

1 IN THE HOUSE

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ORBECK AND TAYLOR

2

HOUSE BILL NO. 67

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to sentencing, probation,
7 and parole of persons convicted in criminal
8 actions; and providing for an effective
9 date."

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

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* Section 1. AS 11.05.060 is repealed and re-enacted to read:

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Sec. 11.05.060. JUDGMENT OF IMPRISONMENT. A judgment

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of imprisonment in the penitentiary need only specify the

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duration and place of confinement. The manner of the con-

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finement and the treatment and employment of the person

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sentenced shall be regulated and governed by the law in

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force prescribing the discipline of the penitentiary in

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which he is confined and the treatment and employment of

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persons sentenced to confinement in it.

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* Sec. 2. AS 11.05.140 is repealed and re-enacted to read:

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Sec. 11.05.140. DUTY OF COURT TO DETERMINE AND IMPOSE

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PUNISHMENT. The court authorized to pass sentence shall

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determine and impose the punishment prescribed. When punish-

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ment is left undetermined between certain limits or kinds of

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punishment, the court shall determine the punishment to be

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inflicted.

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* Sec. 3. AS 11.05 is amended by adding a new section to read:

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Sec. 11.05.150. IMPOSING LESS THAN PRESCRIBED PENALTY.

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Except in a case of murder or rape, the court may, upon

1 conviction, when in its opinion the facts and circumstances
2 make the minimum penalty provided in this title manifestly
3 too severe, impose a lesser penalty, either of a fine or
4 imprisonment or both. When less than the minimum penalty
5 is imposed, the court shall set out the reasons for its
6 action on the record in the case.

7 * Sec. 4. AS 11.15.010 is amended to read:

8 Sec. 11.15.010. FIRST DEGREE MURDER. A person who,
9 being of sound memory and discretion, purposely, and either
10 of deliberate and premeditated malice or by means of poison,
11 or in perpetrating or in attempting to perpetrate, rape,
12 arson, robbery, or burglary kills another, is guilty of
13 murder in the first degree, and shall be sentenced to im-
14 prisonment for not less than 20 years to life. [THE IMPOSI-
15 TION OR EXECUTION OF SENTENCE SHALL NOT BE SUSPENDED.]

16 * Sec. 5. AS 11.15.020 is amended to read:

17 Sec. 11.15.020. OBSTRUCTING OR INJURING RAILROAD OR
18 AIRCRAFT. A person who maliciously (1) places an obstruc-
19 tion upon a railroad or street railroad, or displaces or
20 injures anything appertaining to a railroad or street rail-
21 road, or does any other act with intent to endanger the
22 passage of a locomotive or car, and thereby occasions the
23 death of another, or (2) causes or attempts to cause damage
24 or injury to, or places obstruction or explosive material
25 on, in or about an aircraft, or who commits any other act
26 with intent to endanger the safety of flight, operation or
27 passage of an aircraft and thereby occasions or implements
28 the death of another, is guilty of murder in the first degree,
29 and shall be sentenced to imprisonment for not less than 20

1 years to life. [THE IMPOSITION OR EXECUTION OF SENTENCE
2 SHALL NOT BE SUSPENDED.]

3 * Sec. 6. AS 11.15.030 is amended to read:

4 Sec. 11.15.030. ✓ SECOND DEGREE MURDER. Except as pro-
5 vided in secs. 10 and 20 of this chapter, a person who
6 purposely and maliciously kills another is guilty of murder
7 in the second degree, and shall be sentenced to imprisonment
8 [IMPRISONED IN THE PENITENTIARY] for a term of not less
9 than 15 years to life. [THE IMPOSITION OR EXECUTION OF
10 SENTENCE SHALL NOT BE SUSPENDED.]

