

Alaska State Legislature

State Capitol, Room 208
Juneau, Alaska 99801-1182
Phone: 907-465-3779
Fax: 907-465-2833
Toll Free: 800-469-3779



145 Main St. Loop
Second Floor
Kenai, Alaska 99611
Phone: 907-283-7223
Fax: 907-283-7184

REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE ALASKA STATE HOUSE

SPONSOR STATEMENT

HOUSE BILL 218: *“An act relating to the aggravating factor at felony sentencing of multiple prior misdemeanors when a prior misdemeanor involves an assault on a correctional officer; providing that deportation is not a proper factor for referral of a case to a three-judge panel for sentencing for a felony; and providing for an effective date.”*

The aggravating factor in AS 12.55.155(c)(31) allows a judge who is sentencing a person for a felony conviction to impose a sentence above the presumptive range if the defendant has five previous convictions for class A misdemeanors.

Generally, convictions for two crimes that are part of a single criminal episode are counted as one prior conviction in sentencing. However, there are exceptions. Current law provides that prior convictions for resisting arrest, a misdemeanor while attempting escape, and assault on a peace officer would each count as a prior conviction even though they were part of the same criminal episode.

CSHB 218(JUD) extends this extra protection of counting each prior conviction to crimes committed on uniformed or clearly identified correctional employees.

CSHB 218(JUD) also adopts legislative intent and amendments to state sentencing law that provide that the citizenship or immigration status of a defendant should not be a factor in imposing sentence on the defendant. Thus the potential that a person may be classified as deportable by the federal government as a result of imposition of sentence under Alaska law should not be a nonstatutory mitigating factor that would allow a three-judge panel to sentence a defendant to a term below the presumptive range of incarceration for conviction of the offense. Citizenship or immigration status should not be considered either a factor in mitigation or aggravation in sentencing. Rather, it should be neutral.