

HOUSE BILL NO. 119
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE ULMER, B. Davis, Davies, Brown

Introduced: 2/3/93

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing a sentencing court to impose a sentence of a day fine
2 instead of a sentence of imprisonment on a defendant convicted of a
3 misdemeanor; directing the Alaska Supreme Court to develop and implement a
4 day fine plan; requiring the Department of Corrections to report to the
5 legislature on the use of day fines; amending Alaska Rule of Criminal Procedure
6 32; 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(a) is amended to read:

9 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
10 sentence on a defendant convicted of an offense, may singly or in combination

11 (1) impose a

12 (A) fine when authorized by law and as provided in
13 AS 12.55.035; or

1 degree;

2 (2) \$50,000 for a class A, B, or C felony;

3 (3) \$5,000 for a class A misdemeanor;

4 (4) \$1,000 for a class B misdemeanor;

5 (5) \$300 for a violation.

6 * Sec. 4. AS 12.55.035(c) is amended to read:

7 (c) Except as provided in AS 12.55.036, upon [UPON] conviction of an
8 offense, a defendant that is an organization may be sentenced to pay a fine not
9 exceeding the greater of

10 (1) an amount that is

11 (A) \$500,000 for a felony offense or for a misdemeanor offense
12 that results in death;

13 (B) \$200,000 for a class A misdemeanor offense that does not
14 result in death;

15 (C) \$25,000 for a class B misdemeanor offense that does not
16 result in death;

17 (D) \$10,000 for a violation;

18 (2) two times the pecuniary gain realized by the defendant as a result
19 of the offense; or

20 (3) two times the pecuniary damage or loss caused by the defendant to
21 another, or to the property of another, as a result of the offense.

22 * Sec. 5. AS 12.55 is amended by adding a new section to read:

23 Sec. 12.55.036. DAY FINES. (a) Upon conviction of a misdemeanor, other
24 than a violation of AS 11.41, a defendant may be sentenced to pay a day fine as
25 authorized by this section. If a day fine is imposed under this section, the defendant
26 may not be sentenced to pay a fine under AS 12.55.035, serve a term of imprisonment,
27 or be placed on probation.

28 (b) The Alaska Supreme Court shall adopt a day fine plan that includes

29 (1) an assessment of the gravity of all misdemeanor offenses, which
30 assessment shall include the existence of prior offenses, and the assignment of
31 presumptive penalties to them in day fine units, with a maximum presumptive penalty

1 of 365-day fine units;

2 (2) a schedule of the presumptive day fine penalties;

3 (3) procedures for a court to increase or decrease the presumptive day
4 fine penalties if the court finds the existence of an aggravating factor under
5 AS 12.55.155(c) or a mitigating factor under AS 12.55.155(d);

6 (4) a table for the conversion of a defendant's actual, potential, or
7 estimated gross income, less one-third for a defendant above the federal poverty
8 guideline as determined by the United States Department of Health and Human
9 Services, and less one-half for a defendant below the federal poverty guideline into net
10 daily income amounts; the table must include adjustments for the number of
11 dependents actually supported by the defendant;

12 (5) procedures for a court to gather information about the defendant's
13 occupation, actual, estimated, and potential income, number of dependents, and other
14 facts necessary or relevant to sentencing a person to a day fine; a court may order the
15 production of the financial or other records of a person it determines to be relevant to
16 a determination under this section; the procedures must include a requirement that the
17 facts shall be received

18 (A) under oath so that the defendant is subject to prosecution
19 under AS 11.56.200; or

20 (B) in a writing or recording that bears notice that false
21 statements made in it are punishable under AS 11.56.210; and

22 (6) other information the court determines to be necessary for
23 implementing the day fine plan.

24 (c) The amount of a day fine shall be the product of the net daily income of
25 the defendant, adjusted for the number of dependents actually supported by the
26 defendant, times the day fine penalty. When imposing a sentence of a day fine, the
27 court shall

28 (1) state on the record the

29 (A) presumptive day fine penalty for the offense, and whether
30 the court is adjusting the presumptive day fine penalty for the existence of
31 aggravating or mitigating factors;

1 (B) net daily income of the income of the defendant, adjusted
2 for the number of dependents actually supported by the defendant; and
3 (C) amount of the day fine;
4 (2) make written findings of the facts considered in
5 (A) finding the existence of aggravating or mitigating factors
6 and in assigning a value to those factors; and
7 (B) determining the defendant's gross and daily net incomes.
8 (d) When imposing a sentence of a day fine, the court may permit the payment
9 of the day fine in specified installments or within a certain period of time, provided
10 the entire day fine is paid within 180 days of imposition.
11 (e) A sentence imposing a day fine shall be considered a civil judgment for
12 the day fine. The Department of Law shall enforce the judgment and may utilize any
13 procedure available for the enforcement of civil judgments. If the Department of Law
14 uses the civil process of the court to enforce or collect a day fine, the department shall
15 be awarded costs and attorney fees.
16 (f) The Department of Corrections shall evaluate and annually report to the
17 legislature not later than February 1 on the use of day fines and their effectiveness.
18 The report must include
19 (1) a comparison of the number of defendants receiving a day fine as
20 a sentence with the number of other defendants, eligible to receive a day fine, who
21 receive another sentence;
22 (2) a comparison of the recidivism rates between defendants receiving
23 a day fine with other defendants,
24 (A) eligible for a day fine, who receive another sentence; and
25 (B) not eligible for a day fine, who receive another sentence;
26 (3) the potential savings to the state from the number of defendants,
27 who are eligible to receive a sentence of imprisonment, and who receive a day fine,
28 assuming those defendants would have been sentenced to a term of imprisonment;
29 (4) the amount of day fines collected, the success rate of collections,
30 and the number of cases requiring civil process to collect the day fine; and
31 (5) recommendations concerning expansion or restriction of the use of

1 day fines, including proposals for legislation.

2 * **Sec. 6. CHANGE OF CRIMINAL RULE.** AS 12.55.036, added by sec. 5 of this Act, has
3 the effect of modifying the sentencing provisions of Alaska Rules of Criminal Procedure 32,
4 by establishing procedures for imposition of sentences of day fines.

5 * **Sec. 7.** AS 12.55.036(f), as enacted by sec. 5 of this Act, is repealed February 2, 2003.

6 * **Sec. 8.** This Act takes effect July 1, 1993.