work hours that are not completed shall be converted to a fine as
 9 provided in AS 12.55.055(h), enacted by sec. 76 of this Act.

10 (c) AS 12.55.078, enacted by sec. 77 of this Act, has the effect of changing Rule 43,
 11 Alaska Rules of Criminal Procedure, by creating an alternate procedure for when the court
 12 may dismiss charges.

13 (d) AS 12.55.135(p), enacted by sec. 93 of this Act, has the effect of changing Rule
 14 32.1, Alaska Rules of Criminal Procedure, by changing the procedure for notice of
 15 aggravating factors.

16 (e) AS 33.07, enacted by sec. 117 of this Act, has the effect of changing Rule 41,
 17 Alaska Rules of Criminal Procedure, by establishing pretrial services officers and procedures
 18 and duties for pretrial services officers as officers of the superior and district courts, for the
 19 purposes of performing risk assessments and making pretrial recommendations to the court
 20 regarding a person's pretrial release and bail conditions.

21 * **Sec. 181.** The uncodified law of the State of Alaska is amended by adding a new section
 22 to read:

23 COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT. The Council
 24 on Domestic Violence and Sexual Assault established in AS 18.66.010 shall create or expand
 25 community-based violence prevention programming and services for victims of a crime
 26 involving domestic violence or sexual assault in the fiscal year ending June 30, 2017. In this
 27 section "domestic violence" and "sexual assault" have the meanings given to those terms in
 28 AS 18.66.990.

29 * **Sec. 182.** The uncodified law of the State of Alaska is amended by adding a new section
 30 to read:

31 REPORT ON OFFENSES OF DRIVING WHILE INTOXICATED, REFUSAL OF A

1 CHEMICAL TEST, AND DRIVING WITHOUT A VALID DRIVER'S LICENSE. The
2 Alaska Criminal Justice Commission established in AS 44.19.641 shall prepare a report
3 regarding the effectiveness of the penalties, fines, and reformatory and rehabilitative measures
4 under state law for the offenses of driving while intoxicated, refusal to submit to a chemical
5 test, and driving without a valid driver's license. The commission shall include in the report an
6 opinion on whether the penalties, fines, and reformatory and rehabilitative measures under
7 state law for the offenses of driving while under the influence, refusal to submit to a chemical
8 test, and driving without a valid driver's license reduce recidivism, promote rehabilitation, and
9 protect the public. The commission shall propose statutory changes for those offenses to
10 reduce recidivism, promote rehabilitation, and protect the public. The commission shall
11 deliver the report not later than December 1, 2016, to the senate secretary and the chief clerk
12 of the house of representatives and notify the legislature that the report is available.

13 * **Sec. 183.** The uncoded law of the State of Alaska is amended by adding a new section
14 to read:

15 REPORT OF THE ALASKA CRIMINAL JUSTICE COMMISSION REGARDING
16 RESTITUTION. The Alaska Criminal Justice Commission established in AS 44.19.641 shall
17 prepare a report regarding the implementation of a financial recovery and victim's restitution
18 program and shall make recommendations for statutory changes to improve the payment and
19 collection of victim's restitution. The report must include recommendations regarding
20 restitution for crimes against a person and for property crimes against businesses and
21 members of the public. The commission shall deliver the report not later than December 1,
22 2016, to the senate secretary and the chief clerk of the house of representatives and notify the
23 legislature that the report is available.

24 * **Sec. 184.** The uncoded law of the State of Alaska is amended by adding a new section
25 to read:

26 REPORT OF THE ALASKA CRIMINAL JUSTICE COMMISSION REGARDING
27 SOCIAL IMPACT BONDS. The Alaska Criminal Justice Commission established in
28 AS 44.19.641 shall submit to the governor and the legislature not later than December 15,
29 2016, a report regarding the potential of using social impact bonds to reduce recidivism rates.
30 The commission shall deliver the report to the senate secretary and the chief clerk of the
31 house of representatives and notify the legislature that the report is available. The report shall

1 cover the following topics:

2 (1) identification and evaluation of grant programs, contracts, and services of
3 the Department of Corrections and the Department of Health and Social Services that may be
4 suitable for social impact financing;

5 (2) the possibility of private sector investors providing social impact
6 financing;

7 (3) programs operated by nonprofit corporations that could be funded through
8 a social impact financing mechanism;

9 (4) independent evaluators that could determine whether performance targets
10 for a nonprofit corporation funded by social impact financing are met at the end of an agreed-
11 on time frame; and

12 (5) whether federal funding is available for independent evaluators
13 participating in social impact funding.

14 * **Sec. 185.** The uncodified law of the State of Alaska is amended by adding a new section
15 to read:

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

18 (1) AS 11.46.130(a), as amended by sec. 6 of this Act;

19 (2) AS 11.46.140(a), as amended by sec. 7 of this Act;

20 (3) AS 11.46.150(a), as amended by sec. 8 of this Act;

21 (4) AS 11.46.220(c), as amended by sec. 9 of this Act;

22 (5) AS 11.46.260(b), as amended by sec. 10 of this Act;

23 (6) AS 11.46.270(b), as amended by sec. 11 of this Act;

24 (7) AS 11.46.280(d), as amended by sec. 12 of this Act;

25 (8) AS 11.46.285(b), as amended by sec. 13 of this Act;

26 (9) AS 11.46.295, as amended by sec. 14 of this Act;

27 (10) AS 11.46.360(a), as amended by sec. 15 of this Act;

28 (11) AS 11.46.420(a), as amended by sec. 16 of this Act;

29 (12) AS 11.46.460, as amended by sec. 17 of this Act;

30 (13) AS 11.46.482(a), as amended by sec. 18 of this Act;

31 (14) AS 11.46.484(a), as amended by sec. 19 of this Act;

- (15) AS 11.46.486(a), as amended by sec. 20 of this Act;
- (16) AS 11.46.530(b), as amended by sec. 21 of this Act;
- (17) AS 11.46.620(d), as amended by sec. 22 of this Act;
- (18) AS 11.46.730(c), as amended by sec. 23 of this Act;
- (19) AS 11.46.982, enacted by sec. 25 of this Act;
- (20) AS 11.56.730(c), as amended by sec. 27 of this Act;
- (21) AS 11.56.730(d), enacted by sec. 28 of this Act;
- (22) AS 11.56.757(b), as amended by sec. 30 of this Act;
- (23) AS 11.61.110(c), as amended by sec. 32 of this Act;
- (24) AS 11.61.145(d), as amended by sec. 33 of this Act;
- (25) AS 11.61.150(c), as amended by sec. 35 of this Act;
- (26) AS 11.66.200(c), as amended by sec. 41 of this Act;
- (27) AS 11.71.030(a), as amended by sec. 42 of this Act;
- (28) AS 11.71.040(a), as amended by sec. 45 of this Act;
- (29) AS 11.71.050, as amended by sec. 47 of this Act;
- (30) AS 11.71.311(a), as amended by sec. 49 of this Act;
- (31) AS 12.55.035(b), as amended by sec. 72 of this Act;
- (32) AS 12.55.125(a), as amended by sec. 86 of this Act;
- (33) AS 12.55.125(b), as amended by sec. 87 of this Act;
- (34) AS 28.15.291(a), as repealed and reenacted by sec. 104 of this Act;
- (35) AS 28.15.291(b), as repealed and reenacted by sec. 105 of this Act;
- (36) AS 29.10.200(21), as amended by sec. 111 of this Act;
- (37) AS 29.25.070(a), as amended by sec. 112 of this Act; and
- (38) AS 43.23.065(b), as amended by sec. 161 of this Act.

(b) The following sections apply to offenses committed before, on, or after the effective date of those sections:

- (1) AS 11.66.110(a), as amended by sec. 37 of this Act;
- (2) AS 11.66.130(a), as amended by sec. 38 of this Act;
- (3) AS 11.66.130(c), enacted by sec. 39 of this Act; and
- (4) AS 11.66.135(c), enacted by sec. 40 of this Act.

(c) The following sections apply to sentences imposed on or after the effective date of

1 those sections for conduct occurring before, on, or after the effective date of those sections:

- 2 (1) AS 12.55.027(a), as amended by sec. 68 of this Act;
- 3 (2) AS 12.55.027(b), as amended by sec. 69 of this Act;
- 4 (3) AS 12.55.027(c), as repealed and reenacted by sec. 70 of this Act; and
- 5 (4) AS 12.55.027(f) and (g), enacted by sec. 71 of this Act.

6 (d) The following sections apply to sentences imposed on or after the effective date of
7 those sections for conduct occurring before, on, or after the effective date of those sections:

- 8 (1) AS 12.55.025(a), as amended by sec. 66 of this Act;
- 9 (2) AS 12.55.025(c), as amended by sec. 67 of this Act;
- 10 (3) AS 12.55.115, as amended by sec. 85 of this Act;
- 11 (4) AS 28.15.191(g), as amended by sec. 102 of this Act;
- 12 (5) AS 28.35.030(k), as amended by sec. 107 of this Act;
- 13 (6) AS 28.35.032(o), as amended by sec. 110 of this Act;
- 14 (7) AS 33.16.010(f), enacted by sec. 120 of this Act;
- 15 (8) AS 33.16.060(a), as amended by sec. 121 of this Act;
- 16 (9) AS 33.16.089, enacted by sec. 122 of this Act;
- 17 (10) AS 33.16.090(b), as amended by sec. 124 of this Act;
- 18 (11) AS 33.16.130, as repealed and reenacted by sec. 133 of this Act; and
- 19 (12) AS 33.20.010(a), as amended by sec. 153 of this Act.

20 (e) AS 12.30.055(b), enacted by sec. 64 of this Act, applies to persons in custody for a
21 probation violation on or after the effective date of sec. 64 of this Act for a probation violation
22 that occurred before, on, or after the effective date of sec. 64 this Act.

23 (f) The following sections apply to community work service imposed on or after the
24 effective date of those sections for offenses committed on or after the effective date of those
25 sections:

- 26 (1) AS 12.55.055(a), as amended by sec. 74 of this Act;
- 27 (2) AS 12.55.055(c), as amended by sec. 75 of this Act; and
- 28 (3) AS 12.55.055(g) and (h), enacted by sec. 76 of this Act.

29 (g) AS 12.55.051(a), as amended by sec. 73 of this Act, applies to probation ordered
30 before, on, or after the effective date of sec. 73 of this Act, for offenses committed before, on,
31 or after the effective date of sec. 73 of this Act.

(h) AS 12.55.078, enacted by sec. 77 of this Act, applies to prosecutions occurring on or after the effective date of sec. 77 of this Act, for offenses committed before, on, or after the effective date of sec. 77 of this Act.

(i) AS 12.55.090(c), as amended by sec. 79 of this Act, applies to probation ordered on or after the effective date of sec. 79 of this Act, for offenses committed before, on, or after the effective date of sec. 79 of this Act.

(j) AS 12.55.100(a), as amended by sec. 82 of this Act, applies to probation ordered on or after the effective date of sec. 82 of this Act, for offenses committed before, on, or after the effective date of sec. 82 of this Act.

(k) The following sections apply to probation ordered before, on, or after the effective date of those sections for offenses committed before, on, or after the effective date of those sections:

- (1) AS 12.55.090(b), as amended by sec. 78 of this Act;
- (2) AS 12.55.090(f), as amended by sec. 80 of this Act;
- (3) AS 12.55.090(g) - (n), enacted by sec. 81 of this Act;
- (4) AS 12.55.110(c) - (h), enacted by sec. 84 of this Act; and
- (5) AS 33.05.040, as amended by sec. 115 of this Act.

(l) The following sections apply to a revocation of a driver's license, privilege to drive, privilege to obtain a license, or an identification card or driver's license issued to a parolee, occurring before, on, or after the effective date of those sections for conduct occurring before, on, or after the effective date of those sections:

- (1) AS 04.16.160(a), as amended by sec. 2 of this Act;
- (2) AS 28.15.165(e), enacted by sec. 101 of this Act;
- (3) AS 28.15.201(g) - (j), enacted by sec. 103 of this Act; and
- (4) AS 28.35.030(o), as amended by sec. 109 of this Act.

(m) The following sections apply to parole granted on or after the effective date of those sections for conduct occurring before, on, or after the effective date of those sections:

- (1) AS 33.16.010(c), as amended by sec. 118 of this Act;
- (2) AS 33.16.010(d), as amended by sec. 119 of this Act;
- (3) AS 33.16.090(a), as amended by sec. 123 of this Act;
- (4) AS 33.16.100(a), as amended by sec. 125 of this Act;

- (5) AS 33.16.100(b), as amended by sec. 126 of this Act;
- (6) AS 33.16.100(f), enacted by sec. 127 of this Act;
- (7) AS 33.16.140, as amended by sec. 134 of this Act;
- (8) AS 33.16.150(a), as amended by sec. 135 of this Act;
- (9) AS 33.16.150(b), as amended by sec. 136 of this Act;
- (10) AS 33.16.150(e), as amended by sec. 137 of this Act;
- (11) AS 33.16.150(f), as amended by sec. 138 of this Act;
- (12) AS 33.16.150(g), as amended by sec. 139 of this Act;
- (13) AS 33.16.150(h) and (i), enacted by sec. 140 of this Act; and
- (14) AS 33.16.200, as amended by sec. 142 of this Act.

(n) AS 11.56.730(e), enacted by sec. 28 of this Act, and sec. 178 of this Act apply to offenses committed on or after the effective date of secs. 28 and 178 of this Act.

(o) The following sections apply to offenses committed on or after the effective date of those sections:

- (1) AS 12.30.006(b), as amended by sec. 55 of this Act;
- (2) AS 12.30.006(c), as amended by sec. 56 of this Act;
- (3) AS 12.30.006(d), as amended by sec. 57 of this Act;
- (4) AS 12.30.006(f), as amended by sec. 58 of this Act;
- (5) AS 12.30.011, as repealed and reenacted by sec. 59 of this Act;
- (6) AS 12.30.016(b), as amended by sec. 60 of this Act;
- (7) AS 12.30.016(c), as amended by sec. 61 of this Act;
- (8) AS 12.30.021(a), as amended by sec. 62 of this Act;
- (9) AS 12.30.021(c), as amended by sec. 63 of this Act; and
- (10) AS 33.07, enacted by sec. 117 of this Act.

