

SENATE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 2/10/17

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to criminal law and procedure; relating to controlled substances;**
2 **relating to sentencing; relating to the period of probation; relating to revocation,**
3 **termination, suspension, cancellation, or restoration of a driver's license; relating to**
4 **parole; relating to the duties of the Department of Corrections and the Department of**
5 **Health and Social Services; and providing for an effective date."**

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

7 *** Section 1.** AS 11.46.280(d) is amended to read:

8 (d) Issuing a bad check is

9 (1) a class B felony if the face amount of the check [, ADJUSTED
10 FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$25,000 or more;

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

13 (3) a class A misdemeanor if the face amount of the check, adjusted for

1 inflation as provided in AS 11.46.982, is \$250 or more but less than \$1,000;

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

4 * **Sec. 2.** AS 11.46.285(b) is amended to read:

5 (b) Fraudulent use of an access device is

6 (1) a class B felony if the value of the property or services obtained [,
7 ADJUSTED FOR INFLATION AS PROVIDED IN AS 11.46.982,] is \$25,000 or
8 more;

9 (2) a class C felony if the value of the property or services obtained,
10 adjusted for inflation as provided in AS 11.46.982, is \$1,000 or more but less than
11 \$25,000;

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

14 * **Sec. 3.** AS 11.46.730(c) is amended to read:

15 (c) Defrauding creditors is a class A misdemeanor unless that secured party,
16 judgment creditor, or creditor incurs a pecuniary loss, adjusted for inflation as
17 provided in AS 11.46.982, of \$1,000 or more as a result of the defendant's conduct, in
18 which case defrauding secured creditors is

19 (1) a class B felony if the loss [, ADJUSTED FOR INFLATION AS
20 PROVIDED IN AS 11.46.982,] is \$25,000 or more;

21 (2) a class C felony if the loss, adjusted for inflation as provided in
22 AS 11.46.982, is \$1,000 or more but less than \$25,000.

23 * **Sec. 4.** AS 11.71.050(a) is amended to read:

24 (a) Except as authorized in AS 17.30, a person commits the crime of
25 misconduct involving a controlled substance in the fourth degree if the person

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

30 (2) [REPEALED]

31 (3) fails to make, keep, or furnish any record, notification, order form,

1 statement, invoice, or information required under AS 17.30; or

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

5 * **Sec. 5.** AS 12.55.011(b) is amended to read:

6 (b) At the time of sentencing, the court shall, **if practicable**, provide the
 7 victim with a form that

8 (1) provides information on

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

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

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

16 * **Sec. 6.** AS 12.55.015(a) is amended to read:

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

19 (1) impose a fine when authorized by law and as provided in
 20 AS 12.55.035;

21 (2) order the defendant to be placed on probation under conditions
 22 specified by the court that may include provision for active supervision;

23 (3) impose a definite term of periodic imprisonment, but only if an
 24 employment obligation of the defendant preexisted sentencing and the defendant
 25 receives a composite sentence of not more than two years to serve;

26 (4) impose a definite term of continuous imprisonment;

27 (5) order the defendant to make restitution under AS 12.55.045;

28 (6) order the defendant to carry out a continuous or periodic program
 29 of community work under AS 12.55.055;

30 (7) suspend execution of all or a portion of the sentence imposed under
 31 AS 12.55.080;

1 (8) suspend **entry of judgment under AS 12.55.078 or suspend**
 2 imposition of sentence under AS 12.55.085;

3 (9) order the forfeiture to the commissioner of public safety or a
 4 municipal law enforcement agency of a deadly weapon that was in the actual
 5 possession of or used by the defendant during the commission of an offense described
 6 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

7 (10) order the defendant, while incarcerated, to participate in or
 8 comply with the treatment plan of a rehabilitation program that is related to the
 9 defendant's offense or to the defendant's rehabilitation if the program is made available
 10 to the defendant by the Department of Corrections;

11 (11) order the forfeiture to the state of a motor vehicle, weapon,
 12 electronic communication device, or money or other valuables, used in or obtained
 13 through an offense that was committed for the benefit of, at the direction of, or in
 14 association with a criminal street gang;

15 (12) order the defendant to have no contact, either directly or
 16 indirectly, with a victim or witness of the offense until the defendant is
 17 unconditionally discharged;

18 (13) order the defendant to refrain from consuming alcoholic
 19 beverages for a period of time.

