

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

August 14, 2013

SUBJECT: Penalty for Assault of Correctional Officer
(Work Order No. 28-LS0941\A)

TO: Representative Mike Chenault
Attn: Tom Wright

FROM: Kathleen Strasbaugh
Legislative Counsel

You requested a bill that would assure that persons convicted of physically assaulting correctional officers received the same penalties as those who are convicted of physically assaulting police officers. As it turns out, correctional employees are already included in certain statutes setting penalties for assault on certain uniformed officials. I left a message to this effect for Mr. Wright. I later found another felony sentencing statute that mentions police officers, but not correctional employees, the statute covering the aggravating factor of multiple misdemeanors, AS 12.55.155(c)(31). The attached draft amends that statute. It adds assaults directed at correctional employees to the types of misdemeanor charges that will not be considered a continuous incident for the purpose of counting misdemeanors that trigger the aggravating factor. I am not sure if this draft is really consistent with your request. Please let me know if it is not.

The existing provisions are set out below.

There is a mandatory 99-year sentence for first degree murder of a correctional employee:

AS 12.55.125. Sentences of imprisonment for felonies. (a) . . . A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years 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;

AS 12.55.135 requires certain mandatory minimum sentences where the victim commits fourth degree assault or harassment directed at a correctional employee:

AS 12.55.135. Sentences of imprisonment for misdemeanors.

...

(d) A defendant convicted of assault in the fourth degree or harassment in the first degree who knowingly directed the conduct constituting the offense at

(1) a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder or medical professional who was engaged in the performance of official duties at the time of the assault or harassment shall be sentenced to a minimum term of imprisonment of

(A) 60 days if the defendant violated AS 11.41.230(a)(1) or (2) or AS 11.61.118;

(B) 30 days if the defendant violated AS 11.41.230(a)(3);

Committing a felony directed at a correctional employee is an aggravating factor that can increase a felony sentence:

AS 12.55.155. Factors in aggravation and mitigation.

...

(c)The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence above the presumptive range set out in AS 12.55.125:

(13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, correctional employee, firefighter, emergency medical technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties;

If I may be of further assistance, please advise.

KJS:lnd
13-312.lnd

Enclosure