(p) The following sections apply to parole granted before, on, or after the effective date of those sections:

- (1) AS 33.16.180, as amended by sec. 141 of this Act;
- (2) AS 33.16.210, as amended by sec. 143 of this Act;
- (3) AS 33.16.210(c), enacted by sec. 144 of this Act;
- (4) AS 33.16.215, enacted by sec. 145 of this Act;
- (5) AS 33.16.220(b), as amended by sec. 146 of this Act;

(6) AS 33.16.220(f), as amended by sec. 147 of this Act;

(7) AS 33.16.220(i), as amended by sec. 148 of this Act;

(8) AS 33.16.220(j), enacted by sec. 149 of this Act;

(9) AS 33.16.240(h) and (i), enacted by sec. 150 of this Act; and

(10) AS 33.16.270, enacted by sec. 151 of this Act.

(q) AS 33.05.020(h), enacted by sec. 114 of this Act, applies to sentences imposed before, on, or after the effective date of sec. 114 of this Act, for conduct occurring before, on, or after the effective date of sec. 114 of this Act, for time served on probation on or after the effective date of sec. 114 of this Act.

(r) AS 33.20.010(c), as repealed and reenacted by sec. 154 of this Act, applies to sentences imposed before, on, or after the effective date of sec. 154 of this Act, for offenses committed before, on, or after the effective date of sec. 154 of this Act, for time served on electronic monitoring on or after the effective date of sec. 154 of this Act.

(s) The following sections apply to offenses committed before, on, or after the effective date of those sections for contacts with peace officers occurring on or after the effective date of those sections:

(1) AS 12.25.180, as amended by sec. 51 of this Act; and

(2) AS 12.25.190(b), as amended by sec. 53 of this Act.

(t) AS 12.25.150(a), as amended by sec. 50 of this Act, applies to offenses committed before, on, or after the effective date of sec. 50 of this Act, for contacts with peace officers occurring on or after the effective date of sec. 50 of this Act.

(u) The following sections apply to sentences imposed on or after the effective date of those sections for conduct occurring before, on, or after the effective date of those sections:

(1) AS 12.55.125(c), as amended by sec. 88 of this Act;

(2) AS 12.55.125(d), as amended by sec. 89 of this Act;

(3) AS 12.55.125(e)(1) - (3), as amended by sec. 90 of this Act;

(4) AS 12.55.135(a), as amended by sec. 91 of this Act;

(5) AS 12.55.135(b), as amended by sec. 92 of this Act;

(6) AS 12.55.135(l) - (p), enacted by sec. 93 of this Act; and

(7) AS 29.25.070(g), enacted by sec. 113 of this Act.

(v) The amendment to AS 12.55.125(e) in sec. 90 of this Act adding

AS 12.55.125(e)(4)(B) - (D), providing presumptive ranges for violation of AS 28.35.030(n) and 28.35.032(p), applies to offenses committed on or after the effective date of sec. 90 of this Act, except that references to previous convictions in AS 28.35.030(n) and 28.35.032(p) apply to convictions occurring before, on, or after the effective date of sec. 90 of this Act.

* **Sec. 186.** The uncodified law of the State of Alaska is amended by adding a new section to read:

SEVERABILITY. If this Act is held invalid by a court of competent jurisdiction under the requirement of art. II, sec. 13, Constitution of the State of Alaska, that every bill be confined to one subject, the provisions of sec. 3 of this Act shall be severed so that the remainder of this Act is not affected.

* **Sec. 187.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. (a) AS 11.56.730(e), enacted by sec. 28 of this Act, takes effect only if sec. 178 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(b) AS 12.30.011, as repealed and reenacted by sec. 59 of this Act, takes effect only if sec. 180(a) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(c) AS 12.55.055(h), enacted by sec. 76 of this Act, takes effect only if sec. 180(b) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(d) AS 12.55.078, enacted by sec. 77 of this Act, takes effect only if sec. 180(c) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(e) AS 12.55.135(p), enacted by sec. 93 of this Act, takes effect only if sec. 180(d) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

(f) AS 33.07, added by sec. 117 of this Act, takes effect only if sec. 180(e) of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

* **Sec. 188.** Sections 2, 4 - 27, 29, 30, 32 - 49, 72, 74 - 77, 79, 86 - 94, 101 - 106, 109, 111 -

1 113, 154, 160 - 170, 179, 180(b), 180(c), and 180(d) of this Act, and AS 11.56.730(d),
2 enacted by sec. 28 of this Act, take effect July 1, 2016.

3 * **Sec. 189.** Section 100 of this Act takes effect October 1, 2016.

4 * **Sec. 190.** Sections 31, 51 - 54, 64, 66, 67, 73, 78, 80 - 85, 107, 108, 110, 114 - 116, 118 -
5 153, 155 - 158, and 171 - 173 of this Act take effect January 1, 2017.

6 * **Sec. 191.** Section 159 of this Act takes effect July 1, 2017.

7 * **Sec. 192.** Sections 50, 55 - 63, 98, 117, 180(a), and 180(e) of this Act take effect
8 January 1, 2018.

9 * **Sec. 193.** If AS 11.56.730(e), enacted by sec. 28 of this Act, and sec. 178 of this Act take
10 effect, they take effect January 1, 2019.



Alaska Criminal Justice Commission

Justice Reinvestment Report

December 2015

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Executive Summary

Alaska's prison population has grown by 27 percent in the last decade, almost three times faster than the resident population. This rapid growth spurred the opening of the state's newest correctional facility – Goose Creek Correctional Center – in 2012, costing the state \$240 million in construction funds. On July 1, 2014, Alaska's correctional facilities housed 5,267 inmates, and the Department of Corrections ("DOC") had a fiscal year operating budget of \$327 million.

Absent reform, these trends are projected to continue: Alaska will need to house an additional 1,416 inmates by 2024, surpassing the state's current prison bed capacity by 2017. This growth is estimated to cost the state at least \$169 million in new corrections spending over the next 10 years.

The rising cost of Alaska's prison population coupled with the state's high recidivism rate – almost two-thirds of inmates released from the state's facilities return within three years – have led policymakers to consider whether the state is achieving the best public safety return on its corrections spending.

Seeking a comprehensive review of the state's corrections and criminal justice systems, the 2014 Alaska Legislature established the bi-partisan, interbranch Alaska Criminal Justice Commission ("Commission").

In April of the following year, state leaders from all three branches of government joined together to request technical assistance from the Public Safety Performance Project of The Pew Charitable Trusts and the U.S. Department of Justice as part of the Justice Reinvestment Initiative. Governor Bill Walker, former Chief Justice Dana Fabe, Senate President Kevin Meyer, House Speaker Mike Chenault, Attorney General Craig Richards, former Commissioner of the Alaska DOC Ron Taylor, and former Chair of the Commission Alexander O. Bryner tasked the Commission with "develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars."

In addition, Senate President Meyer and Speaker Chenault requested that, because the state's difficult budget situation rendered reinvestment in evidence-based programs and treatment possible only with significant reforms, the Commission forward policy options that would not only avert future prison growth, but would also reduce the prison population between 15 and 25 percent below current levels.

Over a seven-month period, the Commission analyzed the state's criminal justice system, including a comprehensive review of sentencing, corrections, and community supervision data. Key findings include:

- Alaska's pretrial population has grown by 81 percent over the past decade, driven primarily by longer lengths of stay for both felony and misdemeanor defendants.
- Three-quarters of offenders entering prison post-conviction in 2014 were convicted of a nonviolent offense.

- Length of stay for sentenced felony offenders is up 31 percent over the past decade.
- In 2014, 47 percent of post-revocation supervision violators – who are incarcerated primarily for non-criminal violations of probation and parole conditions – stayed more than 30 days, and 28 percent stayed longer than 3 months behind bars.

Based on this analysis, and the directive from legislative leadership, the Commission developed a comprehensive, evidence-based package of 21 consensus policy recommendations that would protect public safety, hold offenders accountable, and reduce the state's average daily prison population by 21 percent, netting estimated savings of \$424 million over the next decade.

Members of the Alaska Criminal Justice Commission

Gregory P. Razo (Chair)	Alaska Native Justice Center
Justice Alexander O. Bryner	Alaska Supreme Court (retired)
Senator John Coghill	Alaska State Senate
Commissioner Gary Folger	Alaska Department of Public Safety
Jeff Jessee	Alaska Mental Health Trust Authority
Representative Wes Keller	Alaska House of Representatives
Commissioner Walt Monegan	Alaska Department of Corrections
Hon. Judge Stephanie Rhoades	Anchorage District Court
Attorney General Craig Richards	Alaska Department of Law
Lieutenant Kris Sell	Juneau Police Department
Brenda Stanfill	Interior Alaska Center for Non-Violent Living
Quinlan Steiner	Alaska Public Defender
Hon. Judge Trevor Stephens	Ketchikan Superior Court

Terry Vrabec, former Deputy Commissioner of the Department of Public Safety and Ron Taylor, former Commissioner of the Department of Corrections, were previous members of the Commission and initial participants in the Justice Reinvestment process.

Challenges Facing Alaska

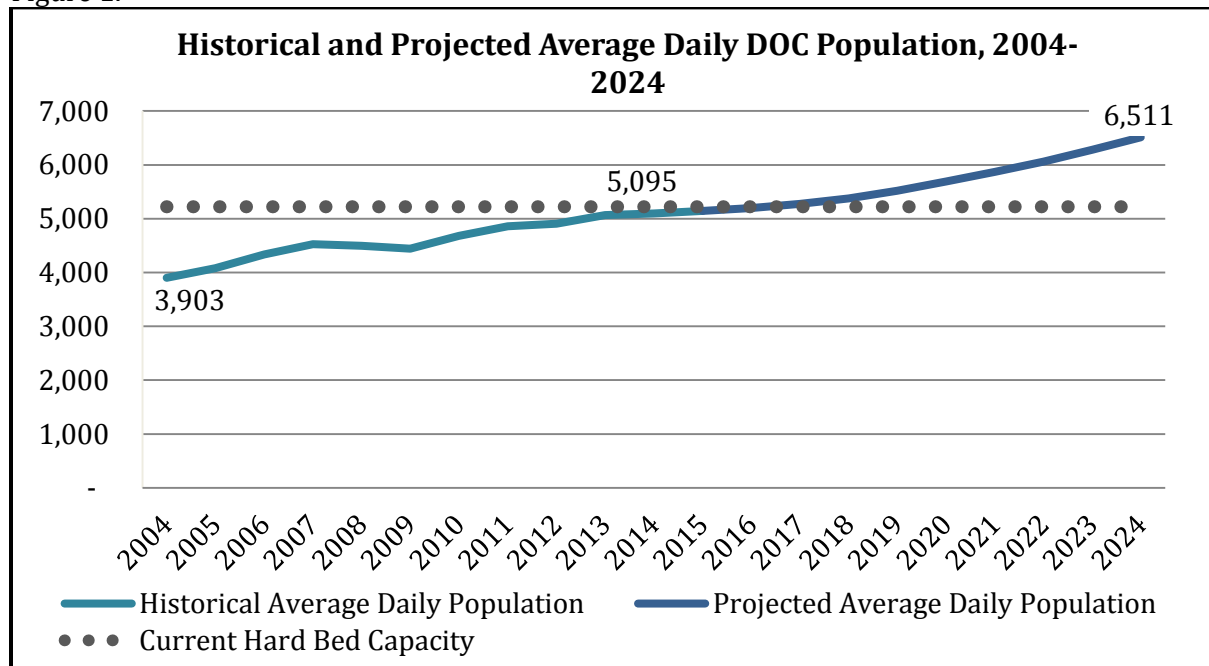
Alaska's prison population, which includes both pretrial and post-conviction inmates, has grown by 27 percent in the last decade, nearly three times faster than the resident population.¹ Alaska's overall correctional population, which includes incarcerated offenders as well as offenders on probation and parole, electronic monitoring, and in halfway houses, grew 45 percent over the last decade. On July 1, 2014, Alaska's correctional facilities housed 5,267 inmates and the total number of offenders under the Department of Corrections' ("DOC") control numbered 11,136.

Growth in the state's prison and community corrections populations has come at significant state expense. Alaska spent \$327 million on corrections in fiscal year 2014, up from \$184 million in 2005. In addition to these operating costs, recent corrections growth has also required significant capital expenditures, including the construction of the \$240 million Goose Creek Correctional Center, which opened in 2012.²

Moreover, the state's growing prison population and increased corrections spending have failed to produce commensurate improvements in public safety: nearly two out of every three offenders released from Alaska correctional facilities return within three years.

Without a shift in sentencing and corrections policy, Alaska's average daily prison population is projected to grow by another 1,416 inmates over the next decade. (See figure 1, next page.) These additional inmates will surpass the state's capacity to house them in 2017, requiring both the re-opening of a currently unused 128-bed facility and, once that facility has been filled, transferring inmates to private facilities out of state. If policy makers decide to keep all the state's inmates in Alaska, accommodating the projected prison population growth will necessitate building another facility or expanding existing facilities, costing the state significantly more in capital expenditures.

Figure 1.



Source: Alaska Department of Corrections

Alaska Criminal Justice Commission

Seeking a comprehensive review of the state's corrections and criminal justice systems, the 2014 Alaska Legislature passed Senate Bill 64, which established the bipartisan, inter-branch Alaska Criminal Justice Commission ("Commission").

The Commission, comprised of 13 stakeholders including legislators, judges, law enforcement officials, the state's Attorney General and Public Defender, the Corrections Commissioner, and members representing crime victims, Alaska Natives, and the Mental Health Trust Authority, was charged with conducting a comprehensive review of Alaska's criminal justice system and providing recommendations for legislative and administrative action.

In April 2015, state leaders from all branches of government joined together to request technical assistance from the Public Safety Performance Project as part of the Justice Reinvestment Initiative, a collaboration between The Pew Charitable Trusts and the U.S. Department of Justice Bureau of Justice Assistance. Governor Bill Walker, former Chief Justice Dana Fabe, Senate President Kevin Meyer, House Speaker Mike Chenault, Attorney General Craig Richards, former Commissioner of the Alaska DOC Ron Taylor, and former Chair of the Commission Alexander O. Bryner tasked the Commission with "develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars."

