

**HOUSE BILL NO. 120**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JOSEPHSON

Introduced: 4/3/19

Referred: State Affairs, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to restrictions on purchasing alcoholic beverages; relating to criminal  
2 law and procedure; relating to release before trial; relating to misdemeanor sentencing;  
3 relating to surrender of drivers' licenses and identification cards; and relating to  
4 discretionary parole."

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

6 \* **Section 1.** AS 04.16.160(a) is amended to read:

7 (a) Except as otherwise provided by law, a person who is 21 years of age or  
8 older may not purchase alcoholic beverages if the person has been ordered to refrain  
9 from consuming alcoholic beverages under AS 12.55.015(a)(13) or as part of a  
10 sentence for conviction of a crime under AS 28.35.030, 28.35.032, or a similar  
11 municipal ordinance, as a condition of probation or parole from a conviction under  
12 AS 28.35.030, 28.35.032, or a similar municipal ordinance, [OR] as a condition of  
13 probation or parole for any other crime, **or as a condition of pretrial release under**  
14 **AS 28.15.191(g)**. The restriction on purchasing alcoholic beverages applies during the

1 period that the person is required to refrain from consuming alcoholic beverages under  
 2 the sentence or condition of probation, [OR] parole, or pretrial release.

3 \* **Sec. 2.** AS 11.56.765(a) is amended to read:

4 (a) A person, other than the victim, commits the crime of failure to report a  
 5 violent crime committed against a child if the person

6 (1) witnesses what the person knows or reasonably should know is

7 (A) the murder or attempted murder of a child by another;

8 (B) the kidnapping or attempted kidnapping of a child by  
 9 another;

10 (C) the sexual penetration or attempted sexual penetration by  
 11 another

12 (i) of a child without consent of the child;

13 (ii) of a child that is mentally incapable;

14 (iii) of a child that is incapacitated; or

15 (iv) of a child that is unaware that a sexual act is being  
 16 committed; [OR]

17 (D) the assault of a child by another causing serious physical  
 18 injury to the child; or

19 (E) the commission of an offense under circumstances that  
 20 may result in the serious physical injury or death of a child;

21 (2) knows or reasonably should know that the child is under 16 years  
 22 of age; and

23 (3) does not in a timely manner report that crime to a peace officer or  
 24 law enforcement agency.

25 \* **Sec. 3.** AS 11.56.765(d) is amended to read:

26 (d) Failure to report a violent crime committed against a child is a class C  
 27 felony [A MISDEMEANOR].

28 \* **Sec. 4.** AS 11.56.767(a) is amended to read:

29 (a) A person, other than the victim, commits the offense of failure to report a  
 30 violent crime committed against an adult if the person, under circumstances not  
 31 requiring the person to report as required by AS 11.56.765,

- 1 (1) witnesses what the person knows or reasonably should know is  
 2 (A) the murder or attempted murder of a person by another;  
 3 (B) the kidnapping or attempted kidnapping of a person by  
 4 another; [OR]  
 5 (C) the sexual penetration or attempted sexual penetration by  
 6 another  
 7 (i) of a person without consent of the person;  
 8 (ii) of a person who is mentally incapable;  
 9 (iii) of a person who is incapacitated; or  
 10 (iv) of a person who is unaware that a sexual act is  
 11 being committed;

12 **(D) the assault of a person by another causing serious**  
 13 **physical injury to the person; or**

14 **(E) the commission of an offense under circumstances that**  
 15 **may result in the serious physical injury or death of a person; and**

16 (2) does not, as soon as reasonably practicable, report that crime to a  
 17 peace officer or law enforcement agency.

18 \* **Sec. 5.** AS 11.56.767(d) is amended to read:

19 (d) Failure to report a violent crime committed against an adult is a **class A**  
 20 **misdemeanor** [VIOLATION].

