

**SB**

**11**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: May 13, 1999

FURTHER REFERRALS:

Date of Committee Action: 5/16/99

The FINANCE Committee considered:

CSSB 11(JUD)

CS FOR SENATE BILL NO. 11(JUD)

PRISON TIME CREDITS FOR MURDERERS

"An Act relating to good time credits for prisoners serving sentences of imprisonment for certain murders."

recommends it be replaced with the following committee substitute HCS CSSB 11 (JUD)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) DOA 5/13/99

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) DOC 5/13/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>W. Williams</u> Williams			X	
<u>G. Davis</u> G. Davis			X	
<u>J. Moses</u> Moses			X	
<u>L. Kibrine</u> Kibrine	X			
<u>J. Theriault</u> Theriault	X			
<u>M. Mulden</u> Mulden	X			
<u>B. Blund</u> Blund				✓
<u>A. Agostamani</u> Agostamani	X			
<u>J. Davis</u> J. Davis		X		
<u>J. Grussendorf</u> Grussendorf			X	

CO CHAIR'S SIGNATURE [Signature]  
Theriault

[Signature]  
Mulden

FISCAL NOTE

No: 4

Bill Version: CSSB 11 (JUD)

(H) Publish Date: 5/13/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Revision Date: 2/24/99  
Title: "An Act relating to good time credits for prisoners serving sentences for certain murders..."  
Sponsor: Senator Donley  
Requestor: (S) FIN

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)  
Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	**
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CHANGE IN REVENUES ( )	**	**	**	**	**	**
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 99) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) This bill reduces good time credits available for defendants convicted of murder in the first or second degree. The bill provides that prisoners convicted of these offenses are only entitled to one-half the good time credits "provided to other prisoners."

This bill may have a fiscal impact on the Alaska Public Defender Agency. There may be litigation on whether this bill violates equal protection of the laws under the Alaska or United States Constitution. In the past, Alaska courts have found that laws singling out particular offenses (rather than classes of offenses) for disparate treatment violate equal protection. Also, it may be that more cases will be contested because of the increased penalties. However, the impact is not quantifiable. Therefore, the Public Defender Agency is submitting an indeterminate fiscal note.

Prepared by: Barbara Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4414  
Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe Jr.  
Agency: Department of Administration

Date: 2/24/99

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COMMITTEE COPY

# FISCAL NOTE

No: 3

Bill Version: CSSB 11 (JUD)

(H) Publish Date: 5/13/99

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) 2/23/99 Dept. Affected Department of Corrections  
 Title An Act relating to good time credits for prisoners BRU Administration and Operations  
 serving sentences of Imprisonment for certain murders, or Component All  
 Sponsor Senator Dorsey  
 Requester Senate Judiciary Committee Component Serial No. #0694

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 CS Senate Bill 11 (JUD) will reduce the amount of good time credits currently awarded to those offenders who are convicted of murder 1, and murder 2. This legislation will reduce the amount of good time credits from the current one-third of the sentence to one-sixth.

The Dept. of Corrections has submitted a zero fiscal note because the impact will not be realized until approximately 2010. This will have a definite impact in the out years. An example would be if CS SB 11(JUD) had passed on 1-1-98, offenders sentenced in that year on the above crimes would serve a combined total of 33 additional years. At today's average daily cost of care, that would amount to a \$1.2 million dollar impact for those sentenced in 1998.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 2/23/99 1:44 PM  
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* 2/23/99  
 Agency Department of Corrections

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## NATIONAL CONFERENCE OF STATE LEGISLATURES

1560 Broadway Suite 700, Denver, CO 80202-5140 (303) 830-2200

### 1993 – 1998 State Laws related to “Truth in Sentencing”

**Florida S 1522 (1998)** Prohibits shortening of a sentence if a defendant would serve less than 85 percent of term of imprisonment. Clarifies circumstances for departure from lowest permissible sentence. Requires department of corrections to report on trends in sentencing scores and practices; and that the Criminal Justice Estimating Conference project impact of proposes changes to the punishment code on future prison populations.

**Illinois H 3500 (1998)** Eliminates good conduct credits and requires entire sentence imposed to be served by prisoners sentenced for first degree murder and to natural life terms. Reduces good conduct credits to require 85 percent of sentence served for many other serious and violent felonies. Sets policy for revoking, suspending and reducing good conduct credits, including loss of credits for frivolous lawsuits. Establishes Truth-in-Sentencing Commission to study and suggest sentencing policy. Also requires judicial statement in sentencing as to the approximate time a defendant will serve.

**Iowa H 2002 (1998)** Adds attempted murder to crimes for which persons convicted must serve at least 85 percent of the sentence imposed.

**Kansas S 262 (1998)** Requires the court to state the sentence a defendant will serve, including maximum potential sentence reduction as a result of good time and the period of post-release supervision. Under sentencing grid, allows courts the option of sentencing specified offenders to non-prison treatment programs.

**Kentucky H 455 (1998)** Eliminates parole for violent, persistent felony offenders; and requires that all violent offenders serve 85 percent of the sentence imposed.

**New York S 7820 (1998)** Eliminates parole, requiring a determinate sentence for all violent felony offenders (including first such offense). Establishes periods of post-release supervision as part of the sentence and allows imprisonment of up to five years for violating conditions of supervision

**Oklahoma H 1002 (1998 1<sup>st</sup> Extraordinary Session)** Delays implementation of truth in sentencing legislation of 1997.

**Wisconsin A 351 (1998)** Creates new sentencing structure for felony offenses, increasing the maximum imprisonment time imposed. Abolishes parole, requiring 100 percent of sentence for all felony offenders plus a term post-prison extended supervision equal to at least 25 percent prison term. Creates a Criminal Penalties Study Committee to review, make recommendations on classification of criminal offenses, penalties for felonies and class A misdemeanors. Also creates a sentencing commission to develop advisory sentencing guidelines for judges

**Alaska S 67 (1997)** Truth in Sentencing Act requires the court to state and include in the sentencing report information on the minimum term that the defendant is expected to actually serve prior to release or parole.

**Delaware S 131 (1997)** Authorizes sentencing courts to require that a specified portion of a prison term be served without any form of early release, good time, furlough, work release, supervised custody or any other reduction of sentence.

**Florida H 1371 (1997)** The Prison Release Recidivist Punishment Act requires mandatory minimum sentences and that 100 percent of the court-imposed sentence be served for offenders who commit a qualifying offense within five years of release from prison. Offenses include weapon use in a criminal offense and various crimes against children.

**Louisiana H 1915 (1997)** Changes computation of good time for prisoners. Sets rate of 30 days for every 30 days good behavior and self improvement for some prisoners; for others convicted of a crime of violence the rate is three days for every 17 days good behavior.

**New Jersey S 855 (1997)** Requires a fixed, minimum term of 85 percent of sentence for first and second-degree violent crimes, plus a three to five year period of parole supervision. Violent crimes include those causing death, serious bodily injury, or use or threatened immediate use of a deadly weapon. Also includes any aggravated sexual assault or such assault using or threatening physical force.