Beginning in the summer of 2015 and extending through the end of the calendar year, the full Commission met seven times as a part of the Justice Reinvestment Initiative. To provide the opportunity for further analysis and discussion of specific policy areas, Commissioners also split into three subgroups focused on pretrial, sentencing, and community supervision policies.

Each subgroup's goal was to craft recommendations within their criminal justice policy area that would meet the Commission's charge. Subgroups reported their policy recommendations to the larger Commission for consideration.

Throughout the Justice Reinvestment process, the Commission and its staff heard from a wide range of stakeholders. It held five public hearings across the state, conducted outreach in rural hub communities and remote villages, and held roundtable discussions with victims, survivors, and victim advocates to identify key priorities. Members of the Commission and staff also received input and advice from prosecutors, defense attorneys, behavioral health experts, and other criminal justice stakeholders, and presented at annual convenings for judges, magistrates, law enforcement, the Prisoner Reentry Coalition, and the Alaska Federation of Natives.

National Picture

Alaska's challenges with long-term prison growth are not unique. Across the country, state prison populations have expanded rapidly and state officials have spent an increasing share of taxpayer dollars to keep pace with soaring prison costs. From the mid-1980s to the mid-2000s, spending on corrections was the second fastest growing state budget category, behind only Medicaid.³ In 2012, one in 14 state general fund dollars went to corrections.⁴

However, in recent years many states have taken steps to curb their prison population growth while holding public safety paramount. After 38 years of uninterrupted growth, the national prison population declined 3 percent between 2009 and 2014.⁵

Many of these states adopted policies to rein in the size and cost of their corrections systems through a "justice reinvestment" strategy. Georgia, Mississippi, North Carolina, Oregon, South Dakota, Texas, and Utah, among many others, have implemented reforms to protect public safety and control corrections costs. These states revised their sentencing and corrections policies to focus state prison beds on violent and habitual offenders and then reinvested a portion of the savings from averted prison growth into more cost-effective strategies to reduce recidivism.

In 2011, for example, policymakers in Georgia faced a projected eight percent increase in the prison population over the next five years, at a cost of \$264 million. Rather than spend additional taxpayer dollars on prisons, Georgia leaders looked for more cost-effective solutions. The state legislature unanimously passed a set of reforms that controlled prison growth through changes to drug and property offense statutes, and improved public safety by investing in drug and mental health courts and treatment.⁶ Between 2012 and 2014 (the most recent year with available crime data), the state crime rate has fallen three percent and the sentenced prison population has declined three percent, giving taxpayers better public safety at a lower cost.⁷

In these and other states, state working groups have focused on research that shows how to improve public safety and have integrated the perspectives of the three branches of government and key system stakeholders. This data-driven, inclusive process resulted in wide-ranging innovations to the laws and policies that govern who goes to prison, how long they stay, and whether they return.

Key Findings of the Alaska Criminal Justice Commission

To evaluate Alaska's criminal justice system, the Commission reviewed the research on what works to change criminal offending behavior and safely reduce prison populations and then assessed Alaska's practices and policies against these standards. The Commission studied the criminal justice system in three areas – pretrial detention, post-conviction imprisonment, and community corrections.

Pretrial Detention

The number of pretrial inmates in Alaska has grown by 81 percent over the past decade (up from 817 in 2005 to 1,479 in 2014), significantly outpacing the growth of the post-conviction population (up 14 percent from 2,303 in 2005 to 2,627 in 2014) and the growth in the supervision violation population (up 15 percent from 1,013 to 1,161). In 2005, pretrial inmates comprised 20 percent of the population; today they comprise 28 percent.

While criminologists have been studying post-conviction imprisonment and community corrections for many decades, publications on the pretrial phase of the criminal justice system were, until recently, focused almost exclusively on legal and constitutional questions rather than scientific ones. In the last decade, however, rigorous scientific research into the area of pretrial policy has expanded rapidly. Today, a growing body of literature supports the following three principles of pretrial policy.

Pretrial risks can be predicted and used to guide release decisions

In deciding whether to release a defendant pretrial, courts generally consider two factors: the likelihood that the defendant will miss their court hearings and the likelihood that the defendant will engage in new criminal activity if released.⁸ Research has shown that risk assessment tools can accurately predict these risks by identifying and weighing factors that are associated with each type of pretrial failure.⁹

Research also supports the use of these assessments in guiding decisions about conditions of release. Targeted use of pretrial conditions is critical because restrictive release conditions such as electronic monitoring and drug and alcohol testing do not improve outcomes for all pretrial defendants. While select restrictive release conditions can decrease the likelihood of pretrial failure (measured as failure to appear or bail revocation due to new arrest) for higher risk defendants, when restrictive conditions are applied to lower risk defendants, they can actually do the opposite. Compared to similar defendants not assigned these restrictive release conditions,

lower risk defendants with restrictive release conditions are more likely to fail during their pretrial release period.¹⁰

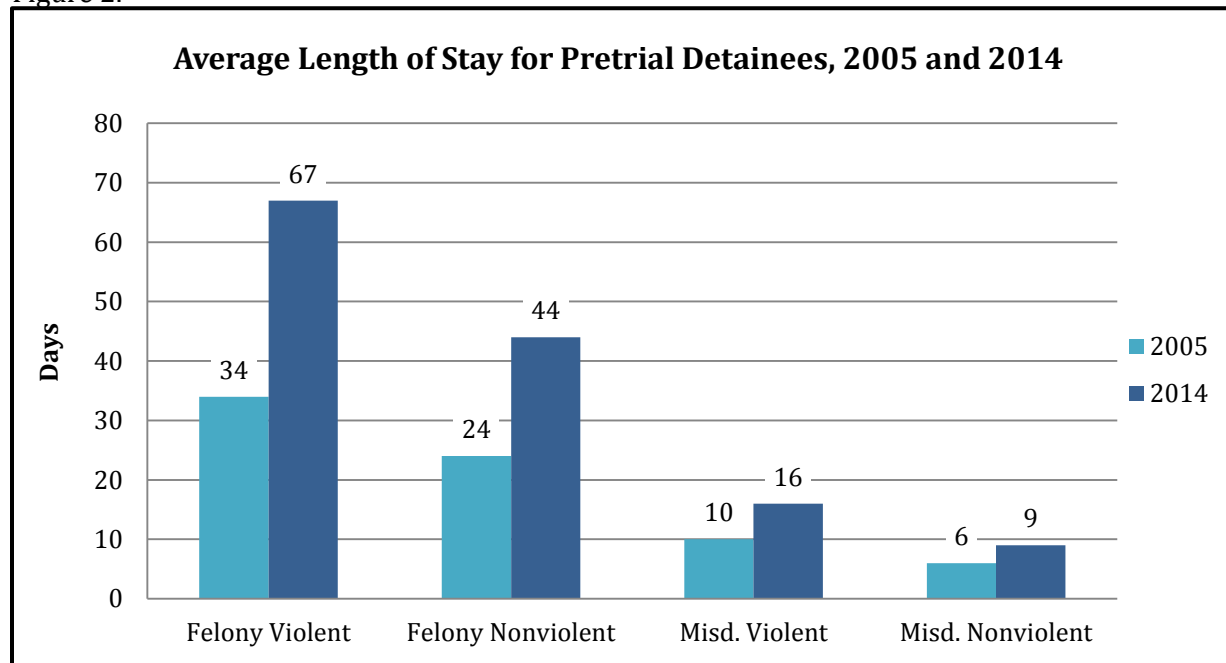
In Alaska, courts do not currently utilize pretrial risk assessments to guide their decisions about release or conditions of release, so, in the absence of data, it is not possible to determine whether those who are detained pretrial or released under restrictive conditions are in fact higher risk.

Pretrial detention longer than 24 hours can lead to worse outcomes, particularly for low risk defendants

Researchers have also examined the impacts of pretrial detention on defendants' outcomes. In a recent examination of this relationship, researchers matched defendants with similar criminal charges, risk levels, and demographic characteristics who were detained pretrial for different lengths of time. A key finding of this study was that, generally, low risk defendants who are detained for more than 24 hours experience an increased likelihood of failure to appear and new criminal activity during the pretrial period.¹¹ In addition, the study demonstrated that being detained for the entirety of the pretrial period is associated with an increased likelihood of new criminal activity post-disposition across all risk categories.¹²

In Alaska, pretrial inmates are staying behind bars longer before being released than they were 10 years ago – increases that have occurred across charge severity. (See figure 2.) For example, in 2014, detainees whose most serious charge was a nonviolent misdemeanor were staying an average of nine days during the pretrial period – three days longer than the average stay in 2005.

Figure 2.



Source: Alaska Department of Corrections

Unsecured bail is as effective as secured bail

Across the country, length of pretrial detention is often tied to whether a defendant can afford to pay monetary bail. While this is a common practice in the United States, it does not have a foundation in the growing body of research on pretrial risk. Ability to pay monetary bail does not make a person low risk.¹³ There are defendants who cannot afford monetary bail who are unlikely to engage in new criminal activity during the pretrial period. Additionally, there are defendants who can afford to pay their monetary bail, but who are likely to engage in new criminal activity. For these reasons, monetary bail is not the most effective tool for protecting the public during the pretrial period.

Research supports the use of unsecured monetary bail and other release conditions in place of secured monetary bail to reduce length of pretrial detention. (Secured bail requires payment of money upfront to be released, while unsecured bail permits release without payment and only requires payment if the defendant does not comply with their release conditions). Research has shown that defendants are as likely to make their court appearances and refrain from new criminal activity whether their bail is secured or unsecured, compared to defendants with similar risk levels.¹⁴ However, use of secured bail results in many more jail beds than use of unsecured bail, as defendants who are unable to post the monetary amount upfront remain detained.¹⁵

One of the likely contributors to pretrial length of stay in Alaska is the use of secured money bail. While there is a statutory presumption that defendants will be released on personal recognizance or unsecured bail, a court file review of bail conditions for a random sample of offenders found that courts departed from this presumption in the vast majority of cases.¹⁶ Only 12 percent of defendants in the sample were released on personal recognizance, and an additional 10 percent had unsecured money bail. Fifty-two percent of sampled defendants were never released prior to their case being resolved.

The case file review also revealed a connection between higher dollar bail amounts and release. Fewer than half of the defendants sampled were released at all during the pretrial period, and those with higher amounts of secured money bail were less likely to be released. Of those who were released, those with higher money bail spent longer in jail prior to their first release. For offenders whose bail was set at \$1,000 or more, for example, those who were eventually able to secure their release spent an average of seven weeks detained pretrial prior to release.

Post-Conviction Imprisonment

Alaska's sentenced prison population, defined as those offenders sentenced to a period of incarceration for a new criminal conviction, has grown by 14 percent in the last decade. Additionally, the number of offenders in prison for a violation of supervision (both pre-hearing and post-revocation) grew 15 percent over the same period.

The relationship between crime and incarceration has been studied for many years. While experts differ on precise figures, researchers have found that increased incarceration in the 1990s was responsible for between 10 and 30 percent of the nationwide crime decline in that decade.¹⁷

Beyond the crime control benefit, prison sentences can be used to express community condemnation or to isolate the offender.

However, there is general consensus among experts that, as states have incarcerated higher numbers of lower-level offenders, and held offenders for longer periods of time, the country has passed the point of diminishing returns, meaning that additional use of prison would have little if any crime reduction effect today.¹⁸ On the individual offender level, the evidence suggests that, for many offenders, incarceration is not more effective at reducing recidivism than non-custodial sanctions. At the same time, for a substantial number of offenders, there is little or no evidence that longer prison stays reduce recidivism more than shorter prison stays.¹⁹

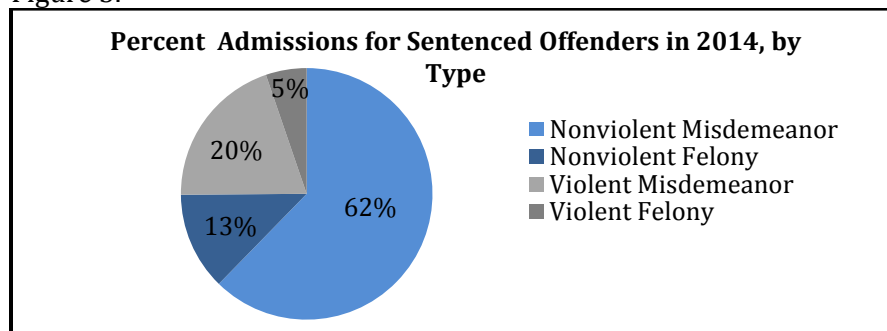
For many offenders, incarceration is not more effective at reducing recidivism than non-custodial sanctions

The Commission first considered the value of sending offenders to prison relative to non-custodial sanctions – such as drug court, probation, or electronic monitoring. Researchers have examined this question by matching samples of offenders sent to prison with those sent to non-custodial sanctions and have consistently found no differences in re-arrest or re-conviction rates, both in short-term and in long-term analyses, even when controlling for individuals' education, employment, drug abuse status, and current offense.²⁰

Moreover, there is a growing body of research showing that for many low-level offenders, prison terms may increase rather than reduce recidivism.²¹ Research around the “schools of crime” theory suggests that for many types of nonviolent offenders, the negative impacts of incarceration outweigh the positive: that is, sending offenders to prison can cause them to commit more crimes upon release.²²

In examining the use of incarceration as a post-conviction sanction in Alaska, the Commission focused closely on the number of offenders entering prison for nonviolent offenses. Over the last 10 years, the number of nonviolent felony admissions has increased and, in 2014, nonviolent offenses (misdemeanors and felonies) comprised three-quarters of all post-conviction admissions to prison. (See figure 3.)

Figure 3.