20 * **Sec. 7.** AS 12.55.078(d) is amended to read:

21 (d) If the court finds that the person has successfully completed probation, the
 22 court shall, at the end of the probationary period set by the court, or at any time after
 23 the expiration of one year from the date [OF] the original probation **was imposed**,
 24 discharge the person and dismiss the proceedings against the person.

25 * **Sec. 8.** AS 12.55.078(f) is amended to read:

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

28 (1) is **charged with** [CONVICTED OF] a violation of AS 11.41.100 -
 29 11.41.220, 11.41.260 - 11.41.320, 11.41.360 - 11.41.370, 11.41.410 - 11.41.530,
 30 AS 11.46.400, AS 11.61.125 - 11.61.128, or AS 11.66.110 - 11.66.135;

31 (2) uses a firearm in the commission of the offense for which the

1 person is **charged** [CONVICTED];

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

7 (4) is **charged with** [CONVICTED OF] a violation of AS 11.41.230,
8 11.41.250, or a felony and the person has one or more prior convictions for a
9 misdemeanor violation of AS 11.41 or for a felony or for a violation of a law in this or
10 another jurisdiction having similar elements to an offense defined as a misdemeanor in
11 AS 11.41 or as a felony in this state; for the purposes of this paragraph, a person shall
12 be considered to have a prior conviction even if

13 (A) the charges were dismissed under this section;

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

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

17 (5) **is charged with** [HAS BEEN CONVICTED OF] a crime
18 involving domestic violence, as defined in AS 18.66.990.

19 * **Sec. 9.** AS 12.55.090(c) is amended to read:

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

21 (1) 15 years for a felony sex offense;

22 (2) 10 years for an unclassified felony under AS 11 **not listed in (1) of**

23 **this subsection;**

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

26 (4) three years for a misdemeanor offense

27 (A) under AS 11.41;

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

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

31 (5) two years for a misdemeanor offense under AS 28.35.030 or

1 28.35.032, if the person has previously been convicted of an offense under
 2 AS 28.35.030 or 28.35.032, or a similar law or ordinance of this or another
 3 jurisdiction; or

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

5 * **Sec. 10.** AS 28.15.165(e) is amended to read:

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

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

17 (2) all criminal charges against the person for driving while under the
 18 influence under AS 28.35.030 or a similar municipal ordinance and refusing to submit
 19 to a chemical test under AS 28.35.032 or a similar municipal ordinance in relation to
 20 the incident on which the revocation is based have been dismissed [WITHOUT
 21 PREJUDICE].

22 * **Sec. 11.** AS 44.19.645(g) is amended to read:

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

25 (1) data on pretrial decision making and outcomes, including
 26 information on pretrial detainees admitted for a new criminal charge; detainees
 27 released at any point before case resolution; time spent detained before first release or
 28 case resolution; pretrial defendant risk level and charge; pretrial release
 29 recommendations made by pretrial services officers; pretrial conditions imposed on
 30 pretrial detainees by judicial officers, including amount of bail, and supervision
 31 conditions; and information on pretrial outcomes, including whether or not the

1 defendant appeared in court or was re-arrested during the pretrial period;

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

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

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

14 (5) data on parole, including the number of offenders supervised on
15 parole, using a one-day snapshot on the first month of each quarter; the number of
16 parole hearings; the parole grant rate and number of parolees released on
17 administrative, discretionary, and special medical parole; and information on parolees,
18 including time spent on parole, whether parole was successfully completed, any new
19 convictions for a new felony offense, and any sentences to a term of imprisonment
20 while on parole;

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

27 (7) data on probation and parole revocations, including information on
28 probationers and parolees admitted for a supervision violation pre-case and post-case
29 resolution; probationers and parolees admitted solely for a technical violation;
30 probationers and parolees admitted for a new arrest; the number of previous
31 revocations on the current sentence, if any; the length of time held pre-case resolution;

1 the length of time to case resolution; and the length of stay.