**North Dakota H 1089 (1997)** Requires that violent offenders sentenced to life imprisonment with possibility of parole will serve a term computed as life expectancy based on a recognized mortality table, without parole eligibility until that requirement is met.

**Oklahoma H 1213 (1997)** Truth in Sentencing act requires that 85 percent of the sentence be served by serious, violent offenders. Non-violent offenders are required to serve 75 percent of sentence, some in community corrections, which is expanded locally under the act. Establishes sentencing commission to review impact of legislation, and so establishes planning process for future prison bed needs, including selection process for private prisons.

**Alaska H 38 (1996)** Eliminates good time for offenders serving mandatory 99-year sentences and requires that those offenders may apply just once for modification or reduction of sentence, after serving one-half of the mandatory or 30 years. Also adds, for purposes of considering prior convictions in imposing "three strikes" sentences, convictions in another jurisdiction for offenses having similar elements to applicable serious felonies.

**Delaware H 507 (1996)** Applies minimum sentence to habitual criminals convicted of a fourth felony, when the fourth conviction is for any one of more than 50 designated "violent felonies."

**Florida S 156 (1996)** Establishes eight-year revision cycle for crime and other public safety statutes and guiding principles for justice information technology. Redefines habitual and violent felony offenders to include felonies committed while serving prison sentence and limits gain time for such offenders to ensure 85 percent of sentence served. Also limits gain time for felonies involving weapon or firearm; and includes drug, sex offender, juvenile provisions.

**Iowa H 2316 (1996)** Requires persons to serve twice the maximum term for a "sexually predatory" serious or aggravated misdemeanor offense when they have one prior such conviction, and a mandatory ten year sentence and serve at least 85 percent of the sentence if they have two or more prior such convictions. Requires twice the maximum term or 25 years, whichever is greater, with sentence reductions limited so that no less than 85 percent of the sentence is served, for conviction of a "sexually predatory" felony. Also requires up to two years of community supervision (parole or work release) for sexually predatory offenders, as defined in the act to broadly include sexually violent or abusive crimes.

**Iowa S 2114 (1996)** Requires that persons imprisoned for forcible felonies serve 100 percent of the maximum sentence term, without eligibility for parole or work release. Also directs legislative council to establish sentencing task force.

**South Dakota S 273 (1996)** Eliminates good time and establishes minimum sentence that must be served before parole eligibility for each felony class. Number of felony convictions is a factor in sentence length. Less serious offenses and offenders may serve 25% of sentence before parole eligibility; more serious and frequent offenders will serve 75 and 100% of sentence. Requires DOC to keep conduct record of each inmate which can be used in considering parole release, but without sentence credits related to conduct.

**Arkansas S 820 (1995)** Offenders convicted of first-degree murder, kidnapping, aggravated robbery, rape and causing a catastrophe must serve 70% of sentence.

**Connecticut S 927 (1995)** Requires certain offenders serve at least 85% of the sentence imposed and directs the parole board to adopt guidelines and procedures for classifying people as violent offenders not limited to the elements of the offense or offenses for which they are convicted. Applies to offenders eligible for parole who used, attempted or threatened use of force against another person. (Previous law makes a capital felony, murder, or any offense committed with a firearm at or near school ineligible for parole.)

**Florida H 687 (1995)** "Stop Turning Out Prisoners Act" requires offenders to serve a minimum of 85% of the sentence imposed, with gain time limited accordingly. State prisoners sentenced to life imprisonment, including for capital felonies, will be incarcerated for the rest of their natural lives. All prison sentence offenses are affected.

**Florida S 168 (1995)** "Officer Evelyn Gort and All Fallen Officers Career Criminal Act" establishes three strikes-type penalties and includes 85% requirement for some. "Habitual felony offenders" have had 2 or more felonies and get terms from life to not exceeding 10 years; "habitual violent felony offenders" have had 1 or more previous violent crime convictions and get from life, with no release eligibility for 10 years, to 10-year sentences with no release eligibility for 5 years; "violent career criminals" have been convicted as an adult 3 or more times for violent crimes and get from life, with no release eligibility, to mandatory minimum of 10 years. "Violent career criminal," established in a separate proceeding, "gain time" limited to require 85% of sentence served. Courts must give written reasons for not imposing statutory sentences, addressing protection of the public.

**Illinois S 187 (1995)** Limits good conduct credits to require offenders serve at least 85% of sentence imposed. Also creates Illinois Truth-in-Sentencing Commission, charged with facilitating and monitoring implementation of 85% of sentence measure. 85% applies broadly to serious, violent crimes. Offenders imprisoned for first-degree murder receive no good conduct credit and will serve 100% of sentence.

**Louisiana H 146 (1995)** Requires certain offenders serve at least 85% of the sentence imposed before being eligible for parole. Life sentences must be commuted to fixed term of years to be eligible for parole consideration.

**Louisiana S 1418 (1995)** Requires established sentences must be served, without benefit of probation, parole or suspension of sentence and with good conduct limitations. Rape, 25 years; sexual battery, 10 years; aggravated sexual battery, 15 years.

**Maine S 201 (1995)** Reduces statutory meritorious good time to ensure that the term of imprisonment imposed closely approximates that which will be served. Applies to all crimes and prisoners.

**Mississippi S 2175 (1995)** Earned-time credits are limited to require that inmates serve at least 85% of prison term. Having served 85% and once released, inmates are placed under earned-release supervision until expiration of the full term. Inmates serving life sentences, except those imprisoned for life for capital murder, may petition for conditional release after age 65 and at least 15 years served. The law also establishes a reconstituted state parole board, and on July 1, 2000, transfers those duties, responsibilities to the Department of Corrections, eliminating the parole board, as such. All prison inmates affected.

**Montana H 356 (1995)** Simplifies and calls for phasing out all good time by 1997, pending recommendations of a sentencing commission, established in the legislation. Meanwhile, actual time served not substantially affected. Applies to all prison inmates.

**New York S 5281 (1995)** Sentencing Reform Act includes truth, 85%-type provisions and habitual offender measures. Also changes previous law for second felony offenders. Establishes determinate sentences under which offenders are not eligible for discretionary release and may not be paroled prior to serving six-sevenths of the set term. Determinate sentences are imposed on violent felony offenders with a prior felony conviction. Also creates commission to study the effects of the Sentencing Reform Act. The six-sevenths of sentence determinate sentences apply to Class B violent felony offenders who must serve 8 to 25 years; Class C violent felony offenders who are to serve 5 to 15 years; Class D violent felony offenders who must serve 3 to 7 years; and Class E violent felony offenses, which carry set sentences of 2 to 4 years. The parole sentence provisions for second nonviolent felony offenders applies to specified offenses including, but not limited to, criminal mischief, grand larceny, forgery, some controlled substance felony offenses.

**North Dakota H 1218 (1995)** Requires imprisoned, violent offenders must serve 85% of sentence. Violent offenders include those convicted of murder, manslaughter, aggravated assault, kidnapping, gross sexual imposition, robbery, burglary or attempts to commit the offenses.

