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Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 253 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to jury service."

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

8 * Section 1. AS 09.20.030 is amended to read:

9 Sec. 09.20.030. EXEMPTIONS. A person may claim exemption and may
10 be excused from service as a juror if it is shown that ~~[JURY SERVICE~~
11 ~~WILL CAUSE HIM TO SUFFER MATERIAL INJURY OR DESTRUCTION TO HIS PROPERTY~~
12 ~~OR TO THE PROPERTY ENTRUSTED TO HIM, OR IF]~~ his health, the health or
13 proper care of his family, ~~or a permanent physical or mental disabili-~~
14 ~~ty, [THE SICKNESS OR DEATH OF A MEMBER OF HIS FAMILY]~~ ^{or substantial hardship to himself or others for any reason} makes it neces-
15 sary for him to be excused [, OR IF HE IS

16 ~~(1) A JUDICIAL OFFICER;~~

17 ~~(2) ANY OTHER CIVIL OFFICER OF THE STATE OR UNITED STATES~~
18 ~~WHOSE DUTIES ARE AT THE TIME INCONSISTENT WITH HIS ATTENDANCE OR SERVICE~~
19 ~~AS A JUROR;~~

20 ~~(3) AN ATTORNEY;~~

21 ~~(4) A MINISTER OF THE GOSPEL OR PRIEST OF ANY DENOMINATION;~~

22 ~~(5) A TEACHER IN A UNIVERSITY, COLLEGE, ACADEMY, OR SCHOOL;~~

23 ~~(6) A PRACTICING PHYSICIAN;~~

24 ~~(7) A PRACTICING DENTIST].~~

25 * Sec. 2. AS 09.20 is amended by adding a new section to read:

26 Sec. 09.20.035. DEFERRAL OF JURY SERVICE. A person may have his
27 jury service deferred if he shows that jury service at the time for
28 which he is summoned will cause hardship to himself or others, or that
29 transportation problems make it temporarily impossible for him to

1 serve. Jury service may be deferred under this section only if a
2 deferred date for jury service is agreed to in writing by the person
3 seeking the deferment, ^{unless ordered by the court for good cause shown.} Jury service may not be deferred for more than
4 10 months from the date the initial jury service was to begin.
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TWELFTH LEGISLATURE - FIRST SESSION

House Bill 255

Proposed amendment by the Alaska Court System offered March 19, 1981 to the House Judiciary Committee:

(c) Any person, business, corporation, ~~municipality or other~~ ~~political subdivision of the state~~, approved by a court to administer or supervise a community work plan or program, shall be immune from liability for any damages to other persons caused by an intentional or negligent act of a person while he is performing such community work by order of a court under this section. Damages to other persons caused by an intentional ^{or negligent act of a person} work by order of a court under this section shall be indemnified by the state.

Introduced: 3/4/81
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE
BY REQUEST

2 HOUSE BILL NO. 255

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the liability of the state for
7 damages caused by persons who are performing community
8 work while under court order; and providing for an
9 effective date."

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

11 * Section 1. AS 12.55.055 is amended by adding a new subsection to read:

12 (c) The state is liable for damages to other persons caused by an
13 intentional or negligent act of a person while he is performing commun-
14 ity work by order of a court under this section.

15 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
16 070(c).

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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 254
 Title Relating to Jurors and Jury Panels
 Requested by House Judiciary Committee Date 3-10-81

II. FISCAL DETAIL

Agency Affected _____ Revenue _____
 Program Category Affected _____ General Government _____
 BRU, Program, or Subprogram(s) Affected Administrative Support, Management Services
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

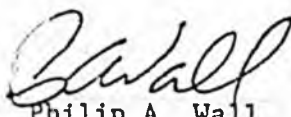
POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A small cost is involved to process the Permanent Fund Dividend file and produce the list of persons who filed for a distribution of Alaska permanent fund income under AS 43.23.

This cost can be met from existing resources.

IV. DATE 3-10-81 PREPARED BY 
 AGENCY Revenue
 PHONE 465-2313

Original: Legislative Finance
 cc: Budget and Management,
 Prime Sponsor (First Legislator Named)

Chapter 20. Trial.

Article

- 1. Jurors (§§ 09.20.010—09.20.100)
- 2. Witnesses (§§ 09.20.110—09.20.180)

Article 1. Jurors.

