

HIB

212

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 5, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/13/93

The FINANCE Committee considered:

HB 212

HOUSE BILL NO. 212

SENTENCING: AGGRAVATING FACTORS

"An Act relating to a factor in aggravation of the presumptive term of a criminal sentence, and prohibiting the referral of a sentence based on application of that factor to a three-judge sentencing panel as an extraordinary circumstance."

RECOMMENDATIONS:

be replaced with CS HB 212 (Jud) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) court, corrections 4/5/93

zero fiscal note _____

5 zero fiscal note(s) (2) Admin, Law

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Marlean</u> <u>Eileen P. Marlean</u>	✓				
<u>Hanson</u> <u>Ronald J. Hanson</u>	X				
<u>Hanley</u> <u>Mark P. Hanley</u>	X				
<u>Martin</u> <u>Terry Martin</u>	✓				
<u>Parnell</u> <u>John Parnell</u>	X				
<u>Gyussenda</u> <u>Ben Gyussenda</u>	X				
<u>Brown</u> <u>Ray Brown</u>	✓				

Ronald J. Hanson E P Marlean
CHAIRMAN'S SIGNATURE

FISCAL NOTE

10. 2
 Bill Version: CSHB 212 (JUD)
 (H) Publish Date: 4/5/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to a factor in aggravation of the
presumptive..." BRU: Public Defender
 Component: Public Defender
 Sponsor: Representative MacLean
 Requestor: House Judiciary COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: John Salemi, Public Defender Phone: 274-1684
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usara *NBCU* Date: 3/17/93
 Agency: Department of Administration *4*

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FISCAL NOTE

No. 3
 Bill Version: CSHR 212 (JUD)
 (H) Publish Date: 4/5/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date:	Dept. Affected: <u>Corrections</u>
Title: <u>"An Act relating to a factor in</u>	BRU: <u>Institutions</u>
<u>aggravation of a presumptive term..</u>	Component: <u>Institutions</u>
Sponsor: <u>Representative MacLean</u>	<u>1860</u>
Requestor: <u>House Judiciary</u>	COMPONENT SERIAL NO. <u>1860</u>

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	-0-	-0-	-0-	-0-	-0-	-0-
1005 GF/Program Receipts						
1006 GFMHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary)

Please see the attached page.

Prepared by: Dana LaTour
 Division: Commissioner's Office

Approved by Commissioner: Lloyd G. Rudd
 Agency: Corrections

Phone: 465-3376
 Date: 3-31-93

Date: 3-31-93

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HB 212

"An Act relating to a factor in aggravation of the presumptive term of a criminal sentence, and prohibiting the referral of a sentence based on application of that factor to a three-judge panel as an extraordinary circumstance.

Fiscal Note Analysis

This legislation adds as an aggravating factor to be considered by the sentencing court if the offense was sexual abuse of a minor, and the offender was residing in the same household as the victim, or if the offender occupied a position of authority in relation to the victim.

After reviewing the sentence lengths given to offenders of these crimes and discussing it with representatives of the Department of Law, it appears that judges generally give longer sentences to offenders convicted of these crimes than are given to offenders committing crimes in similar felony groups.

For example, the average sentence length for a first time offender of a class B felony is one year. By comparison, a first time offender convicted of sexual abuse of a minor in the 2nd degree is about 2 years.

Since it appears that offenders may already receive longer than average sentences for sex crimes against minors, and since consideration of an aggravating factor may not necessarily result in a longer sentence, the Department of Corrections has prepared a zero fiscal note.

FISCAL NOTE

No. 4

Bill Version: CSHB 212 (JUD)

(H) Publish Date: 4/5/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: March 22, 1993
Title: 'An Act relating to a factor in aggravation of the presumptive term of a criminal sentence...'
Sponsor: Representative MacLean
Requestor: Representative MacLean

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
FUND SOURCE:						

FUNDING:						
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Richard I. Peques
Richard I. Peques, Director
Richard E. Cole
Richard E. Cole, Attorney General

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: March 22, 1993
Date: March 22, 1993

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STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. ^{CS} HB 212 (Jud)

Pg. 2

ANALYSIS (Continued):

This bill amends AS 12.55.155(c) to provide that when the offense was sexual abuse of a minor in any degree and the victim at the time of the offense resided in the same household as the offender, or when the offender occupied a position of authority in relation to the victim, the sentencing court shall consider these factors and may aggravate the presumptive term set out in AS 12.55.125. The bill also amends AS 12.55.165(b) to provide that a court may not refer a case to a three judge panel based on the defendant's potential for rehabilitation if the court finds that either of these same factors is present. These sentencing provisions occur after the conviction of a defendant and, therefore, there should not be a fiscal impact for the Department of Law.