Source: Alaska Department of Corrections

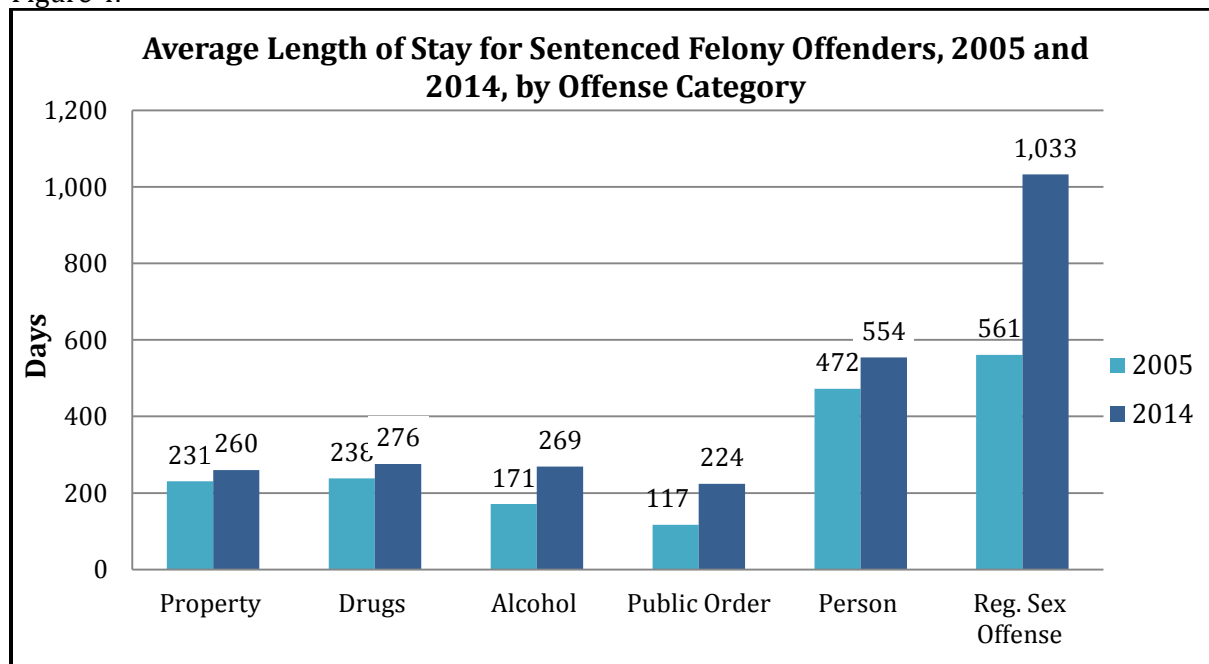
Additionally, the Commission examined the growing number of inmates in Alaska entering prison not for a new conviction but for a technical violation of their probation or parole conditions, defined as a violation of their supervision conditions that does not rise to the level of new criminal conduct. These offenders are admitted for failing to comply with the terms of their supervision, such as missing or failing a drug test or failing to report to their supervision officer. The number of offenders sentenced to prison after being revoked for a technical violation grew 32 percent in the past 10 years.

Longer prison stays do not reduce recidivism more than shorter prison stays

The Commission also considered the relationship between the length of prison terms and recidivism. The best measurement for whether longer lengths of stay provide for greater deterrence is whether similar offenders, when subjected to different terms of incarceration, recidivate at different levels. The rigorous research studies find no significant effect, positive or negative, of longer prison terms on recidivism rates.²³

Examining length of stay in Alaska presents a mixed picture: while average misdemeanor length of stay is down slightly over the last 10 years, felony length of stay is up across all offense types and felony classes. For some offense types, including drug and property offenders, length of stay has increased by roughly 30 days over the last decade. For others, including felony public order and sex offenders, length of stay has nearly doubled, leading to an additional 3 ½ months in prison on average for public order convictions and an additional 16 months in prison on average for felony sex offenders.²⁴ (See figure 4.)

Figure 4.

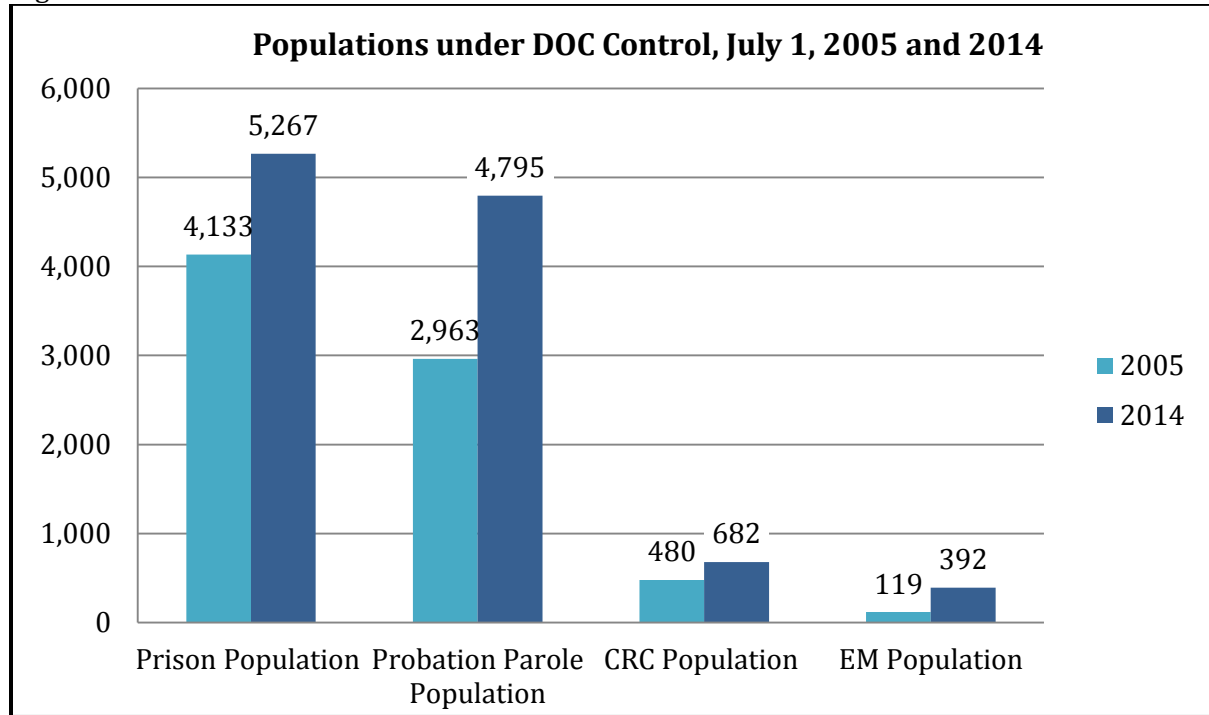


Source: Alaska Department of Corrections

Community Corrections

While Alaska's prison population has grown by 27 percent over the last decade, the state has experienced more growth among its community corrections populations, including probation and parole (up 62 percent), community residential centers or halfway houses ("CRCs") (up 42 percent), and electronic monitoring ("EM") (up 229 percent). (See figure 5.)

Figure 5.



Source: Alaska Department of Corrections

Research has identified a number of key strategies to increase success rates for those supervised in the community, including identifying and focusing resources on higher risk offenders, using swift, certain, and proportionate sanctions, incorporating rewards and incentives, frontloading resources in the first weeks and months following release from prison, and integrating treatment into supervision, rather than relying on surveillance alone.

Identify and focus supervision resources on high risk offenders

Research has consistently shown that offenders' likelihood to recidivate – that is, to commit new crimes upon release – can be accurately predicted with the use of validated risk assessment tools.²⁵ With these tools, supervision agents can focus their oversight and resources on those who pose the highest risk of reoffending, a practice that provides the biggest return on investment.

While Alaska currently utilizes a risk and needs assessment tool, the Level of Service Inventory-Revised ("LSI-R"), to inform supervision levels, a sizeable portion of the state's community

supervision resources remain focused on low risk offenders. On July 1, 2014, 39 percent of the state's probation and parole supervised population was classified as low risk. Even with reduced reporting requirements, these low risk offenders make up a large share of caseloads and require staff resources that could otherwise be dedicated to offenders with a higher likelihood to reoffend.

Use swift, certain, and proportionate sanctions

Research has also demonstrated that offenders are more responsive to sanctions that are swift, certain, and proportionate rather than those that are delayed, inconsistently applied, and severe.²⁶ Swift and proportionate sanctions work both because they help offenders see the sanction as a consequence of their behavior rather than a decision levied upon them, and because offenders heavily weigh the present over the future (consequences that come months and years later are steeply discounted). Certainty establishes a credible and consistent threat – thereby creating a clear deterrent for non-compliant behavior.²⁷

In Alaska, with the implementation of the Probation Accountability with Certain Enforcement (“PACE”) program in 2010, the state has begun utilizing evidence-based jail sanctions for a small portion of offenders on community supervision (offenders deemed high risk in five pilot communities). However, data across the entire supervision violator population – PACE and non-PACE – point to long delays between the problem behavior and the consequence – with an average of 33 days to resolve a revocation charge – and many offenders serving long sentences once convicted. In 2014, nearly half of revoked supervision violators stayed more than 30 days, and 28 percent stayed longer than 3 months behind bars.

Moreover, Alaska lacks a system-wide framework for the use of swift, certain, and proportionate sanctions that do not rise to the level of additional prison time. States across the country have successfully implemented graduated sanctioning, whereby supervision officers can respond to non-compliant behavior with a range of non-custodial responses – from less intensive sanctions like increased reporting requirements or community service hours, to more intensive sanctions like electronic monitoring.

Incorporate rewards and incentives

Historically, probation and parole supervision was focused on surveillance and sanctioning in order to catch or interrupt negative behavior. However, research shows that encouraging positive behavior with incentives and rewards can have an even greater effect on motivating and sustaining behavior change.²⁸

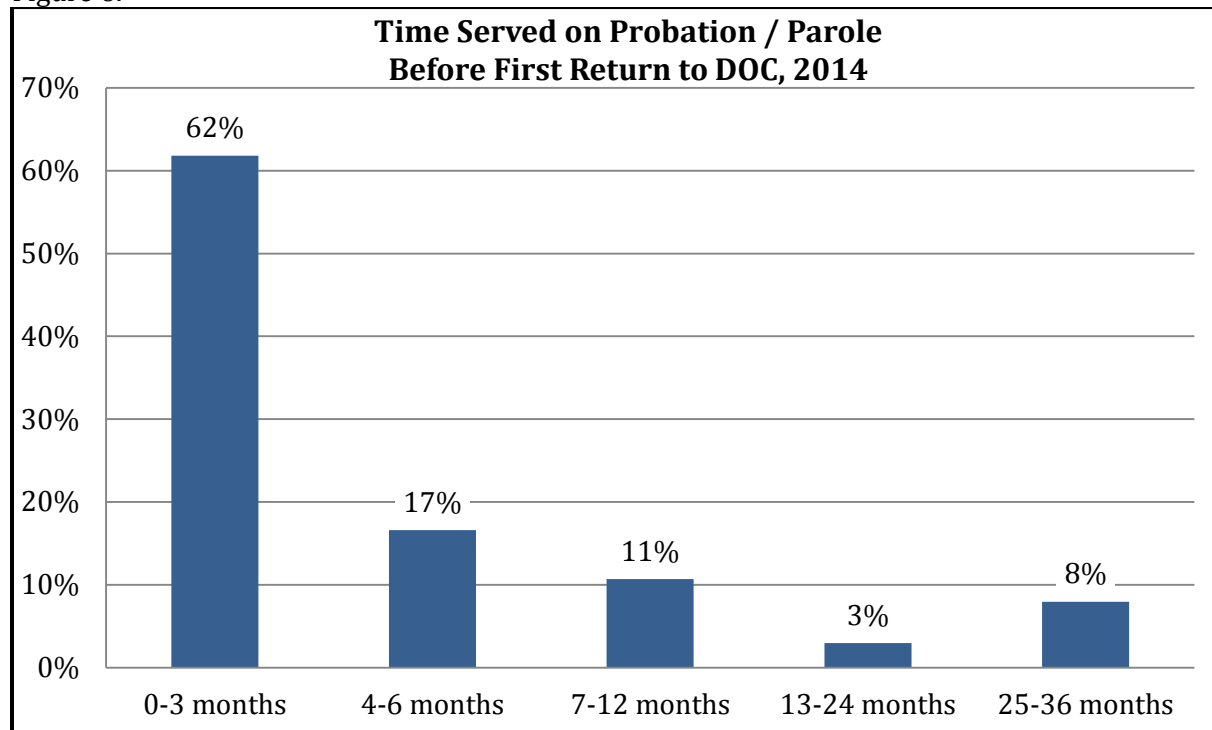
While incarcerated offenders in Alaska have the opportunity to receive good time and furlough incentives in acknowledgement of positive behavior and program participation, the state provides no similar incentives for offenders under supervision. Alaska has no earned discharge policy to allow supervisees to earn time off their supervision sentence for good behavior. Additionally, there is currently no standard practice for probation and parole officers to terminate supervision for offenders who have been consistently compliant. Rather, applications to terminate supervision must be made before a court and on an individual basis.

Frontload resources in the first weeks and months following release

Long-term success for offenders returning home from prison is closely tied to accountability and support in the time period immediately following release. Offenders in Alaska and elsewhere are most likely to reoffend or violate the terms of their community supervision in the initial days, weeks, and months after release from prison. (See figure 6.) The likelihood of violations and the value of ongoing supervision diminish as offenders gain stability and demonstrate longer-term success in the community.²⁹

Research has shown that supervision resources have the highest impact when they target this critical period. By frontloading limited resources, states can better target offenders at the time when they are most likely to reoffend, thereby reducing future violations by addressing non-compliant offender behavior early in the process.³⁰

Figure 6.



Source: Alaska Department of Corrections

While Alaska has taken significant strides in recent years to support offenders as they reenter the community, the state lacks policies to concentrate supervision resources on those first critical months. Moreover, while offenders are far more likely to fail in the first three months after release, the average length of time spent on community supervision prior to successful discharge has grown by 13 percent in the last decade, meaning that more parole and probation resources are dedicated to supervising offenders beyond the period when they pose the highest risk.

Integrate treatment into surveillance

Lastly, research shows that a combination of surveillance and treatment focused on offenders' criminogenic needs (changeable risk factors that increase an offender's likelihood of committing a crime, such as anti-social behavior and substance abuse) is more effective at reducing recidivism than supervision consisting of surveillance alone.³¹

In Alaska, probation and parole officers currently use risk assessments to both inform offenders' supervision levels (as outlined earlier), as well as to identify supervisees' criminogenic needs with top priority needs forming the basis of case management plans. However, the Commission heard a number of anecdotal reports regarding insufficient inpatient and outpatient treatment beds in DOC institutions and CRCs, as well as regional disparities in the availability of community-based treatment and programming, that render accessing evidence-based treatment difficult for many offenders.