**Ohio S 2 (1995)** Establishes new framework for felony sentencing, sets principles to guide courts in imposing sentences and specifies presumptions for imposing prison terms for certain felonies. Some mandatory minimum sentences required under law, including for repeat violent offenders on whom the court must impose a prison term from the range authorized for the offense, which cannot be reduced by judicial release, earned credit or any other provision for release. Reclassifies drug trafficking and possession offenses. Specifies financial sanctions, residential and nonresidential prison alternatives. Sets sentencing procedure and sentence appeals. Establishes sentence of life imprisonment without parole as additional alternative to the death penalty in applicable cases.

**Oregon H 3439 (1995)** Creates mandatory minimum sentences for some crimes. Extends to 25 years the period of time that a person sentenced to life imprisonment for aggravated murder must serve before parole board considers rehabilitation, release. Includes many violent crimes, including murder, attempt or conspiracy to commit murder, manslaughter, assault, kidnapping, rape, sodomy, unlawful sexual penetration, others.

**South Carolina H 3096 (1995)** Creates "no parole offenses." Requires that 80% of sentence must be served before eligibility for work release and 85% for early release, discharge or community supervision. "No parole offenders," must serve up to 2 years community supervision following prison term. "No parole offenses" are Class A, B or C felonies including many serious, violent crimes punishable by 20 years or more in prison. Life without parole sentence applies to "most serious offenses," including many serious violent felonies, drug trafficking, some bribery, embezzlement, certain accessory and attempt offenses.

**Tennessee H 1762 (1995)** Eliminates release eligibility for persons convicted of certain crimes and limits sentence credits to require at least 85% of sentence is served. Applies to 11 violent, often aggravated, crimes including murder, rape, rape of a child, kidnapping, robbery, sexual battery, arson, child abuse.

**California (1994)** Requires offenders in prison for violent felonies to serve 85 percent of the sentence imposed. Limits worktime credits to 15 percent of the sentence.

**Missouri (1994)** Requires certain categories of repeat or dangerous felony offenders to serve 50 percent, 80 percent, or 85 percent of a sentence. Retains parole release after those minimum sentences are served.

**Virginia (1994 special session)** Abolished parole and good conduct allowance for anyone convicted of a felony. Permits the court to add a post-release supervision term to the imposed prison sentence.

**Arizona (1993)** Requires inmates to serve 85 percent of their sentence, with 15 percent reduction possible through good behavior credits. Despite the lack of discretionary parole-release decision, offenders sentenced to prison are supervised upon release for a period of 15 percent of the sentence imposed.

Please call Donna Lyons at NCSL for more information.

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# NCSL · LEGISBRIEF

April/May 1999

Vol. 7, No. 21

## TRUTH IN SENTENCING

By Donna Lyons

*Reforms require certain violent offenders to serve 85 percent of the prison sentence imposed.*

Crime control and public safety have prompted many new laws providing for "truth in sentencing." Generally, "truth" measures address the criminal sentence imposed by the court and the actual time an offender serves in prison. Recent reforms have required that certain serious or violent offenders serve at least 85 percent of the sentence given. Federal crime legislation has provided a grant incentive to states to review and implement policies to incarcerate violent offenders, including the 85-percent-of-sentence requirement.

Arizona, California, Missouri and Virginia were among states adopting "truth in sentencing" laws in the early 1990s. Arizona did so in 1993 as a complete revamp of its criminal code. The law established the requirement that all inmates serve 85 percent of their sentences, followed by supervision in the community for the 15 percent remaining. California legislation in 1994 also limited work credits that violent offenders can earn so that they serve at least 85 percent of the prison sentence. In special session in 1994, Virginia lawmakers abolished parole and good conduct allowances for any offender convicted of a felony. Courts may add a period of post-release supervision to the prison sentence.

Throughout the 1990s, other states passed similar measures. Notably, broad sentencing reform in Ohio reclassified all felony offenses, and addressed truth in sentencing by eliminating discretionary parole release. Oklahoma enacted a major truth in sentencing act that requires violent offenders to serve 85 percent of the sentence, while other less serious offenders serve less or are handled in community corrections programs. In recent years, Florida repealed sentencing guidelines in favor of minimum sentences, no parole for persistent offenders, and an 85 percent policy for others. In 1998, Kentucky, New York and Wisconsin passed laws to abolish parole. Wisconsin's law applies to all felony offenders; New York eliminated parole for all violent, even first-time, offenders; and Kentucky's no-parole policy applies to persistent violent offenders.

*Guidelines may also provide long, no-parole sentences for serious offenders.*

Other types of sentencing reforms in states also have provided for long sentences without benefit of parole release for the most serious offenders. Minnesota was one of the pioneering states in establishing sentencing guidelines. Kansas,

**Truth in Sentencing Laws 1993-1998**  
*For all or broad categories of serious offenders*

	85 Percent Requirement	No Parole	Other
Arizona	✓	✓	
Alaska			✓
California	✓		
Connecticut	✓		
Delaware	✓		✓
Florida	✓	✓	✓
Illinois	✓	✓	
Iowa	✓	✓	
Kansas			✓
Kentucky	✓	✓	
Louisiana	✓		
Maine		✓	
Mississippi	✓		
Missouri	✓		
Montana			✓
New Jersey	✓		
New York	✓	✓	
North Dakota	✓		✓
Ohio		✓	✓
Oklahoma	✓		
Oregon			✓
South Carolina		✓	✓
South Dakota		✓	
Tennessee	✓	✓	
Wisconsin		✓	

Source: NCSL

Michigan and North Carolina are among states with more recent experience in structured sentencing. Often, guidelines have come about as a result of the work of sentencing commissions. Those commissions also develop and monitor truth in sentencing policies.

Congress addressed truth in sentencing as part of the Violent Crime Control and Law Enforcement Act of 1994. Funding at \$8 billion through the year 2000 was authorized for the Violent Offender Incarceration and Truth in Sentencing Incentive Grant (VOITIS) program. States receive money for construction or improvement of correctional facilities upon demonstration that truth in sentencing and related incarceration policies exist for violent offenders. Regulations were designed to accommodate various sentencing structures, including guidelines, as well as new laws that specify 85 percent of sentence policy. The Bureau of Justice Statistics reports that 27 states and the District of Columbia qualified in 1998 for VOITIS truth in sentencing funds.

*A federal grant ties funds for prison construction to policies on sentencing violent offenders.*

Research sponsored by the federal National Institute of Justice (NIJ) is under way to help states evaluate the effect of truth in sentencing on crime and the criminal justice system. The Rand Corporation in Santa Monica, Calif., is carrying out a multiyear, broad evaluation of "truth" laws. Rand's study is analyzing the impact on prosecutorial and judicial actions, correctional populations and costs, and crime rates. Another NIJ-funded study by the Urban Institute is analyzing effects on lengths of prison stay, as well as if and how criminal justice and corrections systems are adapting to "truth" policies. A report this year from the Bureau of Justice Statistics ties adoption of truth in sentencing laws to increases in time actually served behind bars and to growing state prison populations. Nationally, seven in 10 violent offenders are in a state that requires that 85 percent of the sentence be served, according to the report.