No. 5

FISCAL NOTE

Bill Version: CSHB 212 (JUD)

(H) Publish Date: 4/5/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: Sentencing: Aggravating Factors BRU: Trial Courts
 Components: _____
 Sponsor: MacLean
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
FUND SOURCE						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CHC* Phone: 254-3229
 Division: Alaska Court System Date: 04/01/93

Approved by: Arthur H. Snowden, II, Administrative Director *CHC*
 Agency: Alaska Court System Date: 04/01/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, CMB, & Impacted Agency(ies).

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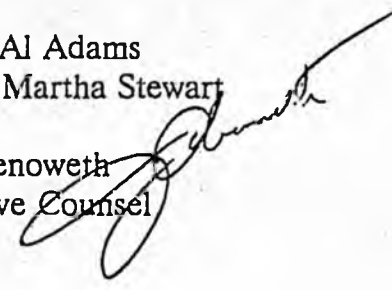
MEMORANDUM

April 2, 1993

SUBJECT: Questions concerning House Bill 212
(Work Order No. 8-LS0780\A)

TO: Senator Al Adams
ATTN: Martha Stewart

FROM: Jack Chenoweth
Legislative Counsel



Since we're eighty days along in the session, you'll appreciate, I trust, that my responses set out below are necessarily brief.

Your questions concerned provisions of House Bill 212:

1. On page 3, line 16, should the reference to AS 11.41.440, the offense of "sexual abuse of a minor in the fourth degree," defined as a class A misdemeanor, be removed from the bill?

That is probably a good idea. AS 12.55.155(a) declares that, by its terms, the provisions of the section apply "[i]f a defendant is convicted of an offense and is subject to sentencing under AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), or (i)" All of the cross-referenced provisions address felony convictions. The misdemeanor sentencing statute, AS 12.55.135, has no comparable mechanism for imposition of presumptive sentences for prior misdemeanor convictions. Thus, the reference to AS 11.41.440, a misdemeanor provision, is out of place in a list that applies to felony convictions.

2. On page 3, lines 17 and 18, is paragraph (18)(D)(i) duplicative or redundant of (18)(A)?

Though there is substantial overlap of these phrases, I don't read these provisions as being necessarily congruent. There is, in my view, a difference between "member of the social unit comprised of those living together in the same dwelling as the defendant" and the victim's "resid[ing] in the same household as the offender." The

difference, it seems to me, turns on the way a temporary household resident is treated. Under (a), one must be a social unit "member," that is, there need to be some evidence of a regular relationship of the victim to the offender within the dwelling unit. Under (d)(1), with its reference to "resid[ing] in the same household," implies, at least to my mind, a slightly broader application, so that it would include, within the category of a victim, someone occupying the dwelling temporarily--a visitor or foster care placement, for example. I don't think the legislature should use different terms if it means the same group, but the legislature is free to draw a description and, to the extent there are differences in the groups described, the use of the different phrases is defensible.

3. May an aggravating factor be applied to enhance a presumptive sentence when an element of the factor is also the necessary element of the offense for which the sentence is imposed.

First: AS 12.55.155(e) provides, in part, that "[i]f a factor in aggravation is a necessary element of the present offense, or requires the imposition of a presumptive term under AS 12.55.125(c)(2), (d)(3) or (e)(3), that factor may not be used to aggravate the presumptive term. . . ."

However, despite that, Alaska's Court of Appeals has treated AS 12.55.125, requiring imposition of presumptive sentences for certain repeat offenders, and AS 12.55.155(e) as independently operating statutes. The appellate court does not read AS 12.55.155(e)

. . . as indicating a legislative intent to preclude enhancement of sentences under AS 12.55.125 when the conduct relied upon to subject a defendant to an enhanced presumptive term was itself an element of the underlying offense.

Burks v. State, 706 P.2d 1190 (Alaska App. 1985), at 1192, citing earlier decisions in Bell v. State, 658 P.2d 787 (Alaska App. 1983) and Fry v. State, 655 P.2d 789 (Alaska App. 1983). In other words, a prior felony conviction may be used to enhance a second felony conviction even if the first conviction was an essential element of the second conviction.