Policy Recommendations

On September 8, 2015, Senate President Kevin Meyer and Speaker of the House Mike Chenault made an additional request of the Commission. Noting that the state's difficult budget situation rendered reinvestment in programs and treatment only possible with significant reforms, they charged the Commission with delivering policy options that met three benchmarks: (1) averting all future growth, (2) averting all future growth and reducing the prison population by 15 percent, and (3) averting all future growth and reducing the prison population by 25 percent. In a separate letter, Governor Walker applauded the legislative leadership for taking this initiative and pledged to use the benchmarks in developing reinvestment priorities in his budget.

Based on the Commission's review of evidence-based practices and an evaluation of the state's alignment with those practices in the areas of pretrial detention, post-conviction imprisonment, and community corrections, the Commission came to consensus on 21 policy recommendations that, taken together, are projected to reduce the average daily prison population by 21 percent by 2024, achieving an estimated net savings to the state of \$424 million over the next decade.

These 21 consensus recommendations will:

- Implement evidence-based pretrial practices;
- Focus prison beds on serious and violent offenders;
- Strengthen supervision and interventions to reduce recidivism;
- Ensure oversight and accountability; and
- Advance crime victim priorities.

In an acknowledgement of the state's rapid prison growth over the last decade, and the importance of reinvesting savings into programs and policies that will reduce victimization and the state's recidivism rate, the Commission decided not to forward recommendations to the legislature that met the first two benchmarks: averting all future growth, and averting all future growth and reducing the prison population by 15 percent. Instead, the Commission strongly encourages the legislature to consider the 21 consensus recommendations forwarded and, where savings are achieved, to reinvest a portion into pretrial supervision services, victims' services in remote and

bush communities, violence prevention, reentry support services, and institutional and community-based treatment in both rural and urban areas.

Commission's Consensus Recommendations

Implement evidence-based pretrial practices

Recommendation 1: Expand the use of citations in place of arrest for lower-level nonviolent offenses

The majority of admissions to prison pretrial are for defendants with nonviolent misdemeanor charges. While law enforcement officers have discretion to issue citations for these offenses, the large number of admissions suggests that officers are not using that discretion as often as they could to ensure that expensive prison beds during the pretrial period are occupied those facing serious charges.

Specific Action Recommended: To reduce pretrial admissions for defendants with lower-level nonviolent charges, the Commission recommends:

- a. Creating a presumption of citation for misdemeanors and class C felonies, excluding person offenses, domestic violence offenses, violations of release conditions, or offenses for which a warrant or summons has been ordered.
- b. Allowing law enforcement officials to overcome the presumption of citation if the officer has reasonable grounds to believe the person presents a significant likelihood of flight, presents a significant danger to the victim or the public, or if the officer is unable to verify the person's identification without making an arrest.

Recommendation 2: Utilize risk-based release decision-making

A review of a sample of Alaska court files found that courts ordered some amount of secured monetary bond (as opposed to personal recognizance or unsecured bond) in a majority of cases. Additionally, 52 percent of sampled defendants were detained for the entirety of their pretrial period. Therefore, whether a defendant is released pretrial in Alaska is often tied to his or her ability to pay a certain amount of secured money bail rather than his or her likelihood of failing to appear for court hearings or engaging in new criminal activity.

Specific Action Recommended: To implement pretrial release decision-making based upon the offender's risk level, instead of ability to pay monetary bond, the Commission recommends:

- a. Directing the DOC, in consultation with the Department of Law ("DOL"), Public Defender, Department of Public Safety ("DPS"), and Alaska Court System ("ACS"), to create an evidence-based pretrial release decision-making grid that strengthens the presumption of release on personal recognizance or unsecured bond for defendants with less serious charges and lower risk scores. The statutory parameters for this grid would include:
 - i. Defining a category of defendants who, as a matter of law, should always be released on personal recognizance or unsecured bond with appropriate release conditions; and

- ii. Defining categories of defendants for whom DOC should always or usually recommend release on personal recognizance or unsecured bond with appropriate release conditions, while providing a mechanism for the court to depart from that recommendation in limited circumstances.³²

The following grid captures the release categories as recommended by the Commission:

Offense Type	Misd. non-person offense (non-DV/ non-DUI)	Class C felony non-person offense (non-DV/ non-DUI)	DUI	Failure to appear/ violation of release condition	Other
Low-risk	OR or UB release	OR or UB release	OR or UB recommended	OR or UB usually recommended	OR or UB usually recommended
Moderate-risk	OR or UB release	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended
High-risk	OR or UB recommended	OR or UB recommended	OR or UB usually recommended	OR or UB not usually recommended	OR or UB not usually recommended

OR: Own recognizance.

UB: Unsecured bond.

- b. Mandating that DOC assess all pretrial defendants for risk using a validated pretrial risk assessment tool and make release recommendations to the court based on the grid prior to the defendant's first appearance. All releases on personal recognizance or unsecured bond would be accompanied by release conditions and, when appropriate, varying levels of pretrial supervision.
 - i. Absent compelling circumstances, all defendants should be seen for their first appearance within 24 hours. If a first appearance happens within 24 hours, DOL is not required to be present. The court shall notify DOL if an additional probable cause hearing within 48 hours is required.
- c. Authorizing courts to consider a defendant's inability to pay a previously set secured money bond in at least one bail review hearing.
- d. Authorizing courts to issue unsecured and partially-secured performance bonds.³³
- e. Authorizing the DOL collections unit to garnish paychecks and Permanent Fund Dividend checks to collect on forfeited unsecured bonds and unpaid victim restitution.
- f. Directing the ACS to eliminate misdemeanor bail schedules following DOC's implementation of the above evidence-based pretrial practices. Thereafter, any defendant arrested by law enforcement would remain detained until they have received a risk assessment and have made their first appearance before a judicial officer.

Recommendation 3: Implement meaningful pretrial supervision

Currently, judges have few options for pretrial supervision, and the options that are available are typically handled by non-state agencies and contingent upon the defendant's ability to pay monitoring fees, including the ordering of a private third-party custodian, the services of a private electronic-monitoring company, and the 24/7 sobriety program. The Commission heard from many judges and magistrates who said they would release more defendants from jail pretrial if there were more options for meaningful supervision in the community to reduce the defendants' risk of committing new crimes or failing to appear for court.

Specific Action Recommended: To reduce the risk that released defendants will fail to appear or engage in new criminal activity, the Commission recommends:

- a. Directing the DOC to provide varying levels of supervision for moderate- and high-risk defendants who are released pretrial. The DOC would also be responsible for standardizing and recommending the use of pretrial diversion, conducting outreach to community programs and tribal courts to develop and expand diversion options, and providing referral services on a voluntary basis for substance abuse and behavioral health treatment services.
- b. Directing the ACS to issue court date reminders to criminal defendants for each of their hearings, and to coordinate and share information about hearing dates and times with the DOC.

Recommendation 4: Focus supervision resources on high-risk defendants

Research shows that pretrial supervision resources should be focused on those defendants who are the most likely to fail. Certain restrictive release conditions can improve success rates for higher-risk defendants, but result in worse outcomes for lower-risk defendants.³⁴ Courts in Alaska currently do not utilize actuarial risk assessment tools or have guidance for assigning release conditions based in part on risk scores.

Specific Action Recommended: To ensure that supervision resources are focused on defendants at the highest risk to reoffend, the Commission recommends:

- a. Ensuring that the DOC recommends evidence-based release conditions for each defendant who they have recommended for pretrial release, with more restrictive conditions reserved for higher-risk defendants.
 - i. Additionally, entitling defendants to a subsequent bail hearing in cases where the release conditions prevented the defendant's release. At the bail hearing, the court would either revise the conditions or find on the record that there is clear and convincing evidence that no other release conditions can reasonably assure court appearance and public safety.
- b. Restricting third-party custodian conditions to only those cases in which pretrial supervision provided by the DOC is not available; when no secured money bond is ordered; and when the court finds on the record that there is clear and convincing evidence that no less restrictive release conditions can reasonably assure court appearance and public safety.
- c. Revising eligibility requirements for third-party custodians to limit disqualification from serving as a third-party custodian if there is a reasonable possibility that the prosecution will call them as a witness.³⁵

Focus prison beds on serious and violent offenders

Recommendation 5: Limit the use of prison for lower-level misdemeanor offenders

In 2014, 6,569 offenders were admitted for a period of incarceration for a nonviolent misdemeanor offense, and an additional 2,093 offenders were admitted to prison for a violent misdemeanor – constituting 82 percent of all admissions to prison in that year.

Specific Action Recommended: In accordance with the research on the null or mildly criminogenic effect of prison stays for many lower-level offenders, and the Commission's desire to redirect a greater percentage of lower-level misdemeanor offenders to alternatives such as fines, probation, and electronic monitoring, the Commission recommends:

- a. Reclassifying the following misdemeanors as violations, punishable by up to \$1,000 fine:
 - i. Misdemeanor B offenses, the lowest-level misdemeanor class in terms of severity, excluding theft and disorderly conduct violations;
 - ii. Driving with a suspended license ("DWLS") offenses, when the underlying license suspension was not related to a conviction for driving under the influence ("DUI") or refusal to submit to a chemical test; and
 - iii. Violations of conditions of release ("VCOR") and failure to appear ("FTA") offenses, with certain exclusions.³⁶ For these pretrial violations, law enforcement will be authorized to arrest the defendant, and the DOC will be authorized to detain the defendant until the court schedules a bail review hearing.
- b. Reclassifying disorderly conduct offenses in such a way that allows for an arrest but limits jail holds or terms up to 24 hours.
- c. Reclassifying first- and second-time theft offenses under \$250 as non-jailable misdemeanors, and limiting the maximum sentence for a third or subsequent theft offense under \$250 to five days suspended and a six-month probation term.
- d. Eliminating the mandatory minimum for first-time DUI-related DWLS offenses.
- e. Requiring that first-time misdemeanor DUI and refusal to submit to chemical test offenders serve their incarceration sentences on electronic monitoring in the community; in cases where electronic monitoring is not available, assigning the offenders to serve their incarceration sentence on supervised probation.
- f. Presumptively setting a zero to thirty day sentencing range for misdemeanor A's.
 - i. Permitting courts to depart from the presumptive sentencing range for DV-related assault 4s if the prosecution demonstrates that the conduct was among the most serious constituting the offense or if the offender has past similar and repeated criminal history (not limited to convictions).
 - ii. Permitting courts to depart from the presumptive sentencing range for all other misdemeanor A's if the prosecution demonstrates that the conduct was among the most

serious constituting the offense or if the offender had past similar criminal convictions.

- g. Restricting municipalities from incarcerating past these limits for similar municipal offenses.

Recommendation 6: Revise drug penalties to focus the most severe punishments on higher-level drug offenders

Over the past 10 years, post-conviction admissions to prison for drug offenses have grown by 35 percent. In addition, felony drug offenders are spending 16 percent longer behind bars than they were a decade ago.

In addition to reviewing meta-analyses demonstrating that longer prison stays do not reduce recidivism more than shorter prison stays for many offenders, the Commission also reviewed research pointing to the low deterrent value of long prison terms for drug offenders. Research shows that the chances of a typical street-level drug transaction being detected are about 1 in 15,000.³⁷ With such a low risk of detection, drug offenders are unlikely to be dissuaded by the remote possibility of a longer stay in prison.

Specific Action Recommended: In accordance with the research on the limited recidivism-reduction benefit of longer stays in prison, as well as the low deterrent value of long drug sentences in particular, the Commission recommends:

- a. Reclassifying simple possession of heroin, methamphetamine, and cocaine as a misdemeanor offense, and limiting the maximum penalty for first-and second-time possession offenses to one month and six month suspended sentences, respectively.
- b. Aligning penalties for commercial heroin offenses with penalties for commercial methamphetamine and cocaine offenses. This recommendation shall be forwarded to the Controlled Substances Advisory Committee ("CSAC") and CSAC shall be provided with the opportunity to comment and carry out their duties under AS 11.71.110.
- c. Creating a tiered commercial drug statute whereby offenses related to more than 2.5g of heroin, methamphetamine, and cocaine is a more serious offense (Felony B) than offenses related to less than 2.5g of heroin, methamphetamine, and cocaine (Felony C).

Recommendation 7: Utilize inflation-adjusted property thresholds

Alaska's felony property offense threshold, the dividing line at which the vast majority of property crimes are categorized as felonies as opposed to misdemeanors, was originally set at \$500 in 1978. The equivalent value in today's dollars would be over \$1800. However, the state's threshold today is set at \$750, having been raised from \$500 in 2014.

In a recent examination of felony cut-off points, findings showed that increasing a felony theft threshold does not lead to higher property crime rates. Between 2001 and 2011, 23 states raised their felony theft thresholds. The analysis found that the change in threshold had no statistically significant impact, up or down, in the states' overall property crime or larceny rates. Additionally,

the study found no correlation between the amount of a state's felony theft threshold – whether it is \$500, \$1,000, or \$2,000 – and its property crime rates.³⁸

Specific Action Recommended: To focus costly prison space on more serious offenders, and to ensure that value-based penalties take inflation into account, the Commission recommends:

- a. Raising the felony property crime threshold to \$2,000 for all property crimes with a required value amount.³⁹
- b. Requiring the Department of Labor to set in regulation an inflation-adjusted felony property threshold, as well as an inflation-adjusted threshold dividing Misdemeanor A and B property crimes (currently set at \$250), every 5 years, rounded up to the nearest \$50 increment.

Recommendation 8: Align non-sex felony presumptive ranges with prior presumptive terms

In 2005, following the Supreme Court Case *Blakely v. Washington*, Alaska moved from a statutory framework with presumptive prison terms to one utilizing presumptive ranges. In designing these ranges, lawmakers used the prior presumptive term as the bottom of the presumptive range. For example, in establishing the presumptive range for a non-sex, first-time Class A Felony, the prior presumptive term – 5 years – was used as the bottom of the new presumptive range – set at 5 to 8 years. (See chart below.)