*Today, seven of 10 violent offenders are in a state that requires 85 percent of the sentence to be served.*

Proponents of 85 percent "truth" laws assert that credibility of the criminal justice system requires a closer relationship between the sentence imposed and time served. Indeed, there has been strong public and political support for longer, more determinate sentences for serious, dangerous offenders. Other observers suggest that laws that broadly provide for longer time in prisons will further increase state corrections populations and costs without a proportionate impact on public safety. NCSL has reported that state corrections appropriations are about 6 percent of state general funds in 1999.

### Selected References

Bureau of Justice Statistics, Office of Justice Programs. "Truth in Sentencing in State Prisons." Washington, D.C., January 1999, NCJ #170032. Fax on demand (301) 519-5550, or call BJS clearinghouse at (800) 732-3277, or find at [www.ojp.usdoj.gov/bjs/](http://www.ojp.usdoj.gov/bjs/)

### Contacts for More Information

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Senator Donley  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182

February 19, 1999

Dear Senator Donley,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 11.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau  
State President  
Alaska Peace Officers Association

2<sup>nd</sup> Degree Murder  
Sentencing  
Other States  
by  
Senator Donley

Arizona

Sentence for second degree murder

10 years

A. Except as provided in section 13-604, subsection S or section 13-604.01, a person who stands convicted of second degree murder as defined by section 13-1104 shall be sentenced to a presumptive term of sixteen calendar years. The presumptive term imposed pursuant to this subsection may be mitigated or aggravated by up to six years pursuant to the terms of section 13-702, subsections C and D.

B. Except as provided in section 13-604, subsection S or section 13-604.01, a person who stands convicted of second degree murder as defined by section 13-1104 and who has previously been convicted of second degree murder or a class 2 or 3 felony involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to a presumptive term of twenty calendar years. The presumptive term imposed pursuant to this subsection may be mitigated or aggravated by up to five years pursuant to the terms of section 13-702, subsections C and D.

California

15 years

190. (a) Every person guilty of murder in the first degree shall suffer death, confinement in the state prison for life without the possibility of parole, or confinement in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

Except as provided in subdivision (b), (c), or (d), every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 15 years to life.

(b) Except as provided in subdivision (c), every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section

830.1, subdivision (a) or (b) of Section 830.2, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was such a peace officer engaged in the performance of his or her duties.

(c) Every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of life without the possibility of parole if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a) or (b) of Section 830.2, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was such a peace officer engaged in the performance of his or her duties, and any of the following facts has been charged and found true:

(1) The defendant specifically intended to kill the peace officer.

(2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.

(3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.

(4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.

(d) Every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to serving the minimum term of confinement prescribed by this section.

Idaho

18-4004. PUNISHMENT FOR MURDER. Subject to the provisions of section 19-2515, Idaho Code, every person guilty of murder of the first degree shall be punished by death or by imprisonment for life, provided that a sentence of death shall not be imposed unless the prosecuting attorney filed written notice of intent to seek the death penalty as required under the provisions of section 18-4004A, Idaho Code, and provided further that whenever the court shall impose a sentence of life imprisonment, the court shall set forth in its judgment and sentence a minimum period of confinement of not less than ten (10) years during which period of confinement the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good

conduct, except for meritorious service. Every person guilty of murder of the second degree is punishable by imprisonment not less than ten (10) years and the imprisonment may extend to life.

Indiana

707.3 Murder in the second degree.

*NO MINIMUM*

A person commits murder in the second degree when the person commits murder which is not murder in the first degree.

Murder in the second degree is a class "B" felony. However, notwithstanding section 902.9, subsection 1, the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

Massachusetts

Chapter 265: Section 2. Punishment for murder; parole; executive clemency.

*LIFE but eligible for parole*

Section 2. Whoever is guilty of murder committed with deliberately premeditated malice aforethought or with extreme atrocity or cruelty, and who had attained the age of eighteen years at the time of the murder, may suffer the punishment of death pursuant to the procedures set forth in sections sixty-eight to seventy-one, inclusive, of chapter two hundred and seventy-nine. Any other person who is guilty of murder in the first degree shall be punished by imprisonment in the state prison for life. Whoever is guilty of murder in the second degree shall be punished by imprisonment in state prison for life. No person shall be eligible for parole under section one hundred and thirty-three A of chapter one hundred and twenty-seven while he is serving a life sentence for murder in the first degree, but if his sentence is commuted therefrom by the governor and council under the provisions of section one hundred and fifty-two of said chapter one hundred and twenty-seven he shall thereafter be subject to the provisions of law governing parole for persons sentenced for lesser offenses.

Nevada

5. A person convicted of murder of the second degree is guilty of a category A felony and shall be punished by imprisonment in the state prison:

*10 YEARS*

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

Rhode Island

10 YEARS

§ 11-23-2

Every person guilty of murder in the second degree shall be imprisoned for not less than ten (10) years and may be imprisoned for life.

Texas

Sec. 12.33. Second Degree Felony Punishment.

2 YEARS

(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the **institutional division for any term of not more than 20 years or less than 2 years.**

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed \$10,000.

Vermont

10 YEARS

a) A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, aggravated sexual assault or sexual assault, a person shall be punished as the offense attempted to be committed is by law punishable.

(b) If the offense attempted to be committed is a felony other than those set forth in subsection (a) of this section, a person shall be punished by the less severe of the following punishments:

(1) imprisonment for not more than ten years and fined not more than \$10,000.00, or both; or

(2) as the offense attempted to be committed is by law punishable.

Wyoming

6-2-104. Murder in the second degree; penalty.

20 YEARS

Whoever purposely and maliciously, but without premeditation, kills any human being is guilty of murder in the second degree, and shall be imprisoned in the penitentiary for any term not less than twenty (20) years, or during life.

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### LOCKED UP

# the graying of America's Prisons

an emerging corrections crisis



## SHOULD ELDERLY CONVICTS BE KEPT IN PRISON?

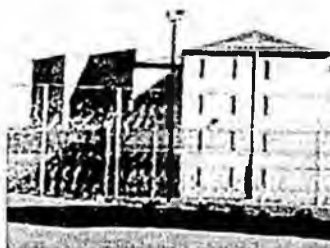
Some Say it's Not Worth the Cost; Others Call it Due Justice

April 12, 1999

By Jim Krane

BRIDGETON, N.J. (APBNews.com) -- On the outskirts of this time-forgotten coastal town, South Woods State Prison rises above the salt marshes in a symphony of concrete, bulletproof glass and pyramids of razor wire coils.

This \$240 million prison, which costs \$200,000 per day to operate, holds some of the state's most infirm inmates. Among them is 80-year-old jewel thief John Seybold. He may not be dangerous anymore, nor much of an escape risk, but Seybold readily acknowledges that he's still a drain on society.



Juliann Villalobos

New Jersey's South Woods State Prison

"If I was 40 years old and still out stealing diamonds, that's a different story," said Seybold, whose face and hands are spotted with age. "But I can barely walk. It's not sensible to consider us a risk to the social structure anymore. We're beyond that point."

