Now you must determine whether the defendant has a previous conviction.

To prove that the defendant has a prior conviction, the state must prove beyond a reasonable doubt the following elements:

1. the defendant violated AS 11.71.050(a)(4);
2. the defendant was previously convicted of violating AS 11.71.050(a)(4); and
3. the date that sentence was imposed for the prior conviction was within 10 years preceding the date of the current offense.

**USE NOTE**

Alaska Statute 11.71.040(a)(12) elevates a conviction under AS.11.71.050(a)(4) to the offense of fourth-degree misconduct involving a controlled substance when the defendant has been previously convicted of a crime under AS 11.71.050(a)(4), or a law or ordinance in this or another jurisdiction with elements similar to AS 11.71.050(a)(4). If the court determines that an alleged prior conviction was under a similar law or ordinance, the name of that offense should be listed.