Lawmakers had sought to maintain the status quo in regard to sentence lengths, noting in the legislation that, “it is not the intent [...] to bring about an overall increase in the amount of active imprisonment time.”⁴⁰ However, since the shift to presumptive ranges, length of stay has increased across all non-sex felony classes: including an 80 percent increase for Class A Felonies, an 8 percent increase for Class B Felonies, and a 17 percent increase for Class C Felonies.⁴¹

Specific Action Recommended: In accordance with the research demonstrating that for many offenders longer prison stays do not reduce recidivism more than shorter prison stays, and the original legislative intent to maintain lengths of prison stays at 2005 levels, the Commission recommends aligning presumptive ranges with the prior presumptive terms as outlined below.

(Numbers in brackets indicate presumptive terms/ranges.)

Felony Class ⁴²	Presumptive Term (2005)	Alaska Current	Recommendation
Class A			
First	[5] – 20 years	[5 – 8] – 20 years	[3 – 6] – 20 years
First/Enhanced ⁴³	[7] – 20 years	[7 – 11] – 20 years	[5 – 9] – 20 years
Second	[10] – 20 years	[10 – 14] – 20 years	[8 – 12] – 20 years
Third	[15] – 20 years	15 – 20 years	13 – 20 years
Class B			
First	[n/a] – 10 years	[1 – 3] – 10 years	[0 – 2] – 10 years
First/Enhanced ⁴⁴	[n/a] – 10 years	[2 – 4] – 10 years	[1 – 3] – 10 years
Second	[4] – 10 years	[4 – 7] – 10 years	[2 – 5] – 10 years
Third	[6] – 10 years	6 – 10 years	4 – 10 years
Class C			
First	[n/a] – 5 years	[0 – 2] – 5 years	Presumptive probation;

			0 – 18 months ⁴⁵
Second	[2] – 5 years	[2 – 4] – 5 years	[1 – 3] – 5 years
Third	[3] – 5 years	3 – 5 years	2 – 5 years

Recommendation 9: Expand and streamline the use of discretionary parole

Current eligibility for discretionary parole is restricted to those non-sex offense felons convicted of the most serious crimes (Unclassified Felonies), and felonies towards the bottom of the severity scale (first- and second-time Class C Felonies, as well as first-time Class B Felonies). Offenders who fall between these two poles are ineligible for discretionary parole without the intervention of the three-judge panel. Additionally, no offenders convicted of a felony sex offense are able to apply for discretionary parole without the intervention of the three-judge panel.

Moreover, a review of DOC files found that, although a substantial number of offenders currently serving time in prison are eligible for discretionary parole, only a small percentage are applying and appearing before the Parole Board. Commissioners heard from numerous sources that this low percentage was attributable to a cumbersome application and review process.

Specific Action Recommended: To increase the number of offenders who are eligible to apply for parole, as well as to streamline the decision-making process, the Commission recommends:

- Expanding eligibility for discretionary parole to all offenders except Class A or Unclassified sex offenders with prior felony convictions.
- Streamlining parole decision-making for lower-level felonies (first time Felony C and B offenders) by restricting hearings to only those offenders who have failed to comply with their individual case plan or who have been disciplined for failure to obey institutional rules, or in cases where the victim has requested a parole hearing. Otherwise, inmates will be paroled at their earliest eligibility date.
- Requiring that any other offender who is eligible for parole receives a hearing at least 90 days before his or her first eligibility date, with the presumption that the offender will be granted parole if he or she has complied with the Individual Case Plan and followed institutional rules. The presumption of parole could be overcome with a finding on the record that release would jeopardize public safety

Recommendation 10: Implement a specialty parole option for long-term, geriatric inmates

Geriatric prisoners are often much more expensive than younger inmates because of their higher medical costs. At the same time, research shows that older inmates are at a much lower risk of recidivism than younger inmates because they typically have “aged out” of their crime committing years. According to research by the Alaska Judicial Council, offenders released at age 55 and older were far less likely to be rearrested than the average for all offenders.⁴⁶

Specific Action Recommended: To reduce the number of low risk, geriatric offenders in prison, the Commission recommends:

- a. Providing for automatic parole hearings for offenders, including those incarcerated prior to the implementation of the legislation, who are over an age threshold set between 55 and 60 and have served at least 10 years of their sentence.
- b. Ensuring that when evaluating inmates under this policy, the Parole Board considers the inmate's likelihood of re-offending in light of his or her age, as well as criminal history, behavior in prison, participation in treatment, and plans for reentering the community.

Recommendation 11: Incentivize completion of treatment for sex offenders with an earned time policy

The Commission also reviewed research relating to the efficacy of sex offender treatment. Over the last decade, a growing body of evidence has demonstrated that treatment interventions for sex offenders can be successful. A cost-benefit analysis conducted by the Washington State Institute for Public Policy found that in-prison sex offender treatment had a positive cost-benefit ratio of \$1.87 (i.e. for every dollar spent on treatment, there was \$1.87 returned in benefits to the state and state residents).⁴⁷

Many states utilize earned time to motivate offenders to complete treatment rehabilitation activities – whereby inmate prison terms are reduced from the date on which they might have been released had they not completed the specified programs.⁴⁸ Earned time is distinguished from “good time” credits (often referred to in Alaska as “mandatory parole”), which are awarded to offenders exclusively for following prison rules.

Specific Action Recommended: To incentivize participation in and completion of sex offender treatment, the Commission recommends:

- a. Implementing an earned time policy for sex offenders who are currently ineligible for mandatory parole, whereby offenders are able to earn up to one-third off their sentence if they complete in-prison treatment requirements set forth by the DOC.
- b. Expanding the DOC's capacity to provide residential, long-term sex offender treatment that focuses on ensuring the offender is held responsible for harmful behavior and teaches cognitive behavioral strategies to end patterns of abuse.

Strengthen supervision and interventions to reduce recidivism

Recommendation 12: Implement graduated sanctions and incentives

Alaska law does not authorize community supervision field officers to respond to technical violations of community supervision, such as missing drug tests or treatment sessions, with intermediate sanctions. Although DOC policies do give field officers the authority to address minor violations administratively, there is no system-wide framework for the use of swift, certain, and proportionate sanctions. As a result, sanctioning practices vary widely across the state.

Specific Action Recommended: To reduce recidivism and increase success rates on probation and

parole through the use of swift, certain, and proportional sanctions and incentives, the Commission recommends:

- a. Statutorily authorizing the DOC to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses, and to follow the matrix both when rewarding pro-social behavior and when responding to technical violations of supervision.
- b. Requiring field agents to be trained on principles of effective intervention, case management, and the use of sanctions and rewards.

Recommendation 13: Reduce pre-adjudication length of stay and cap overall incarceration time for technical violations of supervision

On July 1, 2014, 22 percent of Alaska's prison population was comprised of offenders who have violated the terms of their probation or parole supervision. Of those, most have violated the rules of supervision that do not constitute new criminal conduct, such as failing drug screenings or failing to report to their probation or parole officer.

After revocation, supervision violators are staying incarcerated, on average, for 106 days. Many of these supervision violators also spend a significant amount of time incarcerated before their case is resolved – on average, approximately one month. However, research shows – and Alaska's experiences with the PACE program have demonstrated – that more proportionate sanctions, administered in a swift and certain fashion have a stronger deterrent effect than these less swift and more severe sanctions.

Specific Action Recommended: To respond swiftly and proportionately to violations of supervision and to limit the use of prison as a sanction for technical violations, the Commission recommends:

- a. For offenders not participating in the PACE program, limiting revocations to prison as a potential sanction for technical violations of probation or parole as follows:
 - i. First revocation: Up to 3 days
 - ii. Second revocation: Up to 5 days
 - iii. Third revocation: Up to 10 days
 - iv. Fourth and subsequent revocation: Up to 10 days and a referral to the PACE program; or, if the PACE program is not available in the jurisdiction, the sanction would be left to judicial or Board discretion.
 - v. Revocation for absconding⁴⁹: Up to 30 days.
 - vi. These limits would not apply if the probationer or parolee is a sex offender who has failed to complete sex offender treatment.
- b. Requiring that probationers and parolees who are detained awaiting a revocation hearing for a technical violation of their community supervision be released back to probation and/or parole supervision on personal recognizance after serving the maximum allowable time outlined above, unless new criminal charges have been filed.
- c. Requiring that courts convert any unperformed Community Work Service directed in a judgment to a fine – and not to jail time - once the deadline set and announced at the time of

sentencing has elapsed.

- d. Stipulating that jail time cannot be imposed because a person failed to complete treatment if, despite having made a good faith effort, they were unable to afford treatment.
 - i. Additionally, including substance abuse treatment as a reinvestment priority for indigent offenders who are:
 - 1. Referred to ASAP by the court; and
 - 2. At a moderate to high risk of re-offending and in need of substance abuse treatment, as determined by a validated risk and needs assessment.

Recommendation 14: Establish a system of earned compliance credits

A robust body of research shows reduced recidivism when resources are focused on high risk offenders and front-loaded toward the first months following release. However, 39 percent of offenders on probation or parole are classified as low-risk, and supervising these offenders for long periods of time costs Alaska resources without improving public safety.

Earned compliance credits can provide a powerful incentive for offenders to participate in programs, obtain and retain employment, and remain drug- and alcohol-free.⁵⁰ As compliant and low risk offenders earn their way off supervision, earned compliance credits also work to focus limited supervision resources on the higher risk offenders who most require attention.

Specific Action Recommended: To focus resources on offenders at the highest risk to reoffend and to incentivize compliance with the offender's conditions of probation or parole, the Commission recommends:

- a. Statutorily establishing an earned compliance policy that grants probationers and parolees one month credit towards their probation and/or parole term for each month they are in compliance with the conditions of supervision.
- b. Establishing an automated time accounting system wherein probationers/parolees automatically earn the credit each month unless a violation report has been filed in that month.

Recommendation 15: Reduce maximum lengths for probation terms and standardize early discharge proceedings

Over the past decade, the average time that an offender spends on probation or parole prior to discharge has increased by 13 percent. However, a review of Alaska's data demonstrates that failure on supervision is most likely to happen in the first three months after an offender's release. Longer stays on probation and parole divert supervision resources that could be better focused on higher risk offenders at the time when they are most likely to fail on supervision.

Additionally, while the DOC currently has the option of recommending early termination of probation or parole to the court or Parole Board, there are no guidelines for when this option should be used, leading to differences in practice from region to region. Further, several statutory barriers restrict the usefulness of this option, including a restriction on terminating probation early

for Rule 11 (plea agreement) cases, and a requirement that offenders serve at least two years on parole before being discharged.

Specific Action Recommended: To more effectively focus scarce probation and parole resources on offenders at the time they are most likely to re-offend or fail, the Commission recommends:

- a. Capping maximum probation terms at the following:
 - i. A maximum of 5 years for felony sex offenders and Unclassified felony offenders;
 - ii. A maximum of 3 years for all other felony offenders;
 - iii. A maximum of 2 years for 2nd DUI and DV assault misdemeanor offenders; and
 - iv. A maximum of 1 year for all other misdemeanor offenders.
- b. Reducing the minimum time needed to serve on probation or parole prior to being eligible for early discharge to 1 year.
- c. Requiring the DOC to recommend early termination of probation or parole to the court/Parole Board for any offender who has completed all treatment programs required as a condition of supervision and is currently in compliance with all supervision conditions.
- d. Requiring the DOC to provide notification to the victim when recommending early discharge, with an opportunity for the victim to provide input at the court or Parole Board hearing.
- e. Authorizing courts to terminate probation early in cases where the sentence was imposed in accordance with a plea agreement under Rule 11 and DOC is recommending early discharge for good behavior.

Recommendation 16: Extend good time eligibility to offenders serving sentences on electronic monitoring

Most offenders who are housed within an institution have the opportunity to earn “good time” up to one-third off their sentences in acknowledgement of positive behavior. However, offenders who are serving their sentence on electronic monitoring are currently banned by statute from earning this incentive.

Specific Action Recommended: To incentivize compliance with the conditions of electronic monitoring, the Commission recommends allowing offenders on electronic monitoring to qualify for good time credits under the same conditions set forth for offenders in DOC institutions.

Recommendation 17: Focus ASAP resources to improve program effectiveness

Alaska’s Alcohol Safety Action Program (“ASAP”) provides screening and treatment referral services for thousands of misdemeanor offenders who are referred by the court. Unfortunately, the Commission finds that under-funding of ASAP has limited the program’s effectiveness.

This Commission believes that the best policy would be to increase funding for ASAP to allow the agency to provide more robust screening and treatment resources to all offenders struggling with substance abuse. The Commission also recognizes that, in the current fiscal climate, this is unlikely

– and in light of that, recommends focusing available ASAP resources on a smaller subset of high-risk misdemeanants to achieve better results.

Specific Action Recommended: To increase the effectiveness of the ASAP program, the Commission recommends:

- a. Focusing ASAP resources on offenders at the highest risk of taking up future prison resources through one of the following means:⁵¹
 - i. Limiting the offense categories that courts would be authorized to refer to ASAP to those currently mandated by statute (DUI, refusal to submit to a chemical test, and habitual minor consuming).
 - ii. Alternatively, limiting the offense categories that courts would be authorized to refer to ASAP to second-time misdemeanor DUI and refusal to submit to a chemical test offenses, as well as alcohol-related assault 4 offenses.
- b. Requiring ASAP to expand the services it provides to include:
 - i. Using a validated assessment tool to screen for criminogenic risk;
 - ii. Performing a brief behavioral health screening; and
 - iii. Providing referrals to treatment programs designed to address offenders' individual high priority criminogenic needs including, but not limited to, substance abuse.
- c. Requiring ASAP provide increased case supervision for moderate to high risk offenders as resources permit.

Recommendation 18: Improve treatment offerings in CRCs and focus use of CRC resources on high-need offenders

CRCs, otherwise known as halfway houses, have the potential to effectively support offenders who are transitioning back to the community from prison. However, the Commission found that CRCs are likely mixing low and high risk offenders, which research has shown can lead to increased recidivism for low risk offenders.⁵² Additionally, the Commission found that CRCs would be more effective at reducing recidivism if the facilities offered treatment for offenders in addition to supervision.