Section

- 10. Qualification of jurors
- 20. Disqualification of jurors
- 25. Limitation on jury service
- 30. Exemptions
- 40. Compliance with statute
- 50. Jury list

Section

- 60. Use of jury box
- 70. Public drawing for jurors for panel
- 80. Jury panel
- 90. Inpaneling the trial jury
- 100. Verdicts

Sec. 09.20.010. Qualification of jurors. A person is qualified to act as a juror if he is

- (1) a citizen of the United States;
- (2) a resident of the state;
- (3) at least 19 years of age;
- (4) of sound mind;
- (5) in possession of his natural faculties; and
- (6) able to read or speak the English language. (§ 2.01 ch 101 SLA 1962; am § 3 ch 245 SLA 1970)

Cross reference. — See Civ. R. 47(c).

Legislative committee report. — Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6.

To define the qualification of jurors and prescribe the mode of their selection is a rightful subject of legislation. *Tynan v. United States*, 297 F. 177 (9th Cir.), cert. denied, 266 U.S. 604, 45 S. Ct. 91, 69 L. Ed. 463 (1924).

Quoted in *City of Kotzebue v. Ipa-look*, Sup. Ct. Op. No. 588 (File No. 1033), 462 P.2d 75 (1969).

Am. Jur., ALR and C.J.S. refer-

ences.—31 Am. Jur., Jury, §§ 67 to 101, 121 to 145.

Unfamiliarity with English as affecting competency of juror, 34 ALR 194.

Effect of exclusion of women from jury list, 52 ALR 922.

Intelligence or character test of qualifications of juror, 126 ALR 507.

Religious test of qualifications of juror, 126 ALR 526.

Loyalty test of qualifications of juror, 126 ALR 529.

Women as jurors, 157 ALR 561.

Deafness of juror as ground for impeaching verdict; waiver of objection thereto, 15 ALR2d 534, 537.

50 C.J.S. Juries §§ 134 to 152.

Sec. 09.20.020. Disqualification of jurors. A person is disqualified to act as a juror if he

- (1) has served as a juror in the state within one year of his time of examination for service;
- (2) has been convicted of a felony and his civil rights have not been restored. (§ 2.02 ch 101 SLA 1962)

Cross reference. — See Civ. R. 47(c).

ALR and C.J.S. references.—Criminal charge or conviction as disqualifying juror, 126 ALR 518.

Removal by executive of disqualif-

cation resulting from conviction of crime as applicable in case of conviction in federal court or court of another state, 135 ALR 1493.

Governing laws as to existence or character of offense for which one

has been convicted in a federal court or court of another state, as bearing upon disqualification to sit on jury, 50 C.J.S. Juries §§ 153, 154.
175 ALR 805.

Sec. 09.20.025. Limitation on jury service. No person may be required to serve more than three months as a juror during any consecutive two-year period. However, if a person is serving as a juror at the conclusion of the three months period, he shall complete the trial then in progress. (§ 1 ch 147 SLA 1968)

Legislative committee report.—For 548 am S), see 1968 House Journal, report on ch. 147, SLA 1968 (CSHB p. 497.

Sec. 09.20.030. Exemptions. A person may claim exemption and may be excused from service as a juror if it is shown that jury service will cause him to suffer material injury or destruction to his property or to the property entrusted to him, or if his health, the health or proper care of his family, or the sickness or death of a member of his family makes it necessary for him to be excused, or if he is

- (1) a judicial officer;
- (2) any other civil officer of the state or United States whose duties are at the time inconsistent with his attendance or service as a juror;
- (3) an attorney;
- (4) a minister of the gospel or priest of any denomination;
- (5) a teacher in a university, college, academy, or school;
- (6) a practicing physician;
- (7) a practicing dentist. (§ 2.03 ch 101 SLA 1962; am § 1 ch 8 SLA 1964)

Cross reference.—See Civ. R. 47. officers as jurors in criminal cases, 140 ALR 1183.
ALR and C.J.S. references. — Police officers or other law enforcement 50 C.J.S. Juries § 153.

Sec. 09.20.040. Compliance with statute. The selection of jurors shall be made in substantial compliance with the following provisions. A failure in substantial compliance which prejudices the rights of a party is reversible error. (§ 2.04 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47.

Sec. 09.20.050. Jury list. (a) At such times as need may require, but not later than March 15 of each year, the administrative director of courts shall prepare for each judicial district a list of the names of the residents of the district who are qualified by law for jury service. If the superior court is located in different cities in the same judicial district, the administrative director shall prepare for each location of the court a list of the names of the qualified residents of that portion of the district considered by him to be appropriate.

