

**CS FOR HOUSE BILL NO. 119(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 4/8/93**  
**Referred: Finance**

**Sponsor(s): REPRESENTATIVES ULMER, B.Davis, Davies, Brown**

**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 Alaska Court System to report to the legislature on  
5 the use of day fines; amending Alaska Rule of Criminal Procedure 32; and  
6 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                                    **(B) a day fine when authorized by law and as provided in**  
2                                    **AS 12.55.036. If the court does not impose a term of periodic or continuous**  
3                                    **imprisonment or place the defendant on probation;**

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

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

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

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

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

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

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

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

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

21 \* Sec. 2. AS 12.55.035(a) is amended to read:

22                                    (a) **Except as provided in AS 12.55.036, upon** [UPON] conviction of an  
23 offense, a defendant may be sentenced to pay a fine as authorized in this section or as  
24 otherwise authorized by law.

25 \* Sec. 3. AS 12.55.035(b) is amended to read:

26                                    (b) **Except as provided in AS 12.55.036, upon** [UPON] conviction of an  
27 offense, a defendant who is not an organization may be sentenced to pay, unless  
28 otherwise specified in the provision of law defining the offense, a fine of no more than

29                                    (1) \$75,000 for murder in the first or second degree, attempted murder  
30 in the first degree, sexual assault in the first degree, sexual abuse of a minor in the  
31 first degree, kidnapping, or misconduct involving a controlled substance in the first

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 must include the existence of prior offenses, and the assignment of  
31 presumptive penalties to them in day fine units within the following ranges:

1 (A) for class A and unclassified misdemeanors, not to exceed  
2 365-day fine units;

3 (B) for class B misdemeanors, not to exceed 90-day fine units;  
4 (2) a schedule of the presumptive day fine penalties;

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

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

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

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

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

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

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

30 (1) state on the record the

31 (A) presumptive day fine penalty for the offense, and whether

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

- 1           and the number of cases requiring civil process to collect the day fine; and  
2                           (5) recommendations concerning expansion or restriction of the use of  
3           day fines, including proposals for legislation.
- 4    \* **Sec. 6. CHANGE OF CRIMINAL RULE.** AS 12.55.036, added by sec. 5 of this Act, has  
5    the effect of modifying the sentencing provisions of Alaska Rules of Criminal Procedure 32,  
6    by establishing procedures for imposition of sentences of day fines.
- 7    \* **Sec. 7.** AS 12.55.036(f), as enacted by sec. 5 of this Act, is repealed February 2, 2003.
- 8    \* **Sec. 8.** This Act takes effect July 1, 1993.