

H B

371

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to attempted murder in the first degree."
Sponsor: Rep. Hanley, Barnes, etc.
Requestor: _____

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Division of Administrative Services Date: 3-16-88
Approved by Commissioner: Susan Humphrey-Barneff Date: 3-16-88
Agency: Department of Corrections

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HHESS

3-15-88

8:30 a.m.

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/18/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 3-16-88

The Health, Education and Social Services Committee has considered HB 371

"An Act relating to attempted murder in the first degree."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] no rec

[Signature] no rec

[Signature] no rec

[Signature]
Chairman's signature

[Signature]

HB 371 Briefing Packet

TABLE OF CONTENTS

I. HB 371

II. Letters of Support

- * Lt. Shirley Warner, Vice President
Alaska Peace Officers Association
- * Lt. Mike Nielsen, Fairbanks Police Dept.
"Salgado seeks reduced sentence",
Fairbanks Daily News Miner

III. Newspaper and Magazine Articles

- * "Doctors tell grim story of child's
abuse", Anchorage Daily News
- * "Woman's children often hurt", Anchorage
Daily News
- * "Judge takes kids away from mom",
Anchorage Daily News
- * "Father gets 26 years", Anchorage Daily
News
- * "Couple charged with abuse of infant
who's left in coma", Anchorage Daily News

IV. Terms of Imprisonment and Authorized Fines
in Revised Criminal Code

V. Attorney General Memo and Analysis dated
January 8, 1985, addressing attempted murder
and solititation for murder

ALASKA PEACE OFFICERS ASSOCIATION

DDC Coordinator
P.O. Box 240106
Anchorage, AK
99524-0106
(907) 786-1807



State APOA Office
P.O. Box 240106
Anchorage, AK
99524-0106
(907) 786-1807



January 19, 1988

Representative Alyce Hanley
P.O. Box V
Juneau, Alaska 99811

Dear Alyce,

I enjoyed our conversation in your office while I was in Juneau. Thank you for taking the time to talk with me. I hope you find our position statement to be helpful.

Let me confirm that I know there is no one in Juneau more supportive of law enforcement than you and we appreciate that.

I spoke with the Board of Directors about the sentence for Attempted Murder. I can safely say that for the examples given (Pfeil, had he lived, and the little girl who is now basically a vegetable) they felt 20 years was not enough. There was no consensus on the ending time (50, 60, 99, open ended). I suppose whatever you develop from your research you can count on our support.

I am more than willing to contact the APOA Chapter Presidents for them to poll their memberships for cases where attempted murder were, or could have been charged. I will also ask them about cases involving a solicitation to commit murder.

If there is any more I can do to help the passage of the bills the "coalition" has outlined, or with the bills you sponsor please call.

Sincerely,

Lt. Shirley A. Warner
Vice President, APOA
766-8856

8 FEB 88

The Honorable Alyce Hanley
Alaska State Representative
P.O. Box V
Juneau, AK 99811



Dear Representative Hanley:

Lt. Shirley Warner of Anchorage Police Department has asked law enforcement officers to send you information concerning sentencings of attempted and solicitation of murder.

I worked the investigation concerning Dr. Salgado's hiring of a drug addict to kill Dr. Martino. The enclosed article from the Fairbanks Daily News Minor may be of some value to you. As you can see, this man who had a great deal of public trust and confidence, will once again prey on the unsuspecting public if released after serving only five years. That is a very short time for the heinous crime he committed.

Please call me if I can be of any further assistance. The complete case report (FPD C# 83-18178), is available if necessary.

Sincerely,

Mike A. Nielsen

Mike A. Nielsen, Lieutenant
Fairbanks Police Department
(907) 459-5500

656 7th Aven

Enclosure:

Fairbanks AK 99701

Fairbanks Daily News Miner

Salgado seeks reduced sentence

880116

By KRIS CAPPS

Staff Writer

Fernando Salgado, a former Fairbanks neurologist, incarcerated for nearly four years for trying to arrange the murder of a rival neurologist in 1983, asked this week to have his sentence of 10 years without parole reduced.

The judge agreed to allow him parole eligibility at the discretion of the parole board, based on a 1986 change in state law. The law, which went into effect after Salgado's sentencing but which can be legally applied to his case, allows for automatic parole eligibility for consecutive sentences.

Salgado, 48, was sentenced to two consecutive five-year sentences without parole. He must serve the first five years of his sentence before he can meet Parole Board guidelines.

Salgado, 48, who was also a neurologist here, was convicted in 1984 of hiring one of his drug-addict patients to kill Dr. Ronald Martino, the other neurologist in town. He was also convicted of giving the hit man prescription drugs as payoff for the intended murder.

The hit man never did kill Martino. Instead, he secretly recorded conversations of he and Salgado discussing the contract murder, and eventually notified authorities.

As a result of the conviction, Salgado's license to practice medicine was permanently revoked on April 19, 1985.

According to letters written to Superior Court Judge Jay Hodges, which are now part of Salgado's public court file, Salgado says he is anxious to return to Spain upon his release.

"I am very tired, almost exhausted, from being incarcerated for such a long time," Salgado wrote in a March 1987 letter.

He said authorities at Hiland Mountain Correctional Center gave him a little corner of the jail greenhouse as a painting studio and he has become a serious artist since his incarceration. He said he has painted 121 oil paintings and sold every one of them.

He said he keeps his own piano in one of the classrooms and is allowed to keep a pet cat, which he occasionally is also allowed to take to cat shows.

"Just last Sunday, I took him to a cat show held at the Armory in Anchorage where he won 10 ribbons, all first place," Salgado wrote.

He also worked as program assistant to inmates in the jail's sex-offender program.

"For over two years now, I have been longing to return to Spain to

see my family and to live there for the remainder of my life," Salgado wrote. "If for some reason I do not enjoy living in my Native land, I might relocate to Argentina where I have many friends."

At this week's hearing, Salgado was described as a model prisoner who is currently assigned to a half-way house.

Defense Attorney Bill Bryson said Salgado refers to his criminal offense as "his crazy period." He also said Salgado promised never to get in that delusional state again.

Larson to appear in benefit-concert

The Farthest North Chapter of the Alaska Peace Officers Association will present the Nitty Gritty Dirt Band and Nicolette Larson in concert May 7 for two shows at Hering Auditorium. Representatives of the association will be telephoning local businesses to sell advertising and tickets. Tickets can be ordered by calling 451-8577.

Proceeds from the shows will benefit area organizations such as youth hockey, basketball and football teams, the Boy and Girl Scouts, Women in Crisis Counseling and Assistance, and two college scholarships.

Metro Saturday

SECTION

C

Anchorage Daily News Saturday, November 1, 1964

Doctors tell grim story of child's abuse

By SHERA TOOMEY
Daily News reporter

Tina Sweetin's brain is drunken and blunted, like the brain of a 95-year-old woman who never learned to walk or talk or feed herself or control her bladder.

Tina will be 2 in January. Her father, Jimmy, has been convicted of fracturing her skull, of nearly drowning her, of turning her from an ordi-

nary baby into a twilight being — blind, retarded, permanently brain damaged, unlikely to ever be able to take care of herself.

Tina was Exhibit A Friday at the first of three court hearings to consider how much time Jimmy Sweetin should spend in jail for what he did. And whether the child's mother, Margaret Sweetin, should do any time

at all for not taking the baby to a doctor.

Tina squalled and fretted as pediatrician Jeff Brand inventoried for Superior Court Judge Seaborn Buckalew the outward signs of her inner damage — sightless eyes, permanently clenched thumbs, abnormal reflexes. Buckalew, a tall, distinguished looking grandfather, came down from the bench and watched with

arms folded across his black robe as the prosecution table became an impromptu examining table.

Brand told the judge that Tina is probably also deaf, but her foster mother says she can tell voices apart, so maybe not.

The demonstration didn't last very long. "I think I've seen enough," said Buckalew, looking grim, as he has every-

time this case has come before him.

Of three particularly horrible child abuse cases taken before a grand jury in March by Anchorage District Attorney Victor Krumm, Tina is the only victim not expected to heal. The two other children had broken bones and burns, but escaped brain damage. Their abusers have also been convicted and are await-

ing sentencing.

On June 29 Jimmy Sweetin, 25, pleaded no contest to three counts of assault and one count of failing to get medical aid for his child. The complaint against him says he admitted holding Tina by her ankles when she was about a year old and dropping her two feet to the floor on her

See Page C-3 ABUSED

Mat-Su assembly turns to the right after fall elections

By CHRIS OEIGER
Daily News reporter

PALMER — The Matanuska-Susitna Borough Assembly has veered onto a new course since this fall's elections, setting sail under a more pro-development and regulation philosophy, according to some members of the new assembly majority.

Some effects of the change have already been observed.

Steve Cyra and John Musgrove have generally made up the opposition. By neither Strawn nor Musgrove ran for reelection this season, and the two new assemblymen — Fred Lloyd and Gary Silvers — seem to fall in step with Palmquist and Holmes.

At last week's assembly meeting, the first with the new majority, Palmquist asked the borough staff to develop a plan for the public

N
O
V



ABUSED CHILD: Brain damage is permanent

Continued from Page C-1

head, apparently to stop her crying.