Specific Action Recommended: To reduce recidivism and improve outcomes for offenders placed in CRCs, the Commission recommends:

- a. Requiring CRCs to provide treatment (cognitive-behavioral, substance abuse, after care and/or support services) designed to address offenders' individual criminogenic needs.
- b. Adopting quality assurance procedures to ensure CRCs are meeting contractual obligations with regard to safety and offender management.
- c. Implementing admission criteria for CRCs that:
 - i. Prioritize placement in CRCs for people who would benefit most from more intensive supervision and treatment, using the results of a validated risk and needs assessment; and

- ii. Minimize the mixing of low and high risk offenders.

Ensure oversight and accountability

Recommendation 19: Require collection of key performance measures and establish an oversight council

The reforms to Alaska's corrections and criminal justice systems will require careful implementation and oversight. Moreover, additional legislative and administrative reforms may be needed after implementation to enable the state to realize the goals of justice reinvestment. Several states that have enacted similar comprehensive reform packages, including Georgia, South Carolina, and South Dakota, have mandated data collection on key performance measures and required oversight councils to track implementation, report on outcomes, and recommend additional reforms if necessary. Many of these states have also charged the oversight councils with helping to administer ongoing reinvestment dollars based upon the savings associated with the reforms.

Specific Action Recommended: To ensure that reforms are monitored for fidelity and efficacy, and to better prepare the state to meet the objectives of justice reinvestment, the Commission recommends:

- a. Requiring the ACS, the DOC, the Department of Health and Social Services ("DHSS"), the DOL, the DPS, and the Parole Board to collect and report data annually on key performance measures.
- b. Creating a Justice Reinvestment Oversight Task Force ("Task Force"), composed of legislative, executive, and judicial branch members, as well as members representing crime victims and Alaska Natives, charged with:
 - i. Monitoring and reporting back to the Legislature and Governor on the implementation and outcomes of the Commission's recommendations;
 - ii. If needed, making additional recommendations for legislative and administrative changes to achieve the state's justice reinvestment goals;
 - iii. Helping to administer reinvestment dollars and develop plans on an annual basis for ongoing reinvestment of a portion of the state general fund savings achieved through pretrial, sentencing, and corrections reforms, based on observed outcomes and cost-benefit estimates; and
 - iv. Assessing state government processes to ensure victim restitution and violent crimes compensation are working effectively to meet crime victim needs.

Recommendation 20: Ensure policymakers are aware of the impact of all future legislative proposals that could affect prison populations

Many sentencing and corrections reforms do not affect biennial budgets, but have significant impact on budgets four, six, and eight years out or longer. Fiscal impact statements that cover a longer period of time would give policymakers a more accurate account of the implications of proposed sentencing and corrections policies on the state prison population and budget.

Specific Action Recommended: To ensure that policymakers are informed of the long-term fiscal impact of proposed corrections policies, require 10-year fiscal impact statements to accompany future sentencing and corrections legislation.

Recommendation 21: Advance crime victim priorities

Crime victims, survivors, and victim advocates are important stakeholders in the work of the Commission. Two roundtable discussions were held in September 2015 to provide survivors and advocates with an overview of the Commission's work, and to seek their input in establishing priorities for crime victims and those who serve them in Alaska. These roundtables were supplemented with significant additional outreach to victim advocates in the state. The Commission did not make data- or fact-findings related to crime victims or victim services. Instead, the following recommendations reflect the shared concerns expressed by victims, survivors, and advocates in the state.

Proposed Administrative Reforms: To advance reforms addressing the needs of crime victims, the Commission recommends the following administrative reforms:

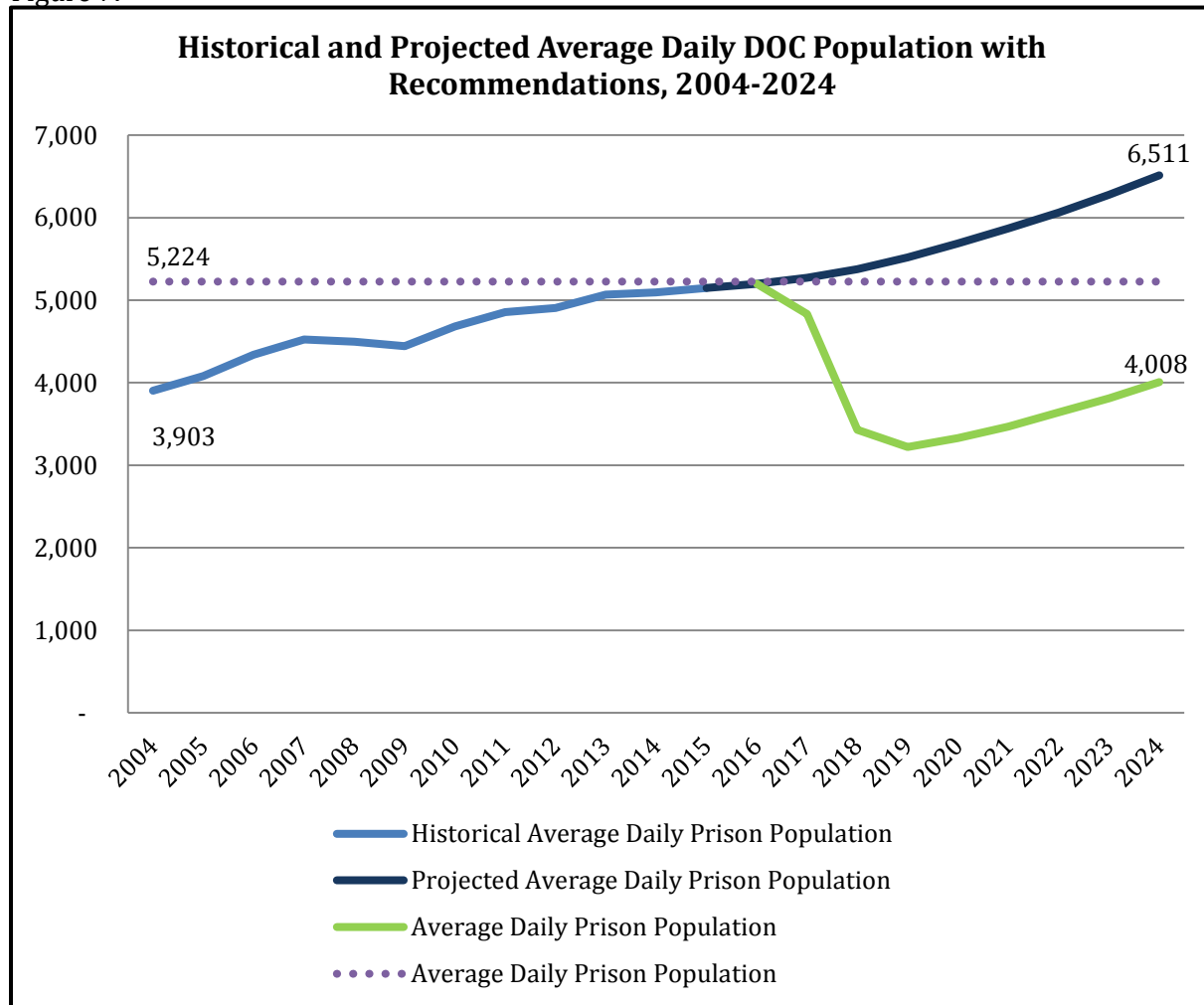
- a. The DOL and District Attorneys' offices should make enhanced efforts to increase the number of crime victims signed up for court notifications through VINE.
- b. The DOC should review and revise policies and procedures related to inmate phone calls and visitation to reduce the likelihood of offenders contacting victims.
- c. The DOC should review and revise policies and procedures to include an increased focus on crime victim needs during offender transition and reentry planning.
- d. The training standards for criminal justice professionals should contain more specific provisions related to the frequency and content of victim-focused training, with input as appropriate from victim advocacy organizations in the state.
- e. The state should authorize the DHSS to provide similar trauma-informed services for child victims as the services that exist for adult victims.
- f. The courts and criminal justice agencies should take steps to make communications and documents more accessible for non-English speakers and people with low levels of literacy.

Impacts of Commission's Consensus Recommendations

Enacting all 21 of the Commission's consensus recommendations is projected to reduce the average daily prison population by 21 percent over the next 10 years, netting an estimated \$424 million in prison costs through 2024. (See figure 7, next page.) This number includes both the savings associated with averting projected prison growth (\$169 million) and the savings associated with reducing the population below current levels (\$255 million).

These impacts are contingent upon successful implementation and funding of the above recommendations.

Figure 7.



Source: The Alaska Department of Corrections; the Pew Charitable Trusts.

Reinvestment Priorities

Recognizing that these recommendations will result in substantial state general fund savings over the next decade, the Commission strongly recommends reinvesting a portion of the savings into priority services designed to protect public safety, reduce victimization, and sustain reductions in the prison population.

With the understanding that prison population reductions and the associated savings will likely be achieved in the near future, the Commission recommends that the state provide an upfront

investment, and ongoing reinvestment based on guidance from the Justice Reinvestment Oversight Task Force, into the following priority services:

- a. Pretrial services. Provide resources for the DOC to conduct pretrial risk assessments, make recommendations to the court regarding release and release conditions, and provide varying levels of supervision in the community.
- b. Victims' services in remote and bush communities. Provide for emergency housing and travel, forensic exam training and equipment for health care providers, and community-driven programs that address cultural and geographic issues.
- c. Violence prevention. Provide for community-based programming focused on prevention, education, bystander intervention, restorative justice, evidence-based offender intervention, and building healthy communities.
- d. Treatment services. Fund treatment and programming in facilities and in the community to address criminogenic needs, behavioral health, substance abuse, and sexual offending behavior.
- e. Reentry and support services. Expand transitional housing, employment, case management, and support for addiction recovery.

Additional Recommendations for Legislative Consideration

In addition to the consensus package of reforms above, the Commission also voted to forward the following six recommendations that received majority approval. Taken in concert with the consensus policy package, these policies are projected to reduce the average daily prison population by 26 percent and save the state an estimated \$447 million dollars over the following decade.

Additional Recommendation 1: Require that all misdemeanor DUI and refusal to submit to a chemical test offenders serve their incarceration terms in proven prison alternatives (variation on recommendation 5(e))

In 2014, over 2,500 offenders were admitted to prison post-conviction for a misdemeanor DUI, and an additional 105 offenders were admitted for refusal to submit to a chemical test – together, comprising a quarter of all post-conviction admissions in that year. The Commission reviewed a number of studies on the effective management of DUI offenders, including a 2014 study which found that jail sentences for DUI offenders were associated with higher recidivism rates than sentences to probation, even when controlling for differences between offender groups.⁵³ Additional studies have found that, no matter that number of past DUI convictions (1, 2, or 3 or more), sanctions involving jail time were associated with the highest recidivism rates.⁵⁴

Specific Action Recommended: In recognition of the limited and potentially negative impacts of jail sanctions for DUI offenders, including repeat DUI offenders, a majority of Commission members recommend requiring all misdemeanor DUI and refusal to submit to a chemical test offenders (including those with a prior offense) to serve their incarceration terms in prison alternatives – specifically supervision under remote surveillance technologies or a CRC. In cases where electronic

monitoring is not available, the offenders can be assigned to serve their incarceration sentence on supervised probation.

Additional Recommendation 2: Set the weight threshold at which more serious commercial drug offenses are differentiated from less serious offenses at 5g (variation on recommendation 6(c))

While the Commission unanimously sought to differentiate more serious commercial drug offenses from less serious commercial drug offenses through the use of a weight-based system, a number of Commissioners sought to set the dividing weight at an amount higher than 2.5g, with the understanding that many drug addicts engage in low-level sale offenses primarily to support their habit, and therefore do not fall into the category of serious drug dealers.

Specific Action Recommended: A majority of Commission members recommend setting the weight at which more serious drug commercial drug offenses are differentiated from less serious offenses at 5g.

Additional Recommendation 3: Bring presumptive ranges under the ceiling of prior presumptive terms (variation on recommendation 8)

While the Commission unanimously sought to align non-sex presumptive sentencing ranges with prior presumptive terms, a number of Commissioners also sought to reduce average prison stays below 2005 levels – pointing to the robust body of research demonstrating that, even when controlling for offender characteristics, inmates who are sentenced to longer periods of incarceration are not less likely to commit a crime upon release than similarly situated offenders sentenced to shorter periods of incarceration.

Specific Action Recommended: In accordance with the research demonstrating that longer prison stays do not reduce recidivism more than shorter prison stays, a majority of Commission members recommend bringing presumptive ranges under the ceiling of the 2005 presumptive terms, and extending presumptive probation to both first- and second-time Class C Felony offenders.

Additional Recommendation 4: Return sentence lengths for Felony C and B sex offenders to pre-2006 levels

Over the last decade, the average length of stay behind bars for felony sex offenders has grown by 84 percent. Since 2005, Felony B sex offenders are staying an average of 120 percent longer and Felony C sex offenders are staying an average of 45 percent longer in prison. These longer prison stays were likely driven in part by significant increases in the lengths of sex offender sentences (both minimums and maximums) pursuant to legislative changes in 2006.

The Commission reviewed research demonstrating that sex offenders have a low risk of recidivism compared to other offense types. The most recent Alaska Judicial Council study of recidivism in the state found that sex offenders have substantially lower rates of rearrest within one year than other offense groups.⁵⁵ The same study found that sex offenders were reconvicted for a new sex offense

within two years at a rate of two percent.⁵⁶ Similar findings have also been borne out in national studies of recidivism rates.⁵⁷

Specific Action Recommended: In accordance with the research demonstrating that sex offenders have a low risk of recidivism compared to other offense types, and that longer prison stays do not reduce recidivism more than shorter prison stays, a majority of Commission members recommend returning sentence lengths for Felony C and B sex offenders to 2005 levels.

Additional Recommendation 5: Expand Medicaid funding to provide substance abuse treatment for indigent offenders

Substance abuse and mental illness are associated with a substantial number of crimes committed in Alaska. A 2012 study found that Mental Health Trust beneficiaries, defined as individuals with mental illness, chronic alcoholism, traumatic brain injuries, and developmental disabilities, comprised 30 percent of individuals entering the prison system and 65 percent of the standing prison population.⁵⁸

Yet stakeholders report that the need for substance abuse and mental health treatment far exceeds demand, both in institutions and in the community. In communities that do have some form of treatment available, waitlists are long, and free or subsidized options are limited; in much of rural Alaska, options are limited or non-existent.

