

SENATE BILL NO. 332

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS COLLINS, Halford, Pearce

Introduced: 1/13/92

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act precluding the use of nonstatutory aggravating and mitigating factors in
2 presumptive sentencing and abolishing the three-judge sentencing panel."

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

4 * Section 1. AS 12.55.015(a) is amended to read:

5 (a) Except as limited by AS 12.55.125 - 12.55.155 [AS 12.55.125 - 12.55.175], the court,
6 in imposing sentence on a defendant convicted of an offense, may singly or in combination

7 (1) impose a fine when authorized by law and as provided in AS 12.55.035;

8 (2) order the defendant to be placed on probation under conditions specified by
9 the court that may include provision for active supervision;

10 (3) impose a definite term of periodic imprisonment;

11 (4) impose a definite term of continuous imprisonment;

12 (5) order the defendant to make restitution under AS 12.55.045;

13 (6) order the defendant to carry out a continuous or periodic program of
14 community work under AS 12.55.055;

1 (7) suspend execution of all or a portion of the sentence imposed under
2 AS 12.55.080;

3 (8) suspend imposition of sentence under AS 12.55.085;

4 (9) order the forfeiture to the commissioner of public safety of a deadly weapon
5 that was in the actual possession of or used by the defendant during the commission of an
6 offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

7 (10) order the defendant, while incarcerated, to participate in or comply with the
8 treatment plan of a rehabilitation program that is related to the defendant's offense or to the
9 defendant's rehabilitation [,] if the program is made available to the defendant by the Department
10 of Corrections.

11 * Sec. 2. AS 12.55.125(c) is amended to read:

12 (c) A defendant convicted of a class A felony may be sentenced to a definite term of
13 imprisonment of not more than 20 years, and shall be sentenced to the following presumptive
14 terms, subject to adjustment as provided in AS 12.55.155 [AS 12.55.155 - 12.55.175]:

15 (1) if the offense is a first felony conviction and does not involve circumstances
16 described in (2) of this subsection, five years;

17 (2) if the offense is a first felony conviction, other than for manslaughter, and the
18 defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury
19 during the commission of the offense, or knowingly directed the conduct constituting the offense
20 at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer,
21 emergency medical technician, paramedic, ambulance attendant, or other emergency responder
22 who was engaged in the performance of official duties at the time of the offense, seven years;

23 (3) if the offense is a second felony conviction, 10 years;

24 (4) if the offense is a third felony conviction, 15 years.

25 * Sec. 3. AS 12.55.125(d) is amended to read:

26 (d) A defendant convicted of a class B felony may be sentenced to a definite term of
27 imprisonment of not more than 10 years, and shall be sentenced to the following presumptive
28 terms, subject to adjustment as provided in AS 12.55.155 [AS 12.55.155 - 12.55.175]:

29 (1) if the offense is a second felony conviction, four years;

30 (2) if the offense is a third felony conviction, six years;

31 (3) if the offense is a first felony conviction, and the defendant knowingly

1 directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace
2 officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance
3 attendant, or other emergency responder who was engaged in the performance of official duties
4 at the time of the offense, two years.

5 * Sec. 4. AS 12.55.125(e) is amended to read:

6 (e) A defendant convicted of a class C felony may be sentenced to a definite term of
7 imprisonment of not more than five years, and shall be sentenced to the following presumptive
8 terms, subject to adjustment as provided in AS 12.55.155 [AS 12.55.155 - 12.55.175]:

9 (1) if the offense is a second felony conviction, two years;

10 (2) if the offense is a third felony conviction, three years;

11 (3) if the offense is a first felony conviction, and the defendant knowingly
12 directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace
13 officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance
14 attendant, or other emergency responder who was engaged in the performance of official duties
15 at the time of the offense, one year;

16 (4) if the offense is a first felony conviction, and the defendant violated
17 AS 08.54.520(a)(7) - (10), one year.

18 * Sec. 5. AS 12.55.125(g) is amended to read:

19 (g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this
20 section, except to the extent permitted under AS 12.55.155 [AS 12.55.155 - 12.55.175],

21 (1) imprisonment may not be suspended under AS 12.55.080;

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

23 (3) terms of imprisonment may not be otherwise reduced.

24 * Sec. 6. AS 12.55.125(i) is amended to read:

25 (i) A defendant convicted of sexual assault in the first degree or sexual abuse of a minor
26 in the first degree may be sentenced to a definite term of imprisonment of not more than 30
27 years, and shall be sentenced to the following presumptive terms, subject to adjustment as
28 provided in AS 12.55.155 [AS 12.55.155 - 12.55.175]:

29 (1) if the offense is a first felony conviction and does not involve circumstances
30 described in (2) of this subsection, eight years;

31 (2) if the offense is a first felony conviction, and the defendant possessed a

1 firearm, used a dangerous instrument, or caused serious physical injury during the commission
2 of the offense, 10 years;

3 (3) if the offense is a second felony conviction, 15 years;

4 (4) if the offense is a third felony conviction, 25 years.

5 * Sec. 7. AS 12.55.155(g) is repealed and reenacted to read:

6 (g) A factor not specifically listed in (c) or (d) of this section may not be used to
7 increase or decrease a sentence under (a) of this section.

8 * Sec. 8. AS 12.55.165 and 12.55.175 are repealed.

9 * Sec. 9. APPLICABILITY. The amendments to AS 12.55 made by this Act are applicable only to
10 defendants convicted of offenses committed on or after the effective date of this Act.