He also has admitted to burning her with the heating element of an electric frying pan.

But it was his holding her under water in the bathtub. It was the near drowning on March 6 that deprived her brain of oxygen for more than five minutes and did massive cerebral damage, the doctors explained Friday.

Lack of oxygen causes the brain to swell, said radiologist Richard Hill. But the brain is in an enclosed space. When it swells, blood vessels get crushed and "then the cells die because they don't get enough blood or oxygen." Tina's brain has shrunk to the size it would be if it had been used for 95 years, he said.

Sweetin told police he put Tina under water — not for very long — to clean her after she spit up on herself.

Tina will soon be 2, but she is less developed than an average 8-month-old, said Brand. She goes to physical therapy two or three times a week, but "I don't believe she would ever become toilet trained," he said. "I don't believe she will be able to feed herself." There is every possibility she'll be wearing diapers when she's 35. "There is every possibility she'll have to spend her life in an institution."

It's hard to be certain exactly how damaged Tina is, the doctors said, and impossible to predict whether she will improve. For instance, it may be that her eyes can see, said Dr. Hill, but her damaged brain just can't recog-

nize the images being transmitted.

What Tina's eyes would have seen Friday, if they could, was her father, a former military man who was unemployed at the time of his arrest, slumped motionless in his chair at the defense table, seeming to move not an inch over the two hours the hearing lasted. She would have seen her 24-year-old mother, a small, attractive woman with long red hair, fussing over her newest child, 6-week-old Christopher, during the breaks.

Jimmy Sweetin is in jail. His wife is free on bail.

Margaret Sweetin has had four children in addition to Tina and was known to social workers long before Tina turned up in the emergency room at Humana Hospital last January. Two of her chil-

dren by another husband had been adopted or given to foster parents before Tina was hurt.

District Attorney Victor Krumm referred in court to a 4-year-old who was in the home when Tina was hurt but who has since been removed because of suspected abuse.

Christopher, the newest Sweetin, is officially a ward of the state. He hasn't turned up with any injuries and remains at home with his mother.

Margaret Sweetin pleaded no contest in May to a single misdemeanor count of criminal non-support, meaning she failed to get aid for Tina. She faces a maximum of one year in jail.

Jimmy Sweetin faces a possible maximum of 46 years in prison. The hearing will continue on Nov. 13.

Key m. Iovine SHOOTER

WOM WORTHINGTON FORD: re trying to get a vehicle in for routine 6,000-mile oil change and new oil and air filters. I also had a warranty work performed on the air filter had not been changed because I had not had the truck back to Worthington's service department. They changed because I had not had the truck so the job could be done. I was charged again for

complaint to Paul Cunningham, who had happened to date. Additionally, I don't know if my oil inspection of brake fluid, that matter, a new oil filter. I problem still is present. I ers to be prepared when doing a Ford. You may REALLY get

didn't get to hear the dealership's 1 days and several phone calls me they wouldn't discuss your ugh you didn't ask for help or be interested to learn that Ford

MAT-SU ASSEMBLY: More favorable to development

Continued from Page C-1

ers legislation in the future, which would set up half-mile-wide corridors around selected streams such as Willow and Little Creeks.

The rivers legislation failed last year, but representatives Ron Larson and Katie Hurley have promised to support versions of the bills next time around.

Palmquist called the sectional rivers a lock-up. Cypra called her stream access stance, part and parcel of an anti-government attitude.

“We don't come from the lock-up philosophy, let's put it that way. I would say we're pro-development.”

— Rosa Palmquist

separation distance between houses and Mat-Su lakes is included in the same ordinance as the stream easement change. The required distance now stands at 45 feet. Under the new rules, it would be cut to 45 feet.

The previous assembly had

50-foot park down all the rivers and lakes, they might be able to pay for it, he said.

According to Gary Liepity of the state Department of Fish and Game, river setbacks provide greater access to fish spawning areas, water quality and shoreline wildlife corridors.

change from five years of overzealous planning and unwieldy bureaucracy. For others, the election represents a return to the long-range problems of unplanned development.

Now in the minority, Cypra said he's most concerned about the possibility of decision making outside the public eye.

When you have people who are so philosophically close together, it's easy for them to share things with each other and start talking about the details of legislation without being

NOV

11/14/86

metro /

Woman's children often hurt

Witnesses testify during sentencing hearing

By SHEILA TOOMEY
Daily News reporter

Bad things happen to the children of Margaret Sweetin.

At 6, Jimmy, had open welts from a belt buckle, up and down both legs, when the state finally took him in 1983. He always seemed to be hungry. Leroy was four and couldn't talk. When asked by a doctor to undress, he did so and automatically assumed a sexual position. The state took him in March.

And then there's Tina. She's almost 2 and not quite brain dead from being dropped on her head and held under water in the bathtub.

Margaret Sweetin says she never hurt her kids. And, in fact, she has not been charged with child abuse. It seems that Margaret Ann, as everyone calls her, has a weakness for men who like to beat up babies.

She and her current husband, Jimmy Sweetin, spent Thursday afternoon in an Anchorage courtroom for the second installment of a marathon sentencing hearing relating to Tina's injuries. Jimmy has pleaded no contest to three felony assault charges and a misdemeanor. He faces a maximum sentence of 45 years.

But Thursday's hearing focused mostly on Margaret Ann. She has been convicted of a single misdemeanor, of failing to get Tina's fractured skull medically treated. That's all she was indicted for.

District Attorney Victor Krumm said earlier in the case that Margaret Ann was charged in accordance with information available at the time her case went to the grand jury, in March.

Krumm has learned a lot more about Margaret Ann since then. Under his questioning, social workers, counselors, doctors and foster parents have been taking the witness stand and sharing that information with Judge Seaborn Buckalew. Buckalew can sentence her to a maximum of one year.

Margaret Ann is 25, but she's lived a lot in those years. She's been married three times and has borne five children. Three other pregnancies ended in miscarriage. Three of her children — Jimmy, Leroy and Tina — have been taken from her at different times. One, Valerie, she gave up voluntarily at birth.

The fifth, Christopher, 2 months old, remains in her care.

Listen to Virginia Sulesky, Leroy's foster mother, describe what the 4-year-old boy was like when she got him in March.

"He was like an uncaged little animal coming into the house. . . We thought he was crippled or something. He held his arms funny and walked with a gait. . . his skin

See Page B-3, CHILDREN

Ship master



Carol Frantz looks out her window on an island in Flat Lake as he

When a hovercraft

By CHRIS GEIGER
Daily News reporter

BIG LAKE — In November, the ice sings to Art and Carol Frantz from all directions. Freezing water surrounds the couple's island home on Flat Lake, two lakes back from Big Lake and beyond the reach of roads. The shifting cracks perform a repertoire of mournful groans, bird-songs and occasional rifle shots.

But the Frantzes have paid a price for the winter symphony. With miles of water and four wheel-drive roads between Art Frantz's home and his job in Anchorage, he has until recently faced an exceptional daily commute.

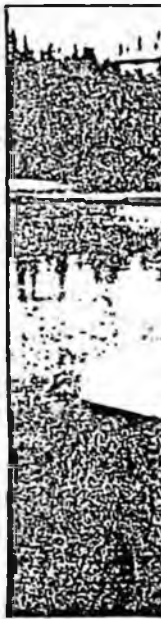
In the summer, Frantz boats about a mile across Flat Lake to his waiting car, then drives a back road to reach the highway. Winter is easy. He simply drives seven miles over Flat Lake, Mud Lake and Big Lake to the main road.

And in the isolating weeks of freeze-up and break-up, when the lakes are too solid to boat but too liquid to drive on, Frantz resorts to the only other alternative — a hovercraft.

"After about six months here, (Art) said, 'Whose idea was it to move up here?'" Carol Frantz said. "I said, 'It was yours.'"

On Aug. 1, Art Frantz retired from his job with Anchorage Municipal Light & Power. He doesn't miss rising at 4 a.m. every day to commute over ice, snow, water and dirt, he said. But thanks to their island location, the Frantzes' elaborate transportation set-up remains a necessity.

If not for the hovercraft, they'd now be spending their fourth week in a row trapped on the island by uncertain ice.



Art Frantz idles his

Being stranded on Flat Lake is not a new experience for Carol Frantz. Since the late 1980s, she's suffered other Big Lake winter malady. She

HOVER: Cran provides island home's link to land

Continued from Page B-1

"But that's not the same." She glanced at her husband and laughed.

The Frantzies moved to Alaska in 1959 from the Pocono region of Pennsylvania. He was working as an assistant foreman in a machine shop there, and figured that — 20 years from then — he'd still be working in the machine shop.

"I didn't want to know what I was going to be doing in 20 years, so I came to

Alaska," he said. After almost 20 years in Anchorage, the Frantzies found their island paradise and made their move. Anticipating the transportation difficulties ahead, they bought the hovercraft first, along with several boats.

Not only did they have to reach the island, they had to ferry construction materials to remodel the A-frame cabin already there.