2 * **Sec. 12.** AS 47.37.040 is amended to read:

3 **Sec. 47.37.040. Duties of department.** The department shall

4 (1) develop, encourage, and foster statewide, regional, and local plans
5 and programs for the prevention of alcoholism and drug abuse and treatment of
6 alcoholics, intoxicated persons, drug abusers, and inhalant abusers in cooperation with
7 public and private agencies, organizations, and individuals, and provide technical
8 assistance and consultation services for these purposes;

9 (2) coordinate the efforts and enlist the assistance of all public and
10 private agencies, organizations, and individuals interested in prevention of alcoholism,
11 drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, drug
12 abusers, and inhalant abusers;

13 (3) cooperate with the Department of Corrections in establishing and
14 conducting programs to provide treatment for alcoholics, intoxicated persons, drug
15 abusers, and inhalant abusers in or on parole from penal institutions;

16 (4) cooperate with the Department of Education and Early
17 Development, school boards, schools, police departments, courts, and other public and
18 private agencies, organizations, and individuals in establishing programs for the
19 prevention of alcoholism, drug abuse, and inhalant abuse, and treatment of alcoholics,
20 intoxicated persons, drug abusers, and inhalant abusers, and preparing curriculum
21 materials for use at all levels of school education;

22 (5) prepare, publish, evaluate, and disseminate educational material
23 dealing with the nature and effects of alcohol and drugs, and the misuse of hazardous
24 volatile substances;

25 (6) develop and implement, as an integral part of treatment programs,
26 an educational program for use in the treatment of alcoholics, intoxicated persons,
27 drug abusers, and inhalant abusers that includes the dissemination of information
28 concerning the nature and effects of alcohol, drugs, and hazardous volatile substances;

29 (7) organize and foster training programs for all persons engaged in
30 treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and
31 establish standards for training paraprofessional alcoholism, drug abuse, and inhalant

1 abuse workers;

2 (8) sponsor and encourage research into the causes and nature of
3 alcoholism, drug abuse, and inhalant abuse, and the treatment of alcoholics,
4 intoxicated persons, drug abusers, and inhalant abusers, and serve as a clearinghouse
5 for information relating to alcoholism, drug abuse, and inhalant abuse;

6 (9) specify uniform methods for keeping statistical information by
7 public and private agencies, organizations, and individuals, and collect and make
8 available relevant statistical information, including number of persons treated,
9 frequency of admission and readmission, and frequency and duration of treatment;

10 (10) conduct program planning activities approved by the Advisory
11 Board on Alcoholism and Drug Abuse;

12 (11) review all state health, welfare, and treatment plans to be
13 submitted for federal funding, and advise the commissioner on provisions to be
14 included relating to alcoholics, intoxicated persons, drug abusers, and inhalant
15 abusers;

16 (12) assist in the development of, and cooperate with, alcohol, drug
17 abuse, and inhalant abuse education and treatment programs for employees of state
18 and local governments and businesses and industries in the state;

19 (13) use the support and assistance of interested persons in the
20 community, particularly recovered alcoholics, drug abusers, and inhalant abusers, to
21 encourage alcoholics, drug abusers, and inhalant abusers to voluntarily undergo
22 treatment;

23 (14) cooperate with the Department of Public Safety and the
24 Department of Transportation and Public Facilities in establishing and conducting
25 programs designed to deal with the problem of persons operating motor vehicles while
26 under the influence of an alcoholic beverage, inhalant, or controlled substance, and
27 develop and approve alcohol information courses required to be taken by drivers under
28 AS 28.15 or made available to drivers to reduce points assessed for violation of traffic
29 laws;

30 (15) encourage hospitals and other appropriate health facilities to
31 admit without discrimination alcoholics, intoxicated persons, drug abusers, and