Specific Action Recommended: To reduce the likelihood that high risk offenders in need of substance abuse and/or mental health treatment will re-offend, a majority of Commission members recommend expanding the availability of funding for treatment by both maximizing the enrollment of eligible offenders and better equipping private providers to bill Medicaid.

Additional Recommendation 6: Limit the use of multiple misdemeanor revocations for the same allegation of program noncompliance

Specific Action Recommended: To motivate probationers to participate in and complete treatment and programming, while also reducing the number of misdemeanants who are revoked and serve multiple jail terms for the same allegation of program noncompliance, a majority of Commission members recommend:

- a. Requiring that the court process misdemeanor revocations for failure to comply with substance abuse or other programming in such a manner that one single petition is processed for that violation.
- b. Ensuring that, after adjudication, the defendant is offered the opportunity to complete the required programming and a disposition hearing is continued for the purpose of assuring either successful completion of the program condition or a one-time suspended jail imposition and deletion of the program condition.

Endnotes

¹ Note: Unless otherwise cited, the analyses in this report were conducted for the Alaska Criminal Justice Commission by the Public Safety Performance Project of the Pew Charitable Trusts using annual cohort recidivism rates, prison and probation/parole admission, release, and stock population data 2005-2014 as well as aggregate community residential center and electronic monitoring counts provided by the Alaska Department of Corrections; criminal charge information 2005-2014 provided by the Alaska Court System; and national data from sources including the Federal Bureau of Investigation Uniform Crime Reports and the US Census Bureau population forecasts.

² Ben Anderson, (2012) "Opening Soon: Alaska's \$240 million Goose Creek Prison," *Alaska Dispatch News*, <http://www.adn.com/article/opening-soon-alaskas-240-million-goose-creek-prison>.

³ National Association of State Budget Officers (1987), "The State Expenditure Report", http://www.nasbo.org/sites/default/files/ER_1987.PDF; National Association of State Budget Officers (2007), State Expenditure Report Fiscal 2006", http://www.nasbo.org/sites/default/files/ER_2006.pdf. Note: Comparison excludes capital expenditures.

⁴ National Association of State Budget Officers (2014) "Examining Fiscal State Spending 2011-2013", <http://www.nasbo.org/sites/default/files/State%20Expenditure%20Report%20%28Fiscal%202011-2013%20Data%29.pdf>.

⁵ Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT), <http://www.bjs.gov/index.cfm?ty=nps>; Bureau of Justice Statistics (2015), "Prisoners in 2014", <http://www.bjs.gov/content/pub/pdf/p14.pdf>.

⁶ Pew Public Safety Performance Project (2012), "2012 Georgia Public Safety Reform", <http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/2012-georgia-public-safety-reform>.

⁷ Federal Bureau of Investigation, Uniform Crime Reports, UCR Data Tool <http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm>; Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT), <http://www.bjs.gov/index.cfm?ty=nps>.

⁸ In Alaska, courts are legally required to consider the likelihood that the defendant will miss their court hearings and the likelihood that the defendant poses a danger to the victim, other persons, or the community (according to AS 12.30.006).

⁹ Mamalian (2011), "State of the Science of Pretrial Risk Assessment", https://www.bja.gov/publications/pji_pretrialriskassessment.pdf; Lowenkamp & Van Nostrand (2013), "Assessing Pretrial Risk Without a Defendant Interview", http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_no-interview_FNL.pdf.

¹⁰ VanNostrand (2009), "Pretrial Risk Assessment in the Federal Court", [http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20\(2009\).pdf](http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20(2009).pdf).

¹¹ Lowenkamp, VanNostrand, & Holsinger (2013), "The Hidden Cost of Pretrial Detention", <http://www.pretrial.org/download/research/The%20Hidden%20Costs%20of%20Pretrial%20Detention%20-%20LJAF%202013.pdf>. Note: For this population, pretrial detention of 8-14 days and 31 or more days were not significantly associated with an increase in odds of failure to appear. Statistically significant differences were found for those who were detained for 2-3, 4-7, and 5-30 days as compared to 1 days or less.

¹² *Ibid.*

¹³ Schnacke (2014), "Money As a Criminal Justice Stakeholder: The Judge's Decision to Release or Detain a Defendant Pretrial", <http://www.pretrial.org/download/research/Money%20as%20a%20Criminal%20Justice%20Stakeholder.pdf>.

¹⁴ Jones (2013), "Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option", <http://www.pretrial.org/download/research/Unsecured+Bonds.+The+As+Effective+and+Most+Efficient+Pretrial+Release+Option+-+Jones+2013.pdf>.

¹⁵ *Ibid.*

¹⁶ Note: A random sample of 400 case files (usable bail information N=310) from Anchorage, Juneau, Bethel, Fairbanks, and Nome Courts was selected and reviewed to examine pretrial releases conditions and sentence lengths. Data entry and analysis were conducted by Pew and the Alaska Judicial Council in July 2015. All findings related to bail conditions were derived from this analysis.

¹⁷ National Research Council (2014), "The Growth of Incarceration in the United States", <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

¹⁸ *Ibid.*

¹⁹ Campbell Collaboration (2015), "The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge", <http://www.campbellcollaboration.org/lib/project/22/>; Nagin &

Snodgrass (2013), "The Effect of Incarceration on Re-Offending: Evidence from a Natural Experiment in Pennsylvania", <http://repository.cmu.edu/cgi/viewcontent.cgi?article=1407&context=heinzworke>; Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending", http://www.jstor.org/stable/10.1086/599202?seq=1#page_scan_tab_contents; Meade, Steiner, Makarios, & Travis (2012), "Estimating a Dose-Response Relationship Between Time Served in Prison and Recidivism", <http://jrc.sagepub.com/content/50/4/525.abstract>.

²⁰ Campbell Collaboration (2015), "The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge"; Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending".

²¹ *Ibid.*

²² Spohn & Holleran (2002), "The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders", <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.2002.tb00959.x/abstract>; Nieuwbeerta, Nagin, & Blokland (2009), "Assessing the Impact of First Time Imprisonment on Offender's Subsequent Criminal Career Development: A Matched Samples Comparison", <http://link.springer.com/article/10.1007%2Fs10940-009-9069-7>,

²³ Nagin, Cullen, & Lero Jonson (2009), "Imprisonment and Reoffending".

²⁴ Note: It is possible the increase in length of stay for felony sex offense convictions is an underestimate given the long sentences being served by many individuals convicted of sex offenses. The length of stay average is calculated based on the average time spent by offenders in their category released in a given year. As many sex offenders receive very long sentences, especially since sentencing ranges were broadened in 2006, the mean length of stay for offenders in this group might not reflect how long the average sex offender is likely to serve.

²⁵ Andrews (1999), "Recidivism Is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism", http://www.csc-scc.gc.ca/research/forum/e012/12j_e.pdf.

²⁶ Grasmack & Bryjak (1980), "The Deterrent Effect of Perceived Severity in Punishment", http://www.jstor.org/stable/2578032?seq=1#page_scan_tab_contents; Farabee (2005), "Rethinking Rehabilitation: Why Can't We Reform Our Criminals?", http://www.aei.org/wp-content/uploads/2011/10/20050111_book806text.pdf.

²⁷ Nagin & Pogarsky (2000), "Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence: Theory and Evidence", <https://www.ssc.wisc.edu/econ/Durlauf/networkweb1/London/Criminology1-15-01.pdf>.

²⁸ Wodahl, Garland, Culhane, & McCarty (2011), "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections", <http://cjb.sagepub.com/content/38/4/386.abstract>,

²⁹ National Research Council (2007), "Parole, Desistance from Crime, and Community Integration", <https://cdpsdocs.state.co.us/ccij/Resources/Ref/NCR2007.pdf>; Grattet, Petersilia, & Lin (2008), "Parole Violations and Revocations in California", <https://www.ncjrs.gov/pdffiles1/nij/grants/224521.pdf>.

³⁰ *Ibid.*

³¹ Washington State Institute for Public Policy. Adult Criminal Justice "Benefit-Cost Results.". <http://www.wsipp.wa.gov/BenefitCost?topicId=2>.

³² Note: For these categories of defendants, in order for the court to depart from a recommendation of personal recognizance or unsecured bond, and order secured money bond, it would have to find on the record that there is clear and convincing evidence that no other conditions of release can reasonably assure court appearance and public safety.

³³ Note: A performance bond is an agreement between the defendant and the court that if the defendant violates his or her conditions of release, he or she will forfeit a certain amount of money. A *secured* performance bond requires the defendant to pay upfront in order to be released, and the defendant would get that money back if they successfully completed the pretrial period. An *unsecured* performance bond does not require an upfront payment, but if the defendant violates conditions of release, the court can order the defendant to pay that amount of money. A *partially-secured* performance bond would require payment of 10 percent of the bond amount upfront in order to be released. That amount would be recoverable if the defendant successfully completes the pretrial period. Currently in Alaska, courts only have authority to issue *secured* performance bonds. As used in the policy description on the pretrial release decision-making grid, "unsecured bond" would refer to both appearance bonds and performance bonds, but statutes would have to change to permit courts to issue unsecured performance bonds.

³⁴ VanNostrand (2009), "Pretrial Risk Assessment in the Federal Court", <http://www.pretrial.org/download/risk-assessment/Pretrial%20Risk%20Assessment%20in%20the%20Federal%20Court%20Final%20Report%20%282009%29.pdf>.

³⁵ Note: Currently, the statute disqualifies a person from serving as a third-party custodian if they *may be called* as a witness.

³⁶ Note: FTA with intent to avoid prosecution and FTA for more than 30 days; and for violation of a protective order or no-contact order.

- ³⁷ Boyum & Reuter (2005), "An Analytic Assessment of Drug Policy, American Enterprise Institute for Public Policy Research", http://www.aei.org/wp-content/uploads/2014/07/-an-analytic-assessment-of-us-drug-policy_112041831996.pdf.
- ³⁸ Pew Charitable Trusts (forthcoming), "The Effects of Changing State Theft Penalties".
- ³⁹ Note: Includes theft, concealing merchandise, issuing a bad check, vehicle theft, criminal mischief, unlawful possession, misapplication of property, criminal simulation, and removal of I.D. marks.
- ⁴⁰ Alaska State Legislature (2005), "Senate Bill 56".
- ⁴¹ Note: Comparison years are 2006 and 2014.
- ⁴² Note: Excludes Unclassified felonies.
- ⁴³ Note: The enhanced sentence applies to possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct at a peace officer or first responder who was engaged in official duties and to manufacturing of methamphetamine offenses if knowing within presence of children.
- ⁴⁴ Note: The enhanced sentence applies to violations of AS 11.41.130 (CN Homicide) and the victim was a child under 16 and to manufacturing of methamphetamine offenses if reckless within presence of children.
- ⁴⁵ Note: Maximum allowable imprisonment term if probation is not imposed.
- ⁴⁶ Alaska Judicial Council (2011), "Criminal Recidivism in Alaska, 2008 and 2009", <http://www.ajc.state.ak.us/reports/recid2011.pdf>.
- ⁴⁷ Washington State Institute for Public Policy (2015), "What Works and What Does Not?: Cost-Benefit Findings from WSIPP", http://www.wsipp.wa.gov/ReportFile/1602/WSipp_What-Works-and-What-Does-Not-Benefit-Cost-Findings-from-WSIPP_Report.pdf.
- ⁴⁸ National Conference of State Legislatures, (2009) "Cutting Corrections Costs: Earned Time Policies for State Prisoners," http://www.ncsl.org/documents/cj/earned_time_report.pdf.
- ⁴⁹ As used here, "absconding" is defined as failing to report within 5 working days after release or failing to report for 30 days.
- ⁵⁰ Petersilia (2007), "Employ Behavioral Contracting for "Earned Discharge" Parole", <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9133.2007.00472.x/pdf>; Wodahl, Garland, Culhane, & McCarty (2011), "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections"; American Probation and Parole Association (2014), "Administrative Responses in Probation and Parole Supervision: A Research Memo", <http://www.appa-net.org/eWeb/Resources/SPSP/Research-Memo.pdf>.
- ⁵¹ The Commission has chosen to forward two iterations of this policy to the legislature for its consideration.
- ⁵² Lowenkamp & Latessa (2002), "Evaluation of Ohio's Community Based Correctional Facilities and Halfway House Programs", https://www.uc.edu/content/dam/uc/ccjr/docs/reports/project_reports/HH_CBCF_Report1.pdf.
- ⁵³ Bachmann & Dixon (2014), "DWI Sentencing in the United States: Toward Promising Punishment Alternatives in Texas", <http://www.sascv.org/ijcjs/pdfs/bachmannandixonijcjs2014vol9issue2.pdf>; Martin, Annan, & Forst (1993), "The Special Deterrent Effects of a Jail Sanction on First-Time Drunk Drivers: A Quasi-Experimental Study", http://www.researchgate.net/publication/14800968_The_special_deterrent_effects_of_a_jail_sanction_on_first-time_drunk_drivers_A_quasi-experimental_study; Annan, Sampson, Martin, & Forst (1986), "Deterring the Drunk Driver: A Feasibility Study", <http://www.worldcat.org/title/deterring-the-drunk-driver-a-feasibility-study-technical-report/oclc/18578880>.
- ⁵⁴ DeYoung (1997), "An Evaluation of the Effectiveness of Alcohol Treatment, Driver License Actions and Jail Terms in Reducing Drunk Driving Recidivism in California", <http://www.ncbi.nlm.nih.gov/pubmed/9376781>.
- ⁵⁵ Alaska Judicial Council (2011), "Criminal Recidivism in Alaska, 2008 and 2009".
- ⁵⁶ *Ibid.*
- ⁵⁷ Bureau of Justice Statistics (2003), "Recidivism of Sex Offenders Released from Prison in 1994", <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1136>.
- ⁵⁸ Hornby Zeller Associates, Inc. (2014), "Trust Beneficiaries in Alaska's Department of Corrections", <http://mhtrust.org/mhtawp/wp-content/uploads/2014/10/ADOC-Trust-Beneficiaries-May-2014-FINAL-PRINT.pdf>.