The hovercraft is not a particularly fancy machine. Originally built of plywood,

Art has substituted aluminum for the body. Three people can squeeze beneath its canvas canopy in a pinch.

A horizontal turbine creates a rushion of air between the hovercraft's rubber skirt and the ground. A vertical propeller pushes it forward, with airboat style fins for steering. Two controls — a throttle and steering wheel control everything, although in this case control is a relative concept.

Creeping without friction

across the lake, the machine turns from side to side like a confused curling stone. If he pressed his luck, Frantz said, he could probably reach 100 miles an hour. But stopping is another story, about half-way home, he begins throttling back periodically, touching metal skids to the ice to prevent an unhappy landing.

You have to plan way ahead when you want to stop," Frantz said. "Last year I hit the dock once."

CHILDREN: Mother charged with failure to get help

Continued from Page B-1

color was bad, almost ashen."

He couldn't feed himself with utensils. His speech was an unintelligible garble except for words like mama, papa or doggie. His condition could only have resulted from long-term neglect or worse, other witnesses testified.

Here's social worker Andy Linn, his voice cracking as he describes his first encounter with Leroy before the Sweetlins were arrested.

"He came up to me. He gripped on to my leg. He grabbed my hand and he started to kiss my hand. We didn't have enough infor-

mation to take custody. He didn't want us to leave but we left anyway.

Leroy was desperate, said Linn.

The Sweetlins were arrested in March because of what happened to Tina. Jimmy Sweetlin has admitted holding his daughter, then about 14 months, three feet off the ground and dropping her on her head. He has pleaded no contest to holding her head under water in the bathtub, although there is some dispute about how long he held her there.

Tina is not likely to improve. She has massive brain damage. She can't see, can't stand, can't talk, can't think.

Leroy is doing better. He

lives in a nice house and goes to counseling. When she invites him to play, said his counselor, Leroy always picks the bathroom toys and often has the daddy doll hold the baby doll under water in the bathtub. He freezes and goes into a near trance when anyone chastises him, even mildly, his foster mother testified.

Still Leroy is doing better. He has learned to speak in sentences. He has used his new skill to tell both his counselor and his foster mother that he doesn't want to go home because "mummy and daddy used to hurt me."

There hasn't been much discussion about Jimmy Sweetlin's background, but Margaret Ann didn't invent her parenting techniques. She learned how to bring up children from the people who brought her up.

She was neglected as a child and put for a while into foster care. She returned to her mother's home where, when she has 13 or younger, her stepfather began to sexually abuse her, according to testimony. She was pregnant at 15 by him, and again two years later. Before he died, he had fathered her first three children, divorced her mother and married her.

When the sexual abuse be-

gan, Margaret Ann told her mother about it but her mother refused to believe her, said Rosalie Nadeau of the Crisis Center. When the truth became undeniable, mom blamed Margaret Ann.

Over the years, Margaret Ann has gone from man to man, from boyfriend to husband, even back to her stepfather once when no one else would take her in. And each of the men mentioned in court Thursday hurt Margaret Ann's children, said Krumm.

Many social agencies have tried to help Margaret Ann learn new ways but they have been hampered by her IQ of about 60 and by the well-taught lessons of her youth.

Regardless of whether her children are abused by her or "by the men she chooses to live with," said Nadeau, "the result is the children. Margaret Ann has produced have suffered pretty serious injury and abuse."

"She is a tragic young woman," Nadeau said. "She has had a really unfortunate life. I'm not sure that justifies inflicting pain on helpless children who didn't ask to be here."

The sentencing hearing is scheduled to continue next Friday.

at Sixth Avenue and Jinnon Street at about 1:30 a.m.

Weitz, 27, was in a pickup truck that matched one used in connection with a Qwik Stop robbery.

When Officer Cindy Martach sought copies from Weitz's bullet, Weitz told her car and sped off but rammed into a concrete wall two blocks away. Police officers responding to Martach's call for help chased Weitz, ducking shots and returning his fire.

Hanson and another officer arrived on the scene with dogs to track the suspect. Hanson, without his dog caught up with Weitz on 19th Avenue off Fairline Street, according to the prosecution. Weitz was hiding in a dark spot between a refrigerator and a fence. Hanson was firing a bullet proof vest but the shot struck him, bruising his protection.

Other officers chased Weitz another half block, surrounding him three times before taking him into custody.

Snowstorm hits Juneau

The Associated Press

JUNEAU — The first snow of the season came in a big way to Juneau this week, throwing a wet, white blanket over the Alaska Municipal League's annual conference and cutting road crews off-guard.

Juneau got 4 1/2 inches of snow between Sunday and Thursday according to the National Weather Service. Almost half of it fell Wednesday, leaving slushy streets and roadside snowbanks three and four feet high. Skies cleared Thursday.

The weather service said the average Juneau snowfall for the entire month of November is 11.6 inches.

The heavy fall Wednesday kept all major state flights out of Juneau Municipal Airport and with them, many people headed for the Municipal League conference.

Its organizers were counting on the diverted flights arriving Thursday.

to be a
e look.
Insert
ication
printed
fer that
mpany
ustom-
e pub-
Bureau

ou ran
mpany,
ss and

Blvd.

shooter,
include
I corre-

Considering bid for leadership job

100 sena-
press
ranks of
use some
commit-
Stevens
ranking
nother ap-
nstitute
is, Stevens
the milli-
subcommit-
his rank-
defense

appropriations subcommittee. Stevens said this would put him in the best possible position to secure funding for the new light infantry division in Alaska.

In addition, Stevens said he has a chance to become the ranking Republican on the Rules Committee, a powerful panel which sets the procedures for the Senate.

On the negative side, Stevens admitted that

he may be forced to cut two or three of his committee staff aides.

He hopes the Democrats will retain his staff on the defense appropriations subcommittee, saying "they are professionals."

Stevens said he will try to absorb his committee aides onto his personal staff but said "there may be two or three people that I have no place for."

Nordlaska
Arctic Survival Equipment

UP TO 29% OFF



space agency

discussing the Challenger tragedy last, "January and the following investigation "was filled with doublespeak."

The seven-member shuttle crew, including teacher Christa McAuliffe, perished when Challenger exploded shortly after liftoff.

Lutz quoted a NASA official who said:

"The normal process during the countdown is that the countdown proceeds, assuming we are in a go posture, and at various points during the countdown we tag up the operational loops and face to face in the firing room to ascertain the facts that project elements that are monitoring the data and that are understanding the situation as we proceed are still in the go direction."

Morton Thiokol, the maker of the booster rocket, and Rockwell International, the main contractor to build the shuttle, also were cited by the committee.

"Officials of Morton Thiokol," Lutz said, "when asked why they reversed earlier decisions not to launch the shuttle."

See Back Page, **DOUBLESPEAK**

High in the upper teens with north wind to 15 mph. Cloudy tonight with a low near 18. Snow likely Sunday with a high in the lower 20s.

High Friday.....18
Low Friday morning.....13
Normal High Nov. 21.....26
Normal low Nov. 21.....13
Record high Nov. 21 (1949)....50
Record low Nov. 21 (1956)....-13

STATE NATIONAL WEATHER FORECASTS PAGE A-2

index

Ann Landers.....	D-6
Bridges.....	D-6
Business.....	B-6
Classified.....	E-1
Comics.....	D-14
Horoscope.....	D-16
Jeff Lowenthal.....	D-3
Letters.....	B-11
Obituary.....	B-12
Opinion.....	B-10
Religion.....	D-7
Sports.....	C-1
Stocks.....	B-8
Television.....	D-10
Today in Anchorage.....	D-16
Troubleshooter.....	B-3

FOR HOME DELIVERY
CALL 267-4400
8 a.m. to 6 p.m.

By **JIM ERICKSON**
Daily News business reporter

The Alaska Housing Finance Corp., unwilling heir to nearly \$100 million worth of Alaska homes whose owners could not keep up the payments, may begin renting out some of its vacant houses and plans to initiate a "hardship" refinancing program that officials hope will slow the corporation's runaway foreclosure rate.

The steps will not cure the

problem of record number of homeowners falling behind on their monthly mortgage payments to AHFC, said Hon Lehr, the agency's executive director.

"It's one of those situations where you try to do a little bit here, and a little bit there, and a little bit there," Lehr said. "The panacea is \$40 a barrel oil... or some kind of major upturn in the economy."

Since the housing market

first spiraled into a nosedive in 1985, AHFC has seen its delinquency rate climb from less than 2 percent in mid-1983 to 12.2 percent in October. To cope, AHFC instituted a program allowing hard-pressed homeowners to rent their homes and treated an assumable loan program, yet delinquencies continued unabated.

In October, about one of

See Back Page, **AHFC**

Judge takes kids away from mom

By **SHEILA TOOMEY**
Daily News reporter

A Superior Court judge reached through the back door of the criminal justice system Friday in an effort to save the children of Margaret Sweetin from a future filled with abuse and neglect.

Judge Seaborn Buckalew sentenced Sweetin to six months in jail for not helping her 14-month-old daughter, Tina, the day Sweetin's husband Jimmy deliberately dropped the baby on her head, fracturing her skull.

The "failure to support" charge is a misdemeanor and the maximum sentence is a year.

