

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

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/21/93

Offered: 4/8/93

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

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 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 and 11.56.740, a defendant may be sentenced to pay a
25 day fine as authorized by this section. If a day fine is imposed under this section, the
26 defendant may not be sentenced to pay a fine under AS 12.55.035, serve a term of
27 imprisonment, 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.