

HOUSE BILL NO. 255

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JOHNSON

Introduced: 5/4/07

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to dual sentencing of certain juvenile offenders; amending Rule 24.1,**
2 **Alaska Delinquency Rules; and providing for an effective date."**

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

4 *** Section 1.** AS 47.12.065(a) is amended to read:

5 (a) The department or the entity selected by it may refer to the appropriate
6 district attorney the circumstances involving a minor who is subject to the provisions
7 of this section because the minor is alleged to have violated a criminal law of the state.
8 Except as provided in (d) of this section, the department or the entity selected by it
9 may make the referral if the minor was

10 **(1)** 16 years of age or older at the time of the offense, and

11 **(A)** the offense is

12 **(i) a class B felony crime against a person;**

13 **(ii) misconduct involving weapons in the first or**
14 **second degree; or**

1 (iii) [(1)] a class C felony [THAT IS A] crime against a
 2 person and the minor has previously been adjudicated a delinquent
 3 under the laws of this state or substantially similar laws of another
 4 jurisdiction for a felony offense that is a crime against a person; and

5 (B) the minor is not subject to prosecution as an adult
 6 under AS 47.12.030(a); or

7 (2) at least 12 years of age but under 16 years of age at the time of
 8 the offense, and the offense is

9 (A) murder in the first or second degree or murder of an
 10 unborn child;

11 (B) manslaughter or manslaughter of an unborn child; or

12 (C) sexual assault in the first degree [SEXUAL ABUSE OF

13 A MINOR IN THE SECOND DEGREE].

14 * **Sec. 2.** AS 47.12.120 is amended by adding a new subsection to read:

15 (l) If a minor successfully completes the delinquency order imposed under (j)
 16 of this section, the court may, notwithstanding (j)(2) of this section, at the request of
 17 the minor or the department, suspend the sentence pronounced under (j)(2) of this
 18 section. As a condition of the suspension, the court may place the minor on adult
 19 felony probation and may impose terms and conditions of that probation as provided
 20 in AS 12.55.

21 * **Sec. 3.** AS 47.12.160(d) is amended to read:

22 (d) The department, or the district attorney in a matter subject to the
 23 jurisdiction of this chapter under AS 47.12.020(b), may petition the court for
 24 imposition of sentence pronounced under AS 47.12.120(j)(2) if the offender is still
 25 subject to the jurisdiction of the court and if the offender, after pronouncement of
 26 sentence under AS 47.12.120(j)(2),

27 (1) commits a subsequent felony offense;

28 (2) commits a subsequent offense against a person that is a
 29 misdemeanor and involves injury to a person or the use of a deadly weapon;

30 (3) fails to comply with the terms of a restitution order;

31 (4) fails to engage in or satisfactorily complete a rehabilitation

1 program ordered by a court or required by a facility or juvenile probation officer; [OR]

2 (5) escapes from a juvenile or other correctional facility; or

3 (6) violates a condition of probation.

4 * **Sec. 4.** AS 47.12.160(e) is amended to read:

5 (e) If a petition is filed under (d) of this section and if the court finds by a
6 preponderance of the evidence that the minor has committed a subsequent [FELONY]
7 offense described in (d)(1) or (2) of this section [THAT IS A CRIME AGAINST A
8 PERSON OR IS THE CRIME OF ARSON], the court shall impose the adult sentence
9 previously pronounced under AS 47.12.120(j) and transfer custody of the minor to the
10 Department of Corrections. If the court finds by a preponderance of the evidence that
11 any of the other circumstances set out in (d)(3) - (6) [(d)(1) - (5)] of this section exist,
12 the court shall impose the adult sentence previously pronounced and transfer custody
13 of the minor to the Department of Corrections unless the minor proves by clear and
14 convincing [PREPONDERANCE OF THE] evidence that mitigating circumstances
15 exist that justify a continuance in the stay of the adult sentence and the minor is
16 amenable to further treatment under this chapter. The court shall make written findings
17 to support its order.

18 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 INDIRECT COURT RULE AMENDMENT. This Act has the effect of amending
21 Rule 24.1, Alaska Delinquency Rules, relating to dual sentencing of minors by changing the
22 procedure for imposing dual sentences on minors.

23 * **Sec. 6.** This Act takes effect July 1, 2007.