If Seybold were an average prisoner, his 12 years in prison would have cost taxpayers about \$240,000. But he's an old man who needs expensive medical care — and gets it from his jailers.

Pulling open his tan prison smock, he shows off the white scar above his left breast where taxpayer-paid surgeons inserted a pacemaker to correct a heart problem. In the outside world, the cost of a pacemaker

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correct a heart problem. In the outside world, the cost of a pacemaker operation ranges from \$15,000 to \$50,000.

When the jewel thief was serving time in federal prison, doctors gave him a titanium replacement knee in an operation that he said cost \$22,000. In separate operations, doctors also repaired his prostate and aorta.

"It's a real imposition on the taxpayer," he said.



Jullann Villalobos

John Seybold, 80, has received numerous operations in prison

**Prisons as old-age homes**

Seybold's case is far from unique. As prison systems grow, some are metamorphosing into old-age homes providing sophisticated elder care and medical services. Prison nurses now routinely attend to patients in their 80s and 90s, operating dialysis machines, emptying bedpans and helping inmates brush their teeth and get undressed. Some corrections authorities have been forced to build custom facilities for prisoners who've gone blind, deaf or mute.

In Louisiana, Warden Burl Cain keeps watch over 5,100 inmates at Angola prison, 88 percent of whom will never leave. Cain said the practice is a waste of space, lives and tax dollars.

"We've long said prison should be for predators and not old men," Cain said.

If Cain had his way, as many as 200 of his inmates would be released immediately.

"They're getting older and older because nobody gets out," he said. "They just stay here until they die."

**Growing old in the joint**

Kentucky's oldest prisoner, 87-year-old Creed Warren, waxes lyrical about ending his days inside the joint.

"I know that I've got to leave this world one way or the other," said Warren, a convicted sex offender and former moonshiner housed in the Kentucky State Reformatory.

"I've got to leave it and go to Jesus when he calls me out on the cloud," he said. "If I die here, I'll just die. It won't bother me a bit, not a bit in the world."

In West Virginia, aging murderer James Lee Burkhammer is more realistic.

"I don't think I could make it out there by myself," Burkhammer said by telephone from the Huttonsville Correctional Center.

"I'm 65," said Burkhammer. "It'd be hard to get a job out there. I've got



Sex offender Creed Warren, 87, is Kentucky's oldest prisoner

28.8 56K T1

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high blood pressure and arthritis. I couldn't do much. I wouldn't want to be a burden upon anybody."

### Cost rises, danger retreats



James Lee Burkhammer, 64, has spent 41 years in prison

As an inmate's age rises, so does the cost of keeping him in prison. The U.S. Justice Department reports the average prisoner costs about \$20,000 a year to house. But the price of housing an elderly inmate can rise many times that much. A 1996 report of the National Criminal Justice Commission (NCJC) reported it cost \$69,000 per year to house geriatric prisoners.

But as the cost of imprisonment rises, the danger to society retreats.

According to the U.S. Parole Commission, age is the single most reliable indicator in predicting recidivism. Within a year of release, inmates between the ages of 18 and 24 have a recidivism rate of 22 percent. For inmates over the age of 43 — which the parole commission's Tom Kowalski called "the magic burnout date" — the rate drops to 2 percent.

### Special parole for the elderly?

In the face of such statistics, many corrections analysts believe penning the elderly in expensive prison cells may serve as punishment for a crime, but doesn't give society much payback in public safety. Many are calling for parole of the elderly.

"It doesn't make sense in terms of crime control. If someone committed armed robbery at 30, he's not terribly likely to commit armed robbery at 60 if you let him out of prison," said Marc Mauer, assistant director of the Sentencing Project, a group advocating alternative sentences.

Some go further. At George Washington University's Project for Older Prisoners, coordinator Ann Burdick has successfully lobbied for the release of more than 200 infirm, well-behaved older prisoners who've admitted guilt for their crimes.

"We think they're more of a burden on society by being incarcerated than a threat to society if they're outside," said Burdick.

Not one prisoner represented by Burdick's group has returned to commit a crime, she said.

"And we want to keep it that way," she said.

### 'Prison is punishment'

There is another side to the debate, of course. Many tough sentencing advocates believe convicted felons belong in prison because they require punishment, regardless of their health or age.

For Louisiana Gov. Mike Foster, who has yet to grant pardons to any of the state's life-without-parole inmates, a lifetime behind bars is a proper penalty for a heinous crime.

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"Gov. Foster falls into the 'just desserts' category," said Cheney Joseph, Foster's legal counsel. "He does believe that prison is punishment. You have to impose a penalty that's just and punishes someone for what they've done."

### **Prison-building boom**

Many states have addressed the long-term implications of such tough sentencing policies with an unprecedented prison-building boom. Texas, for example, has added almost 100,000 beds, tripling its capacity.

"We called it the greatest construction project since the pyramids," said Glen Castlebury of the Texas Department of Criminal Justice (TDCJ). He said the average prisoner's age is creeping up by six months a year. Currently it's 33. In a decade, the average jailed Texan will be 38.

In 30 years, Castlebury conceded, some Texas prisons will resemble nursing homes.

California is headed down the same road. There, the Department of Corrections is involved in the largest building program in the country -- worth \$5.3 billion -- to keep up with an inmate population that more than doubled in 10 years, reaching almost 160,000 last year.

In Ohio, a corrections report estimated that its 1997 population of 3,000 older inmates would grow 50 percent over the next two decades. Now, growth is ahead of that pace. The report called for construction of a second prison for the elderly and new elder "pods" at existing institutions.

### **Death as the only way out**

Meanwhile, thousands of inmates across the country already must face the fact that they'll grow old and die in prison.

With the average inmate's age now in the mid-30s, many prisoners locked up in the late '80s and early '90s won't emerge until they're 60 or 70 years old.

"Under the new laws, there's no compassionate grounds for release, even for the very ill," said Herbert Rosefield, assistant director for health services in North Carolina's Division of Prisons.

"I'm still hopeful, but the way it looks now, I can't see no out," said Virgil Lee Evans, an 85-year-old murderer serving his 27th year of a life sentence in Michigan. Evans' next parole hearing won't come until 2003, when he's 89. "That's telling me that they want me to die in prison," he said.

Jim Krane is an APBNews.com staff writer ([jimk@apbnews.com](mailto:jimk@apbnews.com)).



