

33-GH1482\B
Radford
3/20/23

CS FOR HOUSE BILL NO. 66(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to homicide resulting from conduct involving controlled substances;**
2 **relating to misconduct involving a controlled substance in the first degree; relating to**
3 **sentencing; relating to the computation of good time; and providing for an effective**
4 **date."**

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

6 *** Section 1.** AS 11.41.110(a) is amended to read:

7 (a) A person commits the crime of murder in the second degree if

8 (1) with intent to cause serious physical injury to another person or
9 knowing that the conduct is substantially certain to cause death or serious physical
10 injury to another person, the person causes the death of any person;

11 (2) the person knowingly engages in conduct that results in the death
12 of another person under circumstances manifesting an extreme indifference to the
13 value of human life;

14 (3) under circumstances not amounting to murder in the first degree

under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the person commits or attempts to commit arson in the first degree, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, burglary in the first degree, escape in the first or second degree, robbery in any degree, or misconduct involving a controlled substance under AS 11.71.010(a), 11.71.021(a), 11.71.030(a)(2) or (9), or 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of a person other than one of the participants;

(4) acting with a criminal street gang, the person commits or attempts to commit a crime that is a felony and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of a person other than one of the participants; or

(5) the person with criminal negligence causes the death of a child under the age of 16, and the person has been previously convicted of a crime involving a child under the age of 16 that was

(A) a felony violation of AS 11.41;

(B) in violation of a law or ordinance in another jurisdiction with elements similar to a felony under AS 11.41; [OR]

(C) an attempt, a solicitation, or a conspiracy to commit a crime listed in (A) or (B) of this paragraph; or

(6) the person knowingly manufactures or delivers a controlled substance in violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA controlled substances, and a person dies as a direct result of ingestion of the controlled substance; the death is a result that does not require a culpable mental state; in this paragraph, "ingestion" means voluntarily or involuntarily taking a substance into the body in any manner.

* Sec. 2. AS 11.71.010(a) is amended to read:

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

(1) delivers any amount of a schedule IA controlled substance to a

person under 19 years of age who is at least three years younger than the person delivering the substance;

(2) delivers any amount of a schedule IIA or IIIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; [OR]

(3) engages in a continuing criminal enterprise; or

(4) delivers any amount of a schedule IA, IIA, IIIA, or IVA controlled substance to a person who is

(A) mentally incapable;

(B) incapacitated; or

(C) unaware that a controlled substance is being delivered.

* Sec. 3. AS 11.71.010(b) is amended to read:

(b) For purposes of this section,

(1) a person is engaged in a "continuing criminal enterprise" if

(A) [(1)] the person commits a violation of this chapter which is punishable as a felony; and

(B) [(2)] that violation is a part of a continuing series of five or more violations of this chapter

(i) [(A)] which the person undertakes in concert with at least five other persons organized, supervised, or otherwise managed by the person; and

(ii) [(B)] from which the person obtains substantial income or resources;

(2) "incapacitated" has the meaning given in AS 11.41.470;

(3) "mentally incapable" has the meaning given in AS 11.41.470.

* Sec. 4. AS 12.55.125(c) is amended to read:

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve

circumstances described in (2) of this subsection, four to seven years;

(2) if the offense is a first felony conviction

(A) and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, firefighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven to 11 years;

(B) and the conviction is for manufacturing related to methamphetamine under AS 11.71.021(a)(2)(A) or (B), seven to 11 years if

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(C) and the conviction is for manufacturing or delivery related to a schedule IA controlled substance, seven to 11 years;

(3) if the offense is a second felony conviction, 10 to 14 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (1) of this section, 15 to 20 years.

* **Sec. 5.** AS 33.20.010(a) is amended to read:

(a) Notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner convicted of an offense against the state or a political subdivision of the state and sentenced to a term of imprisonment that exceeds three days is entitled to a deduction of one-third of the term of imprisonment rounded off to the nearest day if the prisoner follows the rules of the correctional facility in which the prisoner is confined. A prisoner is not eligible for a good time deduction if the prisoner has been sentenced

(1) to a mandatory 99-year term of imprisonment under

AS 12.55.125(a) after June 27, 1996;

(2) to a definite term under AS 12.55.125(I);

(3) for a sexual felony under AS 12.55.125(i)

(A) and has one or more prior sexual felony convictions as determined under AS 12.55.145(a)(4); [OR]

(B) that is an unclassified or a class A felony; or

(4) for an unclassified felony under AS 11.41.100 or 11.41.110; or

(5) for a felony under AS 11.71.010 - 11.71.040 for conduct involving manufacturing or delivering, or possessing with the intent to manufacture or deliver, a controlled substance.

* **Sec. 6.** AS 11.41.120(a)(3) is repealed.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 11.41.110(a), as amended by sec. 1 of this Act, AS 11.71.010(a), as amended by sec. 2 of this Act, AS 11.71.010(b), as amended by sec. 3 of this Act, AS 12.55.125(c), as amended by sec. 4 of this Act, and AS 33.20.010(a), as amended by sec. 5 of this Act, apply to offenses committed on or after the effective date of this Act.

* **Sec. 8.** This Act takes effect July 1, 2023.