

Introduced: 1/16/76
Referred: Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 *CS* HOUSE BILL NO. 600 *(Rube) am*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to determinate sentencing."

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

8 * Section 1. AS 12.55.050 is repealed and re-enacted to read:

9 Sec. 12.55.050. SENTENCING FOR FELONIES. (a) Every person con-
10 victed of a felony shall be sentenced as follows:

11 (1) if the conviction for which sentencing is being rendered
12 is the defendant's first felony conviction, the court may sentence the
13 defendant to a term of imprisonment, within the limits provided by
14 law, or in accordance with AS 33.15.230 or secs. 80 or 85 of this
15 chapter;

16 (2) if the conviction for which sentencing is being rendered
17 is the defendant's second felony conviction, the court shall sentence
18 the defendant to a term of imprisonment of not less than one-half the
19 maximum term authorized by law;

20 (3) if the conviction for which sentencing is being rendered
21 is the defendant's third or any subsequent felony conviction, the
22 court shall sentence the defendant to the maximum term authorized by
23 law;

24 (4) upon the finding at trial that the conviction for which
25 sentencing is being rendered involved the use of a dangerous weapon,
26 the court shall impose, in addition to the dispositions set out in
27 paragraphs (1)--(3), a term of imprisonment of two years; the two-year
28 term of imprisonment for use of a dangerous weapon shall be consecutive
29 to other terms of imprisonment imposed.

1 (b) For the purposes of this section, no prior convictions will
2 be considered when a period of five or more years has elapsed between
3 the date of discharge from disposition of the immediately preceding
4 offense and the date of conviction for which sentencing is being
5 rendered.

6 (c) For the purposes of this section:

7 (1) a conviction in another jurisdiction which would amount
8 to a felony conviction under the laws of this state is considered a
9 prior felony conviction;

10 (2) two or more convictions arising out of the same incident
11 are considered a single conviction.

12 (d) For terms of imprisonment required under (a)(2)--(4) of this
13 section

14 (1) imprisonment may not be suspended under AS 12.55.080
15 and probation or parole may not be granted until the minimum sentence
16 provided in those paragraphs has been served;

17 (2) imposition of sentence may not be suspended under AS
18 12.55.085;

19 (3) terms of imprisonment may not be reduced under AS
20 11.05.150.

21 (e) Nothing in this section limits the authority of the court to
22 impose fines for offenses, where authorized, in addition to the required
23 term of imprisonment.

24 * Sec. 2. AS 12.55.060 is repealed and re-enacted to read:

25 Sec. 12.55.060. PROCEDURE FOR DETERMINING PRIOR CONVICTIONS.

26 (a) If it appears that a defendant has previously been convicted of a
27 crime and is subject to sentencing as a second or subsequent offender
28 under sec. 50 of this chapter, the district attorney shall file a
29 certified copy of the record of prior convictions with the court

1 before sentencing.

2 (b) If the defendant denies the truth of the certified copy of
3 the record of prior convictions, the court shall hold a hearing,
4 without a jury, on the matter before sentencing. At the hearing, the
5 only issues before the court are whether the record of prior convictions
6 is that of the defendant and whether the conviction occurred within
7 the period specified in sec. 50(b) of this chapter. The burden of
8 proof is on the state to establish, by a preponderance of the evidence,
9 the fact of prior convictions.

10 * Sec. 3. AS 33.15.180 is amended to read:

11 Sec. 33.15.180. PERSONS ELIGIBLE FOR PAROLE. (a) A state
12 prisoner other than a juvenile delinquent, wherever confined and
13 serving a definite term of over 180 days or a term the minimum of
14 which is at least 181 days, and who is not confined as a second or sub-
15 sequent offender under AS 12.55.050, whose record shows that he has
16 observed the rules of the institution in which he is confined, may, in
17 the discretion of the board, be released on parole, subject to the
18 limitation prescribed in secs. 80 and 230(a)(1) of this chapter.

19 (b) A state prisoner confined as a second or subsequent offender
20 under AS 12.55.050 may not be considered for parole.

21 * Sec. 4. AS 33.20.010 is repealed and re-enacted to read:

22 Sec. 33.20.010. COMPUTATION OF GOOD TIME. Each prisoner convicted
23 of an offense against the state and confined in a penal or correctional
24 institution, whose record of conduct shows that he has faithfully ob-
25 served the rules of that institution and has not been subject to
26 punishment, is entitled to a deduction from the term of his sentence
27 of one day for every two days of good conduct served.

28 * Sec. 5. AS 12.55.040, 33.20.020 and 33.20.040 are repealed.

29 * Sec. 6. APPLICABILITY. (a) AS 12.55.050, as re-enacted in sec. 1 of

1 this Act, applies to sentencing upon convictions only for offenses committed
2 after the effective date of this Act. When sentencing for those convictions,
3 the court shall consider prior convictions for offenses whether committed
4 before or after the effective date of this Act.

5 (b) AS 33.15.180, as amended in sec. 3 of this Act, applies to
6 persons imprisoned for offenses committed after the effective date of this
7 Act.

8 (c) AS 33.20.010, as re-enacted in sec. 4 of this Act, applies
9 to all persons imprisoned in state institutions as of the effective date of
10 this Act, without retroactive application however.