

HOUSE BILL NO. 30
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KOPONEN

Introduced: 1/21/91
Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sentencing practices and procedures and to the serving of sentences;
2 expanding the circumstances in which a sentence may require participation in an
3 appropriate rehabilitation or treatment program; redefining eligibility for discretionary
4 parole; adding a related mitigating factor in the determination of presumptive sentences;
5 authorizing the Department of Corrections to establish alternative sentencing and related
6 programs for prisoners; and providing for an effective date."

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

8 * Section 1. AS 12.55.015 is amended by adding a new subsection to read:

9 (g) In imposing sentence on a defendant, a court may, to the extent that a program is
10 provided by the Department of Corrections or other provider, in addition to any mandatory
11 minimum sentence required by law, order the defendant to participate in a rehabilitation or
12 treatment program that is related to the defendant's offense or to the defendant's rehabilitation.
13 Participation in the rehabilitation or treatment program designated by the court may be imposed

1 as a condition of probation, a condition of suspended execution of sentence, or a condition of
2 suspended imposition of sentence. When a rehabilitation or treatment program is ordered by the
3 court, time spent participating in the rehabilitation or treatment program must be counted as part
4 of the defendant's sentence but may not be construed to reduce a mandatory minimum sentence.
5

6 * Sec. 2. AS 12.55.085(b) is amended to read:

7 (b) At any time during the probationary term of the person released on probation, a
8 probation officer may, without warrant or other process, rearrest the person so placed in the
9 officer's care and bring the person before the court, or the court may, in its discretion, issue a
10 warrant for the rearrest of the person. The court may revoke and terminate the probation if the
11 interests of justice require, and if the court, in its judgment, has reason to believe that the person
12 placed upon probation is

13 (1) violating the conditions of probation;

14 (2) engaging in criminal practices; or

15 (3) violating an order of the court to participate in or comply with the treatment
16 plan of a rehabilitation program under AS 12.55.015(g) [AS 12.55.015(a)(10)].

17 * Sec. 3. AS 12.55.110(b) is amended to read:

18 (b) Good cause justifying the revocation of a suspended sentence is established if the
19 defendant has violated an order of the court to participate in or comply with the treatment plan
20 of a rehabilitation program under AS 12.55.015(g) [AS 12.55.015(a)(10)].

21 * Sec. 4. AS 12.55.125(h) is amended to read:

22 (h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge
23 except as specifically provided, or limits the discretion of the parole board under AS 33.16.

24 * Sec. 5. AS 12.55.155(d) is amended by adding a new paragraph to read:

25 (17) the defendant demonstrates to the court a strong potential for successful
26 rehabilitation.

27 * Sec. 6. AS 33.16.090(b) is amended to read:

28 (b) A prisoner who has been previously convicted of a felony in this or another
29 jurisdiction is not eligible for discretionary parole during the term of a presumptive sentence or
30 during the term of a mandatory minimum sentence under AS 12.55.125(a) or (b), but [:
31 HOWEVER, A PRISONER] is eligible for discretionary parole during a term of sentence

1 enhancement imposed under AS 12.55.155(a) or during the term of a consecutive or partially
2 consecutive presumptive sentence imposed under AS 12.55.025(e) or (g).

3 * Sec. 7. AS 33.16.100(c) is amended to read:

4 (c) Except as provided in (d) of this section, a prisoner may not be released on
5 discretionary parole until the prisoner has served at least one-fourth of the period of confinement
6 imposed [, ONE-FOURTH OF AN ENHANCED PERIOD OF CONFINEMENT IMPOSED
7 UNDER AS 12.55.155(a),] or any minimum term set under AS 12.55.115 at sentencing,
8 whichever is greater. A prisoner who is not eligible for parole under AS 33.16.090(b) during
9 the term of a presumptive sentence and whose sentence was enhanced under
10 AS 12.55.155(a) may not be released on discretionary parole until the prisoner has served
11 at least one-fourth of the enhanced period of confinement.

12 * Sec. 8. AS 33.16.100(d) is amended to read:

13 (d) A prisoner who is sentenced for a term under AS 12.55.125(a), (b), (c), or (i) may not
14 be released on discretionary parole until the prisoner has served [THE MANDATORY
15 MINIMUM TERM UNDER AS 12.55.125(a), (b), (c), OR (i),] at least one-third of the period
16 of confinement imposed [,] or any minimum term set under AS 12.55.115 at sentencing,
17 whichever is greater.

18 * Sec. 9. AS 33.16.220(a) is amended to read:

19 (a) The board may revoke parole if the parolee
20 (1) engages in conduct in violation of AS 33.16.150(a) or (b); or
21 (2) has violated an order of the court to participate in or comply with the treatment
22 plan of a rehabilitation program under AS 12.55.015(g) [AS 12.55.015(a)(10)].