(b) The jury list shall be based on a list of all persons who pur-

chased a resident trapping, hunting or fishing license during the preceding calendar year which showed an Alaskan address (to be prepared by the Department of Fish and Game), a list of all persons who filed a state income tax return during the preceding calendar year which showed an Alaskan address (to be prepared by the Department of Revenue), and a list of all persons who have registered to vote in this state (to be prepared by the lieutenant governor). The departments and the lieutenant governor shall submit their respective files to the Department of Administration not later than January 15 of each year. To the extent that it is available, the files submitted by the departments and the lieutenant governor shall contain the following information for each person on the list for the preceding calendar year: his first name, middle initial, and last name; his residence address as well as his mailing address, including the zip code for each; his social security number; his birth date; and the number of years and months he has been a resident of the state. The files submitted by the departments and the lieutenant governor shall be recorded on magnetic tape compatible with Department of Administration data processing equipment.

(c) A copy of the appropriate portion of the jury list shall be transmitted only to each district judge and each superior court judge, and shall only be used to summon jurors and for other state governmental purposes. A questionnaire for prospective jurors may be adopted and submitted to them by the administrative director of courts. (§ 2.05 ch 101 SLA 1962; am § 3 ch 24 SLA 1966; am § 1 ch 67 SLA 1969; am § 1 ch 10 SLA 1971)

Cross references.—See Civ. R. 47. See AS 22.10.030 and note thereto.

Legislative committee report.—For report on ch. 10, SLA 1971 (SCS CSHB 48 am S), see 1971 House Journal, p. 78.

Constitutionality.—There is nothing to indicate that under the voting list method of selection a fair cross section of the community is not represented, and that there is a systematic and intentional exclusion of a particular, cognizable group of persons. *Green v. State*, Sup. Ct. Op. No. 592 (File No. 1177), 462 P.2d 994 (1969).

Meeting constitutional standard in jury selection.—The constitutional standard for jury selection will be met if prospective jurors are drawn from a fair cross section of the community. *Green v. State*, Sup. Ct. Op. No. 592 (File No. 1177), 462 P.2d 994 (1969); *Alvarado v. State*, Sup. Ct. Op. No. 704 (File No. 1230), 486 P.2d 891 (1971).

Legislative intent.—If the legislature had intended that a new list be prepared under the 1969 amendment on or immediately after the effective date of that amendment, it could easily have indicated its intent in this regard. *Green v. State*, Sup. Ct. Op. No. 592 (File No. 1177), 462 P.2d 994 (1969).

A determination of the method for selecting juries is a matter within the legislative prerogative. *Green v. State*, Sup. Ct. Op. No. 592 (File No. 1177), 462 P.2d 994 (1969).

Jury selection in Alaska is regulated by statute and rules of procedure. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

This section provides for expansion of sources from which jury lists are compiled. *Alvarado v. State*, Sup. Ct. Op. No. 704 (File No. 1230), 486 P.2d 891 (1971).

The jury is an essential institution

of the community. *Alvarado v. State*, Sup. Ct. Op. No. 704 (File No. 1230), 486 P.2d 891 (1971).

Selection of grand and petit jurors.—The provisions of this section and §§ 60 and 70 of this chapter permit each district to determine for itself questions pertaining to the selection of grand and petit jurors. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

Jury selection procedures designed to insulate process from biases of officials.—Alaska's random and public jury selection procedures are designed to insulate the selection process from the personal interests and biases of governmental officials. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Mere claim of benefit did not sug-

Sec. 09.20.060. Use of jury box. The clerk of the court shall write the names included in the list on separate pieces of paper or prepare metal, plastic, or other types of pieces to correspond to numbers on the jury list. As directed by the court, he shall deposit the named or numbered pieces in the jury box in a number and manner to assure a fair and impartial drawing of the jury panel. The jury box and the named or numbered pieces may be examined by the parties or by an attorney authorized to practice law in the state within limitations and under conditions prescribed by the court. (§ 2.06 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47.