21 \* **Sec. 6.** AS 12.30.011(h) is amended to read:

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

- 26 (1) place restrictions on the person's travel, association, or residence;  
 27 (2) order the person to refrain from possessing a deadly weapon on the  
 28 person or in the person's vehicle or residence;  
 29 (3) require the person to maintain employment or, if unemployed,  
 30 actively seek employment;  
 31 (4) require the person to notify the person's lawyer and the prosecuting

1 authority within two business days after any change in employment;

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

4 (6) require the person to refrain from the consumption and possession  
5 of alcoholic beverages **and require the person to surrender the person's driver's**  
6 **license and identification card under AS 28.15.191(g);**

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

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

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

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

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

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

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

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

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

29 \* **Sec. 7.** AS 12.55.135(a) is amended to read:

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

1 (1) one year, if the

2 (A) conviction is for a crime with a mandatory minimum term  
3 of 30 days or more of active imprisonment;

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

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

10 (D) conviction is for an assault in the fourth degree under  
11 AS 11.41.230; [OR]

12 (E) conviction is for a violation of

13 (i) AS 11.41.427;

14 (ii) AS 11.41.440;

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

17 (iv) AS 11.61.116(c)(2); or

18 (v) AS 11.61.118(a)(2); **or**

19 **(F) conviction is for a crime involving domestic violence; or**

20 (2) 30 days.

21 \* **Sec. 8.** AS 28.15.191(g) is amended to read:

22 (g) A court that has ordered a person to refrain from consuming alcoholic  
23 beverages as part of a sentence for conviction of a crime under AS 28.35.030,  
24 28.35.032, or a similar municipal ordinance or as a condition of probation or parole  
25 following a conviction under those sections or a similar municipal ordinance, [OR] as  
26 a condition of probation or parole for any other crime, **or as a condition of pretrial**  
27 **release** shall

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

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

31 (3) inform the person that the person's license and identification card

1 are subject to cancellation under AS 28.15.161 and AS 18.65.310 and, if the person is  
 2 otherwise qualified to receive a license or identification card, when the person obtains  
 3 a new license or identification card, the license or identification card must list the  
 4 restriction imposed by AS 04.16.160 for the period of probation or parole.

5 \* **Sec. 9.** AS 28.15.191 is amended by adding a new subsection to read:

6 (i) Before a court may order the surrender of a person's license as a condition  
 7 of pretrial release under (g) of this section, the court

8 (1) shall hold a hearing to impose a condition that the person refrain  
 9 from consuming alcoholic beverages at the time conditions of pretrial release are  
 10 established; and

11 (2) must find on the record that there is clear and convincing evidence  
 12 that ordering the person to refrain from consuming alcoholic beverages is necessary to  
 13 ensure the safety of the victim, other persons, and the community.

14 \* **Sec. 10.** AS 33.16.100(f) is amended to read:

15 (f) The board may [SHALL] authorize the release of a prisoner who has been  
 16 convicted of a class A, class B, or class C felony, or a misdemeanor, who is eligible  
 17 for parole under AS 12.55.115 and AS 33.16.090, has met the requirement of a case  
 18 plan created under AS 33.30.011(a)(8), and has agreed to and signed the condition of  
 19 parole under AS 33.16.150, unless the board finds by a preponderance of the  
 20 [CLEAR AND CONVINCING] evidence on the record that the prisoner poses a threat  
 21 of harm to the public if released on parole. If the board finds that the incomplete case  
 22 plan is not the fault of the prisoner or that the prisoner would not pose a threat of harm  
 23 to the public if released on parole, the board may waive the case plan requirement.

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

26 APPLICABILITY. (a) AS 04.16.160(a), as amended by sec. 1 of this Act,  
 27 AS 11.56.765(a), as amended by sec. 2 of this Act, AS 11.56.765(d), as amended by sec. 3 of  
 28 this Act, AS 11.56.767(a), as amended by sec. 4 of this Act, AS 11.56.767(d), as amended by  
 29 sec. 5 of this Act, AS 12.30.011(h), as amended by sec. 6 of this Act, AS 12.55.135(a), as  
 30 amended by sec. 7 of this Act, AS 28.15.191(g), as amended by sec. 8 of this Act, and  
 31 AS 28.15.191(i), enacted by sec. 9 of this Act, apply to offenses committed on or after the

1 effective date of this Act.

2 (b) AS 33.16.100(f), as amended by sec. 10 of this Act, applies to offenses committed

3 before, on, or after the effective date of this Act.