

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 775 (Rules) am S

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 unlawful absence from custody or
7 confinement."

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

9 * Section 1. AS 11.30.090 is repealed and re-enacted to read:

10 Sec. 11.30.090. ESCAPE. (a) A person commits an escape if without
11 lawful authority he

12 (1) wilfully removes himself from official detention; or

13 (2) commits an unlawful evasion under sec. 93 of this chapter
14 and leaves or attempts to leave the state.

15 (b) An offense charged under (a) of this section is punishable as
16 an escape in the first degree if

17 (1) the official detention is on a charge of a felony;

18 (2) the official detention is for extradition; or

19 (3) the person, during the escape or at any time before his
20 being restored to official detention, has in his possession a deadly
21 weapon.

22 (c) An attempt to escape under (a)(1) of this section which under
23 (b)(1), (2) or (3) of this section is an escape in the first degree is
24 punishable as an escape in the second degree.

25 (d) Any other escape or attempted escape is punishable as an
26 escape in the third degree.

27 * Sec. 2. AS 11.30 is amended by adding new sections to read:

28 Sec. 11.30.093. UNLAWFUL EVASION. (a) A person commits an
29 unlawful evasion if he wilfully fails to return to official detention, as

1 defined in sec. 100 of this chapter, following temporary leave granted
2 for a specific purpose or limited period including but not limited to
3 privileges granted under AS 33.30.150, 33.30.250 or 33.30.260.

4 (b) An offense charged under (a) of this section is punishable as
5 an unlawful evasion in the first degree if the official detention is on
6 a charge of a felony.

7 (c) An offense charged under (a) of this section is punishable in
8 the same manner as an escape in the first degree if the person during
9 the time of unlawful evasion or at any time before his being restored to
10 official detention has in his possession a deadly weapon.

11 (d) Any other offense under this section is punishable as an
12 unlawful evasion in the second degree.

13 Sec. 11.30.095. PENALTIES FOR ESCAPE AND UNLAWFUL EVASION. (a) A
14 person convicted of escape in the first degree is punishable by imprison-
15 ment for not less than one year nor more than five years.

16 (b) A person who is convicted of escape in the second degree is
17 punishable by imprisonment for not less than six months nor more than
18 two years.

19 (c) A person who is convicted of escape in the third degree is
20 punishable by imprisonment for not less than three months nor more than
21 one year.

22 (d) A person who is convicted of unlawful evasion in the first
23 degree is punishable by imprisonment for not less than three months
24 nor more than one year.

25 (e) A person who is convicted of unlawful evasion in the second
26 degree is punishable by imprisonment for not less than 30 days nor
27 more than one year.

28 (f) Under this section suspensions of imposition or execution of
29 sentence or granting of parole shall be governed by the following

1 considerations:

2 (1) when satisfied that the ends of justice and the best
3 interests of the public as well as the defendant will be served, the
4 court may suspend the imposition or execution of a portion of the sen-
5 tence greater than the minimum sentence authorized under this section,
6 and place the defendant on probation.

7 (2) execution of sentence may not be suspended nor may
8 probation or parole be granted until the minimum imprisonment provided
9 under this section has been served, nor may imposition of sentence be
10 suspended, except upon the condition that the defendant be imprisoned
11 for no less than the minimum period provided under this section, nor
12 may the minimum penalty provided for in this section be reduced under AS
13 11.05.150, except upon a finding by the court that the escape or evasion
14 was for the purpose of avoiding a clear and present danger of physical
15 abuse or cruel and unusual conditions caused either wilfully or by
16 neglect.

17 (g) Terms of imprisonment required under this section are consecu-
18 tive to sentences then existing or which may be imposed pursuant to the
19 official detention from which the person has escaped.

20 (h) When an offender has escaped or has committed an unlawful
21 evasion and voluntarily surrenders himself to a peace officer or em-
22 ployee of the division of corrections, under circumstances when there is
23 no imminent likelihood of his being apprehended, (f)(2) of this section
24 is inapplicable.

25 (i) If the sentencing court finds that imposition of the minimum
26 term, as provided in this section, (1) would result in a clear and
27 manifest injustice to the accused, and (2) would not substantially
28 further public protection, the court shall make written findings in
29 the matter and cause these findings to be certified to the presiding

1 judge or, if he himself is the presiding judge, to the administrative
2 director of courts. The presiding judge or administrative director of
3 courts shall forthwith constitute a panel consisting of three judges of
4 appropriate jurisdiction to hear the matter. Sentencing in such case
5 shall be imposed only by a majority of the three-judge court after
6 consideration of all pertinent files, records, and transcripts, including
7 the findings and conclusions of the judge who originally heard the matter.
8 The three-judge court may, in its discretion, hear oral testimony. The
9 three-judge court may, in the interest of justice, sentence the defen-
10 dant to less than the minimum provided for in this section.

11 * Sec. 3. AS 11.30.100 is repealed and re-enacted to read:

12 Sec. 11.30.100. DEFINITIONS RELATING TO ESCAPE AND UNLAWFUL DETEN-
13 TION. As used in secs. 90 - 95 of this chapter, unless the context
14 otherwise requires,

15 (1) "cruel and unusual conditions" mean those conditions
16 evidencing a shocking deviation from the conditions commonly acceptable
17 for official detention;

18 (2) "official detention" means arrest, custody following
19 surrender in lieu of arrest, detention in any facility for custody of
20 persons under charge or conviction of crime or alleged or to be
21 delinquent, detention for extradition or deportation or any other deten-
22 tion for law enforcement purposes; but "official detention" does not
23 include supervision on probation or parole, or constraint incidental to
24 release on bail.

25 * Sec. 4. AS 33.30.150 is amended to read:

26 Sec. 33.30.150. VISITATION PRIVILEGES. An honor prisoner with good
27 behavior serving a sentence of one year or more may be permitted as a
28 privilege and not as a right to visit with his family at a place other
29 than his place of confinement and at his own expense for a period not

1 exceeding one week nor more frequently than once each six months
2 under rules and regulations adopted by the commissioner and in his sole
3 discretion. The wilful failure of a prisoner to return to the place
4 of confinement not later than the expiration of a period during which
5 he is authorized to be away from the place of confinement under this
6 section is an unlawful evasion under AS 11.30.093.

7 * Sec. 5. AS 33.30.250(f) is amended to read:

8 (f) The wilful failure of a prisoner to return to the place of
9 confinement not later than the expiration of any period during which he
10 is authorized to be away from the place of confinement under this sec-
11 tion, is an unlawful evasion under AS 11.30.093 [ESCAPE FROM THE PLACE
12 OF CONFINEMENT AND IS PUNISHABLE UNDER THE LAWS RELATING TO ESCAPE].

13 * Sec. 6. AS 33.30.260 is amended to read:

14 Sec. 33.30.260. REHABILITATION FURLOUGHS. The commissioner may
15 authorize a prisoner to participate in educational, training, medical,
16 psychiatric, or other rehabilitation programs approved by the commis-
17 sioner. When the prisoner is not participating in a rehabilitation pro-
18 gram, he shall be confined in the jail unless the commissioner directs
19 otherwise. If the prisoner violates the conditions established for his
20 conduct or custody, the commissioner may order the balance of the
21 prisoner's sentence to be spent in actual confinement. The wilful
22 failure of a prisoner to return to the place of confinement not later
23 than the expiration of any period during which he is authorized to be
24 away from the place of confinement under this section, is an unlawful
25 evasion under AS 11.30.093 [ESCAPE FROM THE PLACE OF CONFINEMENT AND IS
26 PUNISHABLE UNDER THE LAWS RELATING TO ESCAPE].
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