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## Murder 1: SB 11 Release Age

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
MURDER - 1ST					
	41	2057	99	99	115
	45	2053	99	99	115
	43	2053	99	97	113
	20	2076	99	97	113
	81	2015	40	97	104
	49	2047	99	97	113
	37	2059	99	97	113
	40	2055	99	96	112
	41	2053	99	95	111
	45	2049	99	95	111
	50	2043	81	94	107
	33	2060	99	94	110
	24	2067	99	92	108
	39	2052	99	92	108
	30	2061	99	92	108
	26	2065	99	92	108
	52	2039	62	92	102
	33	2058	99	92	108
	38	2052	99	91	107
	35	2055	99	91	107
	39	2051	85	91	105
	29	2060	99	90	106
	36	2053	99	90	106
	36	2053	99	90	106
	35	2054	99	90	106
	36	2052	99	89	105
	40	2048	99	89	105
	24	2064	100	89	105
	37	2050	99	88	104

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Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	33	2053	100	87	104
	34	2052	99	87	103
	33	2053	99	87	103
	22	2063	99	86	102
	55	2030	63	86	96
	34	2051	99	86	102
	27	2058	99	86	102
	23	2062	99	86	102
	36	2049	99	86	102
	58	2026	49	85	93
	45	2038	75	84	96
	32	2051	99	84	100
	26	2057	99	84	100
	26	2057	99	84	100
	25	2057	99	83	99
	47	2035	65	83	94
	21	2060	99	82	98
	27	2054	99	82	98
	32	2049	99	82	98
	19	2062	99	82	98
	70	2010	40	81	88
	48	2032	60	81	91
	51	2029	55	81	90
	50	2028	75	79	91
	30	2048	85	79	93
	42	2036	70	79	91
	35	2042	85	78	92
	36	2041	69	78	89
	37	2039	66	77	88
	36	2040	75	77	89
	36	2040	69	77	88
	25	2049	89	75	90
	51	2018	50	70	78

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	30	2039	75	70	82
	39	2029	60	69	79
	23	2044	75	68	80
	30	2037	65	68	79
	36	2031	75	68	80
	38	2029	50	68	76
	60	2007	30	68	73
	24	2041	70	66	78
	46	2018	50	65	73
	40	2024	60	65	75
	56	2008	30	65	70
	35	2028	65	64	75
	40	2022	60	63	73
	29	2033	65	63	74
	42	2020	50	63	71
	29	2033	70	63	75
	37	2024	60	62	72
	52	2009	35	62	68
	49	2012	40	62	69
	47	2013	40	61	68
	32	2028	65	61	72
	44	2015	40	60	67
	21	2038	65	60	71
	40	2019	50	60	68
	24	2035	65	60	71
	38	2020	50	59	67
	32	2026	60	59	69
	23	2035	60	59	69
	33	2025	45	59	66
	50	2007	30	58	63
	30	2027	50	58	66
	52	2005	25	58	62
	39	2016	45	56	63

Offense	Age	Rel Date (y)	Sentence	Rel Age (gt)	SB 11 Rel Age
	39	2016	37	56	62
	33	2021	40	55	62
	51	2001	25	53	57
	21	2031	55	53	62
	29	2022	47	52	60
	23	2027	50	51	59
	30	2020	55	51	60
	22	2028	50	51	59
	38	2011	40	50	57
	27	2022	45	50	57
	35	2013	45	49	56
	46	2002	25	49	53
	36	2012	40	49	56
	42	2005	30	48	53
	22	2025	45	48	55
	35	2011	40	47	54
	44	2001	30	46	51
	25	2019	42	45	52
	34	2010	37	45	51
	35	2009	40	45	52
	23	2016	34	40	46
	37	2002	30	40	45
	26	2013	27	40	44
	31	2007	35	39	45
	35	2003	25	39	43
	33	2005	30	39	44
	32	2005	24	38	42
	37	2000	20	38	41
	30	2005	30	36	41
	31	2004	30	36	41
	25	2009	27	35	39

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	27	2037	50	65	73
	48	2016	45	65	72
	32	2031	60	64	74
	59	2004	30	64	69
	43	2019	50	63	71
	50	2012	35	63	69
	54	2008	40	63	70
	28	2032	55	61	70
	26	2034	65	61	72
	22	2037	65	60	71
	36	2023	45	60	67
	38	2020	50	59	67
	39	2019	40	59	66
	45	2012	25	58	62
	32	2025	50	58	66
	40	2015	45	56	63
	46	2009	28	56	61
	44	2011	40	56	63
	47	2008	40	56	63
	38	2016	30	55	60
	36	2017	50	54	62
	43	2009	40	53	60
	34	2018	30	53	58
	44	2006	20	51	54
	32	2018	40	51	58
	27	2023	40	51	58
	33	2017	45	51	58
	41	2008	30	50	55
	42	2007	30	50	55
	34	2013	35	48	54
	38	2009	20	48	51
	24	2022	40	47	54
	32	2013	45	46	53

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	23	2022	40	46	53
	35	2010	25	46	50
	46	1999	10	46	48
	34	2011	35	46	52
	38	2006	35	45	51
	40	2004	30	45	50
	36	2008	25	45	49
	29	2014	34	44	50
	40	2003	30	44	49
	39	2004	30	44	49
	31	2012	40	44	51
	34	2009	20	44	47
	40	2002	25	43	47
	33	2008	30	42	47
	34	2007	30	42	47
	33	2008	20	42	45
	18	2023	40	42	49
	27	2014	25	42	46
	27	2014	36	42	48
	34	2006	30	41	46
	41	1999	25	41	45
	38	2002	20	41	44
	33	2007	30	41	46
	35	2004	25	40	44
	26	2013	32	40	45
	30	2009	25	40	44
	28	2011	30	40	45
	21	2018	35	40	46
	28	2010	30	39	44
	39	1999	25	39	43
	28	2010	30	39	44
	25	2012	25	38	42
	36	2001	15	38	40

Offense	Age	Rel Date (gt)	Sender:ca	Rel Age (gt)	SB 11 Rel Age
	29	2007	30	37	42
	27	2009	23	37	41
	34	2002	14	37	39
	30	2006	19	37	40
	22	2013	30	36	41
	26	2009	20	36	39
	21	2013	25	35	39
	30	2004	20	35	38
	23	2010	25	34	38
	29	2003	20	33	36
	20	2012	25	33	37
	21	2005	15	27	29
	18	2007	15	26	28
	20	2005	16	26	29

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	35	2055	99	91	107
	39	2051	85	91	105
	29	2060	99	90	106
	36	2053	99	90	106
	36	2053	99	90	106
	35	2054	99	90	106
	36	2052	99	89	105
	40	2048	99	89	105
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	37	2050	99	88	104

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	34	2052	99	87	103
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	22	2063	99	86	102
	55	2030	63	86	96
	34	2051	99	86	102
	27	2058	99	86	102
	23	2062	99	86	102
	36	2049	99	86	102
	58	2026	49	85	93
	45	2038	75	84	96
	32	2051	99	84	100
	26	2057	99	84	100
	26	2057	99	84	100
	25	2057	99	83	99
	47	2035	65	83	94
	21	2050	99	82	98
	27	2054	99	82	98
	32	2049	99	82	98
	19	2062	99	82	98
	70	2010	40	81	88
	48	2032	60	81	91
	51	2029	55	81	90
	50	2028	75	79	91
	30	2048	85	79	93
	42	2036	70	79	91
	35	2042	85	78	92
	36	2041	69	78	89
	37	2039	66	77	88
	36	2040	75	77	89
	36	2040	69	77	88
	25	2049	89	75	90
	51	2018	50	70	78