But, in an unusual move, Buckalew went on to effectively remove all three of Sweetin's children from her custody for at least five years — a move usually reserved to civil judges in proceedings held behind the closed doors of family court.

He did it by putting Sweetin on supervised probation for five years and ordering, as a condition of probation, that

she have no contact with any of her children unless a probation officer gives written permission.

He said he didn't think she should be allowed to visit the children because of testimony that the older ones become upset and fearful when she visits.

Buckalew also ordered that Sweetin not be allowed to live with any children for the next five years, a provision requested by Anchorage Dis-

See Back Page, **NEGLECT**

Anchorage Daily News 11/22/86

Albany N.Y. J4 26
Albuquerque N.M. 84 J4
Anchorage AK 83 J4

Anchorage

How to call the

Arts Linda Billington
Business news Bill
Bus notebook Kaine
City Editor W.P. Dow
Community Andrew I
Editorial page Suzan
Homes Trish Brown
Juneau Bureau John
Kena Bureau Ronnie
Letters Michael Gale
Lifestyles Gary News
Mail Su Bureau

Classified adve

Anchorage
Wasilla
• Anchorage Times
6 p.m. Monday Th
day 7:30 a.m. to 1
9 a.m. to 2 p.m. Sat
• Wasilla hours 1
p.m. Monday Th

NEGLECT: Judge takes children away from mom

ARMS for mu

Continued from Page A 1

Attorney V. Krumm as a safeguard against a possible future marriage between Sweetin and a man with young children. She plans to divorce Jimmy.

"Painful, damaging evidence" left him with "absolutely no reservations" that any child in Sweetin's care was in physical danger, said Buckalew.

Sweetin's mother, sitting in the front row of the spectator section, with a younger daughter, cried as Buckalew reviewed the damage done to Tina Jimmy Sweetin was not there. He has pleaded no contest to three felony counts and is awaiting sentencing.

Until Friday, when she was led out of Buckalew's third-floor courtroom in handcuffs, Margaret Sweetin was free and had custody of her newest baby, 3-month-old Christopher Buckalew. Margaret made clear his concern that state officials allowed this to happen and his belief that he had a special obligation to act because they had failed to.

"It seems like it would be negligence on my part not to prohibit contact with Christopher as part of probation," Buckalew said. "I think I have got a primary responsibility to protect that child."

"That action has not been taken by the Attorney General's office."

Buckalew said he didn't want another judge presiding over some future trial with Christopher as the victim.

Defense attorney Glenn Craver said the legislature has specifically reserved child custody decisions to family court and cautioned Buckalew that his sentence might be illegal. Krumm, while applauding the decision, said he didn't know if it would survive an appeal.

So far there have been three court hearings to consider the evidence against Margaret and Jimmy Sweetin. At each of these hearings there has been angry grumbling from social workers, lawyers, witnesses and others about the minor charge brought against Margaret and the fact that she still had Christopher.

"I'm appalled that she was not charged with a felony," said Rosalie Nadeau, director of the Anchorage Crisis Center.

Assistant Attorney General Pat Kennedy, whose office made the decision to leave Christopher with his mother, said the state got limited legal rights to Christopher within a month of his birth.

"She still had the child because at the time we took custody she had only been charged with a misdemeanor," said Kennedy.

Krumm said the state took an abused child from Sweetin in 1983 and social workers knew before he did that she was more than an innocent bystander.

But Kennedy said Margaret Sweetin's "record all revolves around injury to her children by other people. The intention, if she moved in with any male, was to take physical



Defense attorney Glenn Craver and defendant Margaret Sweetin listen to Judge Seaborn Buckalew during sentencing Friday.

custody of the child." "Now that she's going to jail, I'm sure we're going to be taking custody."

Sweetin, 24, started life on the receiving end of abuse and neglect. As a child she was taken at least once from her home and placed in foster care. Her stepfather, now dead, sexually abused her and eventually fathered three children on her while she was in her early teens. Somewhere along the line, he divorced her mother and was allowed to marry Sweetin, a series of events Buckalew characterized as so bizarre it was like "taking a visit to another planet."

Sweetin has been married three times, had five children and three miscarriages. She will have no more children. She had a tubal ligation after Christopher's birth.

Except for one girl, given up for adoption at birth, all of her children have been abused or severely neglected, according to evidence presented in court. It appears from records compiled in Alaska, Illinois and other states, that the abuse — both physical and sexual — was committed by Sweetin's husbands and perhaps by some boyfriends along the way.

She has been accused only of neglecting her children, of not feeding them properly, of making them eat off the floor and spending their days in locked rooms until their physical and mental growth was stunted.

In March, her fourth child, Tina Sweetin, then about 14 months old, was rushed to the hospital by paramedics, a near-drowning victim. Margaret's husband, Jimmy Sweet-

in, was later charged with holding the baby's head under water for five minutes or more, causing severe and permanent brain damage. The child's fractured skull, an earlier injury, was discovered at that time, as was a bad burn.

Tina and Leroy, 4, the only other child then living with the Sweetins, were taken by the state and are now in foster homes, but Sweetin has not relinquished parental rights to them and Krumm expressed concern that they might someday be returned to her care.

In 1983, a 6-year-old was taken by the state and put up for adoption.

"The conduct is the worst I have ever seen," said Buckalew as he handed down the sentence. "Why you would let these things happen to these children, I don't know."

Continued to

Sen. Daniel N.Y., a former Intelligence Committee member, attended the hearing. "I can't say I heard, and I don't know," he said.

Congressional hearings were presented both the House and the Senate but said Casey's testimony.

As he was leaving Casey was the law had and he said, "C

Casey and the House committee is customary, under oath.

Sen. Mitch Ky, said "the a technical violation" on notification. "My counsel's interpretation would be one mistake."

The day began with the House members met with John Poindexter security adviser House. Then began at the Capitol House heard two hours. They met with him for two hours and resumed its work at more hours.

In Tehran, the Iranian Ayatollah Mo said the congressman represents the government in the arena.

The judge, Iran. University of Reagan "causation" and the States was reported the fire skirt. The reported.

Senate prohibit the members were their remarks. Several however, it would be the on the Iran p

"The membership of a congression further heard.

Several congress said the to learn from testimony official in the knew the an questions th They suggest indicate serie in the man covert operat

The admissions to mem were said to questions ov shipping the to a congr

Casey told (first Israeli: In September been authori

Israel was tised for the official saying.

NOV

22

1



HAPPY THANKSGIVING



SHOOT
Preview
Sports, Paq
Weekend, P

Anchorage Daily News

VOL XLII, NO 330 304 PAGES

ANCHORAGE ALASKA, THURSDAY NOVEMBER 27, 1986

Reagan orders investigation of National Security Council

By BERNARD WEINRAUB
The New York Times

WASHINGTON — Amid the crisis over secret dealings with Iran and the Nicaraguan rebels, President Reagan appointed a three-member panel Wednesday to investigate the role of his own National Security Council.

■ **STAYING ON:** A spokesman said Secretary of State George P. Shultz does not intend to quit. A-3

Nonetheless, on Capitol Hill several Democratic committee members in the House and the Senate made it clear that they intended to press

■ **DENIAL:** Israel's foreign minister insists his country did not profit from the arms deal with Iran. A-9

forward with their own inquiries on the disclosures about the affair. Some Democrats called for the resignation of Donald Regan, the White

House chief of staff

The president's action, announced shortly before he left for Thanksgiving at his ranch in California, came as the Justice Department broadened its investigation into the secret arms shipments to Iran.

See Back Page. REAGAN

Congress any mo

By EDWARD W...
The Washington P...
WASHINGTON...
ing military a...
dealt one set...
regained Senat...
resistance on...
transfer of fun...
in Central Am...
Senate Dem...
informally an...
further payme

Father gets 26 years

Judge: Sweetin's acts 'barbarous'

By SHEILA TOOMEY
Daily News reporter

A father who committed "multiple barbarous acts" against his infant daughter has already separated himself from normal society, a Superior Court judge concluded Wednesday. But to make the separation complete, Judge Seaborn Buckalew sentenced Jimmy Sweetin to 26 years in prison.

"He has effectively excommunicated himself from humankind," Buckalew said during a 24-hour sentencing hearing. "... That's why he can't lift his head up here in the courtroom."

And indeed, Sweetin, 26, sat at a defense table with his head bowed, as he has each time he has been brought into court and forced to listen

See Back Page. SWEETIN

weather

Increasing clouds today with north winds to 15 mph. High 10 to 18. Snow likely tonight with rising temperatures. Chance of

CHARTING HARD TIMES IN ANCHORAGE



Poverty has a

This year, more folks in Anc

By ELIZABETH PULLIAM and SHEILA TOOMEY
Daily News reporters

A car door slams in the parking lot of a deserted shopping center. A woman, panting and disheveled, rushes into a storefront food bank. She emerges with bread and milk in a small paper sack. And, since it's a good day, there's also an onion and a fresh green pepper.

Listen. A machine blip-blips in the intensive care unit at a local hospital, broadcasting the failing heartbeat of a baby born too soon. Every blip plunges her parents deeper and deeper into debt. Their health insurance disappeared with dad's job.