In its earliest decision, Fry v. State, the defendant contended that he should not be subjected to presumptive sentencing as a second felony offender because his prior felony conviction was an essential element of the crime for which he was convicted and sentenced in the case. Noting the split in authority among the jurisdictions, the appellate court determined:

Given the fundamental difference in purpose between the general framework of presumptive sentencing [AS 12.55.125], with its

focus on uniformity and predictability of sentencing for repeat offenders, and the system of aggravating factors specified in AS 12.55.155, with its narrow focus on sentence enhancement, the legislature could well have had a substantial and legitimate interest in declining to extend the type of restriction contained in AS 12.55.155(e) to the presumptive sentencing provisions in AS 12.55.125. Certainly, if the legislature had intended to prohibit the use of a prior conviction as a basis for applying presumptive sentencing when the conviction is a necessary element of the present offense, it could easily have expressed its intent by including in AS 12.55.125 language paralleling the provisions of AS 12.55.155(e). In the absence of a specific provision of this nature, however, we find no ambiguity in AS 12.55.125(e)(1), as defined by AS 12.55.145(a)(1) and AS 12.55.185(7). We therefore hold that Fry was properly subjected to presumptive sentencing, despite the fact that his prior felony conviction, upon which the presumptive sentence in this case was based, constituted a necessary element of his present offense.

655 P.2d 789, at 792 (footnote omitted).

As you observed, there is overlap between the elements that define various felonies and the content of aggravating factors that apply to modify a presumptive sentence. Fry's claim, for example, arose in the context of a second felony conviction--misconduct involving weapons in the first degree (AS 11.61.200(a)(1)), a class C felony--and application of at least one of the aggravating factors--the opinion does not identify it--involving the use of a weapon in the commission of the offense. The situation in Burks, mentioned earlier, involved conviction for first degree robbery (AS 11.41.500(a)(1)), a class A felony, an element of which involved possession of a deadly weapon, and application of an aggravating factor involving the use of firearms while committing the offense. The court decisions make clear that AS 12.55.155(e) should not be read to operate as a limitation on the applicability of presumptive sentencing, but only to preclude the use of one or more aggravating factors to enhance presumptive sentences in cases in which the factors are also necessary elements of the offense for which the sentence is to be imposed. The court has thus construed the provisions so as to give the opportunity for the two sections in question to operate independently.

JBC:lmb

93-101.lmb

Back-up

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MEMORANDUM

March 9, 1993

SUBJECT: House Bill 212 -- sectional analysis (Work Order No. 8-LS0780\A)

TO: Representative Eileen MacLean

FROM: Jack Chenoweth
Legislative Counsel

You have introduced House Bill 212 and, through staff, have asked me to prepare a sectional analysis of the measure.

To reduce or eliminate disparity in criminal sentences, the criminal procedure code, AS 12, subjects offenders convicted of certain specified crimes to presumptive sentences. Presumptive sentences may be extended or reduced if the sentencing judge, by a decision based on clear and convincing evidence, identifies factors in aggravation or factors in mitigation of the sentence. AS 12.55.155(c) identifies a series of factors to be considered by the court in aggravation or extension of a presumptive sentence. **Bill section 1** amends AS 12.55.155(c)(18) by adding a new subparagraph under which the court may consider, as a factor in aggravation of a criminal sentence based on a conviction for sexual abuse of a minor in any degree (AS 11.41.434 - 11.41.440), evidence that the victim of the offense resided in the same household as the offender or evidence that the offender occupied a position of authority over the victim. The bill section offers a definition of the phrase "position of authority" by cross-reference to a definition of that term in the criminal code.

The criminal procedure code also provides for referral of certain criminal sentences by the sentencing judge to a three-judge sentencing panel. Under AS 12.55.165(a)

(a) If the defendant is subject to sentencing under [a presumptive sentencing provision] and the court finds by clear and convincing evidence that manifest injustice would result from . . . imposition of the presumptive term, whether or not adjusted for aggravating or mitigating factors, the court shall enter findings and conclusions and cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175.

Representative Eileen MacLean
March 9, 1993
Page 2

However, subsection (b) of that section, added in 1992, limits the ability of the sentencing court to make a referral of a sentencing decision to a three-judge review panel in cases involving the application of certain aggravating factors. The amendment to AS 12.55.165(b) made by **bill section 2** places the aggravating factor added in the previous bill section to the list of aggravating factors whose application would not allow a sentencing judge to make a referral to a sentencing panel.

JBC:pl
93-176.plm

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723
(907) 852-7111

WHILE IN JUNEAU
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HOUSE OF REPRESENTATIVES

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Teller
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TO: Representative Brian Porter, Chair
House Judiciary Committee

FROM: Representative Eileen MacLean *Eileen*

DATE: April 1, 1993

RE: House Bill 212

This memo requests a hearing for House Bill 212 in the House Judiciary Committee.