23 * Sec. 10. AS 33.30.011 is amended to read:

24 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall
25 (1) establish, maintain, operate, and control correctional facilities suitable for the
26 custody, care, and discipline of persons charged or convicted of offenses against the state or held
27 under authority of state law;
28 (2) classify prisoners;
29 (3) for persons committed to the custody of the commissioner, establish programs,
30 including alternative sentencing programs and training, counseling, and furlough programs
31 that are reasonably calculated to

- 1 (A) protect the public;
2 (B) maintain health;
3 (C) create or improve occupational skills;
4 (D) enhance educational qualifications;
5 (E) support court-ordered restitution; and
6 (F) otherwise provide for the rehabilitation and reformation of prisoners,
7 facilitating their reintegration into society;

8 (4) provide necessary medical services for prisoners in correctional facilities or
9 who are committed by a court to the custody of the commissioner, including examinations for
10 communicable and infectious diseases; [AND]

11 (5) provide necessary psychological or psychiatric treatment if a physician or other
12 health care provider, exercising ordinary skill and care at the time of observation, concludes that

13 (A) a prisoner exhibits symptoms of a serious disease or injury that is
14 curable or may be substantially alleviated; and

15 (B) the potential for harm to the prisoner by reason of delay or denial of
16 care is substantial; and

17 (6) establish minimum standards for sex offender treatment programs offered to
18 persons who are committed to the custody of the commissioner.

19 * Sec. 11. AS 33.30.091 is amended to read:

20 Sec. 33.30.091. DESIGNATION OF PROGRAMS. Except as provided in AS 33.30.096,
21 33.30.111, and 33.30.161, the commissioner may assign a prisoner committed to the
22 commissioner's custody to a program established under AS 33.30.011(3) considering

23 (1) safeguards to the public;
24 (2) the prospects for the prisoner's rehabilitation;
25 (3) the availability of program and facility space;
26 (4) the prospect of future judicial proceedings requiring the presence of the
27 prisoner;

28 (5) the nature and circumstances of the offense for which the prisoner was
29 sentenced;

30 (6) the needs of the prisoner as determined by a classification committee and any
31 recommendations made by the sentencing court;

1 (7) the record of convictions of the prisoner with particular emphasis on crimes
2 specified in AS 11.41;

3 (8) the use of drugs or alcohol by the prisoner;

4 (9) the length of the prisoner's sentence; and

5 (10) other criteria considered appropriate by the commissioner, including
6 experimental evaluation of correctional programs that are consistent with protection of the public
7 and reformation of the prisoner.

8 * Sec. 12. AS 33.30 is amended by adding a new section to read:

9 Sec. 33.30.096. ALTERNATIVE SENTENCING. (a) The commissioner may assign a
10 prisoner committed to the commissioner's custody to an alternative sentencing program. Under
11 regulations adopted for the purpose, if the commissioner determines with reasonable probability
12 that a prisoner can live under reduced supervision without violating the law or the conditions
13 established for the conduct of the prisoner, the commissioner may place the prisoner in an
14 alternative sentencing program, after considering

15 (1) the factors in AS 33.30.091;

16 (2) violations, if any, by the prisoner of a condition of a prior furlough or
17 assignment to an alternative sentencing program;

18 (3) the history, if any, of institutional misconduct by the prisoner; and

19 (4) the best interests of the prisoner and the public.

20 (b) The restrictions and supervision required for an assignment to an alternative
21 sentencing program must provide safeguards that minimize risk to the public and include, as a
22 minimum,

23 (1) frequent contact with the prisoner by persons supervising the prisoner;

24 (2) knowledge by supervisory staff of the location of the prisoner;

25 (3) periodic reports by supervisory staff to the commissioner on the performance
26 of the prisoner; and

27 (4) a requirement that a person supervising a prisoner is obliged to immediately
28 report to the commissioner any violation of a condition set for the prisoner's conduct.

29 * Sec. 13. AS 33.30.901 is amended by adding a new paragraph to read:

30 (14) "alternative sentencing program" means incarceration of a prisoner other than
31 in a correctional facility and exclusive of assignment of the prisoner to a furlough or correctional

1 restitution center; the term includes, but is not limited to, home arrest or detention enforced
2 through phone checks or radio monitoring using an ankle lock device.

3 * **Sec. 14.** AS 12.55.015(a)(10) is repealed.

4 * **Sec. 15.** Sections 4 and 6 - 8 of this Act are retroactive to January 1, 1980, and apply to prisoners
5 sentenced after December 31, 1979.

6 * **Sec. 16.** This Act takes effect immediately under AS 01.10.070(c).