Listen. A wracking cough shatters the pre-dawn stillness outside the welfare office at Fourth Avenue and Gambell Street. The lineup snakes along the sidewalk, around the corner and down the alley. Budget cuts mean there are fewer case-workers and the word is out. Get there early or wait all day.

Listen. "Now is the toughest time I've ever seen," said Judy Sharpe, a social worker at Providence Hospital.

Almost 30,000 Alaskans are out



Today the Daily News gives its third year Neighbor-to-Neighbor. Again this holiday we'll be writing about folks in Anchorage who use some help, and you, our readers, and share some of your help. The help you've given neighbors before can help today. You'll find about that and more Neighbor-to-Neighbor styles, Page D-1.

men, said Maj. Katrina Genshaft of the Salvation Army. Some were making \$40,000 to \$50,000 a year and are reduced to standing in line.

Mental illness, the kind associated with stress, is on the way up. "People are worried about being about to lose their house, their job, their insurance," said Dr. Aron Wolf of the Langdon Clinic.

from last time last year.

As snow falls on the Chugach Mountains and the wind raining through the pines brings another winter to the Anchorage bow, people whose job it is to deal with the fear and the anger the frustration and despair say things are going to get worse.

Unemployment benefits are running out for workers who lost their jobs when the

recent survey found that every 10 business workers said they plan to reduce their staffs before the end of the year.

People who haven't gotten sick yet will. People who made it through their last crisis thanks to a permanent fund dividend check won't get another until next winter.

Those who didn't get out while the getting was good —

"I don't even think about leaving — this is my home," says Al Horton, 25, an out-of-work meatcutter from Hoonah. "I'll make it through somehow."

Poverty in Anchorage doesn't stare out into the street like the empty windows of a tenement.

It's bundled under parkas and watch caps. It's locked behind the doors of over-

them to a doctor.

There are a lot of poor people out there, said Myra Orme of Headstart. "But unlike the Lower 48 you don't see them. It's because they're indoors and not out on the street. But they're just as poor and they're just as sad."

Listen over the next few weeks.

Listen to the sound of the safety net tearing.

SWEETIN: Judge hands down 26-year prison sentence for child abuse



Jimmy Sweetin weeps during sentencing.

Continued from Page A-1

to details of the injuries suffered by his daughter, Tina, now nearly 2.

He had pleaded no contest to charges that he, on different occasions over a period of weeks, burned Tina with the electric element from a frying pan, deliberately dropped her on her head, causing a massive skull fracture, and, in March, held her head under water in the bathtub for five minutes or more.

He broke his court silence briefly Wednesday with tears, and with a plea that Buckalew take into consideration his spotless background and exemplary service as a petty officer in the Navy.

"Nobody wants to hear that I am sorry," Sweetin told the judge. "Nobody wants to hear that I love my daughter. I have never been in trouble with the law before. I don't have a violent background... I'm very thankful right now that I have the forgiveness of God... I'm very, very sorry. I do love my daughter. That's all."

Sweetin said he believes God will look after Tina.

Buckalew responded: "I think God is the only one that can cure her now. Miracles aren't performed by people on this planet."

In addition to the 26-year prison term, Buckalew effectively barred Sweetin from contact with his two children for the next 31 years without written permission from a probation officer and any agency involved in protecting the children. He also barred Sweetin from living in any "family-type situation" involving children under age 16. Tina, her baby brother Christopher and a step-brother, Leroy, are all now in foster homes.

Margaret Sweetin, Jimmy's wife, is now serving a six-month jail term for failing to get medical aid for Tina. She was not charged with abusing her children, but evidence at her sentencing last week indicated a history of child neglect dating back to before she met and married Sweetin.

District Attorney Victor Krumm had asked that Jimmy Sweetin be sentenced to 16 years for his assaults on Tina.

"He didn't do it to her on one occasion," Krumm said. "This is a man who is in the process of killing that child. It's taking him weeks to do it."

Krumm called Sweetin's description to police of the near-drowning incident chilling. Sweetin said Tina spit up on herself and he held her

under water briefly to clean her.

While she was under, her eyes were opened, her hands were straight up and it seemed like I seen her take a gasp for air."

Sweetin said he did not hold her under water for anywhere near five minutes, but doctors said it would have taken that long to account for the damage done.

Tina's brain damage is so severe "she would have been better off if they had just finished her," Krumm said. The child is blind, probably deaf and is unlikely ever to be able to care for herself, according to medical testimony presented at an earlier hearing.

"She won't be able to do anything," Krumm said. "She's dead." She doesn't even know we're out here any more."

Buckalew agreed that the offenses Sweetin committed were among the worst possible assaults — committed against someone who couldn't fight back, against a member of his family who had a right to be safe in her own home. Both circumstances justified increasing the normal seven-year presumptive sentences for the skull fracture and the near-drowning, he said.

But, Buckalew noted, Sweetin was himself an abused child, beaten severely by a stepfather from the time he was 4 until he was placed in a group home as a teenager. Battered children often grow into batterers, he said.

"I am pretty much persuaded that if he wasn't a battered child... he probably would not be sitting here in this courtroom," the judge said.

Buckalew sentenced Sweetin to 15 years for the near-drowning, 10 years for the skull fracture, five years suspended for the burning incident and one year for failing to get medical aid for his daughter, a misdemeanor. He is likely to serve about 17 years before being eligible for parole.

Defense attorney Lionel Riley urged Buckalew to consider that Sweetin was not a danger to the general public, only to children in a stressful family situation. Sweetin was driven to the breaking point by his inability to get a decent job, Riley said, and by the fact that his wife, for the first time, was bringing in more money than he was.

"Tina is a member of the public," Buckalew said. "She's as important as anyone in this courtroom."

REAGAN: President orders investigation of NSC; Congress plans its own inquiries

ending Vice President the appointment of Tower "I about it. Regan is sick about tration officials.

sses be er ct

Judge refuses 'liar' Rodriguez new trial

By KIM RICH
Daily News reporter

Convicted child pornographer Carlos "Chico" Rodriguez will not get a new trial, according to an Anchorage Superior Court judge who said Rodriguez is a liar.

"The court does not find

Chico Rodriguez a credible witness. The court does not believe Mr. Rodriguez," Judge Ralph Moody said in a written order handed down Tuesday.

Rodriguez had requested a new trial claiming that he received ineffective counsel

during his 1981 trial. Rodriguez, 48, was convicted of 25 felony counts including rape, and operating a teen-age child pornography, prostitution and burglary ring.

He is currently serving an 83-year sentence in an Outside prison.

Rodriguez was back before Moody last week in an Anchorage courtroom during a hearing held to determine if he received effective counsel during his trial. Moody is the same judge who had tried and sentenced Rodriguez.

Moody also discounted Rodriguez' claim that Schapira failed to aggressively represent him because Rodriguez couldn't come up with up to \$50,000 to pay Schapira in addition to fees Schapira was receiving from the state.

In his ruling, Moody dismissed all of Rodriguez' claims that his court-appointed attorney, Mitch Schapira failed to adequately represent him.

Neither the existence of this fee contract or Rodriguez' failure to pay Schapira additional money affected the quality of Schapira's representation of Rodriguez, Rodriguez was satisfied with Schapira's representation until after he got convicted. He got the idea for filing this motion after the trial from other prisoners who were filing similar motions," Moody said.

Specifically, Moody said there was no evidence that Schapira's ability to defend Rodriguez was impaired by prescription medication he was taking at the time for a back injury.

Couple charged with abuse of infant who's left in coma

By KIM RICH
Daily News reporter

An Anchorage couple was arraigned on child abuse charges Tuesday in Superior Court as their year-old daughter lay in a coma at a local hospital.

Jimmy D. Sweetin, 25, and Margaret A. Sweetin, 24, each entered not guilty pleas before Judge Victor Carlson.

Jimmy Sweetin is charged with four counts of first-degree assault, one count of third-degree assault and one count of criminal nonsupport.

Margaret Sweetin is named only in the criminal nonsupport charge. That charge alleges that the couple failed to get medical care for a "serious"

head injury to the child.

The incidents occurred between January and March, according to court records.

Jimmy Sweetin has been jailed on \$100,000 cash-only bail. Margaret Sweetin is not in custody.

According to court records, on March 6, paramedics responded to a possible drowning at 3911 E. 7th Ave. where they found the Sweetin's infant, Tina, unconscious. The child was taken to Humann Hospital-Alaska, where she has remained in a coma. She is on life-support systems.

According to police, Jimmy Sweetin told police that the child had been racing when she vomited on herself. Sweetin said he took the child into the bathroom where he attempted to wash the vomit off by placing her in a bathtub partially filled with water.

Police say Sweetin told them that he held the child's head "submerged with one hand while washing the vomit off the child's body with the other hand."

Police say that doctors at the hospital also found that the child had other, older injuries, including a skull fracture, a broken collarbone, a damaged ear drum and a burn on her left wrist.

Both Sweetins are scheduled for trial in June.

