

## HOUSE BILL NO. 484

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOTT

Introduced: 2/14/94

Referred: Judiciary, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act providing for a mandatory 99-year term of imprisonment without  
 2 possibility of good-time, parole, unsupervised furlough, or service at a correctional  
 3 restitution center when the defendant is convicted of certain first degree murders."

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

5 \* Section 1. AS 12.55.025(i) is amended to read:

6 (i) Except as provided by AS 12.55.125(k) [AS 12.55.125(a)(3), 12.55.125(k)],  
 7 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard  
 8 of proof applies to sentencing proceedings.

9 \* Sec. 2. AS 12.55.125(a) is amended to read:

10 (a) A defendant convicted of murder in the first degree shall be sentenced to  
 11 a definite term of imprisonment of at least 20 years but not more than 99 years. A  
 12 defendant convicted of murder in the first degree shall be sentenced to a mandatory  
 13 term of imprisonment of 99 years without the possibility of parole when

14 (1) the defendant is convicted of the murder of an active or former

1 law enforcement officer, prosecuting attorney, judicial officer, [A UNIFORMED  
2 OR OTHERWISE CLEARLY IDENTIFIED] peace officer, fire fighter, or correctional  
3 officer who was engaged in the performance of official duties at the time of the  
4 murder or because of the exercise of official duties;

5 (2) the defendant has been previously convicted of

6 (A) murder in the first degree under AS 11.41.100 or former  
7 AS 11.15.010 or 11.15.020;

8 (B) murder in the second degree under AS 11.41.110 or former  
9 AS 11.15.030; [OR]

10 (C) homicide under the laws of another jurisdiction when the  
11 offense of which the defendant was convicted contains elements similar to first  
12 degree murder under AS 11.41.100 or second degree murder under  
13 AS 11.41.110; or

14 (D) a felony offense of this state that involved the use of  
15 violence against a person or a violation of a law of another jurisdiction  
16 that contains elements similar to a felony offense of this state that involves  
17 the use of violence against a person; [OR]

18 (3) the defendant is convicted of the murder of the President of the  
19 United States or the governor of this state;

20 (4) [(3)] the court finds

21 (A) that the defendant's conduct

22 (i) manifested deliberate cruelty to the murder victim  
23 in that it involved substantial physical torture or an aggravated battery;

24 (ii) caused the death of two or more persons, other  
25 than accomplices; or

26 (iii) created a risk of imminent physical injury to  
27 three or more persons, other than accomplices; or

28 (B) the defendant

29 (i) committed the murder under an agreement that  
30 the defendant either pay or be paid for the commission of the murder, or  
31 for other pecuniary gain;

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(ii) was on release under AS 12.30.020 - 12.30.040 for another felony charge or conviction having assault as a necessary element;  
or

(iii) was a member of an organized group of five or more persons, and the murder was committed to further the criminal objectives of the group [BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT SUBJECTED THE MURDER VICTIM TO SUBSTANTIAL PHYSICAL TORTURE].

\* Sec. 3. AS 12.55.125(j) is amended to read:

(j) A defendant sentenced to a mandatory term of imprisonment of 99 years under (a) of this section before the effective date of this Act may apply for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010.

\* Sec. 4. AS 33.16.090(b) is amended to read:

(b) Except as provided in (e) of this section, a prisoner is not eligible for discretionary parole during the term of a presumptive sentence; however, a prisoner is eligible for discretionary parole during a term of sentence enhancement imposed under AS 12.55.155(a) or during the term of a consecutive or partially consecutive presumptive sentence imposed under AS 12.55.025(e) or (g). A prisoner sentenced to a mandatory 99-year term under AS 12.55.125(a) before, on, or after the effective date of this Act is not eligible for discretionary parole during the entire term.

\* Sec. 5. AS 33.20.010(a) is amended to read:

(a) Except as provided in (b) of this section and notwithstanding AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner convicted of an offense against the state or a political subdivision of the state and sentenced to a term of imprisonment that exceeds three days is entitled to a deduction of one-third of the term of imprisonment rounded off to the nearest day if the prisoner follows the rules of the correctional facility in which the prisoner is confined. A prisoner sentenced to a mandatory 99-year term of imprisonment without parole under AS 12.55.125(a)(1) - (4) on or after the effective date of this Act is not eligible for a good time

1        **deduction.**

2        \* **Sec. 6.** AS 33.30.101 is amended by adding a new subsection to read:

3                (c) The regulations adopted under (a) of this section may not provide for the  
4        granting of a furlough of any type to a prisoner sentenced to a mandatory 99-year term  
5        of imprisonment without parole under AS 12.55.125(a)(1) - (4) on or after the effective  
6        date of this Act unless the prisoner is at all times in the direct custody of a  
7        correctional officer while the prisoner is away from the correctional facility.

8        \* **Sec. 7.** AS 33.30.161(b) is amended to read:

9                (b) To be eligible to serve time in a correctional restitution center, the prisoner

10                (1) must be employable or eligible to work on community service  
11        projects approved by the commissioner and agree to secure employment or participate  
12        in community service projects and obey the rules of the center;

13                (2) may not be serving a sentence for conviction of an offense

14                        (A) involving violence or the use of force;

15                        (B) under AS 11.41.320, 11.41.330, or AS 11.56.740;

16                (3) may not have been convicted of a felony offense, in the state or  
17        another jurisdiction, involving violence or the use of force; [AND]

18                (4) may not have been convicted of an offense under AS 11.41.410 -  
19        11.41.470 or an offense in the state or another jurisdiction having elements  
20        substantially identical to an offense under AS 11.41.410 - 11.41.470; and

21                        (5) may not have been sentenced to a mandatory 99-year term of  
22        imprisonment without parole under AS 12.55.125(a)(1) - (4) on or after the  
23        effective date of this Act.