

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 64(FIN)

1 Page 1, line 6, following "**and parole**";:

2 Insert "**relating to a mitigating factor for a person suffering from combat-related**  
3 **post-traumatic stress disorder or combat-related traumatic brain injury**"

4

5 Page 13, following line 27:

6 Insert a new bill section to read:

7 "**\* Sec. 25.** AS 12.55.155(d) is amended to read:

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

11 (1) the offense was principally accomplished by another person, and  
12 the defendant manifested extreme caution or sincere concern for the safety or well-  
13 being of the victim;

14 (2) the defendant, although an accomplice, played only a minor role in  
15 the commission of the offense;

16 (3) the defendant committed the offense under some degree of duress,  
17 coercion, threat, or compulsion insufficient to constitute a complete defense, but that  
18 significantly affected the defendant's conduct;

19 (4) the conduct of a youthful defendant was substantially influenced by  
20 another person more mature than the defendant;

21 (5) the conduct of an aged defendant was substantially a product of  
22 physical or mental infirmities resulting from the defendant's age;

23 (6) in a conviction for assault under AS 11.41.200 - 11.41.220, the

1 defendant acted with serious provocation from the victim;

2 (7) except in the case of a crime defined by AS 11.41.410 - 11.41.470,  
3 the victim provoked the crime to a significant degree;

4 (8) before the defendant knew that the criminal conduct had been  
5 discovered, the defendant fully compensated or made a good faith effort to fully  
6 compensate the victim of the defendant's criminal conduct for any damage or injury  
7 sustained;

8 (9) the conduct constituting the offense was among the least serious  
9 conduct included in the definition of the offense;

10 (10) the defendant was motivated to commit the offense solely by an  
11 overwhelming compulsion to provide for emergency necessities for the defendant's  
12 immediate family;

13 (11) after commission of the offense for which the defendant is being  
14 sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other  
15 persons who committed an offense;

16 (12) the facts surrounding the commission of the offense and any  
17 previous offenses by the defendant establish that the harm caused by the defendant's  
18 conduct is consistently minor and inconsistent with the imposition of a substantial  
19 period of imprisonment;

20 (13) the defendant is convicted of an offense specified in AS 11.71 and  
21 the offense involved small quantities of a controlled substance;

22 (14) the defendant is convicted of an offense specified in AS 11.71 and  
23 the offense involved the distribution of a controlled substance, other than a schedule  
24 IA controlled substance, to a personal acquaintance who is 19 years of age or older for  
25 no profit;

26 (15) the defendant is convicted of an offense specified in AS 11.71 and  
27 the offense involved the possession of a small amount of a controlled substance for  
28 personal use in the defendant's home;

29 (16) in a conviction for assault or attempted assault or for homicide or  
30 attempted homicide, the defendant acted in response to domestic violence perpetrated  
31 by the victim against the defendant and the domestic violence consisted of aggravated

1 or repeated instances of assaultive behavior;

2 (17) except in the case of an offense defined by AS 11.41 or  
3 AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the  
4 time of sentencing, has successfully completed a court-ordered treatment program as  
5 defined in AS 28.35.028 that was begun after the offense was committed;

6 (18) except in the case of an offense defined under AS 11.41 or  
7 AS 11.46.400 or a defendant who has previously been convicted of a felony, the  
8 defendant committed the offense while suffering from a mental disease or defect as  
9 defined in AS 12.47.130 that was insufficient to constitute a complete defense but that  
10 significantly affected the defendant's conduct;

11 (19) the defendant is convicted of an offense under AS 11.71, and the  
12 defendant sought medical assistance for another person who was experiencing a drug  
13 overdose contemporaneously with the commission of the offense;

14 (20) except in the case of an offense defined under AS 11.41 or  
15 AS 11.46.400, the defendant committed the offense while suffering from a condition  
16 diagnosed

17 (A) as a fetal alcohol spectrum disorder, the fetal alcohol  
18 spectrum disorder substantially impaired the defendant's judgment, behavior,  
19 capacity to recognize reality, or ability to cope with the ordinary demands of  
20 life, and the fetal alcohol spectrum disorder, though insufficient to constitute a  
21 complete defense, significantly affected the defendant's conduct; in this  
22 paragraph, "fetal alcohol spectrum disorder" means a condition of impaired  
23 brain function in the range of permanent birth defects caused by maternal  
24 consumption of alcohol during pregnancy; or

25 (B) as combat-related post-traumatic stress disorder or  
26 combat-related traumatic brain injury, the combat-related post-traumatic  
27 stress disorder or combat-related traumatic brain injury substantially  
28 impaired the defendant's judgment, behavior, capacity to recognize  
29 reality, or ability to cope with the ordinary demands of life, and the  
30 combat-related post-traumatic stress disorder or combat-related  
31 traumatic brain injury, though insufficient to constitute a complete

1 defense, significantly affected the defendant's conduct; in this paragraph,  
2 "combat-related post-traumatic stress disorder or combat-related  
3 traumatic brain injury" means post-traumatic stress disorder or  
4 traumatic brain injury resulting from combat with an enemy of the  
5 United States in the line of duty while on active duty as a member of the  
6 armed forces of the United States; nothing in this paragraph is intended to  
7 limit the application of (18) of this subsection."  
8

9 Renumber the following bill sections accordingly.

10  
11 Page 23, line 17:

12 Delete "secs. 1 - 28 and 30 - 34"

13 Insert "secs. 1 - 29 and 31 - 35"

14  
15 Page 23, line 19:

16 Delete "sec. 26"

17 Insert "sec. 27"

18 Delete "sec. 27"

19 Insert "sec. 28"

20  
21 Page 23, line 20:

22 Delete "sec. 28"

23 Insert "sec. 29"

24  
25 Page 23, line 21:

26 Delete "sec. 32"

27 Insert "sec. 33"

28  
29 Page 23, line 22:

30 Delete "secs. 1 - 28 and 30 - 34"

31 Insert "secs. 1 - 29 and 31 - 35"

1

2 Page 23, line 23:

3 Delete "secs. 1 - 28 and 30 - 34"

4 Insert "secs. 1 - 29 and 31 - 35"

5

6 Page 23, following line 23:

7 Insert a new subsection to read:

8 "(c) AS 12.55.155(d)(20), as amended by sec. 25 of this Act, applies to  
9 prosecutions occurring on or after the effective date of sec. 25 of this Act for offenses  
10 occurring before, on, or after the effective date of sec. 25 of this Act."

11

12 Page 23, line 27:

13 Delete "sec. 30"

14 Insert "sec. 31"

15

16 Page 23, line 29:

17 Delete "sec. 30"

18 Insert "sec. 31"

19

20 Page 24, line 3:

21 Delete "sec. 26"

22 Insert "sec. 27"

23

24 Page 24, line 6:

25 Delete "sec. 27"

26 Insert "sec. 28"

27 Delete "sec. 28"

28 Insert "sec. 29"

29

30 Page 24, line 9:

31 Delete "sec. 32"

- 1           Insert "sec. 33"
- 2
- 3   Page 24, line 12:
- 4           Delete "Section 29"
- 5           Insert "Section 30"
- 6
- 7   Page 24, line 13:
- 8           Delete "Section 36"
- 9           Insert "Section 37"
- 10
- 11   Page 24, line 14:
- 12           Delete "Sections 1 - 28 and 30 - 34"
- 13           Insert "Sections 1 - 29 and 31 - 35"