Officials want boundary settled

By SUE CROSS
The Associated Press

JUNEAU — Alaska officials want the United States government to step up efforts to settle a dispute with the Soviet Union over a 20,000-

square-mile boundary in the people of the United States," said the resolution, which will be sent to President Reagan, Secretary of State George Shultz and a handful of other federal officials.

is the boundary.

Further complicating the dispute are \$108 million in leases for oil and gas drilling rights in the area that the United States sold in 1984.

The oil companies have not been able to explore the 17

Since 1937

Brownie

WHITEWINE

Spring

CLEARANCE SALE!

WHILE THEY LAST
FIRST COME, FIRST BAVE

62 BROWNIE TRAMPER WOPPEN WASHINGTON WINTER REG 8 M	499
32 BROWNIE TRAMPER FICTION ENGINE SANTA CRUZ MT. R/O 8 M	499
82/81 BROWNIE TRAMPER PAUL THOMAS WASHINGTON REG 1 M	499

Two witnesses described the falling eight fishing boat and to point to Kenneth King a few bathroom

Two witnesses late was a point murder trial, the second prosecutors and the two dramatic allegations if the air

They Mary the witness certain of being a skill burning fish-

ed of killing members for in September the boat The 25 Belling-

Tuesday were and Jan Kit couple who ng vessel that or skill as the bum- men and Kit that they were

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

	FIRST FELONY	SECOND FELONY	THIRD FELONY
Sexual Assault in the First Degree; Sexual Abuse of a Minor in the First Degree	4-[8]-30 5-[10]*-30	7½-[15]-30	12½-[25]-30
"A" Felony	2½-[5]-20 3½-[7]**-20	5-[10]-20	7½-[15]-20
"B" Felony	0-10***	0-[4]-10	3-[6]-10
"C" Felony	0-5***	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder, Kidnapping,
Sexual Assault I,
Misconduct Invol-
ving Controlled
Substance I - \$75,000
A, B, or C Felony - \$50,000
A misdemeanor - \$ 5,000
B misdemeanor - \$ 1,000
Violation - \$ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - \$100,000 or
3 X pecuniary gain -
whichever is greater

MAXIMUM TERM OF IMPRISONMENT
FOR MISDEMEANORS

A misdemeanor - 1 year
B misdemeanor - 90 days

SENTENCES FOR
UNCLASSIFIED FELONIES

Murder I: 20-99 years
Murder II, Kidnapping,
Misconduct Invol-
ving Controlled
Substance I: 5-99 years

5-1

KEY

Number in bracket is presumptive sentence. Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

- * Ten year presumptive term applies if defendant possessed a firearm, used a dangerous instrument or caused serious physical injury.
- ** Seven year presumptive term applies if first A felony conviction, other than manslaughter, and defendant possessed a firearm, used a dangerous instrument or caused serious physical injury or directed offense at peace officer or other emergency responder.
- *** Presumptive sentencing may apply if offense directed at peace officer or other emergency responder.

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder in the First Degree
AS 11.41.100
20-99 years

Murder in the Second Degree
AS 11.41.110
5-99 years

Sexual Assault I
AS 11.41.410
Maximum of 30 years

Kidnapping
AS 11.41.300
5-99 years

Sexual Abuse of a Minor I
AS 11.41.434
Maximum of 30 years

Misconduct Involving a
Controlled Substance I
AS 11.71.010
5-99 years

CLASSIFIED FELONIES

A	B	C
Attempted Unclassified Felony AS 11.31.100 (d) (1)	Attempted A Felony AS 11.31.100 (d) (2)	Attempted B Felony AS 11.31.100 (d) (3)
Solicitation of Unclassified Felony AS 11.31.110 (c) (1)	Solicitation of A Felony AS 11.31.110 (c) (2)	Solicitation of B Felony AS 11.31.110 (c) (3)
Manslaughter AS 11.41.120	Assault II AS 11.41.210	Criminally Negligent Homicide AS 11.41.130
Assault I AS 11.41.200	Sexual Assault II AS 11.41.420	Assault III AS 11.41.220
	Sexual Abuse of a Minor II AS 11.41.436	Custodial Interference I AS 11.41.320
Robbery I AS 11.41.500	Unlawful Exploitation of a Minor AS 11.41.436	Sexual Abuse of a Minor III AS 11.41.220

5-3

	Sexual Abuse of a Minor -- AS 11.41.436	AS 11.41.320
Robbery I AS 11.41.500	Unlawful Exploitation of a Minor AS 11.41.436	Sexual Abuse of a Minor III AS 11.41.220
Arson I AS 11.46.400	Robbery II AS 11.41.510	Incest AS 11.41.450
Escape I AS 11.56.300	Extortion AS 11.41.520	Coercion AS 11.41.530
Promoting Prostitution I AS 11.66.110(a)(2)	Theft I AS 11.46.120	Theft II AS 11.46.130
Criminal Possession of Explosives with Intent to Commit Murder or Kidnapping AS 11.61.240(b)(1)	Issuing a Bad Check, \$25,000 or more AS 11.46.280(d)(1)	Concealment of Merchandise, \$500 or more AS 11.46.220(c)(1)
Misconduct Involving Controlled Substance II AS 11.71.020	Burglary I AS 11.46.300	Removal of Identification Marks, \$500 or more AS 11.46.260(b)(1)
	Arson II AS 11.46.410	Unlawful Possession (of Altered Property), \$500 or more AS 11.46.270(b)(1)
	Criminal Mischief I AS 11.46.480	Issuing a Bad Check, \$500 or more AS 11.46.280(d)(2)
	Forgery I AS 11.46.500	Fraudulent Use of a Credit Card, \$500 or more AS 11.46.285(b)(1)
	Scheme to Defraud AS 11.46.600	Obtaining a Credit Card by Fraudulent Means AS 11.46.290(a)(1), (2)
	Defrauding Creditors, \$25,000 or more AS 11.46.730(c)(1)	Burglary II AS 11.46.310
	Bribery AS 11.56.100	Criminal Mischief II AS 11.46.482

A	<p>Criminal Mischief I AS 11.46.480</p> <p>Forgery I AS 11.46.500</p>	<p>AS 11.46.270 (b) (1)</p> <p>Issuing a Bad Check, \$500 or more AS 11.46.280 (d) (2)</p> <p>Fraudulent Use of a Credit Card, \$500 or more AS 11.46.285 (b) (1)</p>
	<p>Scheme to Defraud AS 11.46.600</p> <p>Defrauding Creditors, \$25,000 or more AS 11.46.730 (c) (1)</p> <p>Bribery AS 11.56.100</p> <p>Receiving a Bribe AS 11.56.110</p> <p>Perjury AS 11.56.200</p> <p>Escape II AS 11.56.310</p> <p>Interference with Official Proceedings AS 11.56.510</p> <p>Receiving a Bribe by a Witness or Juror AS 11.56.520</p> <p>Criminal Possession of Explosives with Intent to Commit a Felony AS 11.61.240 (b) (2)</p> <p>Promoting Prostitution I AS 11.66.110 (a) (1) and (3)</p> <p>Misconduct Involving Con-</p>	<p>Obtaining a Credit Card by Fraudulent Means AS 11.46.290 (a) (1), (2)</p> <p>Burglary II AS 11.46.310</p> <p>Criminal Mischief II AS 11.46.482</p> <p>Forgery II AS 11.46.505</p> <p>Criminal Possession of Forgery Device AS 11.46.520</p> <p>Criminal Simulation \$500 or more AS 11.46.530 (b) (1)</p> <p>Tampering with a Witness I AS 11.56.540</p> <p>Offering a False Instrument for Recording AS 11.46.550</p> <p>Misapplication of Property \$500 or more AS 11.46.620</p> <p>Falsifying Business Records AS 11.46.630</p> <p>Commercial Bribe Receiving</p>

Escape II
AS 11.56.310

Interference with Official
Proceedings
AS 11.56.510

Receiving a Bribe by a
Witness or Juror
AS 11.56.520

Criminal Possession of
Explosives with Intent
to Commit a Felony
AS 11.61.240 (b) (2)

Promoting Prostitution I
AS 11.66.110 (a) (1) and (3)

Misconduct Involving Con-
trolled Substance III
AS 11.71.030

Criminal Possession of
or more
AS 11.46.530 (b) (1)

Tampering with a Witness I
AS 11.56.540

Offering a False Instrument
for Recording
AS 11.46.550

Misapplication of Property
\$500 or more
AS 11.46.620

Falsifying Business Records
AS 11.46.630

Commercial Bribe Receiving
AS 11.46.660

Commercial Bribery
AS 11.46.670

Defrauding Creditors, \$500-
\$25,000
AS 11.46.730 (c) (2)

Criminal Use of a Computer
AS 11.46.740

Endangering Welfare of Minor
AS 11.51.100

Perjury by Inconsistent
Statements
AS 11.56.230

Escape III
AS 11.56.320

Promoting Contraband I
AS 11.56.375

Jury Tampering
AS 11.56.590

AS 11.51.100

Perjury by Inconsistent
Statements

AS 11.56.230

Escape III

AS 11.56.320

Promoting Contraband I

AS 11.56.375

Jury Tampering

AS 11.56.590

Misconduct by a Juror

AS 11.56.600

Tampering with Physical
Evidence

AS 11.56.610

Harming a Police Dog I

AS 11.56.705

Hindering Prosecution I

AS 11.56.770

False Accusation

AS 11.56.805

Terroristic Threatening

AS 11.56.810

Riot

AS 11.61.100

Distribution of Child
Pornography

AS 11.61.125(a)(1), (2)

