

Introduced: 2/13/84
Referred: Judiciary and Finance

1 IN THE HOUSE

BY KOPONEN

2

HOUSE BILL NO. 613

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to offenses committed while under
7 the influence of alcohol or other drugs."

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

9 * Section 1. AS 12.55.155(c) is amended to read:

10 (c) The following factors shall be considered by the sentencing
11 court and may aggravate the presumptive terms set out in AS 12.55.125:

12 (1) a person, other than an accomplice, sustained physical
13 injury as a direct result of the defendant's conduct;

14 (2) the defendant's conduct during the commission of the
15 offense manifested deliberate cruelty to another person;

16 (3) the defendant was the leader of a group of three or
17 more persons who participated in the offense;

18 (4) the defendant employed a dangerous instrument in fur-
19 therance of the offense;

20 (5) the defendant knew or reasonably should have known that
21 the victim of the offense was particularly vulnerable or incapable of
22 resistance due to advanced age, disability, ill health, or extreme
23 youth or was for any other reason substantially incapable of exercis-
24 ing normal physical or mental powers of resistance;

25 (6) the defendant's conduct created a risk of imminent
26 physical injury to three or more persons, other than accomplices;

27 (7) a prior felony conviction considered for the purpose of
28 invoking the presumptive terms of this chapter was of a more serious
29 class of offense than the present offense;

1 (8) the defendant's prior criminal history includes conduct
2 involving aggravated or repeated instances of assaultive behavior;

3 (9) the defendant knew that the offense involved more than
4 one victim;

5 (10) the conduct constituting the offense was among the most
6 serious conduct included in the definition of the offense;

7 (11) the defendant committed the offense under [PURSUANT TO]
8 an agreement that the defendant [HE] either pay or be paid for the
9 commission of the offense, and the pecuniary incentive was beyond that
10 inherent in the offense itself;

11 (12) the defendant was on release under AS 12.30.020 or
12 12.30.040 for another felony charge or conviction or for a misdemeanor
13 charge or conviction having assault as a necessary element;

14 (13) the defendant knowingly directed the conduct constitut-
15 ing the offense at an active officer of the court or at an active or
16 former judicial officer, prosecuting attorney, law enforcement
17 officer, correctional employee, fire fighter, emergency medical tech-
18 nician, paramedic, ambulance attendant, or other emergency responder
19 during or because of the exercise of official duties;

20 (14) the defendant was a member of an organized group of
21 five or more persons, and the offense was committed to further the
22 criminal objectives of the group;

23 (15) the defendant has three or more prior felony convic-
24 tions;

25 (16) the defendant's criminal conduct was designed to obtain
26 substantial pecuniary gain and the risk of prosecution and punishment
27 for the conduct is slight;

28 (17) the offense was one of a continuing series of criminal
29 offenses committed in furtherance of illegal business activities from

1 which the defendant derives a major portion of his income;

2 (18) the offense was a crime specified in AS 11.41 and was
3 committed against a spouse, a former spouse, or a member of the social
4 unit comprised of those living together in the same dwelling as the
5 defendant;

6 (19) the defendant's prior criminal history includes an
7 adjudication as a delinquent for conduct that would have been a felony
8 if committed by an adult;

9 (20) the defendant was on furlough under AS 33.30 or on
10 parole or probation for another felony charge or conviction;

11 (21) the defendant has a criminal history of repeated in-
12 stances of conduct violative of criminal laws, whether punishable as
13 felonies or misdemeanors, similar in nature to the offense for which
14 the defendant is being sentenced under this section;

15 (22) the defendant knowingly directed the conduct constitut-
16 ing the offense at a victim because of that person's race, sex, color,
17 creed, ancestry, or national origin;

18 (23) the defendant is convicted of an offense specified in
19 AS 11.71 and the offense involved the delivery of a controlled sub-
20 stance under circumstances manifesting an intent to distribute the
21 substance as part of a commercial enterprise;

22 (24) the defendant is convicted of an offense specified in
23 AS 11.71 and the offense involved the transportation of controlled
24 substances into the state;

25 (25) the defendant is convicted of an offense specified in
26 AS 11.71 and the offense involved large quantities of a controlled
27 substance;

28 (26) the defendant is convicted of an offense specified in
29 AS 11.71 and the offense involved the distribution of a controlled

1 substance that had been adulterated with a toxic substance;

2 (27) the defendant was in a state of voluntary alcohol or
3 other drug intoxication when the offense was committed.

4 * Sec. 2. AS 12.55.155(g) is amended to read:

5 (g) Voluntary alcohol or other drug intoxication or chronic
6 alcoholism or other drug addiction may not be considered a [AN AGGRA-
7 VATING OR] mitigating factor.

8 * Sec. 3. AS 33.30 is amended by adding a new section to read:

9 Sec. 33.30.053. DRUG AND ALCOHOL TREATMENT. The commissioner
10 shall make drug and alcohol counseling and treatment available to
11 prisoners whose sentences are aggravated because of voluntary alcohol
12 or drug intoxication under AS 12.55.155(c)(27).