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	36	2031	75	68	80
	38	2029	50	68	76
	60	2007	30	68	73
	24	2041	70	66	78
	46	2018	50	65	73
	40	2024	60	65	75
	56	2008	30	65	70
	35	2028	65	64	75
	40	2022	60	63	73
	29	2033	65	63	74
	42	2020	50	63	71
	29	2033	70	63	75
	37	2024	60	62	72
	52	2009	35	62	68
	49	2012	40	62	69
	47	2013	40	61	68
	32	2028	65	61	72
	44	2015	40	60	67
	21	2038	65	60	71
	40	2019	50	60	68
	24	2035	65	60	71
	38	2020	50	59	67
	32	2026	60	59	69
	23	2035	60	59	69
	33	2025	45	59	66
	50	2007	30	58	63
	30	2027	50	58	66
	52	2005	25	58	62
	39	2016	45	56	63

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	39	2016	37	56	62
	33	2021	40	55	62
	51	2001	25	53	57
	21	2031	55	53	62
	29	2022	47	52	60
	23	2027	50	51	59
	30	2020	55	51	60
	22	2028	50	51	59
	38	2011	40	50	57
	27	2022	45	50	57
	35	2013	45	49	56
	46	2002	25	49	53
	36	2012	40	49	56
	42	2005	30	48	53
	22	2025	45	48	55
	35	2011	40	47	54
	44	2001	30	46	51
	25	2019	42	45	52
	34	2010	37	45	51
	35	2009	40	45	52
	23	2016	34	40	46
	37	2002	30	40	45
	26	2013	27	40	44
	31	2007	35	39	45
	35	2003	25	39	43
	33	2005	30	39	44
	32	2005	24	38	42
	37	2000	20	38	41
	30	2005	30	36	41
	31	2004	30	36	41
	25	2009	27	35	39

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	27	2037	50	65	73
	48	2016	45	65	72
	32	2031	60	64	74
	59	2004	30	64	69
	43	2019	50	63	71
	50	2012	35	63	69
	54	2008	40	63	70
	28	2032	55	61	70
	26	2034	65	61	72
	22	2037	65	60	71
	36	2023	45	60	67
	38	2020	50	59	67
	39	2019	40	59	66
	45	2012	25	58	62
	32	2025	50	58	66
	40	2015	45	56	63
	46	2009	28	56	61
	44	2011	40	56	63
	47	2008	40	56	63
	38	2016	30	55	60
	36	2017	50	54	62
	43	2009	40	53	60
	34	2018	30	53	58
	44	2006	20	51	54
	32	2018	40	51	58
	27	2023	40	51	58
	33	2017	45	51	58
	41	2008	30	50	55
	42	2007	30	50	55
	34	2013	35	48	54
	38	2009	20	48	51
	24	2022	40	47	54
	32	2013	45	46	53

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	23	2022	40	46	53
	35	2010	25	46	50
	46	1999	10	46	48
	34	2011	35	46	52
	38	2006	35	45	51
	40	2004	30	45	50
	36	2008	25	45	49
	29	2014	34	44	50
	40	2003	30	44	49
	39	2004	30	44	49
	31	2012	40	44	51
	34	2009	20	44	47
	40	2002	25	43	47
	33	2008	30	42	47
	34	2007	30	42	47
	33	2008	20	42	45
	18	2023	40	42	49
	27	2014	25	42	46
	27	2014	36	42	48
	34	2006	30	41	46
	41	1999	25	41	45
	38	2002	20	41	44
	33	2007	30	41	46
	35	2004	25	40	44
	26	2013	32	40	45
	30	2009	25	40	44
	28	2011	30	40	45
	21	2018	35	40	46
	28	2010	30	39	44
	39	1999	25	39	43
	28	2010	30	39	44
	25	2012	25	38	42
	36	2001	15	38	40

Offense	Age	Rel Date (gt)	Sentence	Rel Age (gt)	SB 11 Rel Age
	29	2007	30	37	42
	27	2009	23	37	41
	34	2002	14	37	39
	30	2006	19	37	40
	22	2013	30	36	41
	26	2009	20	36	39
	21	2013	25	35	39
	30	2004	20	35	38
	23	2010	25	34	38
	29	2003	20	33	36
	20	2012	25	33	37
	21	2005	15	27	29
	18	2007	15	26	28
	20	2005	16	25	29

**FISCAL NOTE**

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

BILL NO. CSSB 11(JUD)

Revision Date: 2/24/99  
 Title: "An Act relating to good time credits for prisoners serving sentences for certain murders..."  
 Sponsor: Senator Donley  
 Requestor: (S) FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

**Expenditures/Revenues:** (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	
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CHANGE IN REVENUES ( )	**	**	**	**	**	**
------------------------	----	----	----	----	----	----

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	**	**	**	**	**	**

Estimate of any current year (FY 99) cost: \$ \_\_\_\_\_

**POSITIONS:**

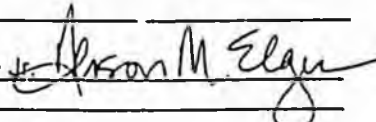
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) This bill reduces good time credits available for defendants convicted of murder in the first or second degree. The bill provides that prisoners convicted of these offenses are only entitled to one-half the good time credits "provided to other prisoners."

This bill may have a fiscal impact on the Alaska Public Defender Agency. There may be litigation on whether this bill violates equal protection of the laws under the Alaska or United States Constitution. In the past, Alaska courts have found that laws singling out particular offenses (rather than classes of offenses) for disparate treatment violate equal protection. Also, it may be that more cases will be contested because of the increased penalties. However, the impact is not quantifiable. Therefore, the Public Defender Agency is submitting an indeterminate fiscal note.

Prepared by: Barbara Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe   
 Agency: Department of Administration

Date: 2/24/99

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

BILL NO. CSSB 11(JUD)

Revision Date: 2/24/99  
 Title: "An Act relating to good time credits for prisoners serving sentences for certain murders..."  
 Sponsor: Senator Donley  
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Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**
<b>CAPITAL EXPENDITURES</b>	**	**	**	**	**	**
<b>CHANGE IN REVENUES ( )</b>	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	**	**	**	**	**	**

Estimate of any current year (FY 99) cost: \$ \_\_\_\_\_

**POSITIONS:**

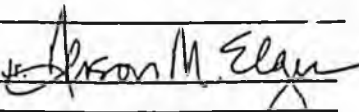
FULL-TIME						
PART-TIME						
TEMPORARY						

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Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe   
 Agency: Department of Administration

Date: 2/24/99

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. CSSB 11(JUD)

Revision Date: 2/24/99  
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 Sponsor: Senator Donley  
 Requestor: (S) FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	**
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CHANGE IN REVENUES ( )	**	**	**	**	**	**
------------------------	----	----	----	----	----	----

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 99) cost: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) This bill reduces good time credits available for defendants convicted of murder in the first or second degree. The bill provides that prisoners convicted of these offenses are only entitled to one-half the good time credits "provided to other prisoners."