Promoting or Exhibition of
Fighting Animals

AS 11.61.145

Misconduct Involving Weapons I

AS 11.61.200

Promoting or Exhibition of
Fighting Animals
AS 11.61.145

Misconduct Involving Weapons I
AS 11.61.200

Criminal Possession of
Explosives with Intent to
Commit B Felony
AS 11.61.240(b) (3)

Unlawful Furnishing of
Explosives
AS 11.61.250

Promoting Prostitution: II
AS 11.66.120

Promoting Gambling I
AS 11.66.210

Possession of Gambling
Records I
AS 11.66.230

Misconduct Involving Controlled
Substance IV
AS 11.71.040

Promoting or Exhibition of
Fighting Animals
AS 11.61.145

Misconduct Involving Weapons I
AS 11.61.200

Criminal Possession of
Explosives with Intent to
Commit B Felony
AS 11.61.240(b) (3)

Unlawful Furnishing of
Explosives
AS 11.61.250

Promoting Prostitution II
AS 11.66.120

Promoting Gambling I
AS 11.66.210

Possession of Gambling
Records I
AS 11.66.230

Misconduct Involving Controlled
Substance IV
AS 11.71.040

JAN 9 1985

DEPT. OF LAW
JUNEAU, ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

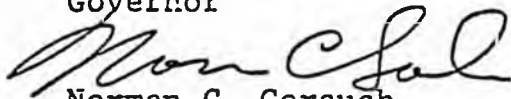
POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

January 8, 1985

M E M O R A N D U M

TO: Honorable Bill Sheffield
Governor

FROM: 
Norman C. Gorsuch
Attorney General

RE: Attached bill relating to
criminal sentences
file no. 377-129-85

Attached is a bill, requested by the criminal division of the Department of Law, which raises the criminal penalties for attempted murder, solicitation to commit murder, manslaughter, and criminally negligent homicide, and makes some badly needed "housekeeping" amendments to present sentencing laws.

As originally proposed, the focus of this bill was to raise the crimes of attempted murder and solicitation to commit murder to the "unclassified" level. This proposal was approved by John Shively on September 4, 1984. As the bill was being drafted, however, its scope was expanded to allow the correction of several other significant problems that exist in our present sentencing laws. Under current law, for example, a person convicted of manslaughter is subject to a presumptive term that is two years less than that imposed upon a person who assaults his victim, but does not kill him.

Although the bill is somewhat broader than originally planned, the amendments it contains are valuable ones that should receive legislative attention.

A draft transmittal letter to the legislature, containing a detailed explanation of the bill, is attached.

NCG:GAH:so

cc w/enc.: Hon. Robert Sundberg, Commissioner
Dept. of Public Safety


Daniel W. Hickey, Chief Prosecutor
Dept. of Law

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will increase the penalties for the crimes of attempted murder, solicitation to commit murder, manslaughter, and criminally negligent homicide. The bill also makes some badly needed "housekeeping" changes to existing sentencing laws.

Under present law, a person who attempts to commit or solicits another to commit murder, an unclassified felony, is guilty of only a class A felony. If it is the defendant's first felony conviction, he will be subject to a presumptive term of either five or seven years imprisonment, depending upon the facts of the offense. (AS 12.-55.125(c)(1), (c)(2).)

A deliberate, intentional attempt to kill another person, or the deliberate, intentional solicitation of someone else to commit a murder, are among the most heinous crimes that a person can commit. Only the completed murder itself could be more serious. The penalties prescribed under existing law do not reflect the seriousness of this conduct. Under present law, for example, a parent who improperly touches his eight-year-old child's genitals receives a more severe sentence than that imposed upon a person who deliberately, but unsuccessfully, attempted to kill the child. Sections 1 -- 4 and 10 of this bill cure



this anomaly by raising the crimes of attempted murder and solicitation to commit murder to the "unclassified" level. The crimes will carry a presumptive sentence equal to that now provided for the unclassified felonies of sexual assault in the first degree or sexual abuse of a minor in the first degree. (See AS 12.55.125(i).)

Manslaughter is a class A felony. Under current law, a person convicted of a first offense class A felony faces a presumptive term of seven years if the person knowingly directed his conduct to a uniformed police officer, possessed a firearm, used a dangerous instrument, or caused serious physical injury during the crime, unless the conviction was for manslaughter. AS 12.55.125(c)(2). A defendant convicted of manslaughter is subject to a presumptive term of only five years.

This sentencing "exception" for manslaughter has created an incredible anomaly in existing law. For example, an intoxicated driver who causes a traffic accident in which another person is seriously injured has committed assault in the first degree under AS 11.41.200(a)(1), a class A felony. The drunk driver, if convicted for the assault, faces a presumptive term of seven years. If, however, the victim dies, and the drunk driver is convicted of manslaughter, the defendant's presumptive sentence decreases to five years. This result is one that is difficult to

understand, and even more difficult to explain to a deceased victim's family. Section 8 of this bill removes this "exception", and treats manslaughter the same as any other class A felony.

Section 5 of the bill reclassifies the crime of criminally negligent homicide from a class C to a class B felony level. This raises the maximum possible penalty from five years to 10. (Before the new criminal code took effect in 1980, negligent homicide was considered a form of manslaughter, and carried a penalty of up to 20 years imprisonment). Under present law, the disparity between manslaughter (a class A felony with a maximum term of 20 years) and criminally negligent homicide (a C felony, five year maximum) is too great. The difference between the two crimes is the defendant's mental state at the time of the killing -- "reckless" for manslaughter, "criminally negligent" for criminally negligent homicide. These mental states are defined in AS 11.81.900(a), and the difference between them is not great. Criminally negligent homicide is the unlawful killing of another. Reclassification of this crime to the B felony level will bring the penalty level in line with the seriousness of the offense. In appropriate cases a sentencing court could decide not to impose any jail sentence at all, as a first offense B felony conviction does not carry a presumptive term.

Sections 6 and 7 make some badly needed "housekeeping" amendments to the sentencing laws. When the present criminal code was enacted in 1978, there were only three "unclassified" offenses: murder in the first degree, murder in the second degree, and kidnapping. These three crimes were originally listed, by name, in several places in the code as exceptions to the general classification and sentencing scheme. In the intervening years, other crimes have been raised to the unclassified level, including sexual assault in the first degree, sexual abuse of a minor in the first degree, and misconduct involving a controlled substance in the first degree. In addition, this bill raises attempted murder and solicitation to commit murder to the unclassified level.

It has become increasingly impractical to list all unclassified offenses by name whenever the statutory reference is to the group of offenses. The present system presents the danger that necessary conforming amendments will inadvertently be overlooked when a new crime is added to the unclassified group. This is exactly what happened when the legislature amended the criminal code in 1983 to strengthen the laws against sexual abuse of children. A new unclassified crime, sexual abuse of a minor in the first degree, was created (AS 11.41.434). Through a drafting oversight, however, a reference to this crime was not added to AS 12.55.035, the general provision that

specifies the fines authorized for given offenses. Thus, although a person convicted of sexual abuse in the first degree faces a presumptive term of eight years in prison under AS 12.55.125(i), existing penalty provisions do not include a fine for this offense.

To remedy this oversight, and to ensure that similar errors do not occur in the future, this bill substitutes a reference to unclassified crimes as a group wherever the offenses in this group are now specifically listed by name in the statutes.

The amendments contained in secs. 9, 11, 13, and 15 of the bill are needed for a similar reason. Presumptive terms under the new criminal code were originally imposed under a few subsections of AS 12.55.125. These few subsections were specifically cited in many general provisions that dealt with some aspect of presumptive sentencing (in, for example, the list of aggravating or mitigating factors and the section creating the three-judge sentencing panel). As the criminal code has been amended over the years, however, and presumptive penalties have been added or changed, necessary conforming amendments were not always made, or were not always made completely. This bill cures past discrepancies, and eliminates the problem for the future, by simply substituting a general reference to "presumptive terms" in statutes that now refer to specific

subsections under which a presumptive sentence is imposed.

In 1982 the language of AS 12.55.145(a) was amended to provide that a criminal conviction in another jurisdiction would be considered a "prior conviction" for presumptive sentencing purposes in this state if the out-of-state offense had elements "similar to" those of a crime defined as a felony in Alaska. As the result of a drafting oversight, the language of a companion subsection dealing with procedural matters was not amended. Section 12 of this bill cures this discrepancy by amending AS 12.55.145(c).

The amendments included in this bill are needed to improve existing sentencing laws, and to recognize the seriousness of taking a human life.

Sincerely,

Bill Sheffield
Governor

Introduced: 1/25/85
Referred: Health, Education & Social Services
Judiciary

*note: code must be § 14-
(AS 12.55.155(e))*

addition

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 102

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to criminal sentences."