Jury selection procedures designed to insulate process from biases of officials.—Alaska's random and public jury selection procedures are designed to insulate the selection process from the personal interests and biases of governmental officials. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Mere claim of benefit did not suggest officials biased.—The mere claim that officials conducting proceedings for selecting jurors which composed a condemnation trial panel stood to benefit from the construction of a new courthouse in no way suggested

Sec. 09.20.070. Public drawing for jurors for panel. Under the direction of the court the clerk shall conduct the public drawing of jurors for the panel by shaking the box to mix the named or numbered pieces. The clerk shall then draw as many names or numbers as are ordered by the court to fill the jury panel. If the name or number of a person is drawn from the box and the person is deceased, unqualified, disqualified, or the person's atten-

gest officials biased.—The mere claim that officials conducting proceedings for selecting jurors which composed a condemnation trial panel stood to benefit from the construction of a new courthouse in no way suggested that those officials harbored any personal interest or bias against owners whose lots were to be condemned for the construction. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Presumption that official duty has been regularly performed.—See *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Stated in *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

C.J.S. reference.—50 C.J.S. Juries § 157.

that those officials harbored any personal interest or bias against owners whose lots were to be condemned for the construction. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Presumption that official duty has been regularly performed.—See *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Stated in *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

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dance cannot be obtained within a reasonable time or may involve a large and unnecessary expense, and the fact appears to the satisfaction of the court through the use of questionnaires or otherwise, the court may reject the name of that person and direct that the name or number of another be drawn in his place. (§ 2.07 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47.

Constitutionality. — This section is not violative of Alaska Const., art. 1, § 11. *West v. State*, Sup. Ct. Op. No. 319 (File No. 572), 409 P.2d 847 (1966).

Names of persons for the jury panel are randomly selected from the jury list by the court clerk at a public drawing. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Summoning jurors from less than entire judicial district is discretionary.—The question of how the superior court is to make the decision as to whether jurors should be summoned from less than the entire judicial district is for the court to determine in its discretion. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

The legislature has given to the superior court the power to determine whether jurors should be summoned from less than the entire judicial district. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

And expense is standard which guides court.—The standard which guides the court in making a determination as to whether jurors should be summoned from less than the entire judicial district is whether a large and unnecessary expense is involved in obtaining jurors from all parts of the district. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

Selecting only jurors residing within 30 miles of trial site held proper.—See *West v. State*, Sup. Ct. Op. No. 319 (File No. 572), 409 P.2d 847 (1966).

A grand jury selected from the city of Anchorage and an area within a 16-mile radius of the city is a jury which satisfies proper standards of jury selection. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

The policy of calling jurors only from an area within a 15-mile radius of the city of Anchorage does not result in the exclusion from jury service of any particular and defined stratum of society so as to detract from the broad base that the jury system is designed to have. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

It is not required that there be equal representation on juries of every economic, social, religious, racial, political and geographical group of the entire judicial district in order to maintain the broad base that the jury system is designed to have. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

Jury selection procedures designed to insulate process from biases of officials.—Alaska's random and public jury selection procedures are designed to insulate the selection process from the personal interests and biases of governmental officials. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Mere claim of benefit did not suggest officials biased.—The mere claim that officials conducting proceedings for selecting jurors which composed a condemnation trial panel stood to benefit from the construction of a new courthouse in no way suggested that those officials harbored any personal interest or bias against owners whose lots were to be condemned for the construction. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Presumption that official duty has been regularly performed.—See *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Quoted in *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

Cited in *Green v. State*, Sup. Ct. Op. No. 592 (File No. 1177), 462 P.2d 994 (1969).

Sec. 09.20.080. Jury panel. The jury panel for the trial of civil

cases consists of at least 24 jurors or more as determined by the court. If at any time the number of jurors on the panel falls below 24 or the regular panel is exhausted, the court shall order the clerk to complete the panel or secure additional jurors by drawing sufficient names from the jury box. (§ 2.08 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47.

The law does not require the drawing of 24 names of those on the jury panel in impaneling a trial jury, but only, as provided by AS 09.20.090, a number "sufficient to name a jury of 12 unless the court directs otherwise." *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

Waiver of right to challenge sufficiency of jury panel.—Where party participated in the selection of the jury and said nothing as to the panel being insufficient until after the jury had been selected and sworn, this constituted a waiver of whatever right such party may have had to challenge the sufficiency of the jury panel. *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

Jury selection procedures designed to insulate process from biases of of-

Sec. 09.20.090. Impaneling the trial jury. When a civil case which is to be tried by a jury is called for trial, the clerk shall draw from the trial jury box containing the names of those on the jury panel a number of names or numbers sufficient to name a jury of 12 unless the court directs otherwise. The prospective jurors shall be examined, challenged, and sworn as provided by rules of the supreme court. (§ 2.09 ch 101 SLA 1962)

Cross references.—See Civ. R. 47. See note to AS 09.20.080.