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Prepared by: Barbara Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe Jr.  
 Agency: Department of Administration

Date: 2/24/99

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# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO. CS SB 11(JUD)**

Revision Date/Time (Note if correction) 2/23/99 Dept. Affected Department of Corrections  
 Title An Act relating to good time credits for prisoners BRU Administration and Operations  
 serving sentences of imprisonment for certain murders, or Component All  
 Sponsor Senator Donley  
 Requester Senate Judiciary Committee Component Serial No. #0694

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

CS Senate Bill 11 (JUD) will reduce the amount of good time credits currently awarded to those offenders who are convicted of murder 1, and murder 2. This legislation will reduce the amount of good time credits from the current one-third of the sentence to one-sixth.

The Dept. of Corrections has submitted a zero fiscal note because the impact will not be realized until approximately 2010. This will have a definite impact in the out years. An example would be if CS SB 11(JUD) had passed on 1-1-98, offenders sentenced in that year on the above crimes would serve a combined total of 33 additional years. At today's average daily cost of care, that would amount to a \$1.2 million dollar impact for those sentenced in 1998.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 2/23/99 1:44 PM  
 Approved by Commissioner Margaret M. Pugh Date 2/23/99  
 Agency Department of Corrections

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# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. CS SB 11(JUD)**

Revision Date/Time (Note if correction) 2/23/99 Dept. Affected Department of Corrections  
 Title An Act relating to good time credits for prisoners BRU Administration and Operations  
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 Sponsor Senator Donley  
 Requester Senate Judiciary Committee Component Serial No. #0694

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

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Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 2/23/99 1:44 PM  
 Approved by Commissioner Margaret M. Pugh Date 2/23/99  
 Agency Department of Corrections

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. CS SB 11(JUD)

Revision Date/Time (Note if correction) 2/23/99 Dept. Affected Department of Corrections  
 Title An Act relating to good time credits for prisoners BRU Administration and Operations  
serving sentences of imprisonment for certain murders, or Component All  
 Sponsor Senator Donley  
 Requester Senate Judiciary Committee Component Serial No. #0694

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

CS Senate Bill 11 (JUD) will reduce the amount of good time credits currently awarded to those offenders who are convicted of murder 1, and murder 2. This legislation will reduce the amount of good time credits from the current one-third of the sentence to one-sixth.

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Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 2/23/99 1:44 PM  
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 2/23/99  
 Agency Department of Corrections

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**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**Sponsor Statement**  
for  
**CS for Senate Bill 11 (FIN)**  
**Increasing the Minimum Sentence for**  
**Second Degree Murder Convictions**

CS Senate Bill 11 (FIN) would increase the minimum mandatory sentence for individuals convicted of second degree murder in Alaska from five to ten years.

Alaska statute 12.55.125 (b) provides that individuals convicted of murder in the second degree, attempted murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.

Alaska has one of the lowest minimum sentences for second degree murder in the nation. In most states, the minimum sentence for such offenses is 10 years.

Additionally, Alaska has one of the most liberal "good time" provisions in the nation. Currently all convicted criminals may reduce their sentence by up to one-third by "good time" sentence reductions.

Taken together, criminals who maliciously take human life receive very little punishment under current Alaskan law. SB 11 addresses this injustice by doubling the minimum sentence for second degree murder convictions.

DD/jja

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee • Co-Chair, Anchorage Caucus  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE., STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238



# SENATOR DAVE DONLEY

---

## ALASKA STATE LEGISLATURE

**Sponsor Statement**  
for  
**CS for Senate Bill 11 (JUD)**  
**Reducing Good Time Credit for First and Second Degree Murder**

Senate Bill 11 would reduce good time sentence reduction by one-half for individuals convicted of first and second degree murders.

Under Alaska statute 33.20.10, a prisoner is entitled to a deduction of one-third of the term of imprisonment if the prisoner follows the rules of that correctional facility. This is known as a "good time" credit and applies to prisoners convicted of an offense against the state or a political subdivision of the state.

Alaska has one of the most liberal "good time" provisions in the nation. Alaska's one-third sentence reduction for "good time" is extremely liberal compared to federal statutes, which require federal offenders to serve at least 85% of the sentence imposed. Additionally thirty states also require at least 85% of the sentence be served. The federal government has asked all states to adopt this 85% standard.

SB 11 would reduce the "good time" sentence reduction by one-half for individuals convicted of murder in the first or second degree.

Affording convicted murderers the same "good time" privileges as those who commit less serious crimes is poor public policy. Senate Bill 11 addresses this injustice by preventing excessive sentence reductions on those individuals who maliciously take human life.

DD/jja

---

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee •  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

FISCAL NOTE

No: 4

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Bill Version: CSSB 11 (JUD)  
(H) Publish Date: 5/13/99

Revision Date: 2/24/99  
Title: "An Act relating to good time credits for prisoners serving sentences for certain murders..."  
Sponsor: Senator Donley  
Requestor: (S) FIN

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)  
Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

CAPITAL EXPENDITURES	**	**	**	**	**	**
----------------------	----	----	----	----	----	----

CHANGE IN REVENUES ( )	**	**	**	**	**	**
------------------------	----	----	----	----	----	----

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

Estimate of any current year (FY 99) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) This bill reduces good time credits available for defendants convicted of murder in the first or second degree. The bill provides that prisoners convicted of these offenses are only entitled to one-half the good time credits "provided to other prisoners."

This bill may have a fiscal impact on the Alaska Public Defender Agency. There may be litigation on whether this bill violates equal protection of the laws under the Alaska or United States Constitution. In the past, Alaska courts have found that laws singling out particular offenses (rather than classes of offenses) for disparate treatment violate equal protection. Also, it may be that more cases will be contested because of the increased penalties. However, the impact is not quantifiable. Therefore, the Public Defender Agency is submitting an indeterminate fiscal note.

Prepared by: Barbara Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4414  
Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe  
Agency: Department of Administration

Date: 2/24/99

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# FISCAL NOTE

No: 3

Bill Version: CSSB 11 (JUD)

(H) Publish Date: 5/13/99

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) 2/23/99 Dept. Affected Department of Corrections  
 Title An Act relating to good time credits for prisoners BRU Administration and Operations  
 serving sentences of Imprisonment for certain murders, or Component All  
 Sponsor Senator Donley  
 Requester Senate Judiciary Committee Component Serial No. #0694

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

CS Senate Bill 11 (JUD) will reduce the amount of good time credits currently awarded to those offenders who are convicted of murder 1, and murder 2. This legislation will reduce the amount of good time credits from the current one-third of the sentence to one-sixth.

The Dept. of Corrections has submitted a zero fiscal note because the impact will not be realized until approximately 2010. This will have a definite impact in the out years. An example would be if CS SB 11(JUD) had passed on 1-1-98, offenders sentenced in that year on the above crimes would serve a combined total of 33 additional years. At today's average daily cost of care, that would amount to a \$1.2 million dollar impact for those sentenced in 1998.

Prepared by Bruce Richards Phone 465-3307  
 Division Commissioner's Office Date/Time 2/23/99 1:44 PM  
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* 2/23/99  
 Agency Department of Corrections

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