11 * Sec. 7. AS 12.55.050 (3) is amended to read:

12 (3) If the person has previously been convicted
13 of three or more felonies, then on the fourth conviction
14 he shall be adjudged an habitual criminal, and is punishable
15 by imprisonment for not less than 20 years nor more than
16 the remainder of his natural life. [THE IMPOSITION OR EXE-
17 CUTION OF SENTENCE SHALL NOT BE SUSPENDED.]

18 * Sec. 8. AS 12.55.080 is repealed and re-enacted to read:

19 Sec. 12.55.080. ✓ SUSPENSION OF SENTENCE AND PROBATION.
20 Upon entering a judgment of conviction of a crime, or at any
21 time within 60 days from the date of entry of that judgment
22 of conviction, a court, when satisfied that the ends of
23 justice and the best interest of the public as well as the
24 defendant will be served thereby, may suspend the imposition
25 or execution or balance of the sentence or a portion thereof,
26 and place the defendant on probation for a period and upon
27 the terms and conditions as the court considers best.

28 * Sec. 9. AS 33.15.180 ✓ is amended to read:

29 Sec. 33.15.180. PERSONS ELIGIBLE FOR PAROLE. A state

1 prisoner, other than a juvenile delinquent, wherever con-
2 fined and serving a definite term of over 180 days or a term
3 the minimum of which is at least 181 days, whose record
4 shows that he has observed the rules of the institution in
5 which he is confined, may, in the discretion of the board,
6 be released on parole [, EXCEPT A PERSON CONVICTED OF MURDER
7 IN THE FIRST DEGREE OR OF OBSTRUCTING A RAILROAD OR AIRCRAFT
8 SHALL NOT BE ELIGIBLE FOR PAROLE UNTIL HE HAS SERVED 15
9 YEARS, AND A PERSON CONVICTED OF MURDER IN THE SECOND DEGREE
10 OR SENTENCED AS AN HABITUAL CRIMINAL UNDER AS 12.55.050 (3)
11 SHALL NOT BE ELIGIBLE FOR PAROLE UNTIL HE HAS SERVED FIVE
12 YEARS].

13 * Sec. 10. AS 33.15 is amended by adding a new section to
14 read:

15 Sec. 33.15.230. FIXING ELIGIBILITY FOR PAROLE AT TIME
16 OF SENTENCING. (a) Upon entering a judgment of conviction,
17 the court having jurisdiction to impose sentence, when in
18 its opinion the ends of justice and best interests of the
19 public require that the defendant be sentenced to imprison-
20 ment for a term exceeding one year, may

21 (1) designate in the sentence of imprisonment
22 imposed a minimum term at the expiration of which the
23 prisoner is eligible for parole, which term may be less than,
24 but shall not be more than one-third of the maximum sentence
25 imposed by the court; or

26 (2) fix the maximum sentence of imprisonment to
27 be served, in which case the court may specify that the
28 prisoner is eligible for parole at the time the board
29 determines.

1 (b) Upon commitment of a prisoner sentenced to im-
2 prisonment under (a) of this section, the commissioner,
3 under such regulations as the board prescribes, shall have
4 a complete study made of the prisoner and shall furnish to
5 the board a summary report together with any recommenda-
6 tions which, in his opinion, would be helpful in determining
7 the suitability of the prisoner for parole. This report
8 may include, but shall not be limited to, data regarding the
9 prisoner's previous delinquency or criminal experience,
10 circumstances of his social background, his capabilities,
11 his mental and physical health, and such other factors
12 considered pertinent. The board may make such other investi-
13 gation as it considers necessary.

14 (c) Parole officers and government bureaus and agencies
15 shall furnish the board information concerning the prisoner,
16 and, whenever not incompatible with the public interest,
17 their views and recommendations with respect to the parole
18 disposition of his case.

19 (d) The board may adopt rules and regulations for the
20 supervision, discharge from supervision, or recommitment of
21 paroled prisoners.

22 * Sec. 11. AS 12.55.090 (d) and (e) are repealed.

23 * Sec. 12. This Act takes effect July 1, 1965.

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