

**SENATE BILL NO. 242**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY SENATOR PEARCE

Introduced: 1/26/96

Referred: JUD, FIN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to sentencing for felony offenses."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 \* Section 1. AS 12.55.125(c) is amended to read:

4 (c) A defendant convicted of a class A felony may be sentenced to a definite  
5 term of imprisonment of not more than 20 years, and shall be sentenced to the  
6 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
7 12.55.175:

8 (1) if the offense is a first felony conviction and does not involve  
9 circumstances described in (2) of this subsection, five years;

10 (2) if the offense is a first felony conviction, other than for  
11 manslaughter, and the defendant

12 (A) possessed a firearm during the commission of the offense,  
13 eight years;

14 (B) [,] used a dangerous instrument other than a firearm [,]  
15 or caused serious physical injury during the commission of the offense, or

1 knowingly directed the conduct constituting the offense at a uniformed or  
2 otherwise clearly identified peace officer, fire fighter, correctional officer,  
3 emergency medical technician, paramedic, ambulance attendant, or other  
4 emergency responder who was engaged in the performance of official duties  
5 at the time of the offense, seven years;

6 (3) if the offense is a second felony conviction **and**

7 **(A) does not involve circumstances described in (B) of this**  
8 **paragraph, 10 years;**

9 **(B) the defendant possessed a firearm during the**  
10 **commission of the offense, 13 years;**

11 (4) if the offense is a third felony conviction **and**

12 **(A) does not involve circumstances described in (B) of this**  
13 **paragraph, 15 years;**

14 **(B) the defendant possessed a firearm during the**  
15 **commission of the offense, 18 years.**

16 \* Sec. 2. AS 12.55.125(d) is amended to read:

17 (d) A defendant convicted of a class B felony may be sentenced to a definite  
18 term of imprisonment of not more than 10 years, and shall be sentenced to the  
19 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
20 12.55.175:

21 (1) if the offense is a second felony conviction **and**

22 **(A) does not involve circumstances described in (B) of this**  
23 **paragraph, four years;**

24 **(B) the defendant possessed a firearm during the**  
25 **commission of the offense, six years;**

26 (2) if the offense is a third felony conviction **and**

27 **(A) does not involve circumstances described in (B) of this**  
28 **paragraph, six years;**

29 **(B) the defendant possessed a firearm during the**  
30 **commission of the offense, eight years;**

31 (3) if the offense is a first felony conviction, and the defendant

1 **possessed a firearm during the commission of the offense or** knowingly directed the  
2 conduct constituting the offense at a uniformed or otherwise clearly identified peace  
3 officer, fire fighter, correctional officer, emergency medical technician, paramedic,  
4 ambulance attendant, or other emergency responder who was engaged in the  
5 performance of official duties at the time of the offense, two years.

6 \* **Sec. 3.** AS 12.55.125(e) is amended to read:

7 (e) A defendant convicted of a class C felony may be sentenced to a definite  
8 term of imprisonment of not more than five years, and shall be sentenced to the  
9 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
10 12.55.175:

11 (1) if the offense is a second felony conviction **and**

12 **(A) does not involve circumstances described in (B) of this**  
13 **paragraph,** two years;

14 **(B) the defendant possessed a firearm during the**  
15 **commission of the offense, three years;**

16 (2) if the offense is a third felony conviction **and**

17 **(A) does not involve circumstances described in (B) of this**  
18 **paragraph,** three years;

19 **(B) the defendant possessed a firearm during the**  
20 **commission of the offense, four years;**

21 (3) if the offense is a first felony conviction, and the defendant  
22 **possessed a firearm during the commission of the offense or** knowingly directed the  
23 conduct constituting the offense at a uniformed or otherwise clearly identified peace  
24 officer, fire fighter, correctional officer, emergency medical technician, paramedic,  
25 ambulance attendant, or other emergency responder who was engaged in the  
26 performance of official duties at the time of the offense, one year;

27 (4) if the offense is a first felony conviction, and the defendant violated  
28 AS 08.54.520(a)(7) - (10), one year.

29 \* **Sec. 4.** AS 12.55.125(g) is amended to read:

30 (g) If a defendant is sentenced under (c), **(d)(1) - (3), (e)(1)- (4)** [(d)(1), (d)(2),  
31 (e)(1), (e)(2)], or (i) of this section, except to the extent permitted under AS 12.55.155

1 - 12.55.175,

2 (1) imprisonment may not be suspended under AS 12.55.080;

3 (2) imposition of sentence may not be suspended under AS 12.55.085;

4 (3) terms of imprisonment may not be otherwise reduced.

5 \* **Sec. 5.** AS 12.55.125(i) is amended to read:

6 (i) A defendant convicted of sexual assault in the first degree or sexual abuse  
7 of a minor in the first degree may be sentenced to a definite term of imprisonment of  
8 not more than 30 years, and shall be sentenced to the following presumptive terms,  
9 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

10 (1) if the offense is a first felony conviction and does not involve  
11 circumstances described in (2) of this subsection, eight years;

12 (2) if the offense is a first felony conviction, and the defendant  
13 possessed a firearm, used a dangerous instrument, or caused serious physical injury  
14 during the commission of the offense, 11 [10] years;

15 (3) if the offense is a second felony conviction and

16 (A) does not involve circumstances described in (B) of this  
17 paragraph, 15 years;

18 (B) the defendant possessed a firearm during the  
19 commission of the offense, 18 years;

20 (4) if the offense is a third felony conviction and

21 (A) does not involve circumstances described in (B) of this  
22 paragraph, 25 years;

23 (B) the defendant possessed a firearm during the  
24 commission of the offense, 28 years.

25 \* **Sec. 6.** AS 12.55.155(a) is amended to read:

26 (a) If a defendant is convicted of an offense and is subject to sentencing under  
27 AS 12.55.125(c), (d)(1) - (3), (e)(1) - (4) [(d)(1), (d)(2), (e)(1), (e)(2)], or (i) and

28 (1) the presumptive term is four years or less, the court may decrease  
29 the presumptive term by an amount as great as the presumptive term for factors in  
30 mitigation or may increase the presumptive term up to the maximum term of  
31 imprisonment for factors in aggravation;

1                   (2) the presumptive term of imprisonment is more than four years, the  
2 court may decrease the presumptive term by an amount as great as 50 percent of the  
3 presumptive term for factors in mitigation or may increase the presumptive term up  
4 to the maximum term of imprisonment for factors in aggravation.

5 \* **Sec. 7.** AS 12.55.155(e) is amended to read:

6                   (e) If a factor in aggravation is a necessary element of the present offense, or  
7 requires the imposition of a presumptive term under AS 12.55.125(c)(2), (c)(3)(B),  
8 (c)(4)(B), (d)(1)(B), (d)(2)(B), (d)(3), (e)(1)(B), (e)(2)(B), or (e)(3) [(d)(3) or (e)(3)],  
9 that factor may not be used to aggravate the presumptive term. If a factor in  
10 mitigation is raised at trial as a defense reducing the offense charged to a lesser  
11 included offense, that factor may not be used to mitigate the presumptive term.

12 \* **Sec. 8.** This Act applies to all offenses committed on or after the effective date of this  
13 Act. References to prior or previous convictions in this Act apply to all convictions occurring  
14 before, on, or after the effective date of this Act.