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

8 * Section 1. AS 11.31.100(d) is amended to read:

9 (d) Unless otherwise provided, an [AN] attempt is a

10 (1) class A felony if the crime attempted is an unclas-
11 sified felony;

12 (2) class B felony if the crime attempted is a class A
13 felony;

14 (3) class C felony if the crime attempted is a class B
15 felony;

16 (4) class A misdemeanor if the crime attempted is a class C
17 felony;

18 (5) class B misdemeanor if the crime attempted is a class A
19 or class B misdemeanor.

20 * Sec. 2. AS 11.31.100 is amended by adding a new subsection to read:

21 (e) An attempt to commit murder in the first degree is an un-
22 classified felony and is punishable as provided in AS 12.55.

23 * Sec. 3. AS 11.31.110(c) is amended to read:

24 (c) Unless otherwise provided, solicitation [SOLICITATION] is a

25 (1) class A felony if the crime solicited is an unclas-
26 sified felony;

27 (2) class B felony if the crime solicited is a class A
28 felony;

29 (3) class C felony if the crime solicited is a class B

1 felony;

2 (4) class A misdemeanor if the crime solicited is a class C
3 felony;

4 (5) class B misdemeanor if the crime solicited is a class A
5 or class B misdemeanor.

6 * Sec. 4. AS 11.31.110 is amended by adding a new subsection to read:

7 (e) Solicitation to commit murder in the first or second degree
8 is an unclassified felony and is punishable as provided in AS 12.55.

9 * Sec. 5. AS 11.41.130(b) is amended to read:

10 (b) Criminally negligent homicide is a class B [C] felony.

11 * Sec. 6. AS 11.81.250 is amended to read:

12 Sec. 11.81.250. CLASSIFICATION OF OFFENSES. (a) For purposes
13 of sentencing under AS 12.55, all offenses defined in this title,
14 except unclassified offenses [MURDER IN THE FIRST AND SECOND DEGREE,
15 SEXUAL ASSAULT IN THE FIRST DEGREE, AND KIDNAPPING], are classified on
16 the basis of their seriousness, according to the type of injury char-
17 acteristically caused or risked by commission of the offense and the
18 culpability of the offender. Except for unclassified offenses [MURDER
19 IN THE FIRST AND SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE,
20 AND KIDNAPPING], the offenses in this title are classified into the
21 following categories:

22 (1) class A felonies, which characteristically involve
23 conduct resulting in serious physical injury or a substantial risk of
24 serious physical injury to a person;

25 (2) class B felonies, which characteristically involve
26 conduct resulting in less severe violence against a person than clas
27 A felonies, aggravated offenses against property interests, or ag-
28 gravated offenses against public administration or order;

29 (3) class C felonies, which characteristically involve

1 conduct serious enough to deserve felony classification but not seri-
2 ous enough to be classified as A or B felonies;

3 (4) class A misdemeanors, which characteristically involve
4 less severe violence against a person, less serious offenses against
5 property interests, less serious offenses against public adminis-
6 tration or order, or less serious offenses against public health and
7 decency than felonies;

8 (5) class B misdemeanors, which characteristically involve
9 a minor risk or physical injury to a person, minor offenses against
10 property interests, minor offenses against public administration or
11 order, or minor offenses against public health and decency;

12 (6) violations, which characteristically involve conduct
13 inappropriate to an orderly society but which do not denote criminal-
14 ity in their commission.

15 (b) The classification of each felony defined in this title,
16 except unclassified offenses [MURDER IN THE FIRST AND SECOND DEGREE,
17 SEXUAL ASSAULT IN THE FIRST DEGREE, AND KIDNAPPING], is designated in
18 the section defining it. A felony under Alaska law defined outside
19 this title for which no penalty is specifically provided is a class C
20 felony.

21 (c) The classification of each misdemeanor defined in this title
22 is designated in the section defining it. A misdemeanor under Alaska
23 law defined outside this title for which no penalty is provided is a
24 class A misdemeanor.

25 * Sec. 7. AS 12.55.035(b) is amended to read:

26 (b) Upon conviction of an offense, a defendant who is not an
27 organization may be sentenced to pay, unless otherwise specified in
28 the provision of law defining the offense, a fine of no more than

29 (1) \$75,000 for an unclassified felony [MURDER IN THE FIRST

1 OR SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE, KIDNAPPING, OR
2 MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIRST DEGREE];

3 (2) \$50,000 for a class A, B, or C felony;

4 (3) \$5,000 for a class A misdemeanor;

5 (4) \$1,000 for a class B misdemeanor;

6 (5) \$300 for a violation.

7 * Sec. 8. AS 12.55.125(c) is amended to read:

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

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

15 (2) if the offense is a first felony conviction, [OTHER
16 THAN FOR MANSLAUGHTER,] and the defendant possessed a firearm, used a
17 dangerous instrument, or caused serious physical injury during the
18 commission of the offense, or knowingly directed the conduct con-
19 stituting the offense at a uniformed or otherwise clearly identified
20 peace officer, fire fighter, correctional officer, emergency medical
21 technician, paramedic, ambulance attendant, or other emergency
22 responder who was engaged in the performance of official duties at the
23 time of the offense, seven years;

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

25 (4) if the offense is a third felony conviction, 15 years.

26 * Sec. 9. AS 12.55.125(g) is amended to read:

27 (g) If a defendant is sentenced to a presumptive term under
28 [(c), (d)(1), (d)(2), (e)(1), (e)(2), OR (i) OF] this section, except
29 to the extent permitted under AS 12.55.155 -- 12.55.175,

- 1 (1) imprisonment may not be suspended under AS 12.55.080;
2 (2) imposition of sentence may not be suspended under
3 AS 12.55.085;
4 (3) terms of imprisonment may not be otherwise reduced.

5 * Sec. 10. AS 12.55.125 is amended by adding a new subsection to read:

6 (j) A defendant convicted of attempted murder or solicitation to
7 commit murder may be sentenced to a definite term of imprisonment of
8 not more than 30 years, and must be sentenced to the following pre-
9 sumptive 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
12 not involve circumstances described in (2) of this subsection, eight
13 years;

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

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

19 (4) if the offense is a third felony conviction, 25 years.

20 * Sec. 11. AS 12.55.145(a) is amended to read:

21 (a) For purposes of considering prior convictions in imposing
22 sentence under AS 12.55.125 [12.55.125(c), (d)(1), (d)(2), (e)(1),
23 (e)(2), OR (i)]

24 (1) a prior conviction may not be considered if a period of
25 10 or more years has elapsed between the date of the defendant's
26 unconditional discharge on the immediately preceding offense and
27 commission of the present offense unless the prior conviction was for
28 an unclassified or class A felony;

29 (2) a conviction in this or another jurisdiction of an

*Maybe
it's
this*

1 offense having elements similar to those of a felony defined as such
2 under Alaska law at the time the offense was committed is considered a
3 prior felony conviction;

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

11 * Sec. 12. AS 12.55.145(c) is amended to read:

12 (c) If the defendant denies the authenticity of a prior judgment
13 of conviction, that the defendant is the person named in the judgment,
14 that the elements of a prior offense committed in another jurisdiction
15 are similar [SUBSTANTIALLY IDENTICAL] to those of a felony defined as
16 such under Alaska law, or that a prior conviction occurred within the
17 period specified in (a)(1) of this section or if the defendant alleges
18 that two or more purportedly separate prior convictions should be
19 considered a single conviction under (a)(3) of this section, the
20 defendant shall file with the court and serve on the prosecuting
21 attorney notice of denial no later than 10 days before the date set
22 for imposition of sentence. The notice of denial must [SHALL] include
23 a concise statement of the grounds relied upon and may be supported by
24 affidavit or other documentary evidence.

25 * Sec. 13. AS 12.55.155(a) is amended to read:

26 (a) If a defendant is convicted of an offense and is subject to
27 a presumptive term [SENTENCING] under AS 12.55.125 [12.55.125(c),
28 (d)(1), (d)(2), (e)(1), (e)(2), OR (i)] and

29 (1) the presumptive term is four years or less, the court

AS 12.55.165(2)
(necessary circumstances)

1 may decrease the presumptive term by an amount as great as the pre-
2 sumptive term for factors in mitigation or may increase the presump-
3 tive term up to the maximum term of imprisonment for factors in aggra-
4 vation;

5 (2) the presumptive term of imprisonment is more than four
6 years, the court may decrease the presumptive term by an amount as
7 great as 50 percent of the presumptive term for factors in mitigation
8 or may increase the presumptive term up to the maximum term of impris-
9 onment for factors in aggravation.

10 * Sec. 14. AS 12.55.165 is amended to read:

11 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant
12 is subject to a presumptive term [SENTENCING] under AS 12.55.125
13 [12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), OR (i)] and the court
14 finds by clear and convincing evidence that manifest injustice would
15 result from failure to consider relevant aggravating or mitigating
16 factors not specifically included in AS 12.55.155 or from imposition
17 of the presumptive term, whether or not adjusted for aggravating or
18 mitigating factors, the court shall enter findings and conclusions and
19 cause a record of the proceedings to be transmitted to a three-judge
20 panel for sentencing under AS 12.55.175.