1 inhalant abusers and to provide them with adequate and appropriate treatment;

2 (16) encourage all health insurance programs to include alcoholism
3 and drug abuse as a covered illness;

4 (17) prepare an annual report covering the activities of the department
5 and notify the legislature that the report is available;

6 (18) develop and implement a training program on alcoholism and
7 drug abuse for employees of state and municipal governments, and private institutions;

8 (19) develop curriculum materials on drug and alcohol abuse and the
9 misuse of hazardous volatile substances for use in grades kindergarten through 12, as
10 well as a course of instruction for teachers to be charged with presenting the
11 curriculum;

12 (20) develop and implement or designate, in cooperation with other
13 state or local agencies, a juvenile alcohol safety action program that provides alcohol
14 and substance abuse screening, referral, and monitoring of persons under 18 years of
15 age who have been referred to it by

16 (A) a court in connection with a charge or conviction of a
17 violation or misdemeanor related to the use of alcohol or a controlled
18 substance;

19 (B) the agency responsible for the administration of motor
20 vehicle laws in connection with a license action related to the use of alcohol or
21 a controlled substance; or

22 (C) department staff after a delinquency adjudication that is
23 related to the use of alcohol or a controlled substance;

24 (21) develop and implement, or designate, in cooperation with other
25 state or local agencies, an alcohol safety action program that provides services to
26 persons who have been referred by a court under AS 04.16.050, AS 28.35.028,
27 28.35.030, or 28.35.032, or referred by an agency of the state with the responsibility
28 for administering motor vehicle laws in connection with a driver's license action
29 involving the use of alcohol or a controlled substance;

30 (22) whenever possible, apply evidence-based, research-based, and
31 consensus-based substance abuse and co-occurring substance abuse and mental health

1 disorders treatment practices and remove barriers that prevent the use of those
2 practices;

3 (23) collaborate with first responders, hospitals, schools, primary care
4 providers, developmental disability treatment providers, law enforcement, corrections,
5 attorneys, the Alaska Court System, community behavioral treatment providers,
6 Alaska Native organizations, and federally funded programs in implementing
7 programs for co-occurring substance abuse and mental health disorders treatment.

8 * **Sec. 13.** AS 33.16.120(a) and 33.16.120(h) are repealed.

9 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

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

13 (1) AS 11.46.280(d), as amended by sec. 1 of this Act;

14 (2) AS 11.46.285(b), as amended by sec. 2 of this Act;

15 (3) AS 11.46.730(c), as amended by sec. 3 of this Act; and

16 (4) AS 11.71.050(a), as amended by sec. 4 of this Act.

17 (b) AS 12.55.078(d), as amended by sec. 7 of this Act, and AS 12.55.078(f), as
18 amended by sec. 8 of this Act, apply to prosecutions occurring on or after the effective date of
19 secs. 7 and 8 of this Act, for offenses committed before, on, or after the effective date of secs.
20 7 and 8 of this Act.

21 (c) AS 12.55.090(c), as amended by sec. 9 of this Act, applies to probation ordered on
22 or after the effective date of sec. 9 of this Act for offenses committed before, on, or after the
23 effective date of sec. 9 of this Act.

24 (d) AS 28.15.165(e), as amended by sec. 10 of this Act, applies to a revocation of a
25 driver's license, privilege to drive, or privilege to obtain a license, or to an identification card
26 or driver's license issued to a parolee, occurring before, on, or after the effective date of sec.
27 10 of this Act for conduct occurring before, on, or after the effective date of sec. 10 of this
28 Act.

29 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY OF SECS. 148 AND 151, CH. 36, SLA 2016.** (a) Nothing in the

1 provisions of AS 33.16.220(i) may be construed as invalidating a decision of the Board of
2 Parole, issued before January 1, 2017, that extended the period of supervision beyond the
3 maximum release date on the original sentence.

4 (b) Nothing in the provisions of AS 33.16.270 may be construed as applying to credit
5 for time served on parole before January 1, 2017.

6 * **Sec. 16.** This Act takes effect immediately under AS 01.10.070(c).