This bill accomplishes two ends. It adds an element of the crime of sexual abuse against a minor to the list of aggravating factors in our statutes. It also prevents this kind of crime from being referred to the three judge panel for consideration of an altered sentence.

The crime being addressed in this legislation is found in Alaska Statutes 11.41.434, 11.41.436, 11.41.438 and 11.41.440. These are the sexual abuse of a minor statutes, first through fourth degree. The bill addresses a particular element of these crimes-when the offender resides in the same household or occupies a position of authority in relation to the victim. Of note, as a drafting matter, it is not appropriate to have AS 11.41.440 included in this legislation as it is a misdemeanor offense not subject to presumptive terms. I recommend the bill be amended to omit reference to this crime.

The following scale demonstrates the presumptive terms for the first through third degree offenses:

	<u>Sex Abuse of Minor statutory sentence (in years)</u>		
	1°	2°	3°
1st offense	8	1-4 (benchmark)	none
2nd offense	15	4	2
3rd offense	25	6	3

Sexual abuse of a minor is an offensive societal crime in itself, but more so when the adult is in a position of authority to the child. In my view, the importance of condemning this kind of behavior by way of limiting statutory direction to the judicial branch is important. The strictest of sentencing circumstances should be applied here.

The bill also prevents referral of these cases to the three judge sentencing panel. This removes the possibility of the court giving more lenient sentences to those accused of these crimes.

Enclosed with this memorandum are statutes that cover this kind of crime, the list of aggravators and mitigators, statutes that refer to the three judge panel and a copy of the State v Jackson case. Also enclosed is a resolution from the North Slope Borough School District. Although that resolution requests making this kind of crime a first degree felony, I felt a better way to meet the request was to add the crime to the aggravating factors.

Fiscal notes have been requested from the Departments of Law, Administration (Public Defender Agency and Office of Public Advocacy) Corrections and the Alaska Court System.

Thank you for your consideration.

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MEMORANDUM

March 30, 1993

SUBJECT: Purpose and use of three-judge criminal sentencing panels

TO: Representative Eileen MacLean
ATTN: Rena Bukovich

FROM: Jack Chenoweth
Legislative Counsel

This memo is by way of response to your request of last week for a brief explanation of the purpose and use to be made of the three-judge criminal sentencing panel. Use of the panel is authorized by AS 12.55.175.

~~As I understand, under the former criminal code in place in this state until 1980,~~ sentencing authority was vested principally in the trial judge who would impose a criminal sentence generally within very broad statutory limits. The revised criminal code put into place a more detailed sentencing framework that set down tougher, more regular guidelines for imposing criminal sentences. Under the revised code, with the exception of particularly serious crimes, the sentencing judge continues to enjoy considerable discretion in sentencing first felony offenders. However, as to subsequent or repeat felony offenders, the statutes establish a series of presumptive sentences that the sentencing judge must follow, within constraints.

One set of constraints applicable to presumptive sentences goes to the finding and application of certain factors. The sentencing judge may increase a presumptive sentence because of the presence of so-called aggravating factors or reduce a presumptive sentence because of the presence of mitigating factors.

The second set of constraints under the revised Criminal Code is the referral of a sentence to a three-judge sentencing panel. That referral may be made if, under AS 12.55.165, the judge determines that manifest injustice would result from following the strict presumptive sentencing scheme.^{1/} The sentencing panel apparently has

^{1/} AS 12.55.165(a), captioned "Extraordinary Circumstances," provides:

(continued...)

two choices. If, after consideration of the record and opportunity for argument, the three-judge panel agrees with the sentencing court that a departure from strict application of the adjusted presumptive sentence is necessary, the panel may impose a different sentence. If the three-judge sentencing panel does not agree that a departure is necessary, it is to return the matter to the sentencing judge so that he or she may carry through and impose a sentence. So, in Heathcock v. State, 670 P.2d 1155 (Alaska App. 1983), the Court of Appeals observed:

. . . [A] departure from the presumptive sentencing scheme will not turn on the evaluation of one judge. Rather, a departure from the presumptive sentencing scheme under the provisions of AS 12.55.165 and AS 12.55.175 will involve the decision of four judges. First, the original trial judge makes the decision to refer the matter to the three-judge panel. Then the three-judge panel, if it agrees with the evaluation of the trial judge, imposes sentence.