Sec. 09.20.100. Verdicts. In a civil case tried by a jury in any court, whether of record or not, not less than five-sixths of the jury may render a verdict, which is entitled to the legal effect of a unanimous verdict at common law. Special verdicts need not be concurred in by the same jurors. (§ 2.10 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47. Legislative committee report. — For legislative committee report on original bill, see 1959 House Journal, pp. 644, 905.

Stated in *Khalili v. Pan American Petroleum Corp.*, 49 F.R.D. 22 (D. Alas. 1969).

ALR and C.J.S. references.—State statute permitting verdicts by less

than twelve jurymen as applicable to action under Federal Employer's Liability Act, 12 ALR 713; 36 ALR 919.

Quotient verdict, 52 ALR 41.

Verdict as affected by agreement in advance among jurors to abide by less than unanimous vote, 73 ALR 93.

89 C.J.S. Trial §§ 486, 487.

officials.—Alaska's random and public jury selection procedures are designed to insulate the selection process from the personal interests and biases of governmental officials. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Mere claim of benefit did not suggest officials biased.—The mere claim that officials conducting proceedings for selecting jurors which composed a condemnation trial panel stood to benefit from the construction of a new courthouse in no way suggested that those officials harbored any personal interest or bias against owners whose lots were to be condemned for the construction. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Presumption that official duty has been regularly performed.—See *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

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For cases construing former statute directing imprisonment on judgment for payment of fine, see *Williams v. Illinois*, 399 U.S. 235, 90 S. Ct. 2018, 26 L. Ed. 2d 586 (1970); *Hood v. Smedley* Sup. Ct. Op. No. 800 (File No. 1406), 498 P.2d 120 (1972).

Sec. 12.55.055. Community work. (a) The court may order a defendant convicted of an offense to perform community work as a condition of a suspended sentence or suspended imposition of sentence, or in addition to any fine or restitution ordered. If the defendant is also sentenced to imprisonment, the court may recommend to the Department of Health and Social Services that the defendant perform community work.

(b) Community work includes work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public lands, forests, parks, roads, highways, facilities, or education. Community work may not confer a private benefit on a person except as may be incidental to the public benefit. (§ 12 ch 166 SLA 1978)

Secs. 12.55.060 — 12.55.075.

Repealed by § 21 ch 166 SLA 1978.

Cross references. — For provisions as to sentencing reports, see AS 12.55.025. As to sentences of imprisonment for felonies, see AS 12.55.125. As to sentences of imprisonment for misdemeanors, see AS 12.55.135.

Editor's note. — The repealed sections derived from §§ 8.06, 8.07, ch. 34, SLA 1962; § 1, ch. 6, SLA 1966; § 1, ch. 60, SLA 1974.

Sec. 12.55.080. Suspension of sentence and probation. Upon entering a judgment of conviction of a crime, or at any time within 60 days from the date of entry of that judgment of conviction, a court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution or balance of the sentence or a portion thereof, and place the defendant on probation for a period and upon the terms and conditions as the court considers best. (§ 8.08 ch 34 SLA 1962; am § 24 ch 43 SLA 1964; am § 8 ch 68 SLA 1965)

Cross references. — See Cr. R. 35 (k). For additional circumstances where a defendant's sentence may be modified, see AS 12.55.088.

The power to suspend sentence is not inherent in the judicial branch of government. *Pete v State*, Sup. Ct. Op. No. 137 (File No. 290), 379 P.2d 625 (1962).

Such power must be conferred by the legislature. — The power to suspend sentences exists only when conferred upon the judiciary by the legislature. *Pete v. State*, Sup. Ct. Op. No. 137 (File No. 290), 379 P.2d 625 (1963).

Parallels 18 U.S.C. § 3651. — Alaska's probation statutes, this section, AS 12.55.090 and AS 12.55.100 closely parallel the federal statute, 18 U.S.C. § 3651, which empowers federal district courts to grant probation. *Brown v. State*, Sup. Ct. Op. No. 1367 (File No. 2890), 559 P.2d 107 (1977)

This section and AS 12.55.090 appear to have been modeled after the federal statute, 18 U.S.C. § 3651. *Tiedeman v. State*, Sup. Ct. Op. No. 1592 (File No. 3394), 576 P.2d 114 (1978).

The Alaska probation statutes, this section, AS 12.55.090 and 12.55.100, use