

SENATE BILL NO. 234

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS LEMAN, Halford

Introduced: 1/10/94
Referred: JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mandatory 99-year sentences, parole and furlough eligibility,
2 service of sentence at correctional restitution centers, and good time credit for
3 defendants with at least three felony convictions when the current conviction and
4 at least one of the prior convictions is for a most serious felony."

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

6 * Section 1. AS 12.55.125(c) is amended to read:

7 (c) A defendant convicted of a class A felony may be sentenced to a definite
8 term of imprisonment of not more than 20 years, and shall be sentenced to the
9 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
10 12.55.175:

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

13 (2) if the offense is a first feony conviction, other than for
14 manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or

1 caused serious physical injury during the commission of the offense, or knowingly
2 directed the conduct constituting the offense at a uniformed or otherwise clearly
3 identified peace officer, fire fighter, correctional officer, emergency medical technician,
4 paramedic, ambulance attendant, or other emergency responder who was engaged in
5 the performance of official duties at the time of the offense, seven years;

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

7 (4) if the offense is a third felony conviction and the defendant is not
8 subject to sentencing under (1) of this section, 15 years.

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

10 (d) A defendant convicted of a class B felony may be sentenced to a definite
11 term of imprisonment of not more than 10 years, and shall be sentenced to the
12 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
13 12.55.175:

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

15 (2) if the offense is a third felony conviction and the defendant is not
16 subject to sentencing under (1) of this section, six years;

17 (3) if the offense is a first felony conviction, and the defendant
18 knowingly directed the conduct constituting the offense at a uniformed or otherwise
19 clearly identified peace officer, fire fighter, correctional officer, emergency medical
20 technician, paramedic, ambulance attendant, or other emergency responder who was
21 engaged in the performance of official duties at the time of the offense, two years.

22 * Sec. 3. AS 12.55.125(e) is amended to read:

23 (e) A defendant convicted of a class C felony may be sentenced to a definite
24 term of imprisonment of not more than five years, and shall be sentenced to the
25 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
26 12.55.175:

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

28 (2) if the offense is a third felony conviction and the defendant is not
29 subject to sentencing under (1) of this section, three years;

30 (3) if the offense is a first felony conviction, and the defendant
31 knowingly directed the conduct constituting the offense at a uniformed or otherwise

1 clearly identified peace officer, fire fighter, correctional officer, emergency medical
2 technician, paramedic, ambulance attendant, or other emergency responder who was
3 engaged in the performance of official duties at the time of the offense, one year;

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

6 * Sec. 4. AS 12.55.125(i) is amended to read:

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

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

13 (2) if the offense is a first felony conviction, and the defendant
14 possessed a firearm, used a dangerous instrument, or caused serious physical injury
15 during the commission of the offense, 10 years;

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

17 (4) if the offense is a third felony conviction and the defendant is not
18 subject to sentencing under (l) of this section, 25 years.

19 * Sec. 5. AS 12.55.125 is amended by adding a new subsection to read:

20 (l) Notwithstanding any other provision of law, a defendant convicted of a
21 felony offense shall be sentenced to a mandatory term of imprisonment for 99 years
22 without the possibility of parole if the defendant has been previously convicted of two
23 or more felony offenses and if the current felony conviction and at least one of the
24 prior felony convictions is for a most serious felony offense. If a defendant is
25 sentenced to a mandatory 99-year sentence under this section,

26 (1) imprisonment for the prescribed mandatory term may not be
27 suspended under AS 12.55.080;

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

29 (3) imprisonment for the prescribed mandatory term may not otherwise
30 be reduced.

31 * Sec. 6. AS 12.55.145 is amended by adding a new subsection to read:

1 (f) For purposes of considering prior convictions in imposing sentence under
2 AS 12.55.125(l)

3 (1) a conviction of an offense defined as a most serious felony is a
4 prior most serious felony conviction;

5 (2) a conviction in this or another jurisdiction of an offense having
6 elements similar to those of a most serious felony is considered a prior most serious
7 felony conviction;

8 (3) two or more convictions arising out of a single, continuous criminal
9 episode during which there was no substantial change in the nature of the criminal
10 objective are considered a single conviction unless the defendant was sentenced to
11 consecutive sentences for the crimes; offenses committed while attempting to escape
12 or avoid detection or apprehension after the commission of another offense are not part
13 of the same criminal episode or objective.

14 * Sec. 7. AS 12.55.185 is amended by adding a new paragraph to read:

15 (14) "most serious felony" means any of the following felonies or a
16 felony attempt to commit any of the following felonies:

17 (A) any unclassified or class A felony prescribed under AS 11
18 or criminal solicitation of an unclassified or class A felony prescribed under
19 AS 11;

20 (B) assault in the second degree;

21 (C) sexual assault in the second degree;

22 (D) sexual abuse of a minor in the second degree;

23 (E) unlawful exploitation of a minor;

24 (F) robbery in the second degree;

25 (G) extortion.

26 * Sec. 8. AS 33.16.090(b) is amended to read:

27 (b) Except as provided in (e) of this section, a prisoner is not eligible for
28 discretionary parole during the term of a presumptive sentence; however, a prisoner
29 is eligible for discretionary parole during a term of sentence enhancement imposed
30 under AS 12.55.155(a) or during the term of a consecutive or partially consecutive
31 presumptive sentence imposed under AS 12.55.025(e) or (g). A prisoner sentenced to

1 a mandatory 99-year term under AS 12.55.125(a) or (l) is not eligible for discretionary
2 parole during the entire term.

3 * Sec. 9. AS 33.20.010(a) is amended to read:

4 (a) Except as provided in (b) of this section and notwithstanding
5 AS 12.55.125(f)(3) and 12.55.125(g)(3), a prisoner convicted of an offense against the
6 state or a political subdivision of the state and sentenced to a term of imprisonment
7 that exceeds three days is entitled to a deduction of one-third of the term of
8 imprisonment rounded off to the nearest day if the prisoner follows the rules of the
9 correctional facility in which the prisoner is confined. A prisoner sentenced to a
10 mandatory 99-year term of imprisonment under AS 12.55.125(l) is not eligible for
11 a good time deduction.

12 * Sec. 10. AS 33.30.101 is amended by adding a new subsection to read:

13 (c) The regulations adopted under (a) of this section may not provide for the
14 granting of a furlough of any type to a prisoner sentenced to a mandatory 99-year term
15 of imprisonment under AS 12.55.125(l) unless the prisoner is at all times in the direct
16 custody of a correctional officer while the prisoner is away from the correctional
17 facility.

18 * Sec. 11. AS 33.30.161(b) is amended to read:

19 (b) To be eligible to serve time in a correctional restitution center, the prisoner
20 (1) must be employable or eligible to work on community service
21 projects approved by the commissioner and agree to secure employment or participate
22 in community service projects and obey the rules of the center;
23 (2) may not be serving a sentence for conviction of an offense
24 (A) involving violence or the use of force;
25 (B) under AS 11.41.320, 11.41.330, or AS 11.56.740;
26 (3) may not have been convicted of a felony offense, in the state or
27 another jurisdiction, involving violence or the use of force; [AND]
28 (4) may not have been convicted of an offense under AS 11.41.410 -
29 11.41.470 or an offense in the state or another jurisdiction having elements
30 substantially identical to an offense under AS 11.41.410 - 11.41.470; and
31 (5) may not have been sentenced to a mandatory 99-year term of

1

imprisonment under AS 12.55.125(l).