670 P.2d at 1158.

In 1992, the Seventeenth Legislature started to take away from the authority of the trial court judge to make referrals to the three-judge panel. Those limitations have been set out in AS 12.55.165(b) and are in the nature of cross-references to aggravating factors that do not warrant referral of a criminal sentence to a three-judge panel.^{2/} By my reading of this new provision, if these aggravating factors are present, then the sentencing judge must determine, among other factors, the defendant's prospects for rehabilitation and enter a sentence. The judge may not find that "manifest injustice" will occur, so that the "extraordinary" remedy of referral of the matter to the sentencing panel is not available.

JBC:gc:mi
93-288.glc

^{1/}(...continued)

(a) If the defendant is subject to sentencing under AS 12.55.125(c), (d), (e), or (i) [, the presumptive sentencing subsections,] and the court finds by clear and convincing evidence that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155 or from imposition of the presumptive term, whether or not adjusted for aggravating or mitigating factors, the court shall enter findings and conclusions and cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175.

^{2/} Under AS 12.55.165(b):

(b) In making a determination under (a) of this section, the court may not refer a case to a three-judge panel based on the defendant's potential for rehabilitation if the court finds that a factor in aggravation set out in AS 12.55.155(c)(2), (8), (10), (12), (15), (17), (18)(3), (20), (21), or (28) is present.

NORTH SLOPE BOROUGH SCHOOL DISTRICT

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Patsy Aamodt, Superintendent



March 30, 1993

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Atkasuk Eagles

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Barrow Whalers

Barrow High School
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Barrow, Alaska 99723
(907) 852-8950
FAX (907) 852-8969

BMS Wolves

Barrow Middle School
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Barrow, Alaska 99723
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Arctic Fox

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FAX (907) 852-4713

Kaveolook Rams

Harold Kaveolook School
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Kaktovik, Alaska 99747
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FAX (907) 640-6718

Nulqsut Trappers

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Nulqsut, Alaska 99789
(907) 480-6712
FAX (907) 480-6621

Tikigaq Harpooners

Tikigaq School
Box 148
Point Hope, Alaska 99766 **PAA/cms**
(907) 368-2662 or 2663
FAX (907) 368-2770

Cully Qavviks

Cully School
Point Lay, Alaska 99759
(907) 833-2311
FAX (907) 833-2315

Alak Huskies

Alak School
Box 10
Wainwright, Alaska 99782
(907) 763-2541
FAX (907) 763-2550

**The Honorable Brian Porter, Chairman
Judiciary Committee
Alaska State House of Representatives
Juneau, Alaska 99811**

Dear Representative Porter:

I support House Bill 212 which amends the Alaska Statutes.

It is very important that people in positions of authority over minor children not be allowed to abuse that authority.

Thank you. If I can do anything to assist you in passing this legislation, please contact me.

Sincerely,

**Patsy Aamodt
Superintendent**

cc: [Redacted]
cc: [Redacted]

North Slope Borough School District



RESOLUTION 93-12 AMENDMENT TO TITLE ELEVEN OF THE ALASKA STATUTES

WHEREAS the North Slope Borough School District is strongly committed to the education and safety of its students; and

WHEREAS the NSBSD and the people of Alaska entrust the education and safety of their students to the teachers of the State; and

WHEREAS a breach of that trust involving the sexual contact of a student by a teacher causes irreparable harm to the student and society and, further, undermines the educational mission of the NSBSD and the State of Alaska; and

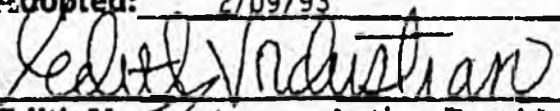
WHEREAS the NSBSD does not believe the criminal code sufficiently addresses sexual contact between a teacher and a student and, further, that likely punishments for teachers who have sexual contact with students who have been entrusted to them by the State and their families neither sufficiently reflects the trauma suffered by the student and society nor the intolerance which the people of the State of Alaska have for such conduct.

NOW, THEREFORE, BE IT RESOLVED that the NSBSD Board of Education strongly urges the Legislature of the State of Alaska to amend the criminal code (Title 11) so as to designate sexual contact of a student by a teacher as sexual abuse of a minor in the first degree; and

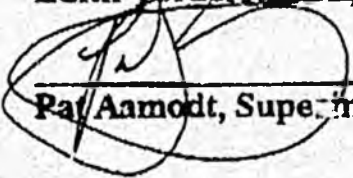
BE IT FURTHER RESOLVED that the Superintendent shall take such action as is necessary to make known and urge the immediate adoption of this position of the NSBSD to the Legislature and the Association of Alaska School Boards and the Alaska Association of School Administrators

Introduced: 2/09/93

Adopted: 2/09/93



Edith Vorderstrasse, Acting President, Board of Education



